KENTUCKY.

Jacob B. Coffman, Russellville.
Philip A. Taylor, Hodgenville.
George C. Davis, Pineville.

MAINE.

George H. Donham, Island Falls.
William T. Smart, Lewiston.

MISSISSIPPI.

Charles H. Bransford, Ocean Springs.
Richard Mendes, Bay St. Louis.

MISSOURI.

Laurin C. Goodman, Advance.

NEBRASKA.

B. W. Reynolds, Fremont.

NEW JERSEY.

Howard I. Campbell, Metuchen.
Erving Van Houten, Park Ridge.

NEW YORK.

James O. Beach, Cherry Valley.
Charles L. Crane, Addison.
George M. Deyoe, Johnstown.
H. L. Emmons, Spencer.
Thomas B. Gibson, Walden.
Samuel H. Palmer, Ogdensburg.
George M. Wedderspoon, Cooperstown.

NORTH CAROLINA.

Lucullus C. Cooper, Nashville.
William P. King, Windsor.
Hugh Paul, Washington.
James H. Ramsey, Salisbury.
C. G. Rosemond, Hillsboro.
Jacob M. Stancill, Kenly.

NORTH DAKOTA.

F. E. Holden, Balfour.
Gustave B. Metzger, Williston.
E. H. Reese, Max.
C. E. Shepard, White Earth.
Frank Sims, Willow City.

OHIO.

Thomas C. Kelly, McArthur.
Albert A. White, Middlefield.

OKLAHOMA.

Charles J. Brown, Wagoner.
Wilburn McCoy, Guthrie.
M. G. Norvell, Marietta.

OREGON.

John R. Casey, Ashland.
James L. Page, Eugene.
Thomas P. Randall, Oregon City.

PENNSYLVANIA.

David McCormick, Lehighton.
Walter R. Zeigler, Harmony.

SOUTH CAROLINA.

John A. Chase, Florence.
Dudley P. McLaurin, Clio.
Samuel E. Owen, St. Matthews.
M. J. Spears, Lamar.

VERMONT.

Buel J. Derby, Burlington.

VIRGINIA.

Willard B. Alfred, Clarksville.
Robert W. Garnett, Farmville.
J. L. Gleaves, Wytheville.
John B. Grayson, Warrenton.
James M. McLaughlin, Lynchburg.
William H. Parker, Onancock.
J. A. Riddel, Bridgewater.

WEST VIRGINIA.

R. T. Richardson, New Martinsville.

WISCONSIN.

William Campbell, Oconto Falls.

WYOMING.

Charles W. Johnson, Pinebluff.

HOUSE OF REPRESENTATIVES.

FRIDAY, *March 3, 1911.*

(Continuation of the legislative day of Thursday, March 2, 1911.)

The recess having expired, the House, at 9.30 o'clock a. m. on Friday, March 3, 1911, resumed its session.

ADMINISTRATION OF PHILIPPINE LANDS.

Mr. OLMSTED. Mr. Speaker, I am about to file in the usual way the report of the Committee on Insular Affairs, made in pursuance of the resolution adopted on the last night of the last session, directing an inquiry into the administration of Philippine lands. I ask unanimous consent to print that report in the RECORD, but without the testimony.

The SPEAKER. Is there objection?

There was no objection.

The report is as follows:

[House Report No. 2280, Sixty-first Congress, third session.]

ADMINISTRATION OF PHILIPPINE LANDS.

In pursuance of House resolution 795, adopted on the 25th day of June, 1910, the last day of the second session of the Sixty-first Congress, and reading as follows—

"Whereas it has been publicly charged that sales and leases of public lands have been made in the Philippines in violation of law: Now therefore be it

"*Resolved*, That the House Committee on Insular Affairs be, and it is hereby, empowered and directed to make a complete and thorough investigation of the interior department of the Philippine Government touching the administration of Philippine lands and all matters of fact and law pertaining thereto, whether the same are to be had in the United States, the Philippine Islands, or elsewhere, and to report to the House during this Congress all the evidence taken and their findings and recommendations thereon; that in conducting said inquiry said committee shall have power to subpœna and require the attendance of witnesses, to administer oaths, to require the production of books, papers, and documents, whether of a public or private character, and to employ necessary assistance, legal or otherwise, and make necessary expenditures, the cost of said investigation to be paid out of the contingent fund of the House. The powers hereby conferred may be exercised while the House is in session or during the recess of Congress by the committee or any duly appointed subcommittee thereof"—the Committee on Insular Affairs, having made the required investigation, submits the following report:

We have called before us and examined at length the following officers of the Philippine Government: Capt. Charles H. Sleeper, director of the bureau of lands; Dean C. Worcester, secretary of the interior; Frank W. Carpenter, executive secretary; and Ignacio Villamor, attorney general; also Rafael Del-Pan, the leading counsel employed by the Philippine Government in connection with the titles to friar lands. We required also to be brought here the records of the Philippine Government touching land sales, from which records much information was furnished by the Philippine officials above named. We also called and examined John Henry Hammond, Horace Havemeyer, Charles J. Welch, and Carl A. De Gersdorff, and caused to be produced for examination the books of the Mindoro Development Co. We examined also E. L. Poole, manager of the Mindoro Development Co., of the San Carlos Agricultural Co., the San Francisco Agricultural Co., and the San Mateo Agricultural Co., and of the San Jose estate; also Col. Frank J. McIntyre, assistant chief of the Bureau of Insular Affairs, Aaron Gove, and Manuel L. Quezon, one of the Resident Commissioners to the United States from the Philippine Islands.

These witnesses, after thorough examination by members of the committee, were also, by permission of the committee, examined by Representative MARTIN of Colorado, the author of the resolution. Mr. J. H. Ralston, counsel for the Anti-Imperialist League of Boston, submitted in writing such questions as he desired, and they were propounded by members of the committee. He also submitted a brief. Many days were consumed in the taking of testimony, all of which is submitted herewith and as part hereof.

The lands of the Philippine Islands may, for the purposes of this report, be divided into three classes:

1. *Private lands.*—Lands which, at the time of the passage of the act of Congress entitled "An act temporarily to provide for the administration of affairs of civil government in the Philippine Islands, and for other purposes," approved July 1, 1902, and commonly called the organic act, were, and still are, in the private ownership of individuals or corporations as distinguished from government ownership of any kind. They are estimated at 7,000,000 acres.

2. *Public lands.*—These are lands which belonged to the Spanish Crown, and by the treaty of Paris became the property of the United States. They are estimated to contain about 60,000,000 acres.

3. *Friar lands.*—These were at the time of the passage of the organic act in the private ownership of certain religious orders, from whom, under authority of the said act, they were subsequently purchased by the Philippine Government. They cover about 400,000 acres. They cost the Philippine Government, in round numbers, $7,000,000, and bonds to that amount were issued to provide the funds for their purchase.

LIMITATION UPON CORPORATE HOLDING OF LANDS.

Section 75 of the organic act provides as follows:

"SEC. 75. That no corporation shall be authorized to conduct the business of buying and selling real estate or be permitted to hold or own real estate except such as may be reasonably necessary to enable it to carry out the purposes for which it is created, and every corporation authorized to engage in agriculture shall by its charter be restricted to the ownership and control of not to exceed 1,024 hectares of land; and it shall be unlawful for any member of a corporation engaged in agriculture or mining and for any corporation organized for any purpose except irrigation to be in any wise interested in any other corporation engaged in agriculture or in mining. Corporations, however, may loan funds upon real-estate security and purchase real estate when necessary for the collection of loans, but they shall dispose of real estate so obtained within five years after receiving the title. Corporations not organized in the Philippine Islands and doing business therein shall be bound by the provisions of this section so far as they are applicable."

This is a general provision and applies equally to private lands, public lands, and friar lands.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

There is no limit to the amount of private lands which may be acquired or owned by natural persons.

Public lands acquired by the United States under the treaty of peace with Spain may not be sold by the Philippine Government in quantities exceeding 16 hectares to one person or 1,024 hectares to any corporation or association of persons. A hectare is equal to about 2½ acres.

There have been 62 sales of public lands made by the Philippine Government since the passage of the organic act of 1902, covering an area of 14,790 acres. Ten of these purchasers were corporations, whose purchases aggregated 13,177 acres. Owing to the restrictions on the sale of public lands, or for some other reason, there have been only 52 sales to individuals in tracts of 40 acres or less, their purchases aggregating 1,612 acres out of the total of some 60,000,000 acres offered for sale. In no single instance has there been more than 16 hectares of public lands sold to a single person or 1,024 hectares to a corporation or association of persons.

There is no manner of doubt that the organic act limits to 16 hectares, or 40 acres, the amount of public land which one person may acquire. Does that limitation extend to friar lands? That question, which will presently be discussed, is the most important one involved in this inquiry.

There have been made 8,393 sales of friar lands. Of these sales 82 involve amounts in excess of 16 hectares, or 40 acres, each.

The following table shows the name of each purchaser, the name of the friar-land estate, the number of hectares purchased (omitting fractions), and the sale price, in pesos (₱2 being equal to $1 in value).

Friar lands sales of more than 16 hectares to one person.

Purchasers.	Estate.	Total area.	Price.
		Hectares.	
Adriana Sevillana	Banilad	19	₱1,184.58
Victoria Rallos	do	25	1,509.84
Juan P. Gordoro	do	18	25,995.91
Anacleto Reyes	Dampol	39	6,633.97
Jacinto Yeasiano	do	26	4,869.13
Augustin Mariano	do	39	6,964.26
Policarpio de Jesus	do	20	3,679.22
Pedro G. Gonzales	do	59	10,999.41
Monica Galvez	do	63	11,764.09
Claro Castro	do	24	4,818.11
Lazaro Buktaw	do	43	7,644.14
Manuel Casal	do	127	24,372.71
Conrado Ayllon	do	44	8,114.78
Eustaquio Avendaño	do	65	12,306.07
Antonio Alva	do	20	3,577.86
Gervacio Alejandrino	do	37	7,001.00
Benigno Angelo	do	38	6,798.00
Juan Alano	Guiguinto	26	5,015.44
Cayetano Bernardo	do	27	5,803.38
Pedro Bernardo	do	19	4,038.00
Doroteo Bulaong	do	17	3,583.88
Pedro Dimagiba	do	19	3,877.00
Pedro Figueroa y Manalo	do	17	3,194.98
Rosenda Mendoza	do	53	10,163.04
Andres Pascual	do	19	3,621.99
Martina Rodrigo	do	29	6,037.91
Geronimo Angeles	Malinta	16	2,270.18
Remigio Bautista	do	29	2,967.64
Marcelo Buenaventura	do	41	5,784.12
Arcadio Constantino	do	31	7,445.32
Patricio Cuerpo	do	30	6,295.64
Esteban Daes	do	46	9,926.26
Faustino Duke	do	25	5,068.18
Raymundo Duran	do	16	2,800.72
Estanislao Francisco	do	17	1,360.72
Florencio Gregorio	do	16	2,156.96
Patricia Miranda	do	37	13,136.20
Roman Ramos	do	19	2,795.12
Nemesio Delfin Santiago	do	49	9,266.42
Gualberto Santos	do	18	2,527.16
Pascuala Serrano	do	39	6,748.38
Tiburcio Serrano	do	22	3,937.76
Rufino D. Valenzuela	do	21	3,875.00
Joaquina Lanson	Orion	19	3,078.93
Vicente Rodriguez	do	22	3,493.82
Esperanza Monjon	do	21	2,753.72
Macario Santos	do	74	1,244.37
F. J. Banyea and Joseph Pollacek	Muntinlupa	308	10,740.32
Estanislao Espeleta	do	42	2,953.40
Bayanan plantation syndicate	do	123	4,133.00
E. L. Poole	San Jose	22,484	734,000.00
Francisco Mendoza	San Marcos	87	14,839.50
Leonardo Alagabre	Santa Rosa	23	5,988.76
Francisca Almeda	do	72	15,968.09
Petronila Almodovar	do	15	3,653.52
Francisco Arambulo	do	20	5,572.52
Florencio Baillon	do	24	5,189.72
Angel Bantatua	do	33	7,574.40
Sotero Battallanes	do	24	4,702.44
Narciso Batiller	do	66	13,126.80
Doroteo Carteciano	do	60	9,794.32
Gregorio Carteciano	do	36	8,907.80
Petrona Gomez	do	17	4,232.88
Antonio Gonzales	do	35	8,530.76
Francisco Gonzales	do	18	4,475.80
Ursula de Guzman	do	47	11,995.80
Teodorico Layon	do	18	4,621.24
Marcelo Leyco	do	20	5,070.84
Antonio Lijauco	do	22	5,762.64
Emilio Lijauco	do	36	8,510.36
Teodora Lijauco	do	24	6,424.20
Nicolas Limcaoco	do	19	3,732.00
Maria Manguerra	do	22	5,248.36
Z. K. Miller	do	66	12,774.64
Tumas Nepomoceno	do	29	7,726.32
Pablo Perlas	do	46	10,010.32
Pedro Perlas	do	121	23,542.62
Viturina de los Reyes	do	34	7,376.16
Delfin Vallejo	do	32	8,180.36
Ponciano Vallejo	do	16	369.40
Andres Zavalla	do	120	29,929.78
Angel Zavalla	do	51	11,849.68

Of the 82 persons who have thus purchased more than 16 hectares each of friar lands, 78 are Filipinos and four are Americans. Four hundred and ninety-two persons have outstanding leases of more than 16 hectares each of friar lands. Four hundred and seventy-five of such lessees are Filipinos, 15 are Americans, and two Englishmen. The most of these leases are for one year. A few of them are for shorter (p. 208) and a few for longer periods. Some of them contain specific options to purchase, as in the case of Gen. Emilio Aguinaldo, who acquired possession of 1,050 hectares under a lease with an option to purchase, and as construed by the officials of the Philippine Government every lease of friar lands involves an option to purchase. If any of these sales or leases in excess of 16 hectares to one person were illegal they were all illegal whether the purchasers were Filipinos or Americans.

The principal sale of friar lands, the one which had attracted most attention, and the one which led to the introduction and passage of this resolution of inquiry, was the sale to E. L. Poole, of the San Jose estate, on the island of Mindoro, comprising 22,484 hectares.

THE FRIAR LANDS.

The so-called friar lands were for a long time owned by certain religious orders. They covered, as already stated, about 400,000 acres. About one-half of them were unoccupied and practically untenanted. The other half was very thickly peopled. The tenants and their subtenants, with their families and servants, numbered more than 161,000. The friars were persons of great power and influence in their respective communities and were supposed to be in close touch with the Spanish Government. This and the allegation that they were oppressive landlords led to their being driven from their parishes to Manila during the insurrection against Spain, which preceded the Spanish-American War. When that war had ceased and peace been restored the friars sought possession of their lands. The tenants themselves setting up claims of ownership refused either to pay rent or to surrender possession.

Where such powerful interests and so many persons were concerned, the situation was very difficult and threatened the peace of the islands.

To correct and cure these evils, Congress, in the act of 1902, which will be discussed a little later, provided for the purchase of these lands by the Philippine Government, with authority to borrow money for that purpose, issue bonds to the amount thereof, and, the friar titles being thus acquired, to sell the lands and apply the proceeds to the redemption of the bonds—the occupants being given the preference in the matter of purchase. The negotiations with the friars were largely conducted by William H. Taft, now President of the United States, but then Governor General of the Philippine Islands. It is a matter of history that, for the purpose of securing the relinquishment of the friar titles, he visited and conferred with the Pope at Rome. There were certain of the unoccupied friar lands which the Government was not very anxious to purchase, but the friars would not sell the others without them, so they were taken along with the rest, but at lower prices.

THE SALE OF THE SAN JOSE ESTATE.

The largest unoccupied tract of friar land acquired by the Philippine Government was the San Jose estate, situated in the southwestern part of the island of Mindoro, and having an area of 22,484 hectares, or a little over 56,000 acres. This large unoccupied tract the friars had insisted should be included along with the thickly populated estates, and the Government deemed it wise, in any event, to secure, as far as possible, the departure of the friars from the islands and to prevent their return to their estates, which latter reason afforded additional cause for the purchase.

The island of Mindoro is distant about 165 nautical miles from Manila, requiring about 24 hours to make the trip. The whole island contains something more than 2,500,000 acres. Although the land is said to be fertile, only about one-third of 1 per cent of it is under cultivation. About 4 per cent of the total area of the island is in private ownership, and the remainder, with the exception of the San Jose estate, is public land, offered for sale at about $2 per acre. The original cost of this estate to the Philippine Government was $298,782.07. It was producing no revenue, but costing something for care and attention. The interest upon the bonds representing the cost price was also a very considerable item. Under these circumstances, the Government officials were anxious to effect a sale as soon as possible, and the limitations, which the original Philippine friar-land act imposed upon sales, having been removed by a subsequent amendment, they issued a prospectus, offered the estate for sale, and at every opportunity brought it to the attention of persons whom they thought might become purchasers. The first person whom they were able to induce to visit the estate, with the idea of purchase, was J. Montgomery Strong, a banker of Little Falls, N. J., who went there in March, 1909, and who, it now appears, represented Horace Havemeyer and Charles J. Welch, the latter being his relative by marriage. He did not disclose to the Philippine officials the names of those whom he represented. Up to that time no offer had been made for any portion of the San Jose estate, nor had a single acre of public land been sold on the island. Mr. Strong did not report very favorably to his clients upon the San Jose estate, but recommended the purchase of certain private lands situated near thereto, and which could be had at lower prices.

Mr. John Henry Hammond, a prominent New York attorney, was employed by Horace Havemeyer on behalf of himself, Charles J. Welch, and Senff to investigate and report upon the Philippine land laws, particularly as touching the rights of corporations in the islands. He called at the Bureau of Insular Affairs in Washington, and, in the absence of Gen. Clarence Edwards, chief of the bureau, had a conversation with the assistant chief, Col. Frank McIntyre. In that conversation he in some way gained the impression that there was a limitation upon the amount of friar land which could or would be sold to a single purchaser. Col. McIntyre testifies that he never intentionally gave such an impression, except as to purchases by corporations. He understood that they could hold only 1,024 hectares, but the department had always understood that since the amendment to the friar-lands act there was no limit to the amount which could be sold to individuals.

Mr. Hammond testifies that his clients had contemplated the purchase of private lands. "There was," he says, "the question of occupancy and whether occupancy had ripened into title or not, and my recollection is that where lands had been occupied for a certain number of years and you could not prove actual title, that by going to the Government it would perfect the title in some manner. I can not tell you exactly what it was, because I did not go into it from the standpoint of the legal title; I was taking it largely from what Mr. Welch said, what he appeared to know, that it was defective in some way, but could be cured," and that "I know it was mentioned, and I remember particularly that there were some questions about the title, and a title that might be cured by Government action, because that was one of the determining factors in my mind as to whether

my firm had better withdraw, because we might have to go, on their behalf, to Government officials and ask to have this defective title cured" (741); and further, that "I came to the conclusion that, by reason of the fact that I am a member of the firm of Strong & Cadawalader, of which Mr. Henry W. Taft, brother of the President of the United States, is also a member, it would be inadvisable for me to act for these gentlemen in connection with their proposed purchase of either public lands or friar lands or lands in the Philippines to which the title was defective." He says, "My firm as a firm really had nothing to do with the matter; I was the only member who knew anything whatever about it, except the two letters which I wrote to Mr. Taft on the subject, in which I discussed with him the advisability of our acting for these gentlemen. I entirely severed my connection with the matter on the 29th of September, 1909." The legal end of the matter was then intrusted to Mr. Carl A. De Gersdorff, a member of the law firm of Cravath, Henderson & De Gersdorff.

Mr. J. Montgomery Strong, of whom mention has been made, was not a member of the law firm of Strong & Cadawalader and is not a lawyer at all, but a banker. Mr. Hammond testifies that the original purpose of his clients was to form a corporation for the purpose of purchasing lands in the Philippines; but, having examined the law in that regard, he advised adversely. He says: "My recollection is, roughly, that you could not prevent, under the treaty with Spain, an individual Filipino from selling his lands to anybody whom he pleased, but that whether a corporation could hold it after it got it was another matter. My clients did not want any doubtful titles."

The purchase of private lands seems to have been abandoned, as well as the purchase of public lands, and the parties finally determined to purchase the friar lands embraced in what is known as the San Jose estate.

October 12, 1909, E. L. Poole and P. A. Prentiss called at the office of the director of lands in Manila, and informed him that they were contemplating the purchase of certain private lands in the island of Mindoro for the purpose of embarking in the sugar business. The director of lands endeavored to interest Mr. Poole in the San Jose estate, and was told that their attorney had been informed at Washington that friar lands could not be purchased in large tracts. The secretary of the interior showed them the law upon the subject and persuaded them to visit the estate. Mr. Poole informed the director of lands that he represented Mr. Welch, of Welch & Co. After visiting the estate, Mr. Poole expressed a desire to purchase it, subject to the opinion of his attorney as to the power of the Government to give title. The question having been raised, the director of lands obtained the opinion of the law officer of his bureau, and on the 12th of October, 1909, requested also the opinion of the attorney general of the Philippine Islands as to the authority to sell vacant and unoccupied friar lands to an individual without restriction as to purchase. Both of these decided in favor of the power to sell.

Mr. Poole having concluded to purchase the San Jose estate, a sale certificate was issued to him setting forth that the Government of the Philippine Islands had, upon the 23d day of November, 1909, "agreed to sell to E. L. Poole, vendee, a resident of the city of Manila, Philippine Islands, or his nominees," the San Jose estate, containing 22,484 hectares, for which he was to pay 734,000 pesos in installments, the first payment of 42,875 pesos to be made January 4, 1910, as of which date the sale was to become effective, and the unpaid balance to be paid in 19 equal annual installments of 36,375 pesos each, with interest at 4 per cent per annum. Upon the payment of 42,975 pesos January 4, 1910, the Government was to convey to Poole or his nominees "200 hectares, to be designated by the vendee, in a single tract" within the limits of the estate, the balance thereof to be conveyed "upon completion of the payment of the purchase price as hereinbefore stated, together with all accrued interest." That certificate, although made out November 23, 1909, was not signed by the secretary of the interior of the Philippines until a later date, he having received a cablegram from the Chief of the Bureau of Insular Affairs stating that the Secretary of War desired information by cable with reference to the proposed sale, and that it should not be consummated until he had considered the question. December 4, 1909, the Governor General was informed by cable that the Secretary of War approved the sale of the San Jose estate, and that, at the request of counsel for the purchasers, the question of the right of the Philippine Government to sell would be submitted at once to the Attorney General of the United States for his opinion. This submission was at the request of Mr. De Gersdorff, counsel for the intended purchasers. The opinion of the Attorney General in favor of the power to sell accompanies this report. The law officer of the bureau of lands and the attorney general of the Philippine Islands already had decided in favor of the power to sell.

The amount originally paid for this estate by the Philippine Government was $298,782.07. The price fixed in sale certificate No. 1, above referred to, was $367,000 (734,000 pesos).

The Governor General, having learned that the Bureau of Insular Affairs at Washington had questioned the authority for such a sale, officers cabled the Secretary of War at Washington as follows:

[Translation of cablegram received Oct. 22, 1909.]

SECRETARY OF WAR, *Washington:*

Prentiss and Poole desire to purchase unoccupied sugar lands on San Jose friar estates, Mindoro; say Hammond was informed by the Bureau of Insular Affairs an individual can not purchase more than 40 acres friar lands. Can not understand this, as acts 1847 and 1933 were passed amending friar-land act to give Government right to sell vacant friar lands without restriction as to area. Attorney general concurs in the opinion that this has been accomplished. Please confirm by telegraph to satisfy these gentlemen.

FORBES.

On the same day Col. McIntyre wrote Mr. Hammond, correcting the impression which he seemed to have received, and calling attention to the law, which, he claimed, made it clear that friar estates may be sold to individuals without limitation as to area. Mr. Hammond replied that he had withdrawn from the case.

January 4, 1910, Mr. Poole made the down payment of 42,875 pesos; sale certificate No. 1 was canceled and sale certificates Nos. 2 and 3 issued in lieu thereof. Sale certificate No. 2 covered all of the San Jose estate "except a tract of 4,200 hectares of said hacienda, which is the subject of sale certificate No. 3 executed by the parties hereto contemporaneously herewith, to which reference is hereby made." Sale certificate No. 3 covered the remaining 4,200 hectares of the estate, and located the same according to a description therein contained, with the provision, however, that the "foregoing description is provisional, and shall be altered, if necessary, to conform to the wishes of the vendee, who shall be entitled, at any time within six months of the date of this instrument, to change the description or to substitute for the land above described" other lands within the estate. Subsequently, sale certificate No. 3 was amended so as to give the definite and agreed description of the 4,200 hectares. Sale certificates Nos. 2 and 3 provide the same aggregate consideration and terms of sale as certificate No. 1. In sale certificate No. 1 the Government agreed to sell to E. L. Poole "or his nominees." In the other certificates the language is "his corporate or individual nominees." Sale certificate No. 2 provides that:

"If, before the final conveyance of said land by the vendor, the vendee shall transfer or assign his interest in all or any part thereof to one or more assignees, then this agreement shall be canceled as to the part or parts so transferred or assigned and new agreements of like tenor executed by and between the vendor and such assignees, and the balance of the purchase price then remaining unpaid, together with accrued interest thereon, shall be apportioned to the vendee and his assignees, according to area."

In pursuance of that provision Mr. Poole subsequently designated the Mindoro Development Co. as his assignee of 200 hectares, and on November 7, 1910, the Philippine Government issued to that company a deed for that amount of land. The balance of the estate still stands in the name of Edward L. Poole; but it appears from the evidence before the committee that, on the 9th day of March, 1910, he executed a deed of trust, setting forth that, in making the purchase, he was acting as the agent of Horace Havemeyer, Charles J. Welch, and Charles H. Senft (Senff), who furnished him the money with which he paid for the property, and in which he agrees "to convey the said property to such persons, firms, or corporations as the said persons shall from time to time direct."

Horace Havemeyer is a young man 24 years of age. He was at the time of the purchase of the San Jose estate a director of the American Sugar Refining Co., the so-called Sugar Trust, but severed his connection with that company January 1, 1911. His father, who had been the president of the American Sugar Refining Co., had no interest in the purchase of the San Jose estate, having died before that transaction was entered into by his son. Neither the young man nor his father's estate are at the present time stockholders in the American Sugar Refining Co., and the inference from his testimony is that the relations between him and that company are somewhat strained.

Charles J. Welch, one of the purchasers of the San Jose estate, has never been an officer, agent, or director of the American Sugar Refining Co., and is not a stockholder therein.

Charles H. Senff is a retired business man of advanced age. He had at one time been vice president of the American Sugar Refining Co., but retired from that position some years ago, and on the 1st of January, 1908 or 1909, ceased to be a director.

The familiarity of the public with the names Havemeyer and Senff for a number of years in connection with the American Sugar Refining Co. gave rise to the impression, widely circulated, that the purchase of the San Jose estate was made by, or either directly or indirectly in the interest of, the Sugar Trust. It appears, however, from the emphatic and uncontradicted testimony in the case, that the American Sugar Refining Co. was not in any way whatever, directly or indirectly, concerned in the purchase, and that it is not engaged in the production of cane and manufacture of the juice into raw sugar, but so far as cane sugar is concerned confines its operations to the purchase of raw sugar and the refining thereof. It also owns stock in corporations manufacturing beet sugar.

It would seem from the evidence that, with the exception of Horace Havemeyer, the directors of the American Sugar Refining Co. had no knowledge of the purchase of the San Jose estate until they read of it in the newspapers, when they expressed dissatisfaction that one of the directors should have been concerned in the purchase.

Charles J. Welch is vice president and the owner of about 20 per cent of the stock of Welch & Co., a California corporation doing a commission business in sugar. The Welch family own 50 per cent of the stock. The American Sugar Refining Co. has no interest in it.

Mr. Havemeyer, Mr. Welch, and Mr. Senff are all engaged in the raising of cane and production of raw sugar, or are interested in corporations which are so engaged, in Cuba; Mr. Welch in Hawaii; and Mr. Senff in Porto Rico.

E. L. Poole, in whose name the purchase of the San Jose estate was made, acted solely as the agent of Messrs. Havemeyer, Welch, and Senff. He himself had no interest therein, and no other person has now, or has had, any interest therein, except the said Havemeyer, Welch, and Senff. They caused to be chartered under the laws of New Jersey a corporation known as the Mindoro Development Co., with very broad, general powers, similar to those frequently granted by that State. These powers can be exercised in the Philippine Islands, however, only to the extent that they are permitted by the laws thereof or the act of Congress relating thereto. This company can not hold more than 1,024 hectares of land. As a matter of fact, it does own only 200 hectares. Its capital stock now paid in is $750,000, of which one-third was contributed by each of the purchasers of the San Jose estate. As more capital is needed, it is in contemplation to sell shares to other parties. It is the intention of this company to erect a large modern sugar centrale, and this work has already been commenced. It is expected that this company will buy the sugar cane which may be produced upon the San Jose estate, and manufacture the juice thereof into raw sugar. The company has constructed, or contemplates the construction of, a private railroad about 11 miles in length, to transport the products of the centrale to the harbor in Mangarin Bay. The shore line of this harbor is about 13 miles in length. The Mindoro Development Co. has acquired what is known as a "foreshore lease," covering about 1,000 feet of that shore line. The Government owns or controls the land between the low tide and high tide lines, constituting what is commonly called the "Foreshore." Such a lease was therefore necessary to enable the company to erect the necessary docks and piers for the loading and unloading of vessels.

The San Jose estate belonged originally to the "Recoletos," an order of priests belonging to the "shod Augustinians," so called by way of distinguishing them from the "barefoot Augustinians." Prior to the sale to the Philippine Government these priests kept a few people upon the island in charge of cattle which were there pastured, but during the insurrection against Spain and the Spanish-American War these cattle were sold or disappeared, and those in charge of them departed, so that when Mr. Poole visited the estate in the interest of the intending purchasers he found upon the entire 56,000 acres only one occupant, an ex-convict, who was engaged in the business of catching wild carabao. At the present time there are about 800 Filipinos employed on the estate, who are paid considerably better wages than are received for like work in other parts of the islands.

In a modern sugar mill about 95 per cent of the juice of cane is extracted and utilized. In the old-fashioned small centrales now in use in a few parts of the island, only about 60 per cent is secured. There seems to have been some feeling that the erection of the improved mill would be prejudicial to the interests of the owners of the old-fashioned mills. Considerable opposition was aroused because of

the supposed purchase by the Sugar Trust; but the principal objection there exists among those who are desirous of the immediate independence of the islands from American control in view of their belief that the investment of American capital in the islands will tend to delay, perhaps indefinitely, such independence. With that question we are not called upon to deal in this report. From a purely business point of view, the sale of the San Jose estate was a wise transaction for the Philippine Government. The purchase price was about $70,000 in excess of the original price paid for the estate. The Government is relieved of an interest charge of about $11,950 per annum, putting $367,000 in the sinking fund for the redemption of its outstanding friar-land bonds, and the estate, which has heretofore been nonproductive and nontaxable, is now subject to taxation for all governmental purposes. That it could not have been sold so advantageously in small quantities under the restrictions applicable to public lands is manifest from the fact that the Government has been unable to sell a single acre of the public lands immediately adjoining, which are offered at $2 per acre in 40-acre tracts, subject to the provisions of occupation, cultivation, and nonalienation or encumbrance for a period of five years. The remaining unoccupied friar lands which could be offered in large blocks are as follows:

Statement showing the area of unoccupied lands on the various friar estates January 1, 1911, showing the approximate size of the vacant tracts.

	Acres.
Binan estate, Laguna Province	725
The bulk of this area is in one tract in the southwestern part of the estate.	
Muntinlupa, Laguna Province	2,450
The vacant land lies in the southeastern portion of the estate and the great bulk of the area is in one tract.	
Santa Rosa, Laguna Province	1,300
Probably not over 400 acres of this is in one tract.	
Calamba, Laguna Province	18,450
This, with the exception of a few small tracts, consists of practically three large tracts of 5,000 acres or over.	
Naic, Cavite Province	9,075
This consists of practically two tracts; one in the northeastern portion of the estate of about 6,000 acres and the other on the southern end of the estate of about 2,500 acres; the balance is in small parcels.	
San Francisco de Malabon, Cavite Province	13,900
Practically all in one tract.	
Santa Cruz de Malabon, Cavite Province	14,700
Practically all in one tract, adjoining the vacant land on the S. F. de Malabon and the Naic estates.	
Imus, Cavite	22,500
Practically all in one tract and adjoins the S. F. de Malabon estate.	
Santa Maria de Pandi, Bulacan Province	4,125
This is in scattered parcels not exceeding 100 acres in any one parcel.	
Orion, Bataan Province	175
One parcel of about 100 acres; balance in small parcels.	
Talisay, Cebu Province	10,000
This is practically one entire tract on which occupants have leased small areas here and there.	
Isabela, Isabela Province	48,622
Total	146,023

The above statement shows that there is vacant and available for sale or lease the following large tracts of friar lands:

Estates.	Number of tracts.	Area.
		Acres.
Isabela	1	48,622
Cavite	1	40,000
Do	1	6,000
Laguna	3	[1] 5,000
Do	1	2,400
Do	1	700
Do	1	400
Talisay	1	10,000
Total		123,122

[1] Each.

Some or all of the same reasons exist for selling these lands in quantities larger than 40 acres, and, in view of the fact that their total constitutes so small a portion of the total acreage of the islands which is subject to limited sales only, it may be urged that the sale of these remaining friar lands in larger quantities could not be considered as establishing or favoring a policy for the acquisition of the islands, or any considerable portion thereof, by a few corporations, trusts, or individuals. But, however desirable it may have been to sell the San Jose estate as an entirety, or however desirable it may be to sell the remaining unoccupied friar lands in tracts larger than 40 acres each, if the law forbids such sales, they can not legally be made and the purchasers do not hold by good titles. What, then, is the present law upon the subject? The opinions of Louis C. Knight, attorney, bureau of lands of the Philippines; of Ignacio Villamor, attorney general of the Philippine Islands; and of George W. Wickersham, Attorney General of the United States, upon the one hand, and of Moorfield Storey, of Boston, upon the other, are submitted as exhibits hereto, in order that those interested in the subject may consider them in connection with this report. There has not been disclosed the slightest irregularity or impropriety on the part of Dean C. Worcester, the secretary of the interior; Capt. Charles H. Sleeper, the director of the bureau of lands; the War Department or the Bureau of Insular Affairs at Washington; or any other official, either of the Philippine Government or the United States Government, in connection with the purchase and sale of the San Jose estate. It was a perfectly plain and square business transaction. Even if it shall be determined that the law prohibited the sale of more than 16 hectares, the officials who made the sale can not be blamed, as they acted in pursuance of legal opinions which they were in duty bound to accept. But what is the law?

CERTAIN SECTIONS OF THE ACT OF CONGRESS APPROVED JULY 1, 1902, DEAL SPECIFICALLY WITH LANDS ACQUIRED BY THE UNITED STATES UNDER THE TREATY OF PEACE WITH SPAIN, AND CONSTITUTING THE PUBLIC DOMAIN OF THE UNITED STATES IN THE PHILIPPINE ISLANDS. DO THE PROVISIONS OF THOSE SECTIONS APPLY ALSO TO THE FRIAR LANDS, WHICH DO NOT NOW, AND NEVER DID, BELONG TO THE UNITED STATES, BUT AT THE TIME OF THE PASSAGE OF SAID ACT WERE IN PRIVATE OWNERSHIP, AND BY SUBSEQUENT PURCHASE BECAME THE PROPERTY OF THE GOVERNMENT OF THE PHILIPPINE ISLANDS?

The act of Congress entitled "An act temporarily to provide for the administration of the affairs of civil Government in the Philippine Islands, and for other purposes," approved July 1, 1902, and commonly called "the organic act," is a very long act, divided into 88 sections, covering a great variety of subjects.

Certain of these sections relate specifically to lands in the Philippine Islands belonging to the United States, having been acquired by our Government from the Spanish Crown under the treaty of Paris. Those which need be considered here are sections 12 to 17, both inclusive, which read as follows:

"SEC. 12. That all the property and rights which may have been acquired in the Philippine Islands by the United States under the treaty of peace with Spain, signed December 10, 1898, except such land or other property as shall be designated by the President of the United States for military and other reservations of the Government of the United States, are hereby placed under the control of the government of said islands to be administered for the benefit of the inhabitants thereof, except as provided in this act.

"SEC. 13. That the Government of the Philippine Islands, subject to the provisions of this act and except as herein provided, shall classify according to its agricultural character and productiveness, and shall immediately make rules and regulations for the lease, sale, or other disposition of the public lands other than timber or mineral lands, but such rules and regulations shall not go into effect or have the force of law until they have received the approval of the President, and when approved by the President they shall be submitted by him to Congress at the beginning of the next ensuing session thereof, and unless disapproved or amended by Congress at said session they shall at the close of such period have the force and effect of law in the Philippine Islands: *Provided*, That a single homestead entry shall not exceed 16 hectares in extent.

"SEC. 14. That the Government of the Philippine Islands is hereby authorized and empowered to enact rules and regulations and to prescribe terms and conditions to enable persons to perfect their title to public lands in said islands, who, prior to the transfer of sovereignty from Spain to the United States, had fulfilled all or some of the conditions required by the Spanish laws and royal decrees of the Kingdom of Spain for the acquisition of legal title thereto, yet fail to secure conveyance of title; and the Philippine Commission is authorized to issue patents, without compensation, to any native of said islands, conveying title to any tract of land not more than 16 hectares in extent, which were public lands and had been actually occupied by such native or his ancestors prior to and on the 13th of August, 1898.

"SEC. 15. That the Government of the Philippine Islands is hereby authorized and empowered, on such terms as it may prescribe, by general legislation, to provide for the granting or sale and conveyance to actual occupants and settlers and other citizens of said islands such parts and portions of the public domain, other than timber and mineral lands of the United States in said islands, as it may deem wise, not exceeding 16 hectares to any one person, and for the sale and conveyance of not more than 1,024 hectares to any corporation or association of persons: *Provided*, That the grant or sale of such lands, whether the purchase price be paid at once or in partial payments, shall be conditioned upon actual and continued occupancy, improvement, and cultivation of the premises sold for a period of not less than five years, during which time the purchaser or grantee can not alienate or encumber said land or the title thereto, but such restriction shall not apply to transfers of rights and title of inheritance under the laws for the distribution of the estates of decedents.

"SEC. 16. That in granting or selling any part of the public domain under the provisions of the last preceding section, preference in all cases shall be given to actual occupants and settlers; and such public lands of the United States in the actual possession or occupancy of any native of the Philippine Islands shall not be sold by said government to any other person without the consent thereto of said prior occupant or settler first had and obtained: *Provided*, That the prior right hereby secured to an occupant of land who can show no other proof of title than possession shall not apply to more than 16 hectares in one tract.

"SEC. 17. That timber, trees, forests, and forest products on lands leased or demised by the Government of the Philippine Islands under the provisions of this act shall not be cut, destroyed, removed, or appropriated except by special permission of said Government and under such regulations as it may prescribe.

"All moneys obtained from lease or sale of any portion of the public domain or from licenses to cut timber by the government of the Philippine Islands shall be covered into the insular treasury and be subject only to appropriation for insular purposes according to law."

It is clear that, standing by themselves, these sections do not deal with private lands or with lands which then were or might thereafter become, the property of the Government of the Philippine Islands. Their operation is, by their very terms, confined to "property and rights which have been acquired in the Philippine Islands by the United States under the treaty of peace with Spain" (sec. 12); "public lands" (sec. 13); "public lands in said islands which had been the subject of transfer of sovereignty from Spain to the United States" (sec. 14); "the public domain * * * of the United States in said islands" (sec. 15); "public lands of the United States" (sec. 16); "public domain" (sec. 17).

The terms "public domain" and "public lands," when used in an act of Congress without qualifying words, are always descriptive of property of the United States, and no other.

The sections quoted do not in themselves contain any reference to the so-called friar lands, which were not the property of the Spanish Crown; were not acquired by our Government under the treaty of peace; and do not now, nor ever did, constitute any portion of the "public land" or "public domain of the United States." The friar lands were, at the time of the treaty of peace, and at the time of the passage of the act of Congress of 1902, in private ownership. Some six years after the treaty of Paris, and two years after the passage of the organic act, they were purchased by the Philippine Government in pursuance of authority contained in sections 63, 64, and 65, as follows:

"SEC. 63. That the Government of the Philippine Islands is hereby authorized, subject to the limitations and conditions prescribed in this

act, to acquire, receive, hold, maintain, and convey title to real and personal property, and may acquire real estate for public uses by the exercise of the right of eminent domain.

"SEC. 64. That the powers hereinbefore conferred in section 63 may also be exercised in respect of any lands, easements, appurtenances, and hereditaments which, on the 13th of August, 1898, were owned or held by associations, corporations, communities, religious orders, or private individuals in such large tracts or parcels and in such manner as in the opinion of the commission injuriously to affect the peace and welfare of the people of the Philippine Islands. And for the purpose of providing funds to acquire the lands mentioned in this section said Government of the Philippine Islands is hereby empowered to incur indebtedness, to borrow money, and to issue, and to sell at not less than par value, in gold coin of the United States of the present standard value or the equivalent in value in money of said islands, upon such terms and conditions as it may deem best, registered or coupon bonds of said Government for such amount as may be necessary; said bonds to be in denominations of $50 or any multiple thereof, bearing interest at a rate not exceeding 4½ per cent per annum, payable quarterly, and to be payable at the pleasure of said Government after dates named in said bonds, not less than 5 nor more than 30 years from the date of their issue, together with interest thereon, in gold coin of the United States of the present standard value or the equivalent in value in money of said islands; and said bonds shall be exempt from the payment of all taxes or duties of said Government, or any local authority therein, or of the Government of the United States, as well as from taxation in any form by or under State, municipal, or local authority in the United States or the Philippine Islands. The moneys which may be realized or received from the issue and sale of said bonds shall be applied by the Government of the Philippine Islands to the acquisition of the property authorized by this section, and to no other purposes.

"SEC. 65. That all lands acquired by virtue of the preceding section shall constitute a part and portion of the public property of the Government of the Philippine Islands, and may be held, sold, and conveyed, or leased temporarily for a period not exceeding three years after their acquisition by said Government, on such terms and conditions as it may prescribe, subject to the limitations and conditions provided for in this act: *Provided*, That all deferred payments and the interest thereon shall be payable in the money prescribed for the payment of principal and interest of the bonds authorized to be issued in payment of said lands by the preceding section, and said deferred payments shall bear interest at the rate borne by the bonds. All money realized or received from sales or other disposition of said lands or by reason thereof shall constitute a trust fund for the payment of principal and interest of said bonds, and also constitute a sinking fund for the payment of said bonds at their maturity. Actual settlers and occupants at the time said lands are acquired by the Government shall have the preference over all others to lease, purchase, or acquire their holdings within such reasonable time as may be determined by said Government."

Nowhere in these sections are the friar lands spoken of as "public lands" or as constituting "parts and portions of the public domain of the United States in said islands."

Section 64 authorized the Philippine Government to purchase the lands of the religious orders and, for the purpose of providing the necessary funds, to issue and sell bonds, the proceeds thereof to be applied to the acquisition of the said lands and to no other purpose.

Section 65 authorizes the Philippine Government to sell all lands acquired by virtue of the preceding section "on such terms and conditions as it may prescribe, subject to the limitations and conditions provided for in this act," and requires all moneys realized from said sales to be placed in a trust fund or sinking fund for the payment of the principal and interest of said bonds. Does the phrase "subject to the limitations and conditions provided for in this act" bring forward and extend to these friar lands, purchased by the Philippine Government with its own money, and for which it is to reimburse itself out of the proceeds of their sales, all the restrictions placed by sections 12 to 17 upon the acquisition of lands belonging to the United States but which that Government was practically giving away for the benefit of the Filipino people in the manner and upon the terms it chose to adopt for that purpose? Does that language extend to the friar lands owned by the Philippine Government the provisions of those sections which, standing by themselves, deal only with lands owned by the United States? The Philippine Legislature and the Philippine officials did not so construe it.

Section 15 of the organic act required legislation by the Philippine Government providing for the sale of public lands of the United States. Section 65 required legislation prescribing terms and conditions for sales of friar lands belonging to the Philippine Government. The Philippine Legislature passed act No. 926, entitled "The public-lands act," which was amended by act No. 979, approved October 7, 1903. The second chapter of this act limited the purchase of public lands by a corporation to 1,024 hectares and by an individual to 16 hectares, and it provided that "no association of persons not organized as above and no mere partnership shall be entitled to purchase a greater quantity than will equal 16 hectares for each member thereof." Subsequently the legislature passed act No. 1120, known as the "friar-lands act," in the preamble of which it is set forth that—

"the said lands are not 'public lands' in the sense in which those words are used in the public-land act * * * and can not be acquired or leased under the provisions thereof, and it is necessary to provide proper agencies for carrying out the terms of said contract of purchase and the requirements of said act of Congress with reference to the leasing and selling of said lands and the creation of a sinking fund to secure the payment of the bonds so issued."

The ninth section of this so-called friar-lands act required of the chief of the bureau of public lands that "in making such sales he shall proceed as provided in chapter 2 of the public-lands act." This was properly construed by the Philippine officials as imposing the same limitations upon the sale of friar lands as had been in their public-lands act imposed upon the sale of public lands. It was very soon discovered that friar lands could not be sold to any considerable extent under such conditions; therefore, by the Philippine Act No. 1847, approved June 3, 1908, the friar-lands act No. 1120 was so amended as to remove the obligation to follow the terms of the public-lands act, and thus to remove its restriction upon the amount of friar lands that might be sold to a single purchaser.

Section 86 of the organic act requires "that all laws passed by the Government of the Philippine Islands shall be reported to Congress, which hereby reserves the power and authority to annul the same." In pursuance of that requirement, the acts above mentioned, both original and amendatory, were duly certified to Congress, which has taken no action thereon.

The change in the Philippine law touching friar lands is fully explained in volume 8 of the Annual Report of the Secretary of War for 1908, at page 48, Part II, in the following language:

"Certain important amendments to the friar-lands act have been made. This act made the provisions of chapter 2 of the public-lands act apply to sales of friar lands. The amount of land which could be sold to an individual was thus limited to 16 hectares, which would in very many cases have defeated the obvious intention of the act to allow tenants to secure their actual holdings, and would have delayed for many years the sale of large tracts, thus obliging the Government to continue to pay interest on their purchase price. The provision of the public-lands act that surveys should be in regular subdivisions was entirely impracticable on occupied friar estates on account of the very irregular form of actual holdings.

"The further requirement for advertising after application for purchase had been made imposed an entirely needless and unwarranted expense of ₱20 to ₱100 on each purchaser, and the most liberal arrangement relative to payment possible was that it should be made in one installment, after five years, with interest at 6 per cent.

"Under the law as amended there is no limit as to the amount of land which may be purchased."

The report of the Secretary of War, embodying the report of the Philippine Commission and including the language quoted, was submitted to Congress by President Roosevelt in December, 1908. Thus that construction of the law was given full publicity, not only in the Philippine Islands but in the United States, prior to the commencement of the present administration and long prior to any negotiations by anybody for the purchase of the San Jose estate.

If the phrase "subject to the limitations and conditions provided for in this act," appearing in section 65 of the organic act, renders the friar lands subject to the conditions found in section 15, by the same reasoning the friar lands must be subject to the provisions of all the sections touching public lands. Among them is section 13, which provides that "a single homestead entry shall not exceed 16 hectares in extent." Was it intended that the friar lands purchased by the Philippine Government with borrowed money to be repaid out of the proceeds of their sales should be subject to homestead entry? Section 14 requires that patents shall be issued without compensation, "conveying title to any tract of land not more than 16 hectares in extent which were public lands and had been actually occupied by said native or his ancestors prior to August 13, 1898." While the San Jose estate and one or two others were practically untenanted, the most of the friar lands were occupied by natives or their ancestors prior to August 13, 1898. All of the most valuable of the friar lands were thus occupied. Was it the intention of the organic act that the Philippine Government should be compelled to issue patents to these friar lands without compensation? If so, the requirement that the proceeds of sale should be placed in a sinking fund for the repayment of the bonds was of very little value.

Section 14 also limits the former occupant of public lands to the acquisition of not more than 16 hectares; but section 65, relating to friar lands, declares that "actual settlers and occupants at the time said lands are acquired by the Government shall have the preference over all others to lease, purchase, or acquire their holdings within such reasonable time as may be determined by said Government." Had Congress intended to limit the preference of such occupants of friar lands to 16 hectares, would not that limitation have been clearly expressed, as in the case of public lands? Does not the use of the term "their holdings" indicate an intention to give them the preference and the right to acquire their entire holdings, whether more or less than 16 hectares?

In the table above given there appear the names of many tenants who have acquired title to lands previously occupied by them in amounts exceeding 16 hectares each.

If the limitations of section 15 apply at all to the lands acquired by the Philippine Government under section 65, they must apply to all lands so acquired. Was it the intention of Congress to cut up, distribute, and impair these tenant holdings of friar lands by clipping off here and there the hectares in excess of 16? If tenants holding 20, or 30, or 40, or more hectares and given the privilege over all others "to lease, purchase, or acquire their holdings" are limited in that preference and in that purchase or acquisition to 16 hectares, then to which particular 16 hectares does the preference and the right of acquisition extend? From which particular hectares are other persons excluded from purchase? By holding off for a term of years such tenant might hold a hundred or a thousand hectares against all the world, and then finally have the right to purchase only 16 hectares.

Mr. Storey, in his opinion, cites parts of sections 65 and 15, respectively, but in each instance omits the proviso which is a very important part of the section. Thus the proviso to section 15 provides, as to public lands, "that the grant or sale of such lands, whether the purchase price be paid at once or in partial payments, shall be conditioned upon actual and continued occupancy, improvement, and cultivation of the premises sold for a period of not less than five years, during which time the purchaser or grantee can not alienate or encumber said land or the title thereto, but such restriction shall not apply to transfers of rights and title of inheritance under the laws for the distribution of the estates of decedents." If any part of that section applies to friar lands, it all applies. Congress, as already stated, has practically required the Philippine Government to acquire these lands, in the purchase of which it incurred an indebtedness of $7,000,000, and an annual interest charge of $280,000. Section 65 contemplates that the proceeds of sales of these lands shall be used to meet these interest charges and pay the principal of the bonds. Is it reasonable to suppose that Congress intended not only to limit each sale to 16 hectares (40 acres), but also to make sales practically impossible by requiring that the purchaser must actually occupy, improve, and cultivate the premises for five years, during which period, even though he pay the full cash price on the day of sale, he is forbidden to either sell or mortgage or in any way encumber the land? That was not an unreasonable provision where the Government of the United States was giving away its own land; but a most unreasonable condition to impose upon the sale of friar lands purchased by the Philippine Government with its own money and from the sale of which it was to provide the funds for its own reimbursement. The legislative intent must plainly appear before such a construction can be justified.

If the terms and conditions of section 15 apply to lands purchased and sold under authority of section 65, so also must the provisions of section 16, which declares that—

"such public lands of the United States in the actual possession or occupancy of any native of the Philippine Islands shall not be sold by said Government to any other person without the consent thereto of

said prior occupant or settler first had and obtained: *Provided*, That the prior right hereby secured to an occupant of land who can show no other proof of title than possession shall not apply to more than 16 hectares in one tract."

Is it reasonable to suppose that Congress intended that limitation to apply to friar lands? Did it intend to prevent the Philippine Government from selling, at all, friar lands in the possession or occupancy of persons who had no title and did not seek to obtain one? Did Congress intend to compel the Philippine Government to buy land upon which there might be settlers without title, which land the settlers were not compelled to buy, but which the Government could never sell without their consent first had and obtained?

Section 65, which authorizes the sale of friar lands "subject to the limitations and conditions provided for in this act," provides that the money realized from the sales of such lands "shall constitute a trust fund for the payment of principal and interest of said bonds." Section 17 requires that "all moneys obtained from lease or sale of the public domain * * * shall be covered into the insular treasury and be subject only to appropriation for insular purposes according to law." Surely it was not intended by section 65 to extend the terms and conditions of section 17 to sales of friar lands.

All the parts of the act must be considered together and given harmonious and reasonable construction so as to effectuate the legislative intent. The words "subject to the limitations and conditions provided for in this act," as found in section 65, are not meaningless nor without effect, even if held not to refer to the provisions of sections 12 to 17, which deal with public lands. There are plenty of "limitations and conditions provided for in this act" to which the sales or leases of friar lands are made subject. For instance, that they may not be leased for a period exceeding three years (sec. 65); that deferred payments and interest thereon shall be payable in the money prescribed for the payment of the principal and interest of the friar-land bonds issued in payment for said lands; that the money realized from the sale of lands shall constitute a trust fund and not go into the insular treasury for general purposes; that actual settlers and occupants shall have the preference over all others to lease, purchase, or acquire their holdings; that public works, duly authorized, may be constructed over and upon them (sec. 74); that corporations may not hold more than 1,024 hectares (sec. 75). This provision is general and applies to public lands, private lands, and friar lands alike.

Section 74 bears evidence that the act all the way through recognizes the distinction between lands of the United States and lands of the Philippine Government. It confers authority for public works to be constructed "over and across the public property of the United States and over similar property of the government of said islands." This important section upon the subject of franchises contains numerous conditions to which friar lands, as well as public lands, are subjected. It provides that "lands or rights of use and occupation of lands thus granted shall revert to the Governments by which they were respectively granted upon the termination of the franchises and concessions under which they were granted or upon their revocation or repeal." That is plainly one of the limitations and conditions subject to which the purchasers may acquire friar lands.

There are many other "limitations and conditions" prescribed in the organic act, general in character, and which may reasonably be construed to have been extended by section 65 to friar lands; but the limitations and conditions specifically imposed by sections 12 to 17 upon the sale and disposal of lands owned by the United States, and which this Government has generously permitted to be sold for the benefit of the Filipino people, can not by any reasonable construction be made to extend to sales by the Philippine Government of lands purchased with its own money from private owners and which never did belong to the United States.

It is quite within the power of the Philippine Legislature to limit the amount of friar lands which may be sold to a single noncorporate purchaser, but it has not done so and Congress has not done so.

In construing the statute we must of course consider all its parts, and may also properly take into consideration the events and conditions which led to its passage. In passing upon the statutory remedy we must consider the mischief for which it was intended to be the cure.

"The legislative department is supposed to have a consistent design or policy and to intend nothing inconsistent or incongruous. The mischief intended to be removed or suppressed or the cause or necessity of any kind which induced the enactment of a law are important factors to be considered in its construction. The purpose for which a law was enacted is a matter of prime importance in arriving at the correct interpretation of its terms. (Lewis's Sutherland's Statutory Construction, 2d ed., sec. 471.)

"The intention of the legislature in enacting a law is the law itself, and must be enforced when ascertained, although it may not be consistent with the strict letter of the statute. Courts will not follow the letter of a statute when it leads away from the intent and purpose of the legislature and the conclusions inconsistent with the general purpose of the act. (Ibid., sec. 363.)

"Statutes are to be construed as may best effectuate the intention of the makers, which sometimes may be collected from the cause or occasion for passing the statute, and where discovered it ought to be followed with judgment and discretion in the construction, though the construction may seem contrary to the letter of the statute. (Big Black Creek Improvement Co. *v.* Commonwealth, 94 Pa., 450.)"

If it be argued that the qualification "subject to the limitations and conditions provided for in this act," as found in section 65, includes necessarily all the limitations and conditions anywhere found in the act, even though they were definitely and distinctly applied in connection with sales of public lands only, the answer is found in the decision of our highest tribunal, as reported in McKee *v.* United States (164 U. S., 287; 41 Lawyers' Co-op. Ed., 437). The fourth section of an act of Congress, approved March 2, 1891, distinctly provided—

"that any sum or sums of money received into the Treasury of the United States from the sale of lands bid in for taxes in any State under the laws described in the first section of this act, in excess of the tax assessed thereon, shall be paid to the owners of the land so bid in and resold, or to their legal heirs and representatives."

That language was very general, but the Supreme Court of the United States held that it did not apply to all cases. Mr. Justice Peckham, delivering the opinion of the court, said:

"There was added to the act of 1891 the last clause of section 4, which would cover all such cases, and we are of opinion that this last clause does not refer to or cover the cases of those owners who are mentioned in the first clause of the same section. Otherwise this curious result might and in this particular case would follow," etc.

He then proceeds to consider "the contemporaneous history" of the sale of lands under the provisions of the direct-tax act of 1861, and says:

"It is true that if the language used in that last clause be given its widest and broadest application it would include all owners of real estate which had been sold in any portion of the country under the provisions of the direct-tax act. But we think a perusal of the whole act prevents our giving this unlimited construction, because to do so would conflict with what we think was the intention of Congress, gathered from the provisions of the whole act. Under such circumstances it is not only the right but it is the plain duty of the court to limit by a proper construction the otherwise boundless application of the general language used in the statute."

The opinion concludes in these words:

"In this case we think the intention of Congress was plain, and that the general language of the last clause of section 4 should not be held to include the class of owners of lands mentioned in the first clause of the same section, for whose case special provision was therein made."

Applying the principles of construction above set forth, we may well take into consideration the contemporaneous history and the events and conditions which moved Congress to authorize the purchase and sale of these so-called friar lands.

Prior to the Spanish-American War something over 400,000 acres of lands in the Philippine Islands were in the private ownership of the friars. Under the Spanish régime these priests possessed and exercised great power and influence in the communities in which they resided. Some of their estates were unoccupied, but the most of them were thickly populated. The tenants and subtenants and their families living upon these estates numbered more than 160,000. The Filipino people were engaged in an effort to throw off the tyranny and despotism of Spain. Partly because the friars were not in sympathy with this insurrection, and partly because they were alleged to be oppressive and unsatisfactory landlords, the tenants turned upon them. The priests were driven from their parishes and fled to the city of Manila, where they were found when the Americans took possession of the islands. When the Americans had assumed control the friars insisted upon their rights. The tenants repudiated their obligations to the friars as landlords and refused either to surrender possession of, or to pay rent for, the lands they occupied. The American Government now faced the same serious and disturbing agrarian troubles which had caused the Spanish Government so much annoyance and disaster. That was the mischief. The remedy was to get these lands away from the friars and into an ownership which the tenants would respect. To apply this remedy it became necessary for Congress to provide a way whereby the Philippine Government could itself acquire the lands from the friars. This was accomplished by authorizing the Government to issue its own bonds and apply the proceeds to the purchase of the lands. It was also necessary to provide a method whereby the Philippine Government could provide for the payment of the bonded obligations thus incurred.

This Congress sought to accomplish by authorizing the sale of the lands and requiring the proceeds to be put into a trust fund for the payment of the principal and interest of the bonds. As a further and very necessary means of securing permanent freedom from such troubles as existed, Congress provided that the tenants should themselves have the first right to purchase, and thus acquire ownership of the lands upon which they had lived. Should they not purchase, then the lands were to be sold to others. Public lands of the United States in the Philippine Islands were, by Congress, substantially open to homestead entry, under rigid conditions prescribed in the organic act itself. People who had occupied them for the time, specified in the act, were to be given patents without compensation. The object of disposing of these public lands was not so much to secure funds as to induce the Filipino people to occupy and cultivate them. They were, and are, almost wholly unoccupied. With the friar lands, the case was quite different. Most of them were already in occupation and under cultivation. The object of their sale was to acquire funds with which to repay the money borrowed by the Philippine Government for their purchase. This work would have been defeated by applying to them the conditions of section 15 touching public lands of the United States, under which section the purchaser was not only limited to 16 hectares, but was also prevented from selling, leasing, mortgaging, or otherwise encumbering his land for five years after he had paid for and acquired title. The fact that early sales of friar lands were contemplated by the act is manifest from the fact that, while no limit of time was placed upon leases of public lands, friar lands could be leased only "temporarily for a period not exceeding three years." These leases were made temporary, so that they might not obstruct the sales, which were clearly contemplated and from the funds of which the Philippine Government was to reimburse itself. The practical effect of the conditions imposed by section 15 is well illustrated in the island of Mindoro, where public lands have been offered subject to those conditions at $2 per acre, with not a single purchaser, while friar lands immediately adjoining but without the same onerous conditions, have been sold at more than $6 per acre.

Arising out of this friar-land transaction the Philippine Government has a bonded indebtedness of $7,000,000, with an annual interest charge of $280,000 thereon. Can it reasonably be assumed that Congress intended that government to bear this onerous burden itself and to impose upon it the necessity of taxing the Filipino people to meet these obligations, by depriving them of the opportunity to sell, at a fair price and on such terms as they might impose, the very lands for which the indebtedness had been incurred? There were certainly hundreds, perhaps thousands, of tenants of friar lands, each owning more than 16 hectares. To have limited their rights of purchase to that amount of land, ejecting them from the excess, would have aggravated the very difficulty which Congress sought to allay.

A careful study of the organic act in all its parts, taking into account the history of the times and the objects sought to be accomplished, leads to the conclusion that the homestead provisions of sections 12 to 17, relating to public lands of the United States, do not and were not intended to apply to friar lands acquired and sold under the provisions of section 65, and that the act fixes no limit to the quantity of friar lands which may be sold to purchasers other than corporations. It is, as already pointed out, within the power and authority of the Philippine Legislature to limit the amount that may be sold to a single person.

LEASE OF THE ISABELA ESTATE WITH OPTION TO PURCHASE.

The friar-land estate in northern Luzon known as the Isabela estate has an area of 49,727 acres (521). It cost the Philippine Government $159,858.01 (261), or a little more than $3 per acre. It is situate in

a sparsely settled province and is difficult to reach. It is an inland estate, 100 miles or more distant from the nearest seaport, which is in turn about 250 miles distant by sea from Manila. There is an abundance of public land in that province offered for sale under the public-land laws at a very low figure, but few sales have been made. Owing to the remoteness and inaccessibility of this estate and the difficulty of securing a purchaser for it, the Philippine officials were glad to issue a lease on the 21st day of January, 1910, to Edward B. Bruce, representing M. Lowenstein, W. H. Lawrence, and Walter E. Olsen, residents of Manila, doing business there. This lease contained an option to purchase 48,620 acres of land at the price of $211,250 in installments and with interest as therein provided. The rental was fixed at a nominal figure, the lessee agreeing to cause an examination of the estate to be made by a competent expert for the purpose of determining the quality of the soil and other considerations to determine the value of the estate for agricultural purposes, his report and all statistics to become the property of the government in case of his failure to purchase. The expert so employed reported that the soil was not adapted to tobacco growing; that, while it was suited to the cultivation of sugar cane, its remoteness and the difficulty of transportation made its purchase undesirable. Mr. Bruce therefore declined to exercise his option to purchase. The lease expired January 6, 1911, and that large tract of unoccupied land remains in the possession of the Philippine Government.

LEASE OF PUBLIC LAND TO E. L. WORCESTER.

Section 22 of the Philippine public-lands act No. 926, as amended by No. 979, provides that "any citizen of the United States or of the Philippine Islands, or of any insular possession of the United States * * * may lease any tract of unoccupied, unreserved, nonmineral, agricultural public lands, as defined by sections 18 and 20 of the act of Congress approved July 1, 1902, providing a temporary government for the Philippine Islands, and so forth, not exceeding 1,024 hectares, by proceeding as hereinafter in this chapter indicated."

Section 27 provides how the rental shall be determined and paid, and that "it shall in no case be less than 50 centavos per hectare per annum."

Section 28 provides that leases "shall run for a period of not more than 25 years, but may be renewed for a second period of 25 years at a rate to be fixed," etc., and that land leased thereunder shall not be assigned or sublet without the consent of the chief of the bureau of public lands and the secretary of the interior.

There are many details required by the act to be complied with in the case of such leases.

Under and in pursuance of the above-mentioned provisions of law an agreement of lease was entered into under date of April 1, 1909, between the Government of the Philippine Islands and E. L. Worcester, a resident of said islands and a citizen of the United States, said lease covering 977 hectares in the Province of Nueva Ecija, for the term of 25 years, at a yearly rental of 488.69 pesos, upon default in payment of which the lease may be forfeited on 30 days' notice from the Government. The lands in question do not appear from the evidence to have been exceptionally desirable. They are on all sides surrounded by similar public lands which no one has thus far desired to lease or purchase. The rental is that usually fixed in leases of public lands. The lease contains no special privileges whatever, but is in the precise form in which all leases of public lands are made, and all observances of the law in the matter of advertisement of application, etc., were fully complied with. The lease was issued only after full publicity and advertisement of the application. The lands were unoccupied, unreserved, nonmineral, agricultural public lands. The application of E. L. Worcester was dated May 9, 1908, and from the 15th of May, 1908, until the 2d of July, 1908, the application was posted on a bulletin board in the office of the bureau of lands, with notice to the effect that all claims to the above-described land must be filed in the bureau of lands in Manila before the 2d day of July, 1908. July 21, 1908, the director of lands duly certified that the notice had been posted. A notice of intention to apply for the lease was also posted in the Presidencia, being the municipal building of the principal town ow the Province in which the land was located. The notice of intention to apply for the lease was also published for six weeks once a week in the newspaper known as the Manila Daily Bulletin, in English, and a copy translated into Spanish in the leading Spanish paper of Manila called El Commercio.

E. L. Worcester was not in the public service. He had lived in the islands five or six years prior to the making of the lease, and had been offered at different times positions in the public service, but had declined them upon the request of his uncle, Dean C. Worcester, secretary of the interior, who was not willing that his nephew should be in the public service.

Dean C. Worcester, the secretary of the interior, had not and has not any interest whatever in this lease. He has, however, been very unjustly criticized for permitting it to be made to his nephew. He declined at first to act upon the application, and desired that the Governor General should act in his stead. The director of lands called his attention to the fact, however, that under the provisions of the statute the secretary of the interior must himself act. Thereupon that official approved the application, but instead of returning it to the director of lands, as in the ordinary course, he did return it through the Governor General, to whom he made the following communication:

"In view of the fact that the lessee in this instance is a nephew of the secretary of the interior, the fact of the issuance of this lease is called to the attention of the Governor General, so that no claim may ever be made that due publicity did not attach to it.

"The rental charge is that which has been charged invariably for public land of similar character.

"DEAN C. WORCESTER,
"Secretary of the Interior."

The Governor General then forwarded the lease to the director of the bureau of lands with the indorsement:

"Respectfully returned to the director of lands; contents noted."

While the sense of delicacy exhibited by the secretary of the interior is quite creditable, it was hardly called for. As a citizen of the United States and a resident of the Philippine Islands for several years, E. L. Worcester was, under the Philippine statute above quoted, clearly entitled to apply for and demand a lease upon the same terms as anybody else, and the fact that he was a son of the brother of the secretary of the interior in no way deprived him of his legal rights under the statute. We do not think that Dean C. Worcester, secretary of the interior, did anything but his plain duty in the matter of this lease, and adverse criticism is wholly uncalled for and unworthy.

It was suggested at the hearing that section 15 of the organic act, providing "for the granting and sale and conveyance to actual occupants and settlers and other citizens of said islands," excludes citizens of the United States from purchasing or leasing public lands, because, under section 4, no person can be or become a citizen of the Philippine Islands except those inhabitants who were on the 11th of April, 1899, Spanish subjects residing in the islands, and their children subsequently born. A consideration of sections 13 and 16 and other portions of the act in connection with section 15 leads to the conclusion that it was not the intention of Congress to exclude citizens of the United States from the purchase or lease of public lands of the United States, but in any event the language of the Philippine statute clearly and distinctly confers that right, and until such time, if ever, as it shall be found by the proper court to be in conflict with the organic act, it was and is the duty of the Philippine officials to observe its prohibitions, and no fault can be found with them for so doing.

THE AGREEMENT WITH CARPENTER FOR LEASE AND SALE OF LAND ON THE TALA ESTATE.

On the 20th of April, 1908, the director of lands entered into a special agreement with Frank W. Carpenter, wherein said Carpenter promised "to take in lease, under certain terms and conditions hereinafter enumerated, any and all unoccupied tracts of land, or tracts which may hereafter be vacated by the present occupants thereof, which belong to the Government of the Philippine Islands, and constitute the property more specifically known and designated as the 'Tala estate,'" and the Philippine Government agreed "to reserve from lease or sale to any person or persons other than said party of the second part, said unoccupied and vacated lands of said estate, and to hold said lands for the exclusive uses and purposes of said party of the second part." The leases were to be for terms of three years each, on tracts of not less than 300 hectares, and the annual rental was to be 30 centavos (15 cents) per hectare for land upon which no crop was harvested, and 1 peso and 50 centavos (75 cents) per hectare for all lands which produced a crop. Carpenter was required to lease as a minimum 300 hectares the first year, 900 the second year, and 1,500 the third year, and 500 per year additional until all of the available lands on said estate were under lease to him. The agreement also provided that, in case application should be made by parties other than Carpenter for the lease or purchase of any of the reserved lands upon the estate not actually held in lease by him, he should immediately execute a lease or leases covering said lands, and in case of his neglect or refusal to do so, the Government was at liberty to sell or lease the land to other parties. Carpenter was also given "the preference right to lease any lands of said estate now occupied or leased which in future may be abandoned or vacated by the present occupants thereof."

The agreement bound Carpenter to cultivate 200 hectares during the first year, 600 the second year, 1,000 the third year, and 500 additional per year thereafter, until the entire area occupied and leased by him should be under cultivation, and the grazing of cattle was not to be considered as cultivation. Filipinos have been offered similar leases, but refused them because the condition as to cultivation was too onerous. At the time of the making of the lease the Philippine friar-lands act did not permit the sale of large tracts, but it was provided in the agreement that if, by subsequent legislation, the lands should be subject to sale, Carpenter should be bound to purchase and the Government bound to sell to him the lands covered by the terms of the agreement. He has exercised his right to purchase only to the extent of about 25 acres. Carpenter was bound by the agreement to keep trespassers from occupying any portion of the lands reserved for him, and it was agreed that the director of lands should "in his official capacity endeavor to obtain on the Tala estate adequate police protection and to secure all possible assistance from the Government for the construction of highways and bridges on and to the lands of said estate." It does not appear that any increase of police protection has resulted. No roads or highways have been constructed on the estate. Upon the road leading out from Manila a small bridge has been constructed and about a mile of road next the city has been macadamized with stone found by the roadside. Not, however, because of any agreement with Carpenter, but because the city, having purchased a cemetery site through which an old road ran, was compelled, in settlement of a suit by the adjoining municipality, to provide a road outside the cemetery.

The agreement itself did not transfer any land to the possession of Carpenter, but as he from time to time claimed lands under the agreement, separate leases were executed in accordance with the terms of the agreement, and each of them contained the usual forfeiture clauses for failure on the part of the lessee to comply with the terms.

The Tala estate lies some 8 or 9 miles from the city of Manila, in the Province of Rizal. It contains 16,740 acres, for which the Philippine Government paid $112,054.33. With the exceptions of the San Jose and Isabela estates, it is the most sparsely populated of all the frair-land estates, having an average of only about 38 inhabitants to the square mile. About 80 per cent of the estate was unoccupied when the Carpenter agreement was made. Although it is located so near the city of Manila, it was not considered desirable, owing to the bad character of the roads, which made it necessary either to walk or go on horseback. The country in former times had been infested by cattle thieves and robbers and still suffered from the reputation it then gained. The land is hilly and the soil poor. The difficulty of finding purchasers led the director of lands to enter into the agreement with Carpenter. Under an executive order Government employees are not permitted to go into private business without first obtaining the authority of the Governor General. Mr. Carpenter secured permission to engage in business. He discussed with the secretary of the interior the desirability of entering into the agreement, and also took it up with leading Filipinos to ascertain if his entering into such an agreement would be the subject of objection or criticism.

Mr. Carpenter's lease did not cover the entire Tala estate, but did cover 12,000 or 13,000 acres. His occupancy and cultivation of the lands encouraged the Filipinos to such an extent that they applied for the opportunity to acquire portions of the land covered by his agreement. As fast as such applications were made, he relinquished his right and allowed the lands to be taken by the Filipinos, and in this way has parted with his right to nearly 10,000 acres, so that he now holds under the agreement only about 4,000 acres. Upon this estate 28 Filipino purchasers have each acquired tracts in excess of 16 hectares, or 40 acres. The net result of the Carpenter agreement has been that a large amount of vacant land on the Tala estate, which had long lain idle and profitless, has been sold at an advance upon the price paid by the Government; that the remaining land is now leased and will be sold, and that much of the land has been brought under cultivation, and the Government has already received a considerable amount of revenue from land which had not previously yielded anything. In leasing this land, Mr. Carpenter acted entirely for himself, no other persons, either directly or indirectly, being interested with him. He holds the position known as executive secretary, but his official duties are in no way connected with the adminstration of public lands or friar lands.

He has no control over them whatever, and no voice in their management. The agreement with Mr. Carpenter seems to have been highly satisfactory to the Filipino people. No criticism of it has been heard on that side of the water; but, hearing of the criticisms published in this country, the members of the Philippine Assembly, all of whom are native Filipinos, including representatives of both political parties, met in caucus and unanimously adopted a resolution, which they caused to be forwarded to this committee through Hon. MANUEL L. QUEZON, Resident Commissioner in the United States, recognizing "the important and patriotic services rendered by Mr. Carpenter," and expressing "the highest opinion of his morality, honor, and integrity." We believe that the agreement was entered into with the best of motives by all concerned, and that its operation has been beneficial to the Government and to the people.

LEASE OF FRIAR LANDS TO GEN. AGUINALDO.

Gen. Emilio Aguinaldo, well known to fame, has been granted a special lease for 2,675 acres on the Imus estate, for the flat rental of 8 cents gold per hectare per annum and with the option to purchase.

LEASE TO SEÑOR ARTURO DANCEL.

A special lease has been granted to Señor Arturo Dancel, a Filipino, formerly governor of the Province of Rizal, for 1,397 acres, for which he is charged a rental of 4 cents gold per acre per year, to be increased to 30 cents when marketable crops have been produced on the land. His lease runs for three years, and he is bound to place the entire tract under cultivation within that time.

THE THAYER LEASE.

One A. F. Thayer, representing himself as an agent of the Dillinghams, of Honolulu, held a lease on the Binan estate for 4,035 acres and another on the Calamba estate for 8,217 acres. These leases were to run for six months, the rental being 4 cents gold per acre per month, or 48 cents per annum. Mr. Thayer proved to be either a myth or a fraud. It is by no means certain that he represented the Dillinghams, and in any event he has absconded and his affairs, including these leases, placed by the court in the hands of a business man of Manila as receiver. It is uncertain whether that receiver will carry out the terms of the leases, or throw the land back upon the Government.

In answer to the charge or suggestion made that the Secretary of War reported to Congress only one application for a certain number of acres, whereas in point of fact the Philippine Government had leased to Thayer a larger amount, as shown by the testimony before us, it should, in justice, be said that the confusion, or discrepancy, seems to be largely a matter of dates. Mr. Thayer first made one application and at a later period made another for an increased amount of land, and at a still later period he abandoned part of his claim. There does not appear to be any real discrepancy in the reports and statements which have been made.

EVICTIONS FROM FRIAR LANDS.

As already stated, there were upon the friar lands at the time of their purchase over 161,000 persons living. They had previously refused to pay any rent to the friars, and some of them refused to pay rent to the Philippine Government. Three thousand four hundred and twenty-nine eviction suits were brought for the purpose of causing the tenants to acknowledge the ownership of the Government in the lands and to pay rents. These eviction suits were nearly all amicably adjusted, and the total number of actual evictions was only 260, a very creditable showing under all the circumstances.

FILIPINO OCCUPANTS ENCOURAGED TO PURCHASE THEIR HOLDINGS AND OTHER FILIPINOS INDUCED TO ACQUIRE FRIAR LANDS.

The officials of the Philippine Government have made every effort to induce tenants to purchase their holdings, and have also encouraged former occupants, who had abandoned their holdings, to take them up again, and have also made efforts to persuade Filipinos who have never occupied friar lands to become purchasers. These natives were offered the land at the minimum price which would yield to the Government the cost of the individual holding, payable in annual installments spread over the maximum period consistent with the retirement of the friar-land bonds at maturity. The leasing of the friar lands fixed the status of the lessee as an occupant and conferred upon him the right to purchase his holdings. When the occupant of the land had once attorned to the Government, no question of title could thereafter be raised. Temporary leases were made, in many instances in advance of the actual surveys of the land and ascertainment of the extent and value of the holdings. An immense amount of survey work and numerous complicated calculations were required before the areas of individual parcels could be fixed. The Philippine Legislature did not appropriate for as many surveyors as were deemed necessary by the director of lands and secretary of the interior, and it was a long time before the estates could all be surveyed and offered for actual sale.

THE CALIFORNIA CORPORATIONS.

Three California corporations have acquired public (not friar) land in the Philippines—the San Carlos Agricultural Co., 1,024 hectares; the San Mateo Agricultural Co., 832 hectares; and the San Francisco Agricultural Co., 832 hectares. The stockholders in these companies are all relatives or friends of Charles J. Welch, one of the purchasers of the San Jose estate, and the public lands thus acquired by them are adjacent to the said estate. None of the purchasers of the San Jose estate are stockholders in any of these three corporations, and none of the stockholders in any one of these three corporations are stockholders in either of the other two. Section 75 of the organic act, limiting the amount of land which may be acquired by corporations to 1,024 hectares, provides that "corporations not organized in the Philippine Islands and doing business therein shall be bound by the provisions of this section so far as they are applicable." None of the three corporations named has exceeded the fixed limit of corporate holdings. E. L. Poole, the manager of the San Jose estate, is also the manager of each one of the three California companies, but he has no financial interest in any of them. It is the intention that they shall cultivate their lands and sell the cane produced to the Mindoro Development Co.

Each of these corporations is authorized by its charter to engage in agriculture, and each one complied with the legal requirements and obtained a license to do business in the Philippine Islands.

The question has arisen as to the right of corporations chartered in the United States to acquire public lands in the Philippines. Section 15 of the organic act provides—

"(1) That the government of the Philippine Islands is hereby authorized and empowered, on such terms as it may prescribe by general legislation, to provide for the grant, or sale, and conveyance to actual occupants and settlers and other citizens of said islands such parts and portions of the public domain, other than timber and mineral lands of the United States in said islands, as it may deem wise, not exceeding 16 hectares to any one person;

"(2) and for the sale and conveyance of not more than 1,024 hectares to any corporation or associations of persons;

"(3) *Provided*, That the grant or sale of such lands, whether the purchase price be paid at once or in partial payments, shall be conditioned upon actual and continued occupancy, improvement, and cultivation of the premises sold for a period of not less than five years, during which time the purchaser or grantee can not alienate or encumber said land or the title thereto; but such restriction shall not apply to transfers of rights and title of inheritance under the laws for the distribution of the estates of decedents."

Referring now to the first division, what is meant by the term "actual occupants?" Clearly it means persons already upon the land. "An occupant is one who has the actual use or possession of a thing." (2 Bouvier's Law Dict., 538.) "Settlers," as the term is used, means something different from "actual occupants." It means persons who were not actual occupants at the time of the passage of the act, and may include all persons who go upon lands for the purpose of making a settlement and acquiring title. Section 21 speaks of lands "entered and occupied as agricultural lands under the provisions of this act, but not patented."

The proviso, which constitutes the third division, requires all persons to become and to remain for five years at least actual occupants as well as settlers.

"Actual occupants and settlers" are not required by the first division to be citizens of the Philippine Islands, unless the use of the word "other" is to be considered as working such a requirement.

The first division relating to persons is complete in itself.

The second division is a thing separate and apart and complete in itself. It makes no mention whatever of either occupants, settlers, or citizens, but expressly authorizes "the sale and conveyance of not more than 1,024 hectares to any corporation or association of persons." As timber and mineral lands are excluded, the lands which can be acquired are plainly the agricultural lands required to be classified under section 13.

Section 75 provides that "every corporation organized to engage in agriculture shall, by its charter, be restricted to the ownership and control of not exceeding 1,024 hectares of land," and that "corporations not organized in the Philippine Islands and doing business therein shall be bound by the provisions of this section, so far as they are applicable."

Sections 15 and 75, whether considered separately or together, clearly contemplate that any corporation authorized to engage in agriculture may, whether chartered in the Philippine Islands or elsewhere, acquire 1,024 hectares of agricultural land.

The act contains further restrictions as to valuable mineral lands and vacant coal lands found upon the public domain, but either may be acquired in smaller quantity (placer claims, 64 hectares; coal lands, 128 hectares) by corporations chartered either in the Philippine Islands or in the United States.

SUMMARY.

We find that the administration of lands in the Philippine Islands has been fairly and honestly conducted, and that the charges and insinuations to the contrary which have been made against the officials charged with the execution of the laws in relation thereto, whether officers of the Philippine Government or of the United States, are unwarranted and unjust. W. Cameron Forbes, Governor General; Dean C. Worcester, secretary of the interior; Charles H. Sleeper, director of lands; and Frank W. Carpenter, executive secretary, are able, earnest, patriotic men, honestly performing their duties under more or less trying circumstances.

No corporation can lawfully hold more than 1,024 hectares (2,500 acres) of any kind of land in the Philippine Islands, and no corporation has been permitted to purchase more than that amount of either public lands or friar lands since the passage of the act of 1902.

Section 15 of the organic act limits the sale of public lands to 16 hectares, or 40 acres—the amount of public lands in the Philippine Islands which lawfully may be sold to any purchaser other than a corporation. No sale in excess of that amount has been made.

Sections 13, 14, 15, and 16 of the organic act do not apply to the sale and disposition of the friar lands.

Citizens of the United States, as well as citizens of the Philippine Islands, are clearly authorized by the organic act of 1902 to purchase valuable mineral lands and vacant coal lands forming part of the public domain; but it is claimed that, as to agricultural lands, the right of purchase is limited to citizens of the Philippine Islands. Technically, as defined by the act of 1902, citizens of the Philippine Islands are those Spanish subjects who resided in the islands April 11, 1899, and their children subsequently born. No other person can, under existing law, become such citizen, no matter how long he may have been resident in the islands. Congress should, by appropriate legislation, more clearly express its intention, whether individual citizens of the United States are to be included or excluded as purchasers of agricultural public land of the United States in the Philippine Islands.

While we see no objection to the acquisition of homes in the Philippine Islands by officials or employees of the Government, whether American or Filipino, we advise against speculation in public lands by public officials, and are pleased to note that the members of the Philippine Commission have refrained therefrom.

There are about 60,000,000 acres of public land in the Philippines, the sale of which is restricted by law to 40 acres to a natural person or 2,500 acres to a corporation, each sale to be conditioned upon actual occupancy and cultivation of the lands for at least five years, during which the purchaser may neither sell nor encumber them. There are only about 123,000 acres of unoccupied and vacant friar lands remaining. These can not be sold in such small tracts, and subject to such burdensome conditions, at prices which will enable the Philippine Government to reimburse itself and pay off the bonds issued for their purchase. If that is to be accomplished, they will have to be sold in larger tracts than those permitted for public lands, and without the substantially prohibitive conditions of nonalienation or encumbrance. We feel that the sale of such a comparatively small amount of land in somewhat larger tracts than 40 acres, and without the conditions mentioned, would not be injurious to the best interests of the islands and could not be considered as evidencing a policy or intention to permit their exploitation.

At present corporations are limited to 2,500 acres each. There is no limitation at all to the quantity of friar lands that may be acquired by noncorporate purchasers. The advisability of enacting reasonable

limitations respecting the quantity of friar lands that may hereafter be acquired, either by individuals or corporations, is respectfully commended to the consideration of Congress.

MARLIN E. OLMSTED.
E. D. CRUMPACKER.
E. L. HAMILTON.
CHARLES E. FULLER.
W. H. GRAHAM.
HERBERT PARSONS.
D. E. MCKINLAY.
ALBERT DOUGLAS.
C. V. FORNES.

I fully concur in the foregoing report as far as it goes, but desire to make the following additional suggestions:

1. As the question of law is important, and as it is also important that the land titles in the Philippines shall be settled and clearly ascertained, and as the judgment of this committee is not final, I think a test suit, or suits, should be brought by the proper Government officials for the purpose of securing a judicial determination as to the application of the limitation of section 15 of the act of Congress of 1902 to the sale of friar lands under section 65.

2. As the law now stands, corporations of any country, by simply filing the certified copies of their charters, may acquire lands in the Philippine Islands to the amount of 2,500 acres. I think that this right should be limited to corporations chartered in the Philippines or in the United States. The Philippine Legislature has authority to make such limitation, and unless it does I think that Congress should act.

3. The friar lands are only 400,000 acres, the private lands in the Philippines about 7,000,000, and public lands about 60,000,000. The latter are limited by law to sale to individuals in tracts not to exceed 40 acres, the purchaser to live upon and cultivate them for five years, during which period he may neither sell nor mortgage them. It is plain from the evidence in this case that upon these conditions no considerable amount of these public lands will ever be sold. I think that Congress should enlarge the amount which may be sold to a single individual and provide that when he has paid for the lands in full he may be permitted to mortgage them, as this will often be necessary to enable him to put up the necessary buildings and acquire the necessary stock for the habitation and cultivation of the lands, which it is the principal object of the law to secure. With such a provision of law, I do not think that any distinction should be made whereby corporations can acquire more than individuals.

4. Inasmuch as the United States has already expended many millions of dollars in freeing the Filipinos from the despotism of Spain, in affording them a good government, and in preserving peace there, it would, in my judgment, be absurd to enact or so construe any law as to exclude Americans, whether officeholders or not, from the acquisition and occupation of lands in the Philippine Islands. I do not agree with the theory that investments of American capital there in reasonable amounts will tend to defer the independence of the islands, but rather it will have the contrary effect. Nobody would suggest that we should turn the islands loose without providing in some way for their protection by the United States or by some other power, and this can more readily be accomplished when Americans are interested in the islands than when they are not. Such investments there by Americans would make the United States more careful in affording protection to the independent government that might be established there and would thus insure its greater stability.

A. W. RUCKER.

The preamble of the resolution under which this investigation has been held states that "it has been publicly charged that sales and leases of public lands have been made in the Philippines in violation of law." The duty placed upon the committee was "to make a complete and thorough investigation of the interior department of the Philippine Government touching the administration of Philippine lands and all matters of fact and law pertaining thereto, whether the same are to be had in the United States, the Philippine Islands, or elsewhere, and to report to the House during this Congress all the evidence taken and the findings and recommendations thereon." The committee has fully discharged its duty to make a complete and thorough investigation of the interior department of the Philippines with regard to the administration of Philippine lands, and we concur in the findings of the foregoing that there have been no sales of Philippine lands in violation of law, and that the officials having in charge the execution of the land laws of the Philippines have been honest and conscientious. They are not, in our judgment, subject to censure; their task has not been an easy one; they have had many burdens laid upon them, not the least of which has been the interpretation of the provisions of the act of 1902, providing a civil government for the Philippines, with regard to the lands they were administering.

It would have been, indeed, remarkable if, under all the circumstances that have surrounded them, they had made no mistakes. We have tried to consider their conduct as it has been disclosed to us in a fair and impartial manner, not as persons who seek for the opportunity to criticize, nor as those who try to avoid seeing things that are open to criticism, and we join in acquitting those under investigation of any intentional violation of law. We believe they endeavored always to act in accord with the law as they understood it, and, in cases where the exercise of discretion was involved, that they acted in that manner which they conscientiously believed was for the best interests of the Government of the United States and the Filipino people. We believe the Philippine Commission has made some mistakes in matters of policy, and have, in our judgment, without wrongful purpose, misconstrued some portions of the organic act that affect public and friar lands. We are not engaged in an investigation of the Philippine Commission, but some of these matters are pertinent to this inquiry, and we have commented on them. The secretary of the interior is only one member of that body and can not, of course, be charged with responsibility for its acts any further than can any single member of a legislative body be held to such accountability.

LEASES OF PUBLIC LANDS FOR LONG TERMS.

We do not believe leases should be made of public lands for long terms. The law, as enacted by the Philippine Government, now permits a lease of public lands for 25 years, with the privilege of renewal for 25 years additional. Where the land leased is valuable and productive, that creates an estate of great value. It is of higher value than a lease for life. Much of the land of the Philippines is very productive, and ultimately it will be demonstrated that a long-time lease is of considerable value where made on a large and productive tract, and a large demand for them will arise. It will need but a few men to make a financial success of such a venture to cause many to ask the same opportunity. It is true that discretion is lodged in the chief of the bureau of public lands as to the time for which the lease may be granted, but he will have great trouble in refusing one man what he has granted to another. The law does not confine leases to citizens of the islands, and we think properly so. The Filipino people are not at present disposed to take leases of large tracts for long terms, and only Americans are likely to do so, and the acquisition by them of leases to large and productive tracts for the period of a half century will not tend to the peace and welfare of the people of the islands. We recommend an amendment of the organic act, limiting leases to public lands to such reasonable periods as will properly safeguard the interests of all concerned. We believe such leases should be limited to 10 years, with option to renew for a like term.

SALES OF PUBLIC LANDS TO "CITIZENS."

By the terms of the public-lands act, enacted by the Philippine Commission, title in fee simple may be acquired to not more than 16 hectares of the agricultural public land by citizens of the Philippine Islands or of the United States, or any insular possession thereof, and corporations may acquire title to not exceeding 1,024 hectares.

We do not believe the commission has correctly interpreted the organic act in this respect. It is clear to us that natural persons who are not citizens of the Philippine Islands are not granted the privilege of acquiring title to agricultural public lands. Section 15 of the organic act, which is the section providing for the sale of such lands, is as follows:

"SEC. 15. That the Government of the Philippine Islands is hereby authorized and empowered, on such terms as it may prescribe, by general legislation, to provide for the granting or sale and conveyance to actual occupants and settlers and other citizens of said islands such parts and portions of the public domain, other than timber and mineral lands of the United States in said islands, as it may deem wise, not exceeding 16 hectares to any one person, and for the sale and conveyance of not more than 1,024 hectares to any corporation or association of persons: *Provided*, That the grant or sale of such lands, whether the purchase price be paid at once or in partial payments, shall be conditioned upon actual and continued occupancy, improvement, and cultivation of the premises sold for a period of not less than five years, during which time the purchaser or grantee can not alienate or encumber said land or the title thereto; but such restriction shall not apply to transfers of rights and title of inheritance under the laws for the distribution of the estates of decedents."

It will be noted that so far as natural persons are concerned, the Government of the Philippine Islands, in granting, selling, and conveying agricultural public lands, is restricted to "actual occupants and settlers and other citizens of said islands." This is the only section naming the class of persons to whom such land can be conveyed in fee; and, under a very familiar rule of statutory construction, those not named are excluded. It is equally clear that corporations are permitted to acquire agricultural public lands, and there is no requirement in the organic act that they shall be confined to corporations composed of citizens of the islands or corporations organized in the islands. By the provisions of section 74 of the organic act the Philippine Government is empowered to "grant franchises, privileges, and concessions." Of course the power to grant includes the power to deny, and the Philippine Government can deny access to the islands of any and all corporations not organized under the laws of the Philippine Government. That government is, under the organic act, a body politic. Its people who inhabited the islands at the time of the cession of the islands from Spain, and their children, are not citizens of the United States. It is a familiar rule that the inhabitants of ceded territory do not become citizens of the United States unless made so by the treaty of cession, or by act of Congress.

The treaty of Paris provides only that Congress will determine the political status of the inhabitants of the Philippines, and Congress has provided only that they are citizens of the islands. Hence the Government of the Philippine Islands is, to a great degree, a separate and distinct political entity, deriving, of course, its right to exist and its powers and privileges from the Government of the United States, and certainly having the right under its organic act (the same as a State) to admit or exclude such corporations as it sees fit, and to admit them upon such terms as it desires to impose. Every corporation engaged in agriculture is, by section 75 of the organic act, confined to the ownership of 1,024 hectares, and no member of such corporation is permitted to be in anywise interested in any other corporation engaged in agriculture, and all commercial or manufacturing corporations are confined to the ownership of the land necessary to enable them to carry out the purposes for which they were created. With these limitations and the power given the Philippine Government over all corporations doing or seeking to do business in the islands, it is apparent that Congress felt that corporations should be permitted to acquire agricultural public lands to the maximum of 1,024 hectares, while restricting natural persons to 16 hectares.

If any sales have been made to persons not citizens of the islands, they have been few. The purchase of 40 acres of Philippine lands, with the provision as to occupancy and improvement and restriction as to alienation contained in the organic act, is, of course, very effectual to keep Americans from purchasing, and the question is not very important now, except that any departure from the provisions of the organic act is certain to be the source of more or less agitation and criticism, and Congress should pass an act that will set at rest any doubt about the matter. We believe that the amount that can be secured as a homestead should be increased to 100 acres and that citizens of the United States not in the Philippine service should be qualified entrymen. We do not believe that those in the Philippine service, whether in or out of the Department of the Interior, should be permitted to acquire public lands of any kind outside of town sites, and then only such amount as is necessary for a residence. The matter of supreme importance to the Government and people of the United States in the Philippine Islands is the orderly administration of the Government. It is not alone necessary that our officials there should be just, honest, and disinterested, but also that everything should be avoided that could be made the basis of a suspicion that they are not and give rise to criticism and political agitation. This applies to leases of public lands as well as to purchase.

SALE OF THE SAN JOSE ESTATE.

This estate was not sold to the Sugar Trust, but it was sold to its next-door neighbor. One of the men to whom it was sold, Horace Havemeyer, was at the time a director of the American Sugar Refining Co. Another, Charles H. Senff, had been its vice president, and the third, who appears to be largely the moving spirit in the transaction, is Charles J. Welch, a sugar commission merchant and a large producer of sugar in Cuba and Hawaii. They appreciated the profit certain to be made by the establishment of a large sugar plantation in the Philippines, with a modern mill for the manufacture of raw sugar, after 300,000 tons of sugar should be permitted to come into the United States free of duty, as it now does under the provisions of the Payne Tariff Act. They were quick to seize the business opportunity presented, and sent agents to the Philippines to locate suitable lands. Capt. Sleeper, chief of the bureau of public lands, solicited them to buy the San Jose estate. It was tenantless and vacant, and there was no hope to sell it for many years, if ever, to small landholders.

It had cost the Government a large sum of money, which money had been borrowed, and each year an additional sum had to be paid out for interest. The island on which it was located was sparsely settled and there was no hope to secure tenants for it. There seemed nothing ahead, unless it could be sold to some capitalist who desired to establish a large plantation, except to let it be idle and profitless and continue to pay out interest upon the investment. That is but a fair statement of the situation, and it is but fair to the officials of the Interior Department to state it in that way. They were charged with the duty of selling all the friar lands and turning the proceeds into the sinking fund to met the bonds issued for their purchase when due, and naturally they felt that they would be expected to get the best results obtainable, and that it was a good business proposition for the Philippine Government and for the Filipino people, who will have to pay any deficit in the sinking fund, to sell the San Jose estate to whatever person was ready, able, and willing to pay a fair price for it. They believed, also, that a sugar plantation, conducted along modern lines, would be of real educational value to the people of the islands. Capital has been very shy of the Philippines, more so than these officials thought was justified, and they have believed that its investment there would bring about the development of the great natural resources of the islands, and they have been somewhat impatient with the slowness with which it has been attracted there. We believe these views were honestly entertained, and what was done in pursuance thereof was done in the spirit of helpfulness and with a conviction that it was for the best interest of all concerned.

We fully concur with the conclusion of the majority that there was nothing in the organic act that prohibited the sale; that the limitation of 16 hectares that one person could purchase of the agricultural public land did not apply to the friar lands seems to us a conclusion that can not be escaped, and there is nothing we can add to the clear exposition of the law on that subject set out in the foregoing report. We are confident that the same interpretation will be placed upon the sections discussed and construed by the committee, by the courts if the questions involved ever reach them, and unless Congress acts speedily and removes all doubt upon those questions the law officers of this Government should bring a proceeding that will settle them. The sale of the friar lands or the public lands in large tracts, as in the case of the San Jose estate, should in the future be absolutely prohibited. A proper limitation should, as promptly as possible, be placed upon the amount of such lands that can be acquired by both natural persons and corporations. The San Jose incident is one that should stand as a warning both to the Philippine Government and the United States. Mr. Welch had no sooner acquired the San Jose estate for himself and immediate associates than he caused to be organized what have been described in the majority report as the California corporations.

The stockholders of these corporations are made up of his wife, brothers-in-law, business associates, and clerks. Of course, he is the dominating figure, and by the community of interest that is apparent in the situation, there is, to all practical intents and purposes, a holding of about 62,000 acres of Philippine land by one person. It is possible that Mr. Welch and these California corporations and their stockholders have violated the inhibitions of section 75 against members of one corporation engaged in agriculture being interested in similar corporations, and in the light of the testimony developed in this hearing that matter should have the attention of the Philippine law officers. The whole matter has worked out in such manner as to clearly indicate what will happen if the Philippines are thrown open to exploitation by American capitalists. The reason and the history of the friar-lands purchase are very clearly set out in the majority report. By the provisions of section 63 of the organic act, the Philippine Government is given the power to acquire, hold, and convey title to real and personal property, and is also empowered to acquire real estate for public uses by the exercise of the right of eminent domain. Section 64 provides in part:

"That the powers hereinbefore conferred in section 63 may also be exercised in respect of any lands, easements, appurtenances, and hereditaments, which on the 13th of August, 1898, were owned or held by associations, corporations, communities, religious orders, or private individuals in such large tracts or parcels or in such manner as in the opinion of the commission injuriously to affect the peace and welfare of the people of the Philippine Islands."

If the balance of the unoccupied friar lands, amounting to about 125,000 acres, is permitted to go in large tracts into the hands of American capitalists, that will, with the San Jose estate, amount to practically one-half of them being acquired by large landowners, no one of which will, in all probability, live in the islands, and it may be but the commencement of a system of absentee landlordism that might develop into a system equally as obnoxious as the old one under the friars. The reason for purchasing the friar lands was largely political. It was to get rid of a class that disturbed political conditions. That object has been attained, and it was worth all it cost if not another dollar is returned to the treasury to pay the bonds issued to buy the lands. We should make this policy plain to our officials in the islands by placing a reasonable limitation upon the amount of friar lands that can be acquired by an individual. As the lands are in a class distinct from the public lands of the United States Government, and as they were acquired by bonds now a charge upon the people of the islands, and as the proceeds of sales go to discharge those bonds, we quite agree that they may well be sold in tracts somewhat larger than 40 acres, and that more liberal requirement as to cultivation and restriction on alienation and incumbrance might be made, and we join most heartily in commending to Congress consideration of the question of placing a reasonable limitation upon the quantity of friar lands that may be acquired by an individual, and we indulge the hope that until Congress has had opportunity to act that no further sales will be made of such lands in large tracts.

E. H. HUBBARD.
C. R. DAVIS.
E. H. MADISON.

EXHIBIT A.

Opinion of the law officer of the bureau of lands on the question whether the director of lands has authority to sell to an individual, or an individual to purchase from the Government, vacant and unoccupied lands, constituting a portion of the friar-lands purchase, without restriction as to area.

SIR: Pursuant to your verbal instructions, I have the honor to submit the following opinion:

QUESTION.

Has the director of lands authority to sell to an individual, or an individual to purchase from the Government, vacant and unoccupied lands, constituting a portion of the friar-lands purchase, without a restriction as to area?

OPINION.

For the determination of this question it is first necessary to determine whether the so-called friar lands are "public lands" within the meaning of the public-land act, and so subject to the restriction that not more than 16 hectares of unoccupied and unreserved public land can be acquired by purchase from the Government by an individual.

Section 10 of the public-land act, referring to sales of the public domain, restricts the operation of the public-land act, as regulating sales of the public domain, to "unoccupied, unappropriated, and unreserved, nonmineral, agricultural public land, as defined in the act of Congress of July 1, 1902."

The definition referred to, contained in the act of Congress of July 1, 1902, is found in section 12 thereof, as follows:

"All property and rights which may have been acquired in the Philippine Islands by the United States under the treaty of peace with Spain signed December 10, 1898, except such land or other property as shall be designated by the President of the United States for military and other reservations of the Government of the United States, are hereby placed under the control of the government of said islands, to be administered for the benefit of the inhabitants thereof, except as provided in this act."

At the date of the signing of the treaty of Paris the so-called friar lands were of private ownership, and the Government acquired no property or rights in them (except those of eminent domain, which it exercises over all property of private ownership). Subsequently the government, under special authority of Congress, acquired these lands by purchase from their then owners, and, except for any restrictions imposed by Congress or by legislation subsequently enacted by the Philippine Commission or the legislature, it is as free to dispose of them as would be any private purchaser from the former owners.

The restrictions imposed by Congress in this respect are contained in section 65 of said act of July 1, 1902, and are as follows:

"SEC. 65. That all lands acquired by virtue of the preceding section shall constitute a part and portion of the public property of the Government of the Philippine Islands, and may be held, sold, and conveyed, or leased temporarily for a period not exceeding three years after their acquisition by said Government on such terms and conditions as it may prescribe, subject to the limitations and conditions provided for in this act: *Provided*, That all deferred payments and the interest thereon shall be payable in the money prescribed for the payment of principal and interest of the bonds authorized to be issued in payment of said lands by the preceding section, and said deferred payments shall bear interest at the rate borne by the bonds. All moneys realized or received from sale or other disposition of said lands or by reason thereof shall constitute a trust fund for the payment of principal and interest of said bonds, and also constitute a sinking fund for the payment of said bonds at their maturity. Actual settlers and occupants at the time said lands are acquired by the Government shall have the preference over all others to lease, purchase, or acquire their holdings within such reasonable time as may be determined by said government."

Section 65 of the Philippine act, just quoted, expressly authorizes the sale of these lands, subject only to the limitations imposed in the act itself, with the proviso that actual settlers and occupants at the time of purchase shall have the prior right to lease and purchase. This proviso has no application in the present case, as the lands under discussion are unoccupied and vacant and were so at the time of the purchase.

An examination of the Philippine act of July 1, 1902, fails to disclose any restriction as to the amount of vacant friar lands that may be sold to or acquired by an individual, and there is none in existing legislation.

The existing prohibition against a corporation engaged in agriculture owning or controlling more than 1,024 hectares of land is not to be extended by implication to include an individual or even a voluntary association of individuals; it is a piece of what is popularly known as "antitrust" or "anticorporation" legislation, and numerous reasons can be assigned as to why the legislature saw fit to make the prohibition as to corporations and not as to individuals.

It is true that in section 9 of the friar-lands act, No. 1120, the director of lands was directed to proceed in the sale or leasing of vacant friar lands "as provided in Chapter II of the public-land act," but this unquestionably referred to method to be followed and the steps to be taken in such leasing or selling and not to the restrictions that limited an individual purchaser to 16 hectares.

If there were any doubt on this latter point, it is of no importance now, as this provision of section 9 of act No. 1120 was repealed by act No. 1847.

I am of the opinion that the director of lands may sell and an individual purchaser may acquire vacant and unoccupied friar lands without any restriction as to area.

Very respectfully,

LOUIS C. KNIGHT,
Attorney, Bureau of Lands.

The DIRECTOR OF LANDS, *Manila, P. I.*

Certified as correct copy:

C. H. SLEEPER, *Director of Lands.*

EXHIBIT B.

Opinion of the attorney general, Philippine Islands, on the question whether the director of lands has authority to sell to an individual, or an individual to purchase from the Government, vacant and unoccupied lands, constituting a portion of the friar-lands purchase, without restriction as to area.

MANILA, *October 18, 1909.*

SIR: In compliance with your request of the 12th instant, I have the honor to render an opinion upon the following question:

Has the director of lands authority to sell to an individual, or an individual to purchase from the Government, vacant and unoccupied lands constituting a portion of the friar-lands purchase without a restriction as to area?

It appears from your communication that this question has arisen from an inquiry that was made in the United States as to the purchase of the San Jose de Mindoro estate by an individual, and you say it is understood that an opinion was offered at the Bureau of Insular Affairs that an individual could not purchase more than 16 hectares of unoccupied friar lands. As I can not agree with that opinion, I shall state at some length the grounds upon which my conclusion is based.

The question submitted seems to involve a determination of whether or not the so-called friar lands, in making sales thereof, are to be treated as public lands, so as to make applicable thereto the restrictions of the public-land act as to the area which may be sold to an individual.

The purchase of the properties known as the friar lands was authorized by Congress in sections 63, 64, and 65 of the act of July 1, 1902, known as the Philippine bill. The Congress of the United States, after providing in section 63 of said act that the Government might acquire, receive, hold, maintain, and convey title to real and personal property, subject to the limitations and conditions prescribed in said act, and after providing in section 64 for the purchase of the so-called friar lands, further provided in section 65 as follows:

"That all lands acquired by virtue of the preceding section shall constitute a part and portion of the public property of the Government of the Philippine Islands, and may be held, sold, and conveyed, or leased temporarily for a period not exceeding three years after their acquisition by said Government on such terms and conditions as it may prescribe, subject to the limitations and conditions provided for in this act: *Provided*, That all deferred payments and the interest thereon shall be payable in the money prescribed for the payment of principal and interest of the bonds authorized to be issued in payment of said lands by the preceding section and said deferred payments shall bear interest at the rate borne by the bonds. All moneys realized or received from sales or other disposition of said lands or by reason thereof shall constitute a trust fund for the payment of principal and interest of said bonds and also constitute a sinking fund for the payment of said bonds at their maturity. Actual settlers and occupants at the time said lands are acquired by the Government shall have the preference over all others to lease, purchase, or acquire their holdings within such reasonable time as may be determined by said Government."

It will be observed that said section 65 provides "that all lands acquired by virtue of the preceding section shall constitute a part and portion of the public property of the Government of the Philippine Islands;" we must first ascertain whether these so-called friar lands as public property of the Government of the Philippine Islands are to be considered "public lands" in the sense in which those words are used in the public-land act.

Section 12 of said act of Congress of July 1, 1902, known as the Philippine bill, provides as follows:

"That all the property and rights which may have been acquired in the Philippine Islands by the United States under the treaty of peace with Spain, signed on December 10, 1898, except such land or other property as shall be designated by the President of the United States for military and other reservations of the Government of the United States, are hereby placed under the control of the Government of said islands, to be administered for the benefit of the inhabitants thereof, except as provided in this act."

After providing in said section 12 of the Philippine bill for the administration by the Government of the Philippine Islands of the property and rights which were acquired in the Philippine Islands by the United States under the treaty of peace with Spain, with the exception stated, the Congress of the United States provided in section 13 as follows:

"That the Government of the Philippine Islands, subject to the provisions of this act and except as herein provided, shall classify according to its agricultural character and productiveness, and shall immediately make rules and regulations for the lease, sale, or other disposition of the public lands other than timber or mineral lands, but such rules and regulations shall not go into effect or have the force of law until they have received the approval of the President, and when approved by the President they shall be submitted by him to Congress at the beginning of the next ensuing session thereof, and unless disapproved or amended by Congress at said session they shall at the close of such period have the force and effect of law in the Philippine Islands: *Provided*, That a single homestead entry shall not exceed 16 hectares in extent."

It should be noted that these provisions of the act of Congress relate to public lands acquired in the Philippine Islands by the United States under the treaty of peace with Spain. Under said authority conferred by Congress, the Government of the Philippine Islands administers the public lands of the United States in the Philippine Islands for the benefit of the inhabitants of these islands, and, pursuant thereto, the Philippine Commission passed act No. 926, entitled, as amended by act No. 979:

"An act prescribing rules and regulations governing the homesteading, selling, and leasing of portions of the public domain of the Philippine Islands, prescribing terms and conditions to enable persons to perfect their titles to public lands in said islands, providing for the issuance of patents without compensation to certain native settlers upon the public lands, providing for the establishment of town sites and sale of lots therein, and providing for a hearing and decision by the court of land registration of all applications for the completion and confirmation of all imperfect and incomplete Spanish concessions and grants in said islands, as authorized by sections 13, 14, and 15 of the act of Congress of July 1, 1902, entitled 'An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes.'"

Sections 12 and 13 of said act of Congress, above quoted, relate only to "property and rights which may have been acquired in the Philippine Islands by the United States under the treaty of peace with Spain:" while under the provisions of section 65 of the same act the friar lands, when acquired, became a portion of the public property of the Government of the Philippine Islands, so that said lands could not have been considered in the enactment of sections 12 and 13 of the Philippine bill, nor in the passage of the public-land act.

In Chapter II of said public-land act, under the heading "Sales of portions of the public domain," it is provided in section 10 that any citizen of the Philippine Islands or of the United States or of any insular possession thereof, or any corporation or like association of persons organized under the laws of the Philippine Islands or any State, Territory, or insular possession thereof, and authorized to transact business in the Philippine Islands, may purchase any tract of unoccupied, unappropriated, and unreserved nonmineral agricultural public land in the Philippine Islands as defined in the act of Congress of July 1, 1902, not to exceed 16 hectares for an individual, or 1,024 hectares for a corporation or like association, etc.

It will be observed that in said section 13 of the Philippine bill, above quoted, the Congress made provision with reference to the lease, sale, or other disposition of the "public lands" other than timber or mineral lands, and in the heading to said Chapter II of the public-land act the commission used the term "public domain," and in said section 10 used the term "public land." The term "public land" and the term "public domain" are here used synonymously; in fact, these terms mean the same thing. (Barker *v.* Harvey, 181 U. S., 481, 490, citing Newhall *v.* Sanger, 92 U. S., 761, 763; see also Bardon *v.* U. P. R. R. Co., 145 U. S., 535, 538, and Mann *v.* Tacoma Land Co., 153 U. S., 273, 284.)

The supreme court of the Philippine Islands, in the case of Montano *v.* Insular Government (12 Phil. Rep., 572), held that "in acts of the Congress of the United States the term 'public lands' is uniformly used to describe so much of the national domain under the legislative power of the Congress as has not been subjected to private right or devoted to public use."

In the course of its decision in said case the Supreme Court, in referring to the former case of Mapa *v.* The Insular Government (10 Phil. Rep., 175), said:

"In the concurring opinion, in order to avoid misapprehension on the part of those not familiar with United States land legislation and a misunderstanding of the reach of the doctrine, it was pointed out that under the decisions of the Supreme Court of the United States the phrase 'public lands' is held to be equivalent to 'public domain' and does not by any means include all lands of Government ownership, but only so much of said lands as are thrown open to private appropriation and settlement by homestead and other like general laws. Accordingly, 'Government land' and 'public land' are not synonymous terms. The first includes not only the second, but also other lands of the Government already reserved or devoted to public use or subject to private right. In other words, the Government owns real estate which is part of the 'public lands' and other real estate which is not part thereof."

At the time of the ratification of the treaty of peace between the United States and Spain, and long prior thereto, the lands now known as the friar lands were occupied, appropriated, and of private ownership. The Government of the Philippine Islands was specially authorized by the Congress to acquire said lands, and accordingly purchased them. The act of Congress provides that the actual settlers and occupants at the time of the acquisition of said lands by the Government shall have the preference over all others to lease, purchase, or acquire their holdings. It is therefore clear that the friar lands, as public property of the Government of the Philippine Islands, are not "public lands" in the sense in which that term is used in the Philippine bill and in the public-land act; and, except as it may be limited by legislation, the Government is as free to sell or otherwise dispose of said lands as would be any purchaser of real estate of private ownership.

With a view to carrying out the powers conferred upon the Philippine Government in said act of Congress, with reference to the acquisition, administration, lease, and sale of the so-called friar lands, the Philippine Commission passed act No. 1120, entitled:

"An act providing for the administration and temporary leasing and sale of certain haciendas and parcels of land, commonly known as friar lands, for the purchase of which the Government of the Philippine Islands has recently contracted, pursuant to the provisions of sections 63, 64, and 65 of an act of the Congress of the United States entitled 'An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes,' approved July 1, 1902."

And in the preamble of said act the Philippine Commission said:

"Whereas the said lands are not 'public lands' in the sense in which those words are used in the public-land act, No. 926, and can not be acquired or leased under the provisions thereof, and it is necessary to provide proper agencies for carrying out the terms of said contracts of purchase and the requirements of said act of Congress with reference to the leasing and selling of said lands and the creation of a sinking fund to secure the payment of the bonds so issued: Now, therefore," etc.

It thus appears that the Philippine Commission itself held that the friar lands are not "public lands" in the legal sense of those words; and the provisions of said act No. 1120, with reference to the sale of the friar lands, are so different from the provisions of the public-land act relating to the sale of portions of the public lands, it appears to be unquestionable that the provisions of the public-land act have no application whatever to the sale or other disposition of the friar lands; but we must look to said act of Congress of July 1, 1902, and to said act No. 1120 and its amendments for the provisions of law relating to the sale or other disposition of said friar lands; and, in the absence of any restrictions in said legislation as to the amount of vacant or unoccupied friar lands which may be sold to or acquired by an individual, it must be held that there are no such restrictions.

In this connection attention is invited to the fact that it was originally provided in section 9 of said act, No. 1120, as follows:

"In the event the chief of the bureau of public lands should find any of the said lands vacant, he is directed to take possession and charge thereof, and he may either lease such unoccupied lands for a term not exceeding three years or offer the same for sale as in his judgment may seem for the best interests of the Government, and in making such sales he shall proceed as provided in chapter 2 of the public-land act."

Said section 9 was amended by the Philippine Legislature on June 3, 1908, in act No. 1847, to read as follows:

"In the event the director of lands should find any of the said lands vacant, he is directed to take possession and charge thereof, and he may either lease such unoccupied lands for a term not exceeding three years or offer the same for sale as in his judgment may seem for the best interests of the Government, and in making such sales he shall proceed as provided in section 11 of this act."

Thereafter, on May 20, 1909, in act No. 1933, the Philippine Legislature again amended said section 9 to read as follows:

"In the event the director of lands should find any of said lands vacant he is directed to take possession and charge thereof, and he may either lease such unoccupied lands for a term not exceeding three years, or sell same, as may be solicited, and in making such leases or such sales he shall proceed as provided in section 11 of this act."

It thus appears that whatever may have been the meaning of the words "as provided in chapter 2 of the public-land act" in said section 9 as originally enacted, these words now have no meaning or application in the lease or sale of the friar lands, but in making such leases or such sales the director of lands shall proceed as provided in section 11 of said friar-lands act.

Said section 11, as amended by acts Nos. 1847 and 1933, is as follows:

"Should any person who is the actual and bona fide settler upon and occupant of any portion of said lands at the time the same is conveyed to the Government of the Philippine Islands desire to purchase the land so occupied by him, he shall be entitled to do so at the actual cost thereof to the Government, and shall be allowed to pay for same in equal annual or semiannual installments: *Provided, however*, That payment by installments shall be in such amounts and at such time that the entire amount of the purchase price, with interest accrued, shall be

paid at least one year before the maturity of what are known as the 'friar-land bonds,' issued under the provisions of act No. 1034; that is, on or before February 1, 1933. The terms of purchase shall be agreed upon between the purchaser and the director of lands, subject to the approval of the Secretary of the Interior, and all deferred payments on the purchase price shall bear interest at the rate of 4 per cent per annum.

"In case of lease of vacant lands, as well as in case of sale of some under the provisions of section 9 of this act, the director of lands shall notify the municipal president or municipal presidents of the municipality or municipalities in which said lands lie before the same takes place. Upon receipt of such notification by said municipal president or municipal presidents the latter shall publish the same for 3 consecutive days, by bandillos, in the población and barrio or barrios affected, and shall certify all these acts to the director of lands, who shall then, and not before, proceed to execute the contract of lease or to make the said sale with preference, other conditions being equal, to the purchaser who has been a tenant or bona fide occupant at any time of the said lands or part thereof, and if there has been more than one occupant, to the last tenant or occupant: *Provided, however,* That no contract for the lease of and no sale of vacant lands made in accordance with this section shall be valid nor of any effect without the requisite as to publication by bandillos above provided."

It therefore clearly appears that the restrictions of the public-land act with reference to the amount of public land which may be sold to an individual, or to a corporation or like association of persons, are not applicable in the sale of the friar lands; but that the only restrictions with reference to the sale or other disposition of the friar lands are to be found in the act of Congress of July 1, 1902, providing for the purchase of said lands, and in act No. 1120 and its amendments providing for the administration, lease, and sale thereof.

This inquiry relates only to the authority of the director of lands to "sell to an individual or an individual to purchase from the Government vacant and unoccupied lands constituting a portion of the friar-lands purchase without a restriction as to area;" but it may not be amiss to call attention to the provisions of section 75 of the Philippine bill, as follows:

"That no corporation shall be authorized to conduct the business of buying and selling real estate or be permitted to hold or own real estate except such as may be reasonably necessary to enable it to carry out the purpose for which it is created, and every corporation authorized to engage in agriculture shall by its charter be restricted to the ownership and control of not to exceed 1,024 hectares of land; and it shall be unlawful for any member of a corporation engaged in agriculture or mining and for any corporation organized for any purpose except irrigation to be in any wise interested in any other corporation engaged in agriculture or mining. Corporations, however, may loan funds upon real-estate security and purchase real estate when necessary for the collection of loans, but they shall dispose of real estate so obtained within five years after receiving the title. Corporations not organized in the Philippine Islands and doing business therein shall be bound by the provisions of this section so far as they are applicable."

And attention is also invited to the proviso of paragraph 5 of section 13 of act No. 1459, as follows:

"That no corporation shall be authorized to conduct the business of buying and selling real estate or be permitted to hold or own real estate except such as may be reasonably necessary to enable it to carry out the purposes for which it is created, and every corporation authorized to engage in agriculture shall be restricted to the ownership and control of not to exceed 1,024 hectares of land; and it shall be unlawful for any member of a corporation engaged in agriculture or mining and for any corporation organized for any purpose except irrigation to be in any wise interested in any other corporation engaged in agriculture or in mining. Corporations, however, may loan funds upon real-estate security and purchase real estate when necessary for the collection of loans, but they shall dispose of real estate so obtained within five years after receiving the title."

In view of all the provisions of law affecting the subject matter of your inquiry, I am of the opinion that there is no provision of law limiting the area of the friar lands which may be sold to an individual or which an individual may acquire from the Government, and that there are no restrictions as to the amount of such lands which may be sold to or be acquired by a corporation, except the provisions of said section 75 of the Philippine bill and paragraph 5 of section 13 of the corporation law, above quoted.

Very respectfully, GEO. R. HARVEY, *Solicitor General.*

The DIRECTOR OF LANDS, *Manila.*

Approved:

IGNACIO VILLAMOR, *Attorney General.*

EXHIBIT C.

Supplementary opinion of attorney general of Philippine Islands.

A careful examination of the speech delivered by Mr. MARTIN on the floor of the House, June 13, 1910, in so far as it deals with the legal aspect of the so-called friar-land sales, shows that his whole contention may be concisely stated as follows:

"That the words 'subject to the limitations and conditions prescribed in this act' appearing in sections 63, 64, and 65 of the act of Congress of July 1, 1902, refer to the 16-hectare limitation to an individual and 1,024 hectares to a corporation as provided in section 15 of said act."

A similar question has been decided by the undersigned in an opinion rendered October 18, 1909. In view, however, of the important proportions which the debate on this question has attained, I deem it proper to supplement said opinion with the following statement:

"In the opinion above referred to it was held that so-called friar lands may be sold to an individual without limitation as to area, but as regards corporations not more than 1,024 hectares could be sold by virtue and under the provisions of section 75 of the organic act and section 13, paragraph 5, of act No. 1459 of the Philippine Commission.

"It has repeatedly been asserted that the limitation contained in section 15 of the Philippine bill, to wit, not more than 16 hectares of public lands to an individual, for homestead purposes, is also applicable to friar lands.

"Attention is called to the distinction made in said opinion between lands of the public domain, or lands acquired by the United States under the treaty of Paris, and the lands purchased from the religious orders by the Philippine Government by authority of Congress. The disposition of such lands is subject to certain conditions and limitations expressly provided for each of them, and said conditions and limitations can not indifferently be made applicable to either without annulling the very object of the act of Congress of July 1, 1902.

"If the friar lands, after their acquisition by the Philippine Government, had been added to the public lands, as contended in Mr. Storey's opinion in refutation of the one rendered by Attorney General Wickersham, it would be beyond question that the limitations prescribed for public lands would be applicable to friar lands. In my judgment, a perusal of section 65 of said act of Congress leaves no ground for such an assumption."

Congressman MARTIN (CONGRESSIONAL RECORD, June 17, 1910, p. 8482) made the statement that—

"The Philippine Commission by the public-land act, passed October 7, 1903, subjected the public lands to the limitations contained in section 15 of the organic act, and by the friar-land act, passed April 26, 1904, subjected the friar lands to the limitations contained in the public-land act. These acts of the commission were merely declaratory of the organic law."

It is unquestionable that the limitation in section 15 of the organic act is embodied in section 10 of the public-land act of the Philippines, but section 9 of the friar-land act applies the restrictions of the public-land act only upon unoccupied friar lands. This limitation of the friar-land act was not provided in compliance with section 15 of the organic act. The Philippine Commission, acting in accordance with the powers thereto vested by section 65 of said organic act, deemed it convenient to impose the same limitation as to area upon the unoccupied friar lands. Section 9 of act 1120 of the Philippine Commission (the friar-lands act) is not merely declaratory of section 15 of the organic act, inasmuch as the public-land act (No. 926), referred to in the friar-lands act, contains provisions not included in said section 15, viz, provisions for the survey of the land in continuous legal subdivisions, provisions for the sale by competitive bidding, and fixing the rate of interest at 6 per cent per annum.

It is to be noted that section 9 of act 1120 was amended by act 1847 which abolished said limitation on friar lands, and was further amended by act 1933 of the Philippine Legislature. Both amendatory acts were submitted to the United States Congress in compliance with section 86 of the organic act, and not having been annuled, it may be reasonably assumed that Congress in conferring authority upon the Philippine Commission to enact said friar-lands act recognized in the Philippine Legislature the power to amend the same.

An examination of the provisions of the Philippine bill which have direct bearing upon the question at issue, shows that in the enactment of provisions relating to the lease, sale, or other disposition of the agricultural public lands of the United States, Congress provided the conditions and limitations under which said lands might be disposed of. In the enactment of provisions for the disposition of the mineral lands, Congress provided the limitations and conditions under which said mineral lands might be disposed of. In the enactment of provisions authorizing the Philippine Government to purchase private lands, then owned and held by religious orders and others, Congress provided the limitations and conditions under which said lands might be acquired by the Philippine Government, and also certain limitations and conditions under which they might be sold, leased, or otherwise disposed of by said Government, and it is not reasonable, logical, or sensible to contend that the limitations and conditions prescribed with reference to public lands of the United States are applicable in the sale or other disposition of the friar lands purchased by the Philippine Government. There is nothing in the act to show that such was the intention of Congress and such a conclusion can only result from the confusion arising from treating the friar lands as public lands of the United States and ignoring the very clear distinction between public lands of the United States and the friar lands of the Philippine Government.

It will be observed that in section 16 of the organic act it is provided that "the prior right hereby secured to an occupant of (public) land who can show no other proof of title than possession, shall not apply to more than 16 hectares in any one tract." On the other hand, section 65 of the same act provides that "actual settlers and occupants at the time said (friar) lands are acquired by the Government shall have the preference over all others to lease, purchase, or acquire their holdings within such reasonable time as may be determined by said Government." The distinction in the foregoing provisions relating to public and friar lands shows that the limitation of 16 hectares to an individual is not applicable to friar lands.

In authorizing the Philippine Government to acquire by purchase said friar lands, it was clearly the intention of Congress to end the serious agrarian troubles that had arisen between the tenants of said lands and the friars. The solution intended was to sell the lands in such areas as they occupied. Referring to said lands, the Senate report (Mar. 31, 1902) stated:

"The bill provides a method by which the Government can buy these lands from the friars and transfer them on suitable terms to the actual occupants."

How could actual settlers and occupants of large areas be given the preference over all others to lease, purchase, or acquire their holdings if they were to be limited to the small area of 16 hectares?

The Philippine bill was introduced in the Senate January 7, 1902, and reported by the committee March 31. This report states, in part (S. Rept. No. 915, 57th Cong., 1st sess.):

"The two sections following these relate to the granting of franchises in the Philippine Islands (secs. 74 and 75). The committee feel that it is of the greatest importance for the proper development of the islands that capital be encouraged to enter the islands, but in order to prevent any improper exploitation which would be to the detriment of the inhabitants these sections are strongly guarded. Ample opportunity is given to capital, but the restrictions are rigid. This portion of the bill was drawn with the greatest care, and it seems to the committee that, as drawn, every public interest is safely guarded, while at the same time due encouragement is given to capital."

The rendering of this committee report was followed by a lively debate in the Senate. Congressman MARTIN, in *support of his conclusion* that the clause in section 65, "subject to the limitations and conditions provided for in this act," refer to the 16-hectare limitation to an individual and 1,024 hectares to a corporation, quotes (CONGRESSIONAL RECORD, p. 8497) passages of the debate in the Senate. It will be noted that every one of the speakers discussed franchises to corporations, as provided in the sections referred to in the above-quoted report, Nos. 74 and 75, act of Congress of July 1, 1902.

On May 9, 1902, Senator Teller, as quoted by Mr. MARTIN, spoke of the bill, and said, in part, as follows:

"I want some one to tell me why a corporation should be permitted to take 5,000 acres of land there. If one corporation may take 5,000 acres, 10 corporations may each take 5,000 acres."

That the Senator had reference to the franchise provision of the organic act in reference to friar lands may be seen from the following excerpt of Mr. Foraker's speech (CONGRESSIONAL RECORD, p. 5290):

"Now, in this bill a provision is made to solve the difficulty we are having on account of these friar lands being tied up in this way, which provision has been criticized by the Senator from Colorado [Mr. Teller]."

Senator Deboe, also quoted by Mr. MARTIN, on May 16, speaking of the Philippine bill, reported by Mr. LODGE'S committee, said:

"It ought to be arranged so as to open up the islands to settlement by the people and guard against too much liberality against corporations."

Senator BEVERIDGE is next cited by Mr. MARTIN, who, in answer to Senator Dubois, on May 23, said (p. 5866):

"He spoke of syndicates taking these lands, and yet the Senator knows that in this bill it is provided that no corporation shall own more than 5,000 acres of land."

Subsequently, on May 27, Senator Patterson also spoke of the franchise provisions of the Philippine bill, stating (p. 5966):

"I call attention to the provision which authorizes the commission to dispose of the public lands in tracts of 5,000 acres."

It will appear from the foregoing that in every single instance the debate was directed against "too much liberality against corporations," and every speaker took up that portion of the bill providing franchises to corporations and the area of land they could acquire under the law. Immediately after the debate, May 29, 1902, Mr. LODGE offered several amendments, one of them, couched in the words "subject to the limitations and conditions prescribed in this act," contained in section 65 of said organic act, having been interpreted to refer to the limitations provided for in section 15 of said act. The interpretation of said limiting clause has become the paramount issue in this controversy.

In this connection, attention is invited to the fact that the clause above quoted was inserted at a time when the bill before the Senate did not contain section 15.

As above noted, the franchise provisions of the organic act were attacked in the Senate, and therefore the amendment passed by that body had reference to section 75 of the act prescribing the limitation of 1,024 hectares of land to a corporation, and not to section 15, which applies exclusively to public lands and only became a part of the act under discussion after the Lodge amendment had been approved.

The record shows that the Senate objected to sales of friar lands in great areas to corporations.

In conclusion it is submitted that said limiting clause in section 65 of the organic act could only refer to sections 64, 65, and also to section 75, which prescribes the limitation of area on all corporations in general and not to section 15, which exclusively applies to public lands and to corporations desiring to acquire such lands, and therefore the opinion of the undersigned, rendered October 18, 1909, hereinbefore mentioned, is in accordance with law.

IGNACIO VILLAMOR,
Attorney General for the Philippine Islands.

EXHIBIT D.

Opinion of attorney general of Philippine Islands as to what lands of the so-called friar estates are now to be considered as "vacant lands," and therefore requiring the publication of "bandillos," as provided by section 3 of act No. 1933, before such lands may be legally sold or leased by the director or lands, illustrating the fact that all occupants of friar lands have been considered as having a preferential right to purchase their holdings.

BUREAU OF JUSTICE,
OFFICE OF THE ATTORNEY GENERAL,
Manila, June 15, 1909.

SIR: I have the honor, in response to your letter of May 25, 1909, to submit an opinion upon the following question:

"What lands of the so-called friar estates are now to be considered as being 'vacant lands,' and therefore requiring the publication of 'bandillos,' as provided by section 3 of act No. 1933, before such lands may be legally sold or leased by the director of lands?"

The second paragraph of section 11 of act No. 1120 was added to said section by act No. 1847 and was amended by section 3 of act No. 1933 to read as follows:

"In case of lease of vacant lands, as well as in case of sale of same under the provisions of section 9 of this act, the director of lands shall notify the municipal president or municipal presidents of the municipality or municipalities in which said lands lie before the same takes place. Upon receipt of such notification by said municipal president or municipal presidents the latter shall publish the same for three consecutive days, by bandillos, in the población and barrio or barrios affected, and shall certify all these acts to the director of lands, who shall then, and not before, proceed to execute the contract of lease or to make the said sale with preference, other conditions being equal, to the purchaser who has been a tenant or bona fide occupant at any time of the said lands or part thereof, and if there has been more than one occupant to the last tenant or occupant: *Provided, however*, That no contract for the lease of and no sale of vacant lands made in accordance with this section shall be valid nor of any effect without the requisite as to publication by bandillos, above provided."

Said act No. 1933 was passed by the legislature on May 20, 1909, and was enacted to take effect on its passage.

It would seem to be clear that the said amendment refers to lands *which were vacant* at the time of the passage of said act No. 1933, and does not refer to all lands which were vacant upon the date of the purchase of the friar lands by the Government, some of which have since been leased by the Government to certain tenants not included under the heading of "Actual and bona fide occupants."

The term "vacant lands" as used in said act can only mean lands that are unoccupied and lying idle without being leased under the provisions of the friar-lands act. When it is proposed to sell or lease any portion of such unoccupied lands it will be necessary for the director of lands to notify the municipal president, who will cause bandillos to be published for three days in the población and the barrio or barrios affected, and when the municipal president shall certify such fact to the director of lands the latter shall proceed to sell or lease said land, as the case may be, giving preference to a former occupant of said land, if there be one, and if there has been more than one occupant, to the last tenant or occupant.

The said act No. 1933 can not in any way affect or invalidate the contracts of lease or the sales of such lands made since the purchase thereof by the Government and before the passage of said amendment, but can only apply to leases and sales made after its passage.

It follows, therefore, that all lands which were vacant at the time of the passage of said act, or which later become vacant by surrender of leases or otherwise, are subject to the provisions of said amendatory act.

Very respectfully, GEO. R. HARVEY, *Solicitor General.*

The DIRECTOR OF LANDS, *Manila.*

Approved:

IGNACIO VILLAMOR, *Attorney General.*

EXHIBIT E.

Opinion of Attorney General Wickersham.

DEPARTMENT OF JUSTICE,
Washington, December 18, 1909.

The SECRETARY OF WAR.

SIR: In your letter of December 4th instant you request an opinion upon the question "whether section 15 of the act of Congress approved July 1, 1902, entitled 'An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes,' limiting the amount of land which may be acquired by individuals and corporations, is made applicable by section 65 of said act to the estates purchased from religious orders in the Philippine Islands pursuant to the authority conferred upon the Philippine Government by sections 63, 64, and said section 65 of the act mentioned."

Section 15 must be taken in connection with sections 12 and 13, which are as follows:

"SEC. 12. That all the property and rights which may have been acquired in the Philippine Islands by the United States under the treaty of peace with Spain, signed December 10, 1898, except such land or other property as shall be designated by the President of the United States for military and other reservations of the Government of the United States, are hereby placed under the control of the government of said islands, to be administered for the benefit of the inhabitants thereof, except as provided in this act.

"SEC. 13. That the Government of the Philippine Islands, subject to the provisions of this act and except as herein provided, shall classify according to its agricultural character and productiveness, and shall immediately make rules and regulations for the lease, sale, or other disposition of the public lands other than timber or mineral lands, but such rules and regulations shall not go into effect or have the force of law until they have received the approval of the President, and when approved by the President they shall be submitted by him to Congress at the beginning of the ensuing session thereof, and, unless disapproved or amended by Congress at said session, they shall at the close of such period have the force and effect of law in the Philippine Islands: *Provided*, That a single homestead entry shall not exceed 16 hectares in extent."

Section 15 then provides:

"That the Government of the Philippine Islands is hereby authorized and empowered, on such terms as it may prescribe by general legislation, to provide for the granting or sale and conveyance to actual occupants and settlers and other citizens of said islands such parts and portions of the public domain, other than timber and mineral lands, of the United States in said islands as it may deem wise, not exceeding 16 hectares to any one person, and for the sale and conveyance of not more than 1,024 hectares to any corporation or association of persons: *Provided*, That the grant or sale of such lands, whether the purchase price be paid at once or in partial payments, shall be conditioned upon actual and continued occupany, improvement, and cultivation of the premises sold for a period of not less than five years, during which time the purchaser or grantee can not alienate or encumber said land or the title thereto; but such restriction shall not apply to transfers of rights and title of inheritance under the laws for the distribution of the estates of decedents."

The lands referred to in sections 13 and 15 are agricultural lands. They are carefully distinguished from timber and mineral lands. They are lands which have been acquired in the Philippine Islands by the United States under the treaty with Spain. Section 13 is a recognition of homestead entries. Section 15 provides for the grant or sale of lands to actual occupants and settlers and other citizens, but the grants and sale thus made are upon the condition of actual and continued occupancy, improvement, and cultivation for not less than five years.

In accordance with the authority given to it the Philippine Commission enacted the law known as the public-land law to carry out the provisions of these sections.

Sections 63, 64, and 65 were enacted for a different purpose. The authority of the Philippine Government in relation to property was largely extended. They are as follows:

"SEC. 63. That the Government of the Philippine Islands is hereby authorized, subject to the limitations and conditions prescribed in this act, to acquire, receive, hold, maintain, and convey title to real and personal property, and may acquire real estate for public uses by the exercise of eminent domain.

"SEC. 64. That the powers hereinbefore conferred in section 63 may also be exercised in respect to any lands, easements, appurtenances, and hereditaments which, on the 13th of August, 1898, were owned or held by associations, corporations, communities, religious orders, or private individuals in such large tracts or parcels and in such manner as, in the opinion of the commission, injuriously to affect the peace and welfare of the people of the Philippine Islands. And for the purpose of providing funds to acquire the lands mentioned in this section said government of the Philippine Islands is hereby empowered to incur indebtedness, to borrow money, and to issue and to sell at not less than par value, in gold coin of the United States of the present standard value or the equivalent in value in money of said islands, upon such terms and conditions as it may deem best, registered or coupon bonds of said government for such amount as may be necessary, said bonds to be in denominations of $50 or any multiple thereof, bearing interest at a rate not exceeding 4½ per cent per annum, payable quarterly, and to be payable at the pleasure of said Government after dates named in said bonds, not less than 5 nor more than 30 years from the date of their issue, together with interest thereon, in gold coin of the United States of the present standard value or the equivalent in value in money of said

islands; and said bonds shall be exempt from the payment of all taxes or duties of said Government, or any local authority therein, or of the Government of the United States, as well as from taxation in any form by or under State, municipal, or local authority in the United States or the Philippine Islands. The moneys which may be realized or received from the issue and sale of said bonds shall be applied by the Government of the Philippine Islands to the acquisition of the property authorized by this section and to no other purposes.

"SEC. 65. That all lands acquired by virtue of the preceding section shall contnue a part and portion of the public property of the Government of the Philippine Islands, and may be held, sold, and conveyed, or leased temporarily for a period not exceeding three years, after their acquisition by said government on such terms and conditions as it may prescribe, subject to the limitations and conditions provided for in this act: *Provided*, That all deferred payments and the interest thereon shall be payable in the money prescribed for the payment of principal and interest of the bonds authorized to be issued in payment of said lands by the preceding section, and said deferred payments shall bear interest at the rate borne by the bonds. All moneys realized or received from sales or other disposition of said lands or by reason thereof shall constitute a trust fund for the payment of principal and interest of said bonds, and also constitute a sinking fund for the payment of said bonds at their maturity. Actual settlers and occupants at the time said lands are acquired by the government shall have the preference over all others to lease, purchase, or acquire their holdings within such reasonable time as may be determined by said government."

The lands designated in these sections were acquired in an entirely different manner from the property acquired under the treaty with Spain. Their disposition was upon different principles. Complete general power to acquire and dispose of property, real and personal, was given by section 63 to the Philippine Government, subject only to the limitations and conditions of the act. Special provision was made in the sixty-fourth section for the acquisition of lands owned or held by associations, corporations, communities, religious orders, or private individuals in such large tracts or parcels and in such manner as in the opinion of the commission injuriously to affect the peace and welfare of the people of the Philippine Islands. To provide funds for this purpose, the Government was authorized to issue and sell their registered or coupon bonds, the proceeds of the sales of which were to be applied exclusively to the acquisition of the property. By section 65 the lands were to be held, sold, and conveyed on such terms and conditions as the Philippine Government might prescribe, subject to the limitations and conditions of the act.

A sinking fund was created embracing the moneys realized from sales or disposition of the said lands for the payment of the bonds at their maturity.

To be sure, provision was made for the protection of occupants and settlers by giving them preference in purchasing or leasing said lands; but these purchases were in recognition of rights vested before the lands were acquired, and were on a different basis from the preemption purchases by occupants and settlers upon the condition of occupancy, improvement, and cultivation.

The Philippine Commission enacted a law April 26, 1904, "for the administration and temporary leasing and sale of certain haciendas and parcels of land, commonly known as friar lands, for the purchase of which the government of the Philippine Islands has recently contracted, pursuant to the provisions of sections 63, 64, and 65 of an act of the Congress of the United States entitled 'An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes,' approved on the 1st day of July, 1902."

This act fully provided for carrying into effect the act of Congress in the acquisition of the friar lands. It appears that the lands were purchased and the bonds issued in conformity with the conditions in these statutes.

One of the recitals in the Philippine act, after stating the terms of the act of Congress, is that "whereas the said lands are not 'public lands' in the sense in which these words are used in the public-land act, No. 926, and can not be acquired or leased under the provisions thereof, and it is necessary to provide proper agencies for carrying out the terms of said contracts of purchase and the requirements of said act of Congress with reference to the leasing and selling of said lands and the creation of a sinking fund to secure the payment of the bonds so issued."

The public-lands act was "general legislation" to carry out the provisions of sections 12, 13, 14, 15, and 16. The restrictions and limitations of these sections are specific and well defined. They apply to lands acquired by the treaty of peace with Spain. The citizens are limited in their rights of purchase to quantity and to compliance with the requirements of occupancy and cultivation.

The purchase of the friar lands was made under the authority of the legislation herein recited. That authority was lawfully delegated to the Philippine Government by Congress. The Government has complete control over the sale of the lands "on such terms and conditions as it may prescribe," subject to the limitations and conditions provided for in the act of 1902.

All moneys realized from the issue and sale of the bonds authorized by the sections of the act recited herein must be applied to the acquisition of the property and to no other purpose. The moneys received from the sales and disposition of the lands constitute a trust fund for the payment of the principal and interest of the bonds and also a sinking fund for the payment of the bonds at maturity. These are conditions prescribed in the act of Congress and carried into the Philippine Commission act. The intention of Congress was to abolish a system of ownership disadvantageous to the Government, and at the same time to provide for the sale of the acquired property, so that the bonds issued for the purchase might not become a permanent burden.

I am of opinion that the limitations in section 15 do not apply to the estates purchased from religious orders under sections 63, 64, and 65 of the Philippine act.

Very respectfully,

GEO. W. WICKERSHAM,
Attorney General.

EXHIBIT F.

Opinion of Mr. Moorfield Storey controverting that of Attorney General Wickersham.

I am sorry to take issue with Attorney General Wickersham, for whom I have great respect, upon the question whether the lands purchased from the religious orders in the Philippine Islands can be sold in larger quantities than those which are prescribed by section 15 of the act of Congress entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," approved July 1, 1902, but in my judgment he is wrong in his construction of that act.

The question, as he states it in his opinion of December 18, 1909, is whether section 15 of the act above stated is made applicable by section 65 of said act to the estates purchased from religious orders in the Philippine Islands pursuant to the authority conferred upon the Philippine Government by section 63, section 64, and the said section 65 of the act mentioned.

In order to answer this question we are called upon to construe different sections of the same act, and they must be construed so that all may stand together and that the intention of the act may be carried out.

Section 12 of that act provides "that all the property and rights which may have been acquired in the Philippine Islands by the United States under the treaty of peace with Spain, signed December 10, 1898, except such land or other property as shall be designated by the President of the United States for military and other reservations of the Government of the United States, are hereby placed under the control of the government of said islands to be administered for the benefit of the inhabitants thereof except as provided in this act."

Section 13 requires the Government of the Philippine Islands to "classify according to its agricultural character and productiveness the public lands other than timber and mineral lands."

Section 15 provides "that the Government of the Philippine Islands is hereby authorized and empowered, on such terms as it may prescribe, by general legislation, to provide for the granting or sale and conveyance to actual occupants and settlers and other citizens of said islands such parts and portions of the public domain, other than timber and mineral lands, of the United States in said islands as it may deem wise, not exceeding 16 hectares to any one person and for the sale and conveyance of not more than 1,024 hectares to any corporation or association of persons."

Section 64 provides for the purchase of any lands, easements, appurtenances, and hereditaments "owned or held by associations, corporations, communities, religious orders, or private individuals in such large tracts or parcels and in such manner as in the opinion of the commission injuriously to affect the peace and welfare of the people of the Philippine Islands."

Section 65 provides "that all lands acquired by virtue of the preceding section shall constitute a part and portion of the public property of the Government of the Philippine Islands, and may be held, sold, and conveyed or leased temporarily for a period not exceeding three years after their acquisition by said Government upon such terms and conditions as it may prescribe, subject to the limitations and conditions provided for in this act."

These seem to me to be the important provisions of the law which we are called upon to construe, and it is to be observed that the land acquired under section 64 is to become a part of the "public property of the Government of the Philippine Islands," which phrase is in effect the same as that which is used in section 15, where provision is made for the sale and conveyance "of such parts and portions of the public domain," and it would seem to be the intention of Congress that this land should be dealt with precisely as the rest of the public domain was to be dealt with. Section 63 expressly makes the power of the Government to receive, hold, and convey title "subject to the limitations and conditions prescribed in this act." The same limitation is found in section 65, where the language is that the property may be "held, sold, and conveyed * * * subject to the limitations and conditions provided for in this act."

The Attorney General sums up his argument by saying: "The Government has complete control over the sale of the lands, on such terms and conditions as it may prescribe, subject to the limitations and conditions provided for in the act of 1902." In this conclusion I agree and it only remains to determine what are "the limitations and conditions" contained in the act, subject to which this control, including the power to buy and sell, is granted. I find none which so clearly come within this language as those which limit the amount to be conveyed, so that not exceeding 16 hectares can be sold to any person, and not exceeding 1,024 hectares can be sold to any association or corporation, and the further limitation which excepts from the power to sell all public timber and mineral lands. Certainly these are "limitations and restrictions provided for in this act," and as the power to sell is made subject to all such limitations and restrictions, there seems to be no ground for excluding these from the general language of the act. I can not therefore resist the conclusion that the power to sell the land purchased from the religious orders and then added to the public domain is subject to these precise limitations as to quantity.

Moreover, when we consider the purpose of these limitations, which was to prevent the exploiting of the Philippine Islands by American or other capitalists, and to provide that these lands be "administered for the benefit of the inhabitants thereof" in the words of section 12, no reason can be suggested why the very choice agricultural lands, which were held by the religious orders, should be thrown open to exploitation, or why the general policy contemplated by the act should have been abandoned in dealing with this very important portion of Philippine agricultural land. The reason which required the limitation in other cases applies with equal force to these lands, and I can not doubt that it was the intention of Congress that the policy should be the same.

The Attorney General says that they were acquired in a different manner from the property acquired under the treaty with Spain. This is true, but they were acquired by the Government of the Philippine Islands for the benefit of the Filipino people, were paid for with the proceeds of bonds which were obligations of the islands, were added to the same limitations which applied to the rest of the public domain. The fact that the act contemplated the sale of those lands and the application of the proceeds to a sinking fund does not vary the construction of the act. The government was authorized to sell under certain limitations, and the proceeds of sales so made were to be paid into the sinking fund, but this use of the money can not enlarge the limited power to sell. Some sales were authorized, and the use to be made of the money realized from these was prescribed, but it can not be argued that because the proceeds of authorized sales must be so used limitations expressly imposed on the authority to sell are removed. The Attorney General rests a part of his argument on the act passed by the Philippine Commission, but as the authority of that commission is expressly limited by the act of Congress, we must examine the latter to see whether the action of the commission was authorized, and not conclude that a restriction which Congress expressly imposed did not exist because the commission disregarded or misinterpreted it. I am of opinion, therefore, that the sale of agricultural land to any corporation or association in excess of the amount limited by the provisions of the act which I have quoted is unauthorized and void, and that the purchaser acquires no title to the land so sold.

EXHIBIT G.

Opinion of Attorney General of United States to the effect that no corporation can either purchase or hold more than 1,024 hectares of land in the Philippine Islands.

PHILIPPINE ISLANDS—CORPORATIONS HOLDING REAL ESTATE.

[Neither a corporation formed in Belgium to acquire and possess lands in the Philippine Islands, nor any other foreign or domestic corporation authorized to engage in agriculture, may legally purchase or hold more than 1,024 hectares of land in the Philippine Islands.]

DEPARTMENT OF JUSTICE, *April 29, 1910.*

SIR: I have the honor to acknowledge the receipt of your communication of April 21, in which you state:

"I have the honor to inclose copies of two notes addressed, respectively, to the minister of foreign affairs at Brussels by Mr. Ed. C. Andre, dated April 4, and to the Belgian minister at this capital by the minister of foreign affairs of his Government, dated April 7, and with them three letters from Mr. Andre, dated March 30 and April 4, addressed to you and handed to me by the minister of Belgium for delivery to you. These documents raise the question whether a Belgian corporation authorized to engage in agriculture may legally purchase and hold a plantation in the Philippine Islands containing an area of 1,430 hectares. The collateral inquiry is also presented whether, if the answer to the foregoing question is in the negative, an agricultural and commercial corporation created under Philippine law may take and hold the said plantation."

You request an expression of my opinion on both of these questions.

The act of Congress entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," approved July 1, 1902 (32 Stat., 691), is the law still in force.

By the seventy-fifth section of that act it is provided:

"That no corporation shall be authorized to conduct the business of buying and selling real estate or be permitted to hold or own real estate except such as may be reasonably necessary to enable it to carry out the purposes for which it is created, and every corporation authorized to engage in agriculture shall by its charter be restricted to the ownership and control of not to exceed 1,024 hectares of land * * *."

The first clause of this section forbids the organization of corporations to conduct the business of buying and selling real estate. The next, recognizing the necessity of some corporations to hold real estate for the conduct of their business, denies the permission to hold or own any real estate except such as may be reasonably necessary to enable it to carry out the purposes for which the corporation is created. The holding of real estate under this provision is incidental to the main business of the corporation, such as manufacturing or trading. By no intendment can this apply to a corporation formed for the use or cultivation of land.

By the next clause of the section it is provided: "Every corporation authorized to engage in agriculture shall by its charter be restricted to the ownership and control of not to exceed 1,024 hectares of land."

Mr. Andre suggests, in one of the notes transmitted through you: "I am in doubt whether this refers to the rules and by-laws of the corporation or to the privilege granted to a company at being filed."

This provision is not directory. It affects the very being of the corporation. It is an absolute prohibition of the power to hold land in excess of 1,024 hectares. This limitation was placed in the act after much debate and deliberation in the United States Congress, and it is repeated and emphasized in all the legislation upon this subject.

These prohibitions in the organic act were embraced in the "corporation law" of the Philippine Commission, enacted by authority of the United States. By Article I, section 13, it is enacted: Every corporation has power (par. 5):

"To purchase, hold, convey, sell, lease, let, mortgage, encumber, and otherwise deal with such real and personal property as the purposes for which the corporation was formed may permit, and the transaction of the lawful business of the corporation may reasonably and necessarily require, unless otherwise prescribed in this act: *Provided*, That no corporation shall be authorized to conduct the business of buying and selling real estate or be permitted to hold or own real estate except such as may be reasonably necessary to enable it to carry out the purposes for which it is created, and every corporation authorized to engage in agriculture shall be restricted to the ownership and control of not to exceed 1,024 hectares of land * * *."

Reversing the order in which the questions in your communication are presented to me, and replying to the second inquiry, I think an agricultural corporation created under Philippine law can not take and hold of the plantation described, or of any other lands, more than 1,024 hectares.

By the last paragraph of this same section 75 of the act of Congress it is provided: "Corporations not organized in the Philippine Islands and doing business therein shall be bound by the provisions of this section so far as they are applicable." And by section 73 of the "corporation law" of the Philippine Commission it is enacted:

"Any foreign corporation or corporation not formed, organized, or existing under the laws of the Philippine Islands and lawfully doing business in the islands shall be bound by all laws, rules, and regulations applicable to domestic corporations of the same class, save and except such only as provide for the creation, formation, organization, or dissolution of corporations or such as fix the relations, liabilities, responsibilities, or duties of members, stockholders, or officers of corporations to each other or to the corporation: *Provided, however*, That nothing in this section contained shall be construed or deemed to impair any rights that are secured or protected by the treaty of peace between the United States and Spain, signed at the city of Paris on December 10, 1898."

This act was passed under the authority delegated by the organic act. Its provisions are declaratory of the limitations of that act.

The restrictions upon the ownership and control of lands in the Philippine Islands by corporations are absolutely determined by this legislation. It is beyond the power of the executive branches of the Governments, either of the United States or the Philippine Islands, to authorize or permit corporations to own or hold lands in excess of the amount so designated.

I am therefore of opinion that neither a corporation formed in Belgium to acquire and possess lands in the Philippine Islands nor any other foreign or domestic corporation authorized to engage in agriculture may legally purchase or hold more than 1,024 hectares of land in the Philippine Islands.

I have the honor to be, sir, your obedient servant,

GEORGE W. WICKERSHAM.

The SECRETARY OF STATE.

Mr. OLMSTED. I also ask unanimous consent that the minority may file their views at any time during the remainder of this season. (H. Rept. No. 2289, pt. 2.)

The SPEAKER. Is there objection?

There was no objection.

"INDIAN COUNTRY."

Mr. BURKE of South Dakota. Mr. Speaker, last evening in the debate on Senate bill 1981, an act to amend section 1 of an act approved January 30, 1897, entitled "An act to prohibit the sale of intoxicating drinks to Indians, providing penalties therefor, and for other purposes," some gentlemen were not satisfied with the definition offered on "Indian country." In order to satisfy inquiry on that subject I have consulted the statutes and I invite attention, first, to section 1 of the act of June 30, 1834 (4 Stat., 729), which is as follows:

That all that part of the United States west of the Mississippi and not within the States of Missouri and Louisiana or the Territory of Arkansas, and also that part of the United States east of the Mississippi River and not within any State to which the Indian title has not been extinguished, for the purposes of this act, to be taken and deemed to be in the Indian country.

I also invite attention to the fact that chapter 4 of the Revised Statutes of the United States is devoted to the subject "Government of Indian country."

The term "Indian country" has been recognized in our statutes for three-quarters of a century and has been the subject of consideration by the courts.

I invite special attention to Ex Parte Crow Dog (109 U. S., 556), in which the Supreme Court defined "Indian country." I quote from the syllabus:

The definition of the term "Indian country," contained in chapter 61, section 1, of the act of 1834, 4 Statutes, 729, though not incorporated in the Revised Statutes, and though repealed simultaneously with their enactment, may be referred to in order to determine what is meant by the term when used in statutes; and it applies to all the country to which the Indian title has not been extinguished within the limits of the United States, whether within a reservation or not, and whether acquired before or since the passage of that act.

I also invite attention to the case of The United States *v.* Forty-three Gallons of Whisky, etc. (93 U. S., 188). I quote from the syllabus:

Congress, under its constitutional power to regulate commerce with the Indian tribes, may not only prohibit the unlicensed introduction and sale of spirituous liquors in the "Indian country," but extend such prohibition to territory in proximity to that occupied by Indians.

It is competent for the United States, in the exercise of the treaty-making power, to stipulate, in a treaty with an Indian tribe, that, within the territory thereby ceded the laws of the United States, then or thereafter enacted, prohibiting the introduction and sale of spirituous liquors in the Indian country, shall be in full force and effect, until otherwise directed by Congress or the President of the United States.

Such a stipulation operates proprio vigore, and is binding upon the courts, although the ceded territory is situate within an organized county of a State.

I further invite attention to the case of Dick *v.* United States (208 U. S., 340). I quote from the syllabus:

While the prohibition of section 2139, Revised Statutes, as amended in 1892, against introducing intoxicating liquors into Indian country does not embrace any body of territory in which the Indian title has been unconditionally extinguished, that statute must be interpreted in connection with whatever special agreement may have been made between the United States and the Indians in regard to the extinguishment of the title and the retention of control over the land ceded by the United States.

It is within the power of Congress to retain control, for police purposes, for a reasonable and limited period, over lands, the Indian title to which is extinguished and which are allotted in severalty, notwithstanding that the Indians may be citizens and the land may be within the limits of a State; and 25 years is not an unreasonable period.

I think if gentlemen will consult the statutes and the decisions of the Supreme Court which I have cited, they will have no difficulty in reaching an understanding as to the meaning of "Indian country" or of the authority of the Congress to legislate respecting the introduction of intoxicating liquors into such country.

In addition to the foregoing, I offer the following citations to statutes and decisions affecting the relations of the United States with Indians and Indian tribes:

GENERAL LAWS RELATING TO INDIAN AFFAIRS.

Officers of Indian affairs, their duties and compensation: Sections 2039 to 2078, Revised Statutes of the United States.

Performance or engagement between the United States and Indians: Sections 2079 to 2110, Revised Statutes of the United States.

Government and protection of Indians: Sections 2111 to 2126, Revised Statutes of the United States.

Government of Indian country: Sections 2127 to 2157, Revised Statutes of the United States.

DECISIONS RELATING TO INDIAN RELATIONS GENERALLY.

Choctaw Nation *v.* United States, 119 U. S., 1, 28.
Stephens *v.* Cherokee Nation, 174 U. S., 445.
Minnesota *v.* Hitchcock, 185 U. S., 373.
Cherokee Nation *v.* Hitchcock, 187 U. S., 294.
Lone Wolf *v.* Hitchcock, 187 U. S., 553.
United States *v.* Rickert, 188 U. S. 432.
Cherokee Nation *v.* State of Georgia, 5 Pet., 1.
Worcester *v.* State of Georgia, 6 Pet., 515.

The Kansas Indians (right to tax lands held in severalty), 5 Wall., 737.
The New York Indians (right to tax lands belonging to), 5 Wall., 761.
McKay *v.* Kalyton, 204 U. S., 458.
Crow Dog Case ("Indian country," meaning of, how determined), 109 U. S., 556.

TREATIES AND LAWS RELATING TO THE TRAFFIC IN INTOXICATING LIQUORS AMONG INDIANS WHICH HAVE BEEN THE SUBJECT OF MUCH CONTROVERSY AND LITIGATION.

Section 2139, Revised Statutes of the United States, as amended by acts of July 23, 1892 (27 Stat., 260), and January 30, 1897 (29 Stat., 506); article 7, treaty of October 3, 1863, with the Chippewas of Minnesota (13 Stat., 668); article 17 of the agreement of 1894 with the Yankton Sioux (28 Stat., 318); article 9 of the agreement with the Nez Perce Indians in Idaho (28 Stat., 330).

DECISIONS RELATING TO THE SUBJECT OF THE TRAFFIC IN INTOXICATING LIQUORS AMONG INDIANS.

United States *v.* Holliday, 3 Wall., 409. (Contrast with Heff case.)
United States *v.* Forty-three Gallons of Whisky, 93 U. S., 188. (Power to regulate traffic.)
United States *v.* Le Bris, 121 U. S., 278. (Ex parte Crow Dog, 109 U. S.; reaffirmed as to "Indian country.")
In re Heff, 197 U. S., 498. (Effect of citizenship. See 202 U. S., 183.)
Dick *v.* United States, 208 U. S., 340.

EXECUTIVE ORDERS.

The following Executive orders have recently been issued on the subject of the liquor traffic among Indians:

By virtue of the power vested in me by the provisions of article 3 of the treaty of August 21, 1847 (9 Stat. L., 908), it is hereby ordered that the country ceded by the provisions of said treaty shall no longer be held by the United States as Indian land.

By virtue of the power vested in me by the provisions of article 7 of the treaty of October 2, 1863 (13 Stat. L., 667), it is hereby ordered that the provisions of said article 7 of said treaty shall not hereafter apply to or be of any force or effect throughout the territory ceded to the United States by said treaty, except in that portion lying east of the sixth guide meridian; and said article 7 of said treaty shall continue to be in full force and effect throughout the territory excepted from the operations of this order until otherwise directed by Congress or the President of the United States.

By virtue of the power vested in me by the provisions of article 7 of the treaty of September 30, 1854 (10 Stat. L., 1109), it is hereby ordered that the provisions of article 7 of said treaty shall not hereafter apply to nor be of any force or effect throughout the territory ceded by said treaty to the United States except in that portion of said territory described as follows:

"Beginning at a point where the line between townships 45 and 46 north intersects the line between ranges 15 and 16 west of the fourth principal meridian; thence north along said line to the northeast corner of township 53 north, range 16 west; thence west along the line between townships 53 and 54 north to the point where it intersects the western boundary established by said treaty of September 30, 1854; thence following the said treaty line in a southwesterly direction to the point where it intersects the line between townships 45 and 46 north; thence due east along said line to the point of beginning, and all that portion of the State of Minnesota which lies east of the fourth principal meridian."

And the provisions of said article 7 of said treaty shall continue to be in full force and effect within the territory excepted from operation of this order until otherwise ordered by the President.

By virtue of the power vested in me by the provisions of article 5 of the treaty of July 23, 1851 (10 Stat. L., 949), it is hereby ordered that the provisions of said article 5 of said treaty shall not hereafter apply to nor be of any force or effect throughout the territory ceded by said treaty to the United States and lying in the State of Minnesota with the exception of those portions of said territory described as follows:

"Beginning at a point where the line between townships 129 and 130 north crosses the Boise de Sioux River; thence east along said line to the northeast corner of township 129 north, range 45 west; thence south along said range line to the northeast corner of township 122 north, range 45 west; thence east to the northeast corner of township 122 north, range 44 west; thence south along said range line to the point where it intersects the line established by said treaty of July 23, 1851; thence in a northwesterly direction along the said treaty line to the point where it touches Lake Traverse; thence north along said lake to the mouth of the Boise de Sioux River; thence up said river to the point of beginning."

And the provisions of said article 5 of said treaty shall continue to be in full force and effect in the territory above specified and excepted from the operation of this order until otherwise directed by Congress or the President of the United States.

WM. H. TAFT.

THE WHITE HOUSE, *February 16, 1911.*

ASSIGNMENT OF ROOMS IN THE CAPITOL.

Mr. MANN. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the Clerk's desk.

The SPEAKER. The gentleman from Illinois [Mr. MANN] asks unanimous consent for the present consideration of the resolution (H. Res. 1007) which the Clerk will report.

The Clerk read as follows:

Resolved, That the following rooms in the Capitol be, and they are hereby, assigned and distributed as follows:

The rooms now assigned to the Committee on Elections No. 2 to the Speaker;

The rooms now assigned to the minority conference to the Committee on Elections No. 2;

The room in the south corridor on the House floor now assigned to the Committee on Pensions to the minority conference;

The room in the south corridor of the House now assigned to the file clerk to the Committee on Appropriations;

The room on the south gallery corridor now assigned to the representatives of the press to the file clerk;

The room in the old library portion of the Capitol now assigned to the Committee on Pacific Railroads to the Committee on Pensions; and

Room No. 221 in the House Office Building to the Committee on Pacific Railroads.

Mr. MACON. Reserving the right to object, I should like to ask the gentleman from Illinois if he has consulted with the gentleman from Missouri [Mr. CLARK] about these amendments.

Mr. MANN. I have.

Mr. MACON. And they are satisfactory to him?

Mr. MANN. Not only satisfactory, but more than satisfactory.

The SPEAKER. Is there objection?

There was no objection.

The resolution was agreed to.

AUTOMOBILES ENGAGED IN INTERSTATE COMMERCE.

Mr. WANGER. Mr. Speaker, I had the honor of reporting from the Committee on Interstate and Foreign Commerce the bill (H. R. 32570) providing for the regulation, identification, and registration of automobiles engaged in interstate commerce and the licensing of the operators thereof, and I have hoped to have the opportunity of calling the bill up for passage. At this time I ask unanimous consent to print the bill in the RECORD.

The SPEAKER. The gentleman asks unanimous consent that the bill may be printed in the RECORD. Is there objection?

There was no objection.

The bill is as follows:

Be it enacted, etc., That the term "automobile" as used in this act shall include all motor vehicles except motor cycles, and the term "State" shall include the Territories and Districts of the United States.

SEC. 2. That the provisions of this act shall apply to any automobile while engaged in commerce with foreign nations or among the several States, and operated and driven from one State to any other State of the United States, or from any State in the United States to a foreign country, or from a foreign country to any State in the United States: *Provided*, That the provisions of this act shall not apply to any automobile when operated and driven wholly within the State which is the residence of the owner: *Provided further*, That nothing in this act shall be so construed as to exempt any automobile, or the owner or operator thereof, from the provisions of the laws of any State in regard to the regulation of automobiles, except that, upon compliance with the provisions of this act by the owner and the operator of an automobile, such automobile, the owner and operator thereof, while engaged in such commerce, shall be exempt from the provisions of State laws in reference to the registration of automobiles and of licenses to operate the same, except the laws of the States in which such owner and operator, respectively, reside, with which last mentioned laws they shall in all respects comply. Such automobile and the owner and operator thereof, while so engaged in any other State, shall enjoy all the rights and privileges and be subject to all the requirements of the laws of the last mentioned State with respect to automobiles registered thereunder and the operation thereof, except as to the display of the distinctive State number and the State authorization to operate therein.

SEC. 3. That every person who desires to register an automobile under this act shall, in the Office of Public Roads of the Department of Agriculture, pay a registration fee of $10 and file a verified application containing—

First. A brief description of the vehicle to be registered, including the name of the manufacturer, the manufacturer's number of the automobile, if any there be, the character of the motor power, and the amount of such power stated in figures of horsepower.

Second. The name, address, and residence of the owner of such automobile, with a statement that such owner has complied with the provisions, if any there be, of the law of the State of his residence in regard to the registration and identification of the said automobile.

Third. The registration number assigned to such autmobile under such State law.

Fourth. Such other facts as may be required by the Secretary of Agriculture.

Such registration shall expire on December 31 of the year for which made, but on application on or before the day may be renewed for the ensuing year upon the payment of a fee of $5.

SEC. 4. That if such application be approved by the director, the Office of Public Roads shall assign to the automobile described in such application a distinctive number, and, except as herein otherwise provided, issue to the owner a certificate of registration, which certificate shall state the name, address, and residence of the owner, the distinctive number assigned to such automobile, and the registration number, if any, assigned to it pursuant to the State law, and shall briefly describe such automobile; and such office shall also issue to the owner a pair of the number shields hereinafter provided for: *Provided*, That if any person shall have violated any provision of this act, the director of said office may, in his discretion, for not more than five years from the date of such violation, refuse to register any automobile owned by such person.

SEC. 5. That in the event of the sale or the letting for hire for a period of over 10 days of any automobile registered hereunder such registration shall thereupon become null and void.

SEC. 6. That every automobile registered under this act shall have the distinctive number assigned to it by the Office of Public Roads displayed on the front and on the rear of such automobile as an identification mark, and none other, when such automobile is operated in any State other than the State of the residence of the owner thereof.

That such distinctive number shall be displayed on a metal placard, in the form of a shield, in Arabic numerals 4 inches long and no main stroke less than five-eighths of an inch wide. Above such number shall be the letters "U. S.", each letter at least 2 inches in height, and below such number shall be the usual abbreviation of the name of the State in which the owner resides, and beneath the abbreviation the numerals indicating the year for which the number shield is issued. Such letters and numerals shall at all times be kept clear and distinct. Such number shields shall be of a different color each year from the year next preceding.

SEC. 7. That every automobile registered under this act, when operated hereunder, shall at all times between one hour after sunset and one hour before sunrise carry at least two lighted lamps, one on the front and one on the rear thereof. The light of the front lamp shall

be visible at a distance of at least 200 feet in the direction in which the automobile is proceeding. The light of the rear lamp shall be visible at a distance of at least 200 feet in the reverse direction, and illuminate every figure of the said distinctive number borne upon that part of the automobile, so that such number shall be clearly visible at a distance of 60 feet; and the last-mentioned lamp shall also show a red light to the rear.

SEC. 8. That every automobile registered under this act shall at all times be operated hereunder with safety to the public by a competent, discreet, and sober person; and if injury be caused to any person or property the operator shall stop and make himself and his residence and the name and residence of the owner of the automobile known to the person injured or the owner of the property injured, and, on request, to any other person present.

SEC. 9. That every person desiring a license to operate an automobile under the provisions of this act shall, in the Office of Public Roads, pay a fee of $5, and file a verified application, containing—

First. A brief description of the applicant, and his name, age, address, and residence.

Second. A statement that the applicant has complied with the provisions, if any there be, of the law of the State of his residence in reference to the operation of automobiles in such State, and is duly authorized to operate an automobile therein.

Third. A statement of the experience the applicant has had in the operation of automobiles and whether he has ever been convicted of a violation of any law relating to the operation of automobiles, and if so, the nature of such violation or violations.

Fourth. The number of the license or licenses, if any, for the operation of automobiles issued to such applicant for the current year, and the authority under which issued.

Fifth. Such other facts as may be required by the Secretary of Agriculture.

Unmounted photographs of the applicant taken within 30 days shall accompany such application, and be in such number and form as may be required by the Secretary of Agriculture.

SEC. 10. That the Director of the Office of Public Roads having ascertained by such examination as the Secretary of Agriculture may prescribe, or by evidence of what the said Secretary shall determine to be a sufficient examination under State law, that an applicant is not less than 21 years of age, and is a capable, discreet, and sober person and observant of the laws regulating the use of highways by vehicles, shall assign a distinguishing number to such applicant and, except as otherwise herein provided, issue to him a license in such form as may be prescribed by the Secretary of Agriculture. Said license shall contain the photograph and a brief description of the licensee and shall state the name, age, address, and residence of the licensee, and the distinctive number assigned to him printed in the same color as may be prescribed for the number shields for that year, with such other matter as may be prescribed by the Secretary of Agriculture. Such license shall expire on the 31st day of December of the year for which issued. The Office of Public Roads may furnish to such licensee a suitable metal badge, with the distinctive number of the license thereon.

SEC. 11. That in the event of the loss, mutilation, or destruction of any certificate of registration, number shield, license, or badge issued under this act, the owner or operator, as the case may be, may obtain from the Director of the Office of Public Roads a duplicate thereof upon filing in said office a verified application showing such fact and paying a fee of $1.

SEC. 12. That upon the demand of any officer of the United States, or of any State or subdivision thereof, in which an automobile registered hereunder is being operated, the owner or operator shall exhibit the certificate of registration of such automobile and the license to operate the same issued hereunder.

SEC. 13. That any person licensed under this act who shall permit any other person to possess or use his license or badge, or who shall be convicted in any court or judicial tribunal of the United States, or of any State, of operating an automobile recklessly or while under the influence of liquor, or of taking or using an automobile without permission from the person owning or controlling the same, or of using any false name, number, or shield with intent to deceive, or of causing the death of any person, or if the license issued to him in the State of his residence shall there be revoked or suspended, the license issued to him and all moneys paid by him under this act shall thereby be forfeited.

SEC. 14. That in the event of the violation of any provision of this act by any person licensed to operate an automobile hereunder, such person shall forfeit his license and all rights and moneys paid hereunder and shall forthwith return his license to the Director of the Office of Public Roads for cancellation; and shall also forthwith return the badge, if any, issued with such license; and no further license shall be issued to such person except upon the payment of $10 and not until a year from the date of such return nor until said director shall be satisfied that such further license can be issued with due regard to the safety of the public and that all requirements for the issue of an original license hereunder have been complied with.

SEC. 15. That if there shall be displayed upon any automobile any placard or number shield bearing the letters "U. S." when no such placard or shield was furnished for such automobile for said year by the Office of Public Roads, the owner and operator of such automobile shall forfeit all rights, privileges, and moneys paid under this act, if any, and such owner shall not be permitted to register any automobile under this act for five years thereafter; and not at any time thereafter except upon the payment of the sum of $100 in addition to the registration fees: *Provided, however*, That if the Director of the Office of Public Roads shall, upon hearing had, determine that such placard or shield was displayed without the fault or negligence of the owner of such automobile the penalties specified in this section shall not be enforced against him; that upon the violation of any other provision of this act than the foregoing provision of this section by an owner of an automobile registered hereunder such owner shall forfeit all rights, privileges, and moneys paid under this act and may not thereafter register an automobile under this act except upon the filing of a new, verified application for each automobile owned or controlled by him and the payment anew of the registration fees hereinbefore provided and the further payment of the sum of $25.

SEC. 16. That whenever the registration of any automobile under this act shall be forfeited or for any cause become null and void before the expiration of the year for which such registration has been made the owner of such automobile shall forthwith, upon such forfeiture or voidance, return to the Office of Public Roads the certificate of registration for cancellation, with a statement of the facts, and shall also immediately return the number shields issued incident to such registration.

SEC. 17. That every person who shall knowingly make any false statement under oath in or with respect to any application or other matter herein provided for, or who, being licensed as an operator hereunder, shall, after causing injury to any person or property while operating an automobile, go away without making himself and his name and address and the name and address of the owner of such automobile known, shall be deemed guilty of a misdemeanor and shall, upon conviction, be punished by imprisonment not exceeding one year or by a fine not exceeding $500, or by both such fine and imprisonment, in the discretion of the court.

Every person who shall in any other respect violate any provision of this act or who shall possess or use any license or badge issued to any other person shall, upon conviction, in addition to any other penalties or payments herein provided, be punished by a fine not exceeding $100, and if such violation be continuing in its nature it shall constitute a distinct offense for every day it continues.

SEC. 18. That all causes of action arising under this act may be sued and all offenders against the same may be prosecuted before the justices of the peace, magistrates, or other judicial courts of the several States having competent jurisdiction by the laws thereof of the trial of claims and demands of as great value and of prosecutions where the punishments are of as great extent; and such justices, magistrates, or judiciary shall take cognizance thereof and proceed to judgment and execution as in other cases.

SEC. 19. That the Secretary of Agriculture may establish reasonable rules and regulations for carrying into effect the provisions of this act and may appoint such additional clerks and agents as may be necessary and be authorized by Congress.

He shall cause to be kept in the Office of Public Roads a properly indexed record showing every application for registration of and for licenses to operate automobiles under this act and of the action thereon or relating thereto, as well as of any proceeding in any court or by any State officer with respect to any conduct by such applicant relating to an automobile or the registration or operation theref; which record shall be open to public inspection during reasonable business hours. Upon the application of the official of any State having in charge the regulation of automobiles he shall, and upon the application of any other person he may, in his discretion, furnish information of any such action free of charge.

He shall further, at reasonable intervals, publish a bulletin which shall contain a list of all registrations made and licenses issued and revocations of any thereof under this act, with such description of the automobiles and operators and other information as he may deem necessary for identification or in aid of the protection of the public or for the detection of any violation of this act. Copies of such bulletins shall, on application therefor, be sent free to any State official having in charge the regulation of automobiles, and the bulletins for the then current year shall be sent to any other person who pays $2 therefor.

SEC. 20. That the revenues under this act shall be paid into the Treasury of the United States. The Secretary of Agriculture shall make annual reports to Congress of the receipts and expenses received or incurred in carrying into effect the provisions of this act.

SEC. 21. That this act shall be known as the "Federal automobile act," and shall take effect 30 days after its approval.

ENROLLED BILLS SIGNED.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill and joint resolutions of the following titles, when the Speaker signed the same:

H. R. 26290. An act providing for the validation of certain homestead entries;

H. J. Res. 294. Joint resolution for the appointment of members of the board of managers of the National Home for Disabled Volunteer Soldiers; and

H. J. Res. 291. Joint resolution authorizing the Secretary of War to receive for instruction at the Military Academy at West Point Mr. Melchor Batista, of Cuba.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 5269. An act to provide for allotments to certain members of the Hoh, Quileute, and Ozette tribes of Indians in the State of Washington; and

S. 5843. An act to authorize the extension of Van Buren Street NW.

RICHARD R. M'MAHON.

Mr. MANN. Mr Speaker, I ask unanimous consent to make a brief statement.

The SPEAKER. Is there objection?

There was no objection.

Mr. MANN. The other day in the course of debate I referred to Mr. McMahon, who was one of the attorneys connected with the case against the Printing Committee; and while I have not changed my views, I ask unanimous consent, in justice to Mr. McMahon, to insert in the RECORD a letter which he has sent to me.

The SPEAKER. The gentleman asks unanimous consent to insert a letter in the RECORD. Is there objection?

There was no objection.

The letter is as follows:

HARPERS FERRY, W. VA., *March 1, 1911.*

Hon. JAMES R. MANN,
House of Representatives, Washington, D. C.

SIR: I see by the CONGRESSIONAL RECORD that in discussing the amendment offered by Representative STURGISS to compensate me for legal services in the Valley Paper Co. mandamus case, you alluded to me as "this man who butted in." Permit me to say to you that such allusion was wholly unjustifiable. I was called into the case in the most honorable way, and in the strictest accordance with the ethics of the legal profession, as the record shows, and as you will acknowledge if you read it. I argued the case and my argument was printed.

A man who has held positions of dignity and responsibility, Federal and State, who has been a delegate to the American Bar Association, and who has been honored by State bar associations, is not the man to "but into" any case.

Believing you to be a just man and a gentleman, I respectfully ask you to have this letter printed in the CONGRESSIONAL RECORD as an act of simple justice to one about whom you were misinformed.

Very respectfully, R. R. MCMAHON.

LOT 20, SQUARE 253.

Mr. SMITH of Michigan. Mr. Speaker, I ask unanimous consent to call up the bill S. 10536, which is on the Calendar for Unanimous Consent.

The SPEAKER. If that is the next bill on the calendar, the Clerk will report the bill.

The bill (S. 10536) directing the Secretary of War to convey the outstanding legal title of the United States to lot No. 20, square No. 253, in the city of Washington, D. C., was read, as follows:

That the Secretary of War is hereby directed to grant to the present occupants of lot No. 20, square No. 253, a quit-claim deed of the legal title of the United States to the said lot, it having appeared that the United States has no interest therein or claim thereto other than a record title arising from a failure to comply with the requirements of the act of the Maryland Legislature of December 19, 1791, relative to the recording of deeds in the original city of Washington: *Provided*, That the occupants of said lot shall establish to the satisfaction of the Secretary of War their title to the said premises, saving only the aforesaid outstanding legal title of the United States.

The SPEAKER. Is there objection?

There was no objection.

The bill was ordered to a third reading, and was accordingly read the third time and passed.

ALEXANDER WILKIE.

The next bill on the Calendar for Unanimous Consent was the bill (S. 9529) for the relief of Alexander Wilkie.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws and of all laws granting relief and privileges to honorably discharged soldiers who served during the Civil War, Alexander Wilkie, formerly second lieutenant Company C, Tenth Regiment Vermont Volunteer Infantry, shall be held and considered to have been honorably discharged from the military service of the United States as a member of said organization to date December 31, 1864: *Provided*, That other than as above set forth, no bounty, pay, pension, or other emoluments shall accrue prior to or by reason of the passage of this act.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I have no objection, but I suggest that the bill does not mean anything unless it is amended. I move to strike out, on page 2, in lines 1 and 2, the words "or by reason of."

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

On page 2, lines 1 and 2, strike out the words "or by reason of."

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

GRANT OF LAND TO NAHANT & LYNN STREET RAILWAY CO.

The next bill on the Calendar for Unanimous Consent was the bill (S. 9094) to authorize the Secretary of War to sell to the Nahant & Lynn Street Railway Co. a portion of the United States coast-defense military reservation at Nahant, Mass.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of War, for and on behalf of the United States, is hereby authorized to grant and convey by deed to the Nahant & Lynn Street Railway Co., a corporation duly organized under the laws of the Commonwealth of Massachusetts, a strip of land 16 feet wide lying along the northerly and westerly sides of the military reservation at Nahant, Mass., and abutting upon Flash Road and upon Castle Road as far south as the southerly line of Range Road prolonged; said land to be, by the said street railway company, or its successors and assigns, permanently used as the location for a street railway: *Provided*, That when it shall cease to be used for this purpose it shall revert to the United States: *Provided further*, That there shall be reserved to the United States rights of way across said strip of land at the northeasterly and northwesterly corners of the reservation and at Range Road.

SEC. 2. That the deed required by the foregoing section of this act shall not be delivered to the said Nahant & Lynn Street Railway Co. until said company shall have paid to the United States for the said strip of land the sum of $3,500.

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

PAYMENT OF TRAVELING EXPENSES OF UNITED STATES JUDGES.

The next bill on the Calendar for Unanimous Consent was the bill (S. 9693) to provide for the payment of the traveling and other expenses of the United States circuit and district judges when holding court at places other than where they reside.

Mr. MANN. Mr. Speaker, that bill has been provided for in the bill passed last night under the judicial title. I ask that it lie on the table.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

BRIDGES ACROSS THE BERING RIVER, ALASKA.

The next business on the Unanimous Consent Calendar was the bill (H. R. 32842) to authorize the Controller Railway & Navigation Co. to construct two bridges across the Bering River in the District of Alaska, and for other purposes.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Controller Railway & Navigation Co., a corporation organized and existing under the laws of the State of New Jersey, its successors and assigns, be, and they are hereby, authorized and empowered to construct, maintain, and operate, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906, two bridges across the Bering River, in the District of Alaska, to be located as follows: The upper bridge to cross the said Bering River at a point near the mouth of Stillwater Creek, and the lower bridge to cross the Bering River at a point about 4 miles above Bering Lake; also to extend its line of railway from the terminus of its line on the north shore of Controller Bay, as shown on its map of definite location filed in the Land Department December 14, 1910, on and over the tide lands and navigable waters of Alaska in said Controller Bay to the main channel, and to construct, build, erect, maintain, use, and operate at the end of such line of railway, when so extended upon said main channel, under rules and regulations to be prescribed by the Secretary of War, necessary wharves, docks, slips, waterways, and coal and oil bunkers, provided that the extent of and the plans for such structures are recommended by the Chief of Engineers and approved by the Secretary of War, in accordance with the provisions of section 10 of the river and harbor act approved March 3, 1899.

SEC. 2. That the said Controller Railway & Navigation Co., its successors and assigns, are hereby authorized to use, in the construction and maintenance of said extension of said line of railway, a right of way on, through, and over the tide and shore lands of the United States actually necessary to connect its railway with the navigable waters in said Controller Bay, not to exceed 100 feet on each side of the center line of such extension of said line of railway: *Provided*, That the easement hereby authorized may be exclusively exercised so long as said railway is maintained and operated for railroad purposes, but that nothing in this act contained shall be construed as impairing the right of the United States, or of any State that may hereafter be erected out of this District, to regulate the use of said right of way and the pier or dock herein authorized to be constructed, nor the right of the United States or of any such State to fix reasonable charges for the use of any pier, dock, or wharf constructed or maintained hereunder, nor shall it in anywise interfere with the authority on the part of the Secretary of the Interior to accord wharfage and other privileges in front of reserved areas, as provided in the act of May 14, 1898, entitled "An act extending the homestead laws and providing for right of way for railroads in Alaska, and for other purposes."

SEC. 3. That the title to all lands occupied under this act shall remain in the United States, subject to the use hereby authorized, and the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. Is there objection?

Mr. MACON. Mr. Speaker, reserving the right to object, I would like to have some explanation of this bill.

Mr. MANN. This is a bill reported from the Committee on Interstate and Foreign Commerce. The purpose is to allow a proposed railroad to construct two bridges across Bering River to get out to deep water at Controller Bay.

The bill has been presented in various forms to give a grant to the railway company. That is not now in the bill. The bill was gone over by a subcommittee and by the War Department and by the Secretary of the Interior, and in its modified form, as it is now presented, it has the approval of this department. It simply gives the railway company the right to get out to deep water. At Controller Bay the tide comes in such a way that the water for several miles is not deep enough for vessels to get up.

Mr. MACON. There are no special privileges extended to anybody. I had in my mind when I reserved the objection a bill introduced in the other body, and perhaps it has passed there, in which there was some exclusive wharfage privilege granted to someone.

Mr. MANN. One of the bills introduced did, it is claimed, and I think properly claimed, give to the railway company the entire frontage of this Controller Bay. This bill does not do that.

Mr. FOSTER of Illinois. This does away with that?

Mr. MANN. It does.

Mr. GOULDEN. It will not interfere with navigation, either present or prospective?

Mr. MANN. No.

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

NATIONAL INSTITUTE OF ARTS AND LETTERS.

The next business was the bill (S. 609) incorporating the National Institute of Arts and Letters.

The SPEAKER. Is there objection to the consideration of this bill?

Mr. MANN. Mr. Speaker, I shall have to object to its consideration at this time.

Mr. CRUMPACKER. Mr. Speaker, I suggest that it be passed without prejudice.

Mr. MANN. I have no objection to that.

The SPEAKER. It will be passed without prejudice.

AMERICAN ACADEMY OF ARTS AND LETTERS.

The next business was the bill (S. 610) incorporating the American Academy of Arts and Letters.

Mr. CRUMPACKER. Mr. Speaker, I ask unanimous consent that that bill be passed without prejudice.

There was no objection, and it was so ordered.

HYDRO ELECTRIC CO. OF CALIFORNIA.

The next business was House resolution 980.

The Clerk read the resolution, as follows:

Whereas the Hydro Electric Co. of California claims certain easements and rights of way for a pipe line across and over certain mining claims belonging to that company in Mono County, Cal.; and

Whereas it is claimed that the officials of the Forest Service of the Agricultural Department have demanded and are attempting to require the said company to sign a certain stipulation waiving the company's rights in said easement and threatening to summarily and unjustly stop the operation of the company's project, upon which the mining localities of Bodie, Cal., and Aurora and Lucky Boy, Nev., are dependent for power: Now, therefore, be it

Resolved, That the Secretary of Agriculture be directed to furnish the House of Representatives with copies of all correspondence on file in his department in reference to any action taken by his department concerning the Hydro Electric Co. of California and to the use of its rights of way and operation of its power plant in Mono County, Cal.

With the following amendment:

Strike out the preamble.

The SPEAKER. Is there objection?

There was no objection.

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

The amendment was agreed to.

The resolution as amended was agreed to.

Mr. ENGLEBRIGHT. This is a resolution of inquiry to have the Department of Agriculture furnish to this House copies of correspondence on file in that department concerning action of the Forest Service in connection with a pipe line of the Hydro Electric Co., of California, which has been laid across an unpatented mining claim in Mono County, Cal., claimed to be owned as a valid mining location under the United States mining laws by said company, but situated within a national forest reserve.

The Forest Service is said to be claiming jurisdiction to enforce regulations of the department over all of the water rights, rights of way, and power plant of the company, and to collect an annual charge for such a right of way, although the only claimed right of the Government officials to so act being by virtue of the land being an unpatented mining claim situated within a national forest reserve.

In the affidavit which was filed with the Public Lands Committee in connection with this resolution, it is claimed that the Government admits that the company owns all the water which it uses; that it owns its own lakes; that it owns its dam site, its intake, its pipe line, its power house, and all of its rights of way except the portion of the right of way covering less than 2 acres across the mining claim owned by the company, which is claimed to be treeless, arid, barren desert land, not susceptible of forestation and utterly worthless, except it be for mining purposes.

Under these circumstances I think it not only proper but the duty of the House of Representatives to inquire into the subject of what the Forest Service is doing in connection with claiming jurisdiction over mining claims within a natonal forest reserve.

I have herewith copies of the affidavit filed with the Public Lands Committee in connection with this resolution, which I request to have printed, and which gives further details in connection with this case.

[House resolution 980, Sixty-first Congress, third session.]

CITY OF WASHINGTON, *District of Columbia, ss:*

E. A. Lane, being duly sworn, deposes and says that he is an attorney at law, residing and practicing as such at San Francisco, Cal.; that he is one of the attorneys of record for the Hydro Electric Co., referred to in the above-mentioned resolution.

Said company owns and is now operating a power plant near Lundy Lake, in Mono County, Cal., and is there generating electricity for public use for mining and other purposes, and is distributing such electricity for those purposes to the mining localities of Bodie, Cal., and Aurora and Luckyboy, Nev. The company's plant has been in active operation since January 1, 1911; practically all of the mines operating in and around the localities named are using electricity furnished by the company's said project and are dependent almost entirely for such electricity in the operation of their mines.

Affiant has prepared a rough sketch, which is attached hereto and marked "Exhibit A" [not printed], showing approximately the location of the company's dam, pipe line, and power house, and also the location of the quarter section of land concerning which a contention has arisen between the company and the Forest Service.

There is following, first, a condensed summary of the matters directly in issue, and second, a supplemental affidavit on the matters in dispute referred to in the resolution above mentioned.

SUMMARY.

The Government admits the fact that the company owns all of the water which it uses; that it owns in fee simple all of the lands affected (including those covered by the lake, the dam, the intake, the pipe line, and the power house), except the 1 quarter section indicated in red ink upon Exhibit A. This quarter section is not patented land, but is within a well-recognized mineral territory and is covered by mining claims owned by the company under the United States mining laws. This quarter section is treeless, arid, barren, desert land and utterly worthless except for mining purposes.

The object, purpose, and intention of the company with reference to its power project is: First, to utilize the power for the opening up, the development, and continued operation of the mining claims and patented mining lands belonging to the company, as shown upon Exhibit A (not printed). These, of course, include the quarter section shown in red. Second, to sell the surplus power to the mining localities of Bodie, Cal., and Aurora and Luckyboy, Nev.

The Forest Service has instituted at San Francisco a suit in equity for an injunction to prevent the company from constructing, maintaining, or operating its pipe line across said quarter section, unless the company shall take out the form of permit ordinarily imposed upon commercial power companies who are operated, not upon their own, but upon national forest lands, and shall submit to and agree to be bound by all the conditions, restrictions, and obligations, including the obligation to pay a charge or tax, as provided in such permit. A temporary restraining order was secured upon an affidavit made by a forest officer, alleging absolute ownership of this quarter section to be in the Government and alleging also that the company was proceeding without any right whatever in the premises and wholly as a trespasser upon the property of the United States, and in violation and disregard of the laws of the United States.

This order delayed the construction of the project for nearly four months and prevented the completion of the project until January 1, 1911. This caused the company an actual pecuniary loss of more than $3,000. Before suit was instituted the company offered to file any bond that might be required for the protection of any interest in the premises which the Government might be adjudged to have and to obligate itself in any reasonable manner to submit to and abide by the final decision of the court. This offer was made in order to have the company's property rights under the mining and other laws of the United States adjudicated in court without suffering the pecuniary loss which must necessarily follow the stopping of its construction work, the disbanding of its crew of workmen, and the delay in the final completion of the project. Of course it was known to all that these incidents would accompany the issuance of a temporary restraining order. However, the company's requests were disregarded and the restraining order was issued with all the haste which telegraphic communication could accomplish, with result above named.

Later, in order to permit the completion of the project, it was arranged with the Solicitor of the Department of Agriculture as follows: The company withdrew its objections and exceptions to the report of the master in chancery upon preliminary examination (which report had been adverse to the company and favorable to the Government), and allowed an injunction pendente lite to issue to be effective unless the Secretary of Agriculture should issue a temporary permit for construction and operation. The Secretary of Agriculture issued such a permit in order to allow operation by the company and at the same time preserve the status of the case and allow the case to proceed to final hearing and adjudication.

Thereupon, however, the Forest Service prepared and submitted to the company for execution and demanded that the company should execute, without any modifications whatever, a form of stipulation, a copy of which is attached hereto and marked "Exhibit C." On December 29, 1910, before the company had been served with the proposed stipulation by the officers of the Forest Service, the company's attorney addressed a letter to the district forester at San Francisco (a copy of which letter is attached hereto and marked "Exhibit D"), asking that the proposed stipulation be modified in certain particulars. On January 21, 1911, the Forester replied, refusing to make any of the modifications requested, and notified the company again that it must execute the stipulation unmodified. A copy of the Forester's letter of January, 21, above referred to, is attached hereto and marked "Exhibit E." Thereupon, on account of the importance of the matter to the company, affiant came personally to Washington and undertook to secure consideration of the proposed modifications at the hands of the Forest Service here. Affiant was unable to obtain any consideration of the matter at all whatever. Therefore on February 13, 1911, affiant prepared an appeal to the Secretary of Agriculture from the decision of the Forester. A copy of this appeal is attached hereto and marked "Exhibit B." This appeal was not mailed until midnight of February 13, and could not have received anyone's personal attention in the Department of Agriculture before 10 o'clock on the morning of February 14. Nevertheless, within 24 hours thereafter, namely, early in the forenoon of February 15, the appeal had been rejected and the company was that day notified that it must at its peril execute the stipulation unmodified. A copy of the Forester's letter of February 15, 1911, is attached hereto and marked "Exhibit F."

An inspection of Exhibit C and of Exhibit D will show the character and terms of the proposed stipulation and also of the modifications which the company is requesting, and which it considers not only to be reasonable, but absolutely necessary in order to protect the property rights which it has acquired under the laws of the United States.

The district law officer of the Forest Service and the assistant United States district attorney at San Francisco both argued strenuously (and in this respect as well as every other the conclusion of the master in chancery seemed to follow closely the argument of the Government's counsel) that the company in constructing its pipe line across the quarter section had proceeded entirely in trespass and in disregard of departmental regulations and therefore contrary to law; that even though its mining claims were valid in every respect the company could have no rights in the land at all whatever which the Government was bound to respect; that the owner of a valid mining claim within a forest reservation had no right except that of a licensee under a revocable license. The Government's contention was clear cut that this quarter section though covered by valid mining claims remains in every sense the land of the United States and not the land of the company. The company, on the other hand, contended and most certainly believes that it is the owner of this land, and that it holds the full equitable title thereto; that it is the land of the company and not the land of the United States; that the United States holds nothing but the naked fee in trust for the company under the mining laws. The stipulation plainly involves (and unnecessarily so) an admission

of this point in favor of the Government and against the company. The company has most courteously but most earnestly urged that this admission be obviated by appropriate language which will involve no admission either one way or the other, and which will not jeopardize the interests of either party or the status of the pending suit. The company's request, although promptly made and made in good faith, has been ignored or at least has been met only by a charge that the company is not proceeding in good faith, but is pursuing dilatory tactics. This is not the case, and there is nothing to justify such a conclusion.

The proposed stipulation (Exhibit C) would obligate the company to pay an annual tax or charge at the flat rate of $75. To this the company objects as being illegal, but the amount is relatively so small that the company has done nothing more than to enter its formal objection.

Paragraph 8 of the stipulation, however, is a matter of more considerable importance. It might and probably would involve the expenditure of from $8 to $2,400 in construction of works, and in addition thereto would probably involve almost all the time and attention of one man in up-keep and in the recording of measurements. This paragraph, together with paragraph 13, can be supported by no sound reason in this case, where the charge is a flat rate and is not based upon a kilowatt-hour or horsepower charge.

The modification to paragraph 9 of the stipulation requested in paragraph 4 of affiant's letter (Exhibit D) is clearly reasonable and worthy of fair and considerate attention.

Nevertheless, when affiant attempted to take the matter up with Assistant Forester James B. Adams, he was immediately, and in advance of any consideration of merits at all or any time for consideration, met by an impetuous, unreasoning, and arbitrary declaration that not one word, phrase, or syllable of the entire stipulation would be modified in the least particular; that the Forest Service had never favored the issuance of any temporary permit; that the Forest Service was satisfied that the company was composed not of representative business men, but of tricksters and triflers; that the company could either sign the stipulation without one word of modification or could shut up shop; that the company could accept the stipulation without any further delay or else "fish, cut bait, or swim ashore."

THE COMPANY'S POSITION.

The company is firmly convinced that it has a right of way and vested easement for its pipe line under the act of Congress approved February 1, 1905, which grants rights of way across forest reserves for mining purposes. It is the company's opinion that a right of way may be acquired under this act by actual construction and use without the filing or approval of any maps or plats. Such is the holding of the courts and the Interior Department under the railroad act of March 5, 1875, and under the irrigation act of March 3, 1891, and we believe the principles there announced are equally applicable to the mining right of way act of February 1, 1905, above referred to.

The company is of the opinion that it has a vested easement and right of way under the act of July 26, 1866 (Rev. Stats., secs. 2339 and 2340).

The company is of the opinion also that the mining laws of the United States clearly authorize the company to construct and to use the pipe line as it has done and is doing for two reasons: First, because section 2322 of the Revised Statutes expressly provides that the owner of a valid mining claim so long as he complies with the mining laws is entitled to the exclusive use and enjoyment of all the surface. Our pipe line does no damage; in the laying of it no waste was committed, not a tree, shrub, bush, or seedling being in any way touched or affected; and the excavation for the pipe line had no other effect than to disclose the foot wall of the Goleta vein which traverses the quarter section in question and to expose the definitely marked gold-bearing vein matter of the ledge. The work was in no way detrimental to, or inconsistent with the holding of, the claims under the mineral laws, and is only a reasonable enjoyment of the right of the exclusive use of the surface in accordance with the express provisions of the mining laws above quoted. Second, because the mining laws of the United States authorize such use of the claim as is consistent with, and is reasonable in, the development of the mineral resources of the claim. That is true as to the building of roads, trails, tunnels, dwellings, boarding houses, reservoirs, stables, pumping plants, blacksmith shops, commissaries, and stores, and even the cutting, removal, or destruction of growing timber. In the present case the construction of the company's pipe line was for the purpose and with the intent to utilize the power to be developed thereby in the exploitation and operation of the very mining claims crossed by the pipe line. The work which the company has done has been necessary to the development of the claims. Even the sale of the surplus power to other miners has been necessary in order to develop sufficiently cheap power for the economical working of the claims actually crossed by the pipe.

Furthermore, the company owns the old Goleta ditch, which is a vested right of way acquired under the act of July 26, 1866, and is shown in dotted lines upon Exhibit A (not printed); and the present pipe line is only a modification and improvement of the old Goleta ditch in that it makes the line more direct and changes an open ditch into a buried pipe line.

GOOD FAITH.

The reasonableness and good faith of the company (in its position that it is within the law, that it has a vested right of way and easement for its pipe line, and that the construction and use of its pipe line across the quarter section mentioned is authorized by the statutes) can not be questioned by anyone who is willing to approach the subject with any reasonable degree of fairness and consideration. Affiant is informed and believes, and therefore alleges, that actual ocular discoveries of valuable deposits of gold have been made not only upon the claims crossed, but also upon the adjacent mineral property owned by the company and shown upon Exhibit A; that in the purchase of adjacent claims thus shown the company has expended more than $300,000. None of these claims have any value at all whatever, except for the deposits of gold, silver, and copper which they contain.

In order to protect itself from loss and damage, the company is, and has at all times been, willing to sign the proposed stipulation provided it is modified as suggested or in any other manner that will be fair and just to the company and that will save the company from waiving its property rights or admitting any of the legal points now at issue and pending for decision in the suit in the United States circuit court above referred to.

SUPPLEMENTAL STATEMENT OF FACTS.

A supplemental statement of facts with reference to the case, and showing other circumstances in connection therewith, is covered under a separate affidavit, which follows Exhibits A, B, C, D, E, and F.

E. A. LANE.

Subscribed and sworn to before me this 20th day of February, 1911.

[SEAL.] N. M. BELL,

Notary Public, District of Columbia.

EXHIBIT B.

WASHINGTON, D. C., *February 13, 1911.*

The honorable SECRETARY OF AGRICULTURE,

Washington, D. C.

SIR: I have the honor to inclose herewith a copy of a proposed stipulation submitted by the Forest Service for execution by the Hydro Electric Co., of Bodie, Cal., and to appeal to you from the decision of the Forest Service requiring the company to execute this stipulation in its present form without modification. Also inclosed are the following: Copy of letter of December 29, 1910, written by the attorney for the company to the district forester at San Francisco, requesting the modifications deemed necessary and proper by the company; a copy of letter of January 21, 1911, written by the Forester to the district forester at San Francisco, refusing to comply with any of the company's requests.

Some of the requests for modifications are deemed by the company to be vitally essential. Therefore, upon receipt of a copy of the Forester's letter of January 21, above referred to, the company's attorney, Mr. E. A. Lane, came at once to Washington from San Francisco in order to take up this matter personally with the Forest Service. By appointment, Mr. Lane and Mr. Pierce (of Copp, Luckett, & Pierce, local attorneys for the company), called upon Mr. James B. Adams, Assistant Forester. Mr. Adams immediately, at the very opening of the interview, declared his firm belief in very remarkable language, that the company is composed of tricksters and triflers, and announced that his mind was firmly made up, and that the company could "fish, cut bait, or swim ashore." The company's attorneys at once telegraphed to Mr. W. H. Metson, general counsel for the company, at San Francisco, advising him of the situation and requesting advice and instructions. Owing to Mr. Metson's absence from San Francisco at the time, Assistant Forester Adams kindly consented to allow the company, if necessary, until February 14 within which to announce its intention concerning the matter above referred to.

Mr. George P. McCabe, solicitor for your department, while zealously protecting at every point the interests of the Government, has been at all times gentlemanly, courteous, reasonable, and considerate in his negotiations with and in his treatment of the officials of the company. This will appear more fully in the statement following, and the company desires to express its appreciation of the courtesy and reasonable consideration shown at all times by Mr. McCabe. The company must, however, protest against the arbitrary and oppressive action and attitude of Assistant Forester James B. Adams, and of the district engineer of the Forest Service, Mr. O. C. Merrill. The interview above outlined with Mr. Adams is a fair sample of the treatment that the company has received throughout from the officials of the Forest Service. The company has proceeded with entire openness, frankness, and fairness in all of its dealings with the officials of the Forest Service. It has desired only and has endeavored to stand upon what it considered its clear legal rights under the laws of the United States, and has openly at all times announced its desire to submit all points controverted by the Forest Service to the courts of the United States for adjudication. Unless an honest and firm conviction that it has certain valid property rights and has a right to submit for adjudication those rights to the regularly established Federal courts; unless this constitutes lese majeste or disrespect for the officials of the Forest Service, the company has not at any time been culpable in that regard. However, except for the one courtesy extended by Mr. Adams as mentioned above, the company can not remember where it has been shown any consideration, courtesy, or fairness by the officials of the Forest Service except where required by the direction of Solicitor McCabe as hereinafter mentioned.

THE STATEMENT OF FACTS.

The company owns all of the land and all of the water involved in a power project near Bodie, Cal., except that approximately 3,800 feet of the company's pipe line crosses valid mining claims which are unpatented and are located within the Mono National Forest. The power project has been installed for the purpose, first, of developing the mining claims above referred to and other adjacent valuable mining properties in which the company has invested approximately $300,000, and second, of selling the surplus power for use by miners and mine owners in and around neighboring mining localities. The company believes that it has a right to construct and operate its pipe line across the claims mentioned for the purposes named. The Forest Service have demanded that the company take out a regular power permit and pay the regular charge or tax which is imposed under ordinary circumstances upon regular commercial power companies, which operate, not upon their own, but upon national forest lands. This position has been taken by the Forest Service in spite of the fact that the company owns in fee all of the land except the 3,800 feet named, and owns that 3,800 feet also by virtue of location and discovery under the United States mining laws. The land involved is not forest land, although within reserve, but is utterly barren, arid, desert land and valueless except for mineral purposes.

Prior to bringing any suit the company offered to file any reasonable agreement to protect the Government and to file a bond in any sum that might be required, or to agree in any way that might be suggested, for the protection of the Government, to abide by the result of litigation and to accept the established legal requirements, terms, and conditions of the Forest Service in case the court should, by judgment, decide against the contention of the company. This offer was refused abruptly and summarily after the manner of Assistant Forester Adams, as indicated in the review above referred to. The Forest Service caused suit to be filed and, upon an affidavit of one of its officers alleging absolute Government ownership of the land, secured a temporary restraining order immediately stopping the construction work of the company and threatening it if it did not submit without litigation to the Forest Service conditions, with thousands of dollars financial loss. Subsequently, when the matter was called to the attention of Mr. McCabe, he took the position that the company was entitled to have its rights submitted and adjudicated in court without being

penalized therefor or being practically prohibited therefrom by such summary action on the part of the Forest Service as would result in disuse of the project for two or more years and cause great financial loss to the company. Accordingly the company agreed in court to the issuance of an injunction pendente lite, to be effective until a temporary permit should be issued by the Secretary of Agriculture allowing construction and operation. This permit was issued, and thereby it was made possible for the company to continue its construction work without surrendering its right to have the legal questions involved adjudicated by the court.

However, the Forest Service forwarded the stipulation above referred to and required unconditional execution thereof under penalty of revoking the permit theretofore issued. The force of such threat is obvious from the fact that the revocation of the permit, it is contended, would ipso facto place the company in the position of continuously violating the temporary injunction which was entered upon the understanding above stated.

THE COMPANY'S POSITION.

The company's position is this. It is entirely willing to execute a stipulation embodying all the agreements and conditions which are necessary in order fully to protect every interest of the Government. The company does not, however, believe, nor does it believe that the honorable Secretary of Agriculture will hold, that any stipulation should be executed which in its terms would have the effect of nullifying or making moot the legal questions involved in the pending litigation. The attorneys for the company have carefully and thoroughly considered the terms and provisions of the stipulation above referred to, and are convinced that if the company should execute the stipulation in its present form one of the principal points involved in the litigation would be expressly admitted in writing by the company. The assistant United States attorney at San Francisco, as well as the district law officer of the Forest Service, argued vigorously and at length, first, that the company has no valid location under the mineral laws, and therefore that the lands involved are lands of the United States and not of the company, and second, that even though the mineral locations are valid, nevertheless, the company is a bare licensee, holding subject to the will of the Government officers, and that the lands are therefore lands of the United States and not lands of the company. The stipulation, we submit, clearly involves in its present form an express admission of this point in favor of the Government and against the company. This point might be raised as a question of law and throw the company out of court, either in the circuit court or after appeal had been taken to the circuit court of appeals, or even after the litigation had progressed with all the necessary labor and expense on both sides as far as the United States Supreme Court. We ask, therefore, that suitable words be substituted or added so that the rights of the Government may be fully protected without requiring the company to admit the above-named point, which is one of the leading points involved in the pending litigation. This request is referred to in paragraph No. 1 of Mr. Lane's letter of December 29, to the district forester, above referred to. If the change requested in that letter is in any way objectionable to your department, other words which will certainly be unobjectionable to both sides can easily be substituted.

The company also requests earnestly that paragraphs Nos. 2, 3, 4, and 5 of that letter be carefully considered by your department with a view, if posible, of arranging for such modifications as will be fair and just both to the Government and to the company. Paragraph 4 should, we submit, need no argument to demonstrate its own reasonableness and fairness. "Quantity and other conditions considered" should certainly be inserted in clause 9 of the stipulation as requested.

Paragraphs Nos. 3 and 5 of the letter, referring to paragraphs Nos. 8 and 13 of the stipulation, respectively, will call to your attention two paragraphs which appear certainly to be wholly unnecessary and inapplicable to the present case. The installation of weirs and measuring devices which might be required, and would under the terms of the stipulation be required, would mean the expenditure of a very considerable sum of money in construction, upkeep, and personal attention. Furthermore, the amount of water used or stored, the flow of the stream, and the quantity of electricity used or sold by the company, could not under the temporary permit and all the circumstances of this case, be a matter of any proper concern of the Forest Service. In the case of final permit, it is true that the tax or charge exacted by the Forest Service would be based upon the horsepower production of electricity; and, therefore, it would, of course, be proper in that case for the Government to ascertain the amount of water used and the amount of electricity generated and sold by the company in order to determine whether the company was paying to the Government the full proper amount in compliance with the conditions imposed by the Forest Service. However, in this case there is only a flat charge of $75 a year suggested by the Government under the temporary permit. The Government has no concern in the amount of water or electricity and no proper or reasonable cause for requiring the company either to install weirs and measuring devices or to open its books to the inspection of officials of the Forest Service. This information is not needed and will not be needed even though the company should lose to the Government in the pending suit, for the reason that in case a final permit should be required to be taken out by the company the terms and provisions of such final permit, according to the printed regulations of your department, will provide full and sufficient conditions for fixing the charge and for ascertaining the amount thereof upon the basis of the horsepower production of electricity then being developed.

The company respectfully requests that your department carefully and fully investigate the circumstances of this case and review the decision of the Forest Service and revise and modify the stipulation. The company asks this only as a means of securing equity and a fair protection of its legitimate rights. We believe that we are entitled to and will receive at the hands of your department that fairness, consideration, and courtesy which citizens have been accustomed to receive before the administrative officers of the Government.

The company has not been dilatory in this matter; it has taken all possible steps to secure reasonable and prompt consideration of its case. This was its purpose in sending its attorney from San Francisco in order personally to present its case and consult with the officers of the Forest Service. The delay which seems to appear from a reading of Mr. Lane's letter of December 29 is not in fact any real delay at all. As a matter of fact, that letter was written upon information and copies of correspondence received informally from Messrs. Copp, Luckett & Pierce, of Washington, and was written before service upon the company of the Forest Service stipulation.

Very respectfully,

COPP, LUCKETT & PIERCE,
E. A. LANE,
Attorneys for Hydro-Electric Co.

EXHIBIT C.

UNITED STATES DEPARTMENT OF AGRICULTURE,
FOREST SERVICE.

WATER-POWER STIPULATION.

The Hydro Electric Co., hereinafter called the permittee, a corporation organized and existing under and by virtue of the laws of California, and having its office and principal place of business at San Francisco, having applied for a temporary permit to occupy and use certain lands of the United States within the Mono National Forest for the construction and use of a conduit or pipe line to conduct water for the generation of electric energy, under the provisions of the act of Congress approved February 15, 1901, does hereby, in consideration of the granting of the said permit, stipulate and agree as follows, to wit:

(1) To pay in advance on the 1st day of January, 1911, and on the 1st day of January of each year thereafter, to the First National Bank of San Francisco (United States depositary) or such Government depositary or officer as may hereafter be legally designated, to be placed to the credit of the United States, the sum of $75; and in case this temporary permit shall be superseded by a final permit in such form as the Secretary of Agriculture may prescribe, such payments shall be credited to the permittee and be applied to the charges due or to become due under the said final permit.

(2) To pay in advance, as required by the district forester, to the said national bank or other United States depositary, to be placed to the credit of the United States, the full value of all merchantable live and dead timber to be cut, injured, or destroyed in the construction of said works, title to which at the time of said cutting, injury, or destruction is in the United States, such full value to be deemed and taken to be the value fixed by the district forester, according to the scale, count, or estimate of the forest officer or other agent of the United States in charge of said scale, count, or estimate, and at the price which shall be the prevailing stumpage price for similar material on said national forest at the time of said cutting, injury, or destruction.

(3) To pay, on demand of the district forester or other duly authorized officer or agent of the United States, to the said United States depositary or other authorized officer as above set forth full value as fixed by said district forester or other duly authorized officer or agent for all damages to the national forests resulting from the breaking of or the overflowing, leaking, or seepage of water from the works constructed, maintained, and operated under the permission applied for, and for all other damage to the national forests caused by the neglect of the permittee or of its employees, contractors, or employees of contractors.

(4) To dispose of all brush and other refuse resulting from the necessary clearing of or cutting of timber on the lands occupied or used under the permission applied for, as may be required by the forest officer in charge.

(5) To protect all Forest Service and other telephone lines at crossing of and at all places of proximity to the transmission line in a standard manner and satisfactory to the forest officers, and to maintain the line in such a manner as not to injure stock grazing on the forest.

(6) To do all within its power and that of the employees, contractors, and employees of contractors, both independently and upon the request of the forest officers, to prevent and suppress forest fires.

(7) To build and repair roads and trails as required by the forest officer, or other duly authorized officer or agent of the United States whenever any roads or trails are destroyed or injured by the construction work or flooding under the permission applied for, and to build and maintain suitable crossings as required by the forest officer, or other duly authorized officer or agent of the United States, for all roads and trails which intersect the conduit, if any constructed, operated, or maintained on the lands the occupany and use of which have been applied for and to secure which this stipulation is filed with the district forester.

(8) To install and maintain in good operating condition, free of all expense to the United States, accurate measuring weirs, gauges, and other devices approved by the Secretary of Agriculture, adequate for the determination of the natural flow of the stream or streams from which water is diverted for the operation of said works, and of the amount of water used from the natural flow in the operation of said works, and of the amounts of water held in and drawn from storage, and to keep accurate and sufficient records, to the satisfaction of the Secretary of Agriculture, of the above-named measurements.

(9) To sell electric energy to the United States, when requested, at as low a rate as is given to any other purchaser for a like use at the same time: *Provided*, That the permittee can furnish the same to the United States without diminishing the measured quantity of energy sold before such request to any other consumer by a binding contract of sale: *And provided further*, That nothing in this clause shall be construed to require the permittee to increase its permanent works or to install additional generating machinery.

(10) That the said permit shall be subject to all prior valid claims and permits which are not subject to the occupancy and use authorized by said permit.

(11) That, except when prevented by the act of God, or by the public enemy, or by unavoidable accidents or contingencies, the permittee will, after the beginning of operation, continuously operate for the generation of electric energy the works, constructed and or maintained in whole or in part, under said permit, unless, upon a full and satisfactory showing of the reasons therefor, this requirement shall be temporarily waived by the written consent of the Secretary of Agriculture.

(12) That the works, to be constructed and or maintained under said permit, will not be owned, leased, trusteed, possessed, or controlled by any device permanently, temporarily, directly, indirectly, tacitly, or in any manner whatsoever so that they form part of, or in any way affect, any combination, or are in anywise controlled by any combination, in the form of an unlawful trust, or form the subject of any contract or conspiracy to limit the output of electric energy, or in restraint of trade with foreign nations, or between two or more States or Territories, or within any one State or Territory, in the generation, sale, or distribution of electric energy.

(13) That the books and records of the permittee, in so far as they show the amount of electric energy generated by the works constructed and or maintained, in whole or in part, under said permit, or the amounts of water held in or used from storage, or the stream flow, or any other data of the watershed furnishing the water used in the generation of said energy, shall be open at all times to the inspection and examination of the Secretary of Agriculture, or his duly appointed representative, and the permittee will, during January of each year, unless the time therefor is extended by the written consent of the Secretary

of Agriculture, make a return to said Secretary, certified under oath, in such form as may be prescribed by the said Secretary, of such of the measurements or records made by or in the possession of the permittee as may be required by the said Secretary concerning the matters in this clause above named and for the year ending on December 31 preceding.

In witness whereof the permittee has executed this stipulation on the —— day of ——, 1909.

HYDRO ELECTRIC CO.,
By —— ——

Attest:
—— ——, *Secretary.*

EXHIBIT D.

MONO WATER POWER HYDRO ELECTRIC CO. CONDUIT,
December 29, 1910.

DISTRICT FORESTER,
First National Bank Building, San Francisco, Cal.

DEAR MR. OLMSTED: With reference to the stipulation submitted by the department for execution by the Hydro Electric Co. in connection with the pending temporary permit.

I believe that the Forester's letter allowed the company until December 30 in which either to execute the stipulation in present form or to request any modifications. There are some slight modifications which I wish to request. I consulted the officers of the company with reference to such modification nearly a month ago, and the delay since then has been entirely due to myself. The entire month of December has been an unusually busy one for me on account of extra work on several matters, such as the proposed reforms in criminal law and procedure which are being urged by the State Bar Association, the local bar association, and the district attorney of the State. I sincerely hope that there will be no censure of the company on account of my shortcoming in causing this delay.

Modifications requested and the reasons therefore are given following:

(1) In the fifth line of the first page, near the end of the line, after the word "lands" and before the word "the" I request that the word "of" be stricken out, and the words "legal title to which is in" be inserted, so that the clause referred to would read "occupy and use certain lands legal title to which is in the United States," etc. The reason for this requested change is that the paragraph in its present form might involve an admission by the company against the validity of its mining claims; whereas, such validity will no doubt be one of the questions to be heard and adjudicated by the court in the present action. I think that the department does not desire any such damaging admission to be made by the company, and since the requested change could work no possible detriment to the Government, I trust that the request will be granted.

(2) The provision in the stipulation in paragraph No. 1 providing for unconditional payment of $75 per year is, I think, hardly fair to the company. Of course, the amount is relatively small, but, on the other hand, I understand it is not the custom of the service to charge under such circumstances for the crossing of valid mining claims. Certainly if the claims are adjudged to be valid, or if the company should be successful in the final result of the litigation, the amount paid to the Government would, in fact, never have been due to the Government. Therefore, I suggest and request that these payments be provided for in such a way that the amount may be refunded if the result of the litigation is favorable to the company in either of the ways above stated.

(3) Paragraph No. 8 of the stipulation should, I think, be eliminated for the reason that the permit is only a temporary one and calls for a flat rate. In this respect it differs, of course, from a permanent permit, and there is not the same reason in the present case to call for the installation of measuring devices. This will be a matter of considerable expense and inconvenience to the company. I therefore ask that this clause be eliminated altogether.

(4) On page 4 of the stipulation in the third line of paragraph No. 9, after the word "time" and before the word "provided," I request that the words "quantity and other conditions considered" be inserted, so that the clause referred to will read "for a like use at the same time, quantity and other conditions considered." I think the fairness and reasonableness of this request is obvious without explanation.

(5) Paragraph 13 of the stipulation should, I think, be entirely eliminated for the same reasons given in paragraph No. 3 of this letter. As stated in paragraph 3 concerning the paragraph of the stipulation No. 8, there would be every reason for requiring paragraph 13 in a regular, permanent permit in which the charges are based upon the amount of electricity generated, modified by storage and other related elements. However, in this present, temporary permit, the charge is a fixed flat rate. I therefore request that paragraph No. 13 be eliminated from the present stipulation.

As soon as this matter has been considered by the department and the determination announced, I assure you I will proceed on my part with the utmost expedition and shall be glad to make amends as far as I am able for my delay in the present instance.

Very truly, yours,
E. A. LANE,
Attorney for Hydro-Electric Co.

EXHIBIT E.

MONO WATER POWER HYDRO ELECTRIC POWER CO.,
Reservoir and Conduit, November 19, 1909.

DISTRICT FORESTER,
San Francisco, Cal.

DEAR SIR: Your letter of December 30, 1910, with inclosures is received. From your telegram of January 10, in answer to ours of the same date, it appears that the form of stipulation sent you on November 26, 1910, for execution by the company was not delivered to it until December 30, although Mr. Lane has a copy thereof which was sent him by Mr. Pierce, the company's attorney here. Under these circumstances it would seem proper to allow a further time for execution of the stipulation.

As to the modification suggested in Mr. Lane's letter of December 29:

It seems to me that the first change requested is without merit. The fact that public lands upon which a mineral location exists are described as "lands of the United States" would seem to involve no admission of the invalidity of such location. This request strikes me as overtechnical and trivial.

The second request was fully considered and passed upon before the permit and stipulation were drawn up and was disposed of in the letter of transmittal.

I see no reason for granting the third request. The requirements of stipulation No. 8 have been inserted in all power permits and can be observed without any burdensome expense. The information is desired not only in connection with the particular project, but for purposes of permanent record.

The fourth request also asks the modification of a condition inserted in all permits for some time past; and while it may be of no practical importance in this particular case, I do not think the requirements should be omitted.

As to request No. 5, the same observations are applicable as were made in respect to request No. 3. In addition it is of course contemplated that the present temporary permit at a flat rate of charge will be superseded by a final permit in case the litigation results in favor of the Government, in which case, the information desired will be valuable.

My conclusion, therefore, is that the company should be required to execute the stipulation without modification, and should be allowed until February 10 to return the executed paper to your office.

Please advise Mr. Lane that unless the stipulation is executed in its present form within that time the temporary permit will be revoked and prompt action taken to enforce the rights of the Government.

Very truly, yours,
JAMES B. ADAMS, *Assistant Forester.*

EXHIBIT F.

UNITED STATES DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, February 15, 1911.

Messrs. COPP, LUCKETT & PIERCE, and Mr. E. A. LANE,
Attorneys for the Hydro Electric Co.,
Pacific Building, Washington, D. C.

GENTLEMEN: Mr. Lane's letter of February 13, inclosing a copy of your joint letter of the same date to the Secretary of Agriculture, is received. Both letters have been carefully considered. I am now in receipt also of instructions from the Secretary of Agriculture, issued after consideration by him of your joint letter, directing me to notify you that unless the stipulation is signed immediately by the company all negotiations will cease and the department will resort to such remedies as are available.

Pursuant to these instructions you are hereby notified that unless, on or before February 12, information is received that the stipulation has been signed by the company the course indicated by the Secretary will be promptly pursued.

Very truly, yours,
H. S. GRAVES, *Forester.*

SUPPLEMENTAL AFFIDAVIT.

CITY OF WASHINGTON, *District of Columbia, ss:*

E. A. Lane, being first duly sworn, deposes and says: When the Hydro Electric Co. first began the laying of its pipe line across the quarter section referred to in the preceding affidavit of the forest officers attempted to force the company, arbitrarily and without any opportunity for hearing or consideration, into accepting a Forest Service permit and agreeing to all of the conditions and restrictions thereof and assuming all the obligations thereunder, including obligation to pay the regular charge or tax imposed by the Forest Service. This first attempt was made by threatening to arrest the employees of the company who were working upon the ground.

Affiant was notified of this action by telegraph and, knowing that the action taken by the officials was wholly arbitrary and without legal authority, affiant immediately telegraphed the company to proceed with the work, and in case the forest officers should actually arrest the men, to put other men at work in the place of those arrested, and as soon as those arrested could be bailed out to return them also to work. No arrests were made.

From that time on affiant, on behalf of the company, offered repeatedly to file any bond that might be required for the protection of the Government's interest and to obligate the company to abide by the ultimate decision of the court, and to take out the Forest Service permit if the court should decide the company to be under legal duty so to do. This offer was made for the purpose, if possible, of avoiding any friction or ill feeling on the part of the officials of the Forest Service, and in order also, if possible, to arrange to have a suit for injunction against the company filed by the Government without the unnecessary expense and annoyance and public and private loss and damage, which would result unavoidably from the issuance of a temporary restraining order stopping the work and delaying the final completion of the project. This offer was promptly rejected. The officials of the Forest Service announced that no such consideration would be shown to the company; that the suit for injunction would be filed, and the temporary restraining order would be secured as soon as possible, and the United States marshal sent immediately to stop the work. This was in fact done, and was done as expeditiously as special telegraphic instructions could make possible. Such action was altogether uncalled for and unnecessary, so far as the protection of the Government's interest was concerned, and could have had no other object or purpose than to force the company by pecuniary loss into the immediate surrender of the property rights which it in good faith claimed under the law.

From first to last the company has encountered at the hands of the officials of the Forest Service a remarkably bitter and a narrow and nervously agitated attitude. The tenor and spirit of all their negotiations and dealings with the company have been such as have indicated that they thought that from somewhere from behind some unseen tombstone some members, agent, or employee of the company would emerge and make away with the property of the United States. Their attitude has been that of such apprehension of evil as arises from a mind which thinks nothing but evil, and imagines nothing but trickery, trusts no one, and at the same time is so inexperienced and so lacking in information and ordinary business judgment as to have no appreciation of the distinction between actual or probable danger and absurd imagining of danger where no possibility of danger exists.

On the same morning that affiant's letter of December 29, 1910 (Exhibit D, referred to in the preceding affidavit), was received by the Forest Service in Washington, and within a few minutes after its receipt and before it had been even seen by Assistant Forester James B. Adams, Mr. Charles R. Pierce, of Copp, Luckett & Pierce, local attorneys for the company, was in the office of the Forest Service. It was then announced to him that the letter requesting modifications had just been received. Every request was already marked "No." At that time the assistant forester, Mr. James B. Adams, came into the room; was thereupon for the first time shown the letter, and thereupon immediately, without hesitation or time for any fair consideration, an-

nounced his decision and determination that not one of the suggested modifications should be allowed. The allegations in this paragraph contained are made by affiant upon information and belief, but are verified by the attached affidavit of Mr. Charles R. Pierce.

In this case, as in the case of the personal interview between affiant and the said assistant forester, Mr. James B. Adams, as described in the preceding affidavit, and as also in the case of the appeal to the Secretary of Agriculture, which was decided with precipitous haste within 24 hours after its receipt; in all these cases it appears, and affiant is informed and believes and upon which such information and belief alleges, that the sound and reasonable and carefully prepared and carefully considered requests of the company were summarily and arbitarily and inconsiderately rejected and denied without any reasonable thought or study into the situation or into the nature of or reasonable necessity for the requests that were made.

E. A. LANE.

Subscribed and sworn to before me this 20th day of February, 1911.
[SEAL.] N. M. BELL,
Notary Public, District of Columbia.

CITY OF WASHINGTON, *District of Columbia, ss:*

Charles R. Pierce, being first duly sworn, deposes and says: That he is the Charles R. Pierce referred to in the paragraph of the foregoing supplemental affidavit wherein his name is mentioned on the page of said supplemental affidavit next preceding this page; that he has read the said paragraph and knows the contents thereof; and that the same are true. That his information as to the time of the receipt by the Forest Service officials mentioned of said letter of December 29 was gained from the voluntary explanations of the said officials of the Forest Service made at the time mentioned.

CHAS. R. PIERCE.

Subscribed and sworn to before me this 20th day of February, 1911.
[SEAL.] N. M. BELL,
Notary Public, District of Columbia.

I have also a copy of a letter of an attorney of the company appealing to the President for relief from the action of the Forest Service officials concerning their action in this case, which I will insert herewith:

WASHINGTON, D. C., *February 28, 1911.*

The PRESIDENT,
White House, Washington, D. C.

SIR: I inclose a copy of my letter (appealing to you) dated February 21, 1911, and also a copy of the inclosure referred to in that letter. There are also inclosed a copy of letter of February 20, 1911, from the honorable Secretary of Agriculture to Senator GEORGE S. NIXON, and a copy of my letter of February 24, 1911, to Senator NIXON replying to some of the points covered in the Secretary's letter of February 20.

My appeal above mentioned was referred at once to the Department of Agriculture by the Secretary to the President. I have the honor now to renew my appeal to you and to request again that this matter may be referred for consideration and action to some department other than the Department of Agriculture. The inclosures will show that every possible appeal to the Department of Agriculture has already been exhausted. The company is therefore without hope of redress or of protection from the executive department of the Government unless its case may receive the attention of some other than the officials of the Department of Agriculture.

I am convinced that control over this matter should be exercised either by the Department of Justice or by the Department of the Interior.

I submit that control over this matter should be exercised by the Department of Justice, for the reason that the case is now the subject of a suit between the Government and the company which is pending in the United States circuit court at San Francisco. The Department of Justice, through such action as it has already taken, is already in possession of most of the facts and circumstances of the case. Through the United States district attorney's office at San Francisco it can easily become familiar with every detail. The attorneys of that department, those in the local district attorney's office, as well as the officials here who have directed the litigation thus far, may surely be expected to make all reasonable and necessary provisions for the protection of the interests of the Government.

Furthermore, the reference of this matter to the Department of the Interior would seem not only to be entirely in accord with, but to be expressly called for, by the forest transfer act of February 1, 1905. That act expressly reserves to the Secretary of the Interior sole jurisdiction over all matters affecting "the surveying, prospecting, locating, appropriating, entering, relinquishing, reconveying, certifying, and patenting" of lands within national forests. This case involves the locating, appropriating, prospecting, entering, and patenting of the land in controversy, and the action of the officials of the Forest Service and Department of Agriculture threatens not only to deprive the company of its property in its mining claims, but also to hamper and interfere with the mineral development and with the actual mining work upon the claims, which is a necessary prerequisite to the entering and patenting of the claims.

The only Government land involved amounts, in fact, to less than three, yes, less than two, acres of treeless, arid, barren, nonriparian, desert land, which is neither forest nor susceptible of forestation, but which is mineral in character and is, as the company believes and insists, covered by valid mining claims belonging to the company. The total value of the land for all purposes (exclusive of mining) is less than $40. The project of the company represents an investment of more than half a million dollars, and is intended, first, to develop, in accordance with the mining law, the particular claims involved and other mining property adjoining; and second, to furnish electricity for the mines in and around Bodie, Cal., and Aurora and Luckyboy, Nev. The plant has been in operation since January 1, 1911. The officials of the Forest Service and Department of Agriculture now threaten to shut down the plant.

The officials of the Forest Service and Department of Agriculture demand, among other things, the following:

First. That the company shall make an admission against itself of what the Secretary of Agriculture himself describes in his letter as "one of the principal issues, if not the chief issue, in the pending litigation." This is purely a law question, and certainly it is properly within the jurisdiction of the Department of Justice. The company feels confident that the reasonableness of its position would be upheld by the lawyers of the Department of Justice.

Second. The officials of the Forest Service and Department of Agriculture demand that the company shall agree to install weirs, gauges, and measuring devices upon the streams, and to take complete measurements and furnish complete reports thereof to the Forest Service. This will cost the company, the company engineers report, approximately $4,000 for construction and $1,000 per year thereafter in personal attention. This the company submits is wholly unreasonable and is unnecessary for the protection of any interest of the Government.

The company is willing, and has since, prior to the beginning of litigation, repeatedly offered to file any bond, written obligation, or other security for the protection of the interests of the Government, and obligating the company under heavy penalty to abide by and comply with the final order and judgment of the United States courts.

The company respectfully submits this appeal.

Very respectfully,
E. A. LANE,
Attorney for Hydro Electric Co.

Address: E. A. LANE,
Care COPP, LUCKETT & PIERCE,
Pacific Building, Washington, D. C.

I have also here a letter from the Secretary of Agriculture to Senator NIXON setting forth some of the arguments of the department in this matter, which I will insert:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, February 20, 1911.

Hon. GEORGE S. NIXON,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I duly received your letter of the 14th instant recommending my careful consideration of the appeal of the Hydro-Electric Co. from the decision of the Forester requiring the company, as a preliminary to the issuance to it of a permit to construct and maintain part of its power project across lands in the Mono National Forest, Cal., to execute and file with the department certain stipulations looking to the proper administration and protection of the forest, as well as to what is conceived by this department to be necessary requirements for the administration of the act of February 15, 1901, authorizing me to permit the use of rights of way over the national forests for the development and utilization of hydroelectric power. You suggest that the propriety of modifying the stipulation in the matters requested by the company may receive my careful consideration.

I am pleased to be able to advise you that the appeal of the company had my personal and very careful consideration, and I found it necessary, prior to the receipt of your letter, to sustain the action of the Forester and deny the request of the company, the reasons for which will more fully appear in a subsequent part of this letter.

You state—and I am satisfied that it is a fact—that you are not familiar with all the facts in this case, and I beg to indulge the assurance that if you were you would appreciate the correctness and propriety of my action. I believe you should be in possession of at least a brief statement of the salient facts in this case, and I accordingly do now submit them to you.

For the sake of accuracy I extract a number of the more important particulars of this case from the report of the master in chancery, to whom the pending litigation was referred by the court for the taking of testimony and full report to it. The Hydro Electric Co. appears to be largely composed of stockholders of the Southern Consolidated Mining Co. and the Cain Consolidated Mining Co. The object of the company in constructing its power project was to provide power for the Bodie and Aurora mines, and, if there was any excess, for the Luckboy mines. The company is the owner of the Goleta mine, situated to the north of the land in controversy in this suit, for the development of which the company also claims it is constructing the project, although the Goleta mine has not been operated since about 1902. The company acquired the Goleta mine from the Goleta Consolidated Mining Co. by deed dated July 29, 1910. The company also owns 10 claims called Mattly, Nos. 1 to 10, inclusive, situated partly to the west and partly to the south of the property of the Goleta Co., and four of these Mattly claims extend in part within the Mono National Forest. The Mattly claims were located by F. D. Mattly on January 1, 1910, conveyed to J. S. Cain, vice president of the company, for a nominal sum on the succeeding 22d day of January, and by Cain to the company on July 22, 1910. On July 26, 1910, J. A. Conway conveyed to the company for a consideration of $10 each certain mining claims located by him May 10, 1910, and the company acquired from Francis Burke on July 23, 1910, a mining claim located March 5, 1910, the consideration being $10. All of these claims derived from Conway and Burke embrace the land in the Mono National Forest, over which the company was constructing a pipe line at the time it was enjoined by the court from further work thereon without permit from this department.

It appears that this company, or the principal parties interested in it, including Mr. J. S. Cain, the vice president, had under consideration the construction of the power project during the latter part of 1909 and that they had communications with the officers of the Forest Service immediately concerned in the administration of the Mono National Forest, by whom they were advised that it would be necessary for the company to secure a permit from this department before it would be authorized to lay its pipe line across lands lying within the forest. Nevertheless, the company, or some of its principal officers, refused to apply for a permit, contending that it had the right to construct the pipe line over lands in the forest without permission from this department, and in accordance with this determination they proceeded to do so, and at the time they were stopped by injunction had completed the ditch across the lands in the national forest and had laid the pipe line itself for a distance of approximately 810 feet. The entire length of the proposed route across lands in the Mono National Forest would be approximately 1 mile. At this juncture, on August 5, 1910, the solicitor for this department was advised by his assistant at San Francisco, Cal., that the company was continuing its construction over lands in the national forest in defiance of protests of the local forest officers and without permit from this department. On the following day I submitted a brief statement of the facts to the Attorney General and requested that he instruct the United States attorney immediately to apply for an injunction to restrain further prosecution of the work in the absence of a permit from this department. The instructions were given by the Attorney General, suit was instituted, and on August 10 a temporary restraining order was made by the court. On September 6 the court referred the suit to the standing master in chancery, Mr. H. M. Wright, for the purpose of taking and submitting to the court

the testimony of the respective parties. Testimony was begun immediately, covering the whole ground of the controversy, and at its conclusion oral arguments were presented by both parties in interest, and on October 17 the master submitted to the court his report upon the facts and his findings thereon. In concluding his report, which I commend to you as a carefully considered and well-prepared document, the master says:

"I therefore conclude that the temporary injunction prayed for should be granted, effective until the pipe line should be the subject of a permit from the Secretary of Agriculture, or until patents shall issue for the lands over which the route of the pipe line passes."

Subsequently, on November 17, 1910, the court issued an order continuing the restraining order against the company as a temporary injunction pendente lite. In this situation of the case the company sought from this department some agreement by which it might be permitted to continue construction of its pipe line. Negotiations resulted in the submission to the company of a temporary permit which would allow the continuance of construction pending termination of the litigation in this case. This permit was dated November 23, 1910, and was accompanied by a stipulation which the company was required to execute as a prerequisite to authority under the permit to continue the construction. The stipulation is in form and substance the same that has been required of other like permittees and required the payment by the company of $75 a year so long as the temporary permit should be in force, and it was further provided that if the temporary permit should be superseded by a final permit the above-stated payments should be credited to the amounts that would become due under the final permit. Paragraph 8 of the stipulation required the company to install and maintain in good operating condition measuring weirs, gauges, and devices satisfactory to the Secretary of Agriculture and adequate for the determination of the natural flow of the stream from which water is diverted for the operation of the works and of the amount of water used from the natural flow in the operation of the works and of water held in and drawn from storage. The company refused to execute the stipulation because of certain language and provisions therein, as follows: In the first paragraph reference is made to the application of the company for temporary permit "to occupy and use certain lands of the United States within the Mono National Forest." The first objection of the company is to the use of the term "lands of the United States," and insists that this should be stricken out and supplanted by the expression "legal title to which is in the United States." The company's attorneys conceive that the use of the expression "lands of the United States" would be construed as an admission by them, possible of use in the pending litigation, of one of the principal issues in the case, namely, the invalidity of the mining claims in the forest over which the pipe line is proposed to be constructed.

If there is any force to the contention of the company that the pending litigation might be affected by the use of the one or the other of the above-stated expressions, it becomes my duty to see that no action of mine should prejudice the rights of the United States in that litigation, therefore in granting this company permission to occupy and use land in the national forest, it is my duty to see that no admissions in such permit shall operate to affect the issue adverse to the Government, particularly so, when I am convinced that the language as it now appears in the stipulation accurately and correctly describes the land as to title. To accede to the request of the company in this behalf might very well admit strong inference that the only interest the Government has in the lands is a bare legal title, leaving the equitable and beneficial title in the company for all purposes of use of the land as the company may see fit, including the right to use it for water-power development, although foreign to its development as mining locations. I can not admit this. The lands are those of the United States. The only right which this company has therein is that of developing the mineral resources thereof, and for this purpose only has it possession and enjoyment of the lands. I am convinced that the request is not made in entire good faith, and is urged, if not for delay, for the purpose of committing, as far as I can do so, the Government to an admission of one of the principal issues, if not the chief issue, in the pending litigation.

Clause 1 of the stipulation requires the payment of $75 a year for the use and occupancy of the lands in the national forest so long as the temporary permit should remain in force. The company, while admitting the meagerness of this charge, nevertheless contends that it should not be exacted because of its claim that it has valid subsisting mining locations over all the land to be crossed in the forest by its pipe line, and it is said in this connection that it is understood that the department does not customarily charge for the use and occupany of lands in the national forests for power purposes when they are embraced within valid mining locations. The company contends if the money above stated is required, that some provision be made in the stipulation by which the money can be refunded to it in the event the litigation is adverse to the Government.

This request raises nothing for serious consideration since it is the custom of the department to require payment for the use and occupancy of lands in the national forests for power purposes which are embraced within unperfected mining claims. Not only is this the custom but it is in full accordance, in my opinion, with the law. The claims of this company were located after the lands had been included in the Mono National Forest. They are, therefore, so far a part of the national forest that this department has jurisdiction over them to prevent their use for purposes other than the development of the mineral resources. This point has very recently been passed upon by Judge Dietrich, of the district of Idaho, in the case of United States *v.* Rizzinelli et al. (182 Fed., 675), wherein he held that the regulations of this department prohibiting the maintenance of saloons on valid mining claims is constitutional and enforceable, and the promulgation thereof fell within the authority of the Secretary of Agriculture under the act of June 4, 1897. Testimony adduced before the matter in chancery in this case conclusively shows that the project of this company is a commercial project, and that it intends primarily to sell electric energy generated by means of its project to other persons. In using the lands embraced in their alleged mining locations they intend to use them for purposes foreign to their development, if not in whole certainly in larger part. As to its insistence that provision should be made for refunding to it the money paid for the use and occupancy of the lands for power purposes in the event litigation terminates adverse to the Government, I have this to say: That if under any existing law the company should ever find itself entitled to a refund of the money paid to this department for the occupancy and use of the lands it would have a complete remedy in the courts. Under existing law the money paid to this department must be deposited in the Treasury, and I have no power to refund it to the company in the event it should be successful in the litigation; moreover, the act of May 23, 1908 (35 Stats., 251, 260), provides that out of the money accruing on account of the Forest Service the States within which the respective forest is situated shall be paid 25 per cent. I am satisfied that this contention of the company is of like character to the one preceding.

The company's next objection is to paragraph 8 in the stipulation, which requires the installation of measuring weirs, gauges, and devices, as referred to above, and it is claimed that as the permit is a temporary one and requires a flat rate of $75 per annum, it is unnecessary to go further and require the company to put in measuring weirs, etc., which it claims will involve the company in considerable expense.

The engineers of this department have considered this matter carefully and are satisfied that the company, in conducting its work in a businesslike way, would install the weirs, etc., at any rate, and that even if this be not so the expense would not be great, and as the temporary permit must be followed by a permanent permit, in which event these devices, under the regulations of this department, would have to be installed, it is most reasonable and proper to require their installation at this time. Not only this, but in granting a permanent permit the charge for which is based upon the horsepower of the works, the department should be in a position to calculate the amount of horsepower, and the devices now required to be installed would save considerable delay and annoyance to both parties in making the proper charge. I am of the opinion that this, too, is an unsubstantial and frivolous demand.

Paragraph 9 of the stipulation begins as follows:

"To sell electric energy to the United States when requested, at as low a rate given to any other purchaser for a like use at the same time; provided, that the permittee can furnish the same to the United States without diminishing the measure of the quantity of energy sold before such request to any other consumer by a binding contract of sale."

The company objects to this provision unless after the word "time" and before the word "provided," in the third line, there be inserted "quantity and other conditions considered." No reasons are given for this change and the company relies upon the generality that it "thinks the fairness and reasonableness of this request is obvious without explanation." I am convinced that this is a captious request and has no substantiality to sustain it. It will be readily seen that the clause fully protects the company from any unreasonable requirements by the United States.

Paragraph 13 provides that the books and records of the company, in so far as they show the amount of electric energy generated by the works constructed or the amounts of water held in storage and the stream flow or any other data of the watershed furnishing the water used in the generation of electric energy, shall be open at all times to the inspection and examination of the Secretary of Agriculture. The company requests the elimination of this paragraph for the same reasons that it requests the elimination of paragraph 8 above referred to. The same reasons that influence me in rejecting the request of the company in that respect apply to this. This company has, throughout this entire matter, plainly exhibited a disposition to contest as stubbornly as possible the reasonable requirements of this department, notwithstanding that the master in chancery and subsequently the court in its action extending the temporary restraining order to an injunction pendente lite, have been adverse to it. I have felt that the company has been fairly and equitably dealt with in every step in this case. I have no doubt of the power of this department to require a permit for the occupancy and use of the lands in the national forests which are embraced within mining locations. The validity of these mining locations can only be determined by the Secretary of the Interior, and until the company acquires a patent thereto its has no authority to put these lands to a use foreign to their development, and it is plainly shown that this is just what the company proposes to do.

I am convinced that the location and acquisition of the mining claims within the Mono National Forest, over which this company has already constructed part of its pipe line, was a subterfuge upon which to base a contention that it could construct and maintain this line over lands in the national forest in defiance of the law and the regulations of this department. The good faith of the location of these mining claims I seriously doubt, and it is evident from the following extract from the master's report that he shares this doubt with me. He says:

"On the question of good faith of these mining locations I have given the evidence and the arguments of counsel the most careful consideration. Giving every possible effect to the possibility that the Goleta vein may continue into these claims and with cheap power can be worked to profit, and, reasoning therefrom that it may therefore be considered the intention of respondent to locate and hold these claims as mining claims, I am entirely convinced that the great preponderance of evidence shows that they are nothing but paper locations, made with a view to obtaining a right of way for their pipe line across the forest reserve. The matter must be looked at from the standpoint of common sense and by evidence presented by respondents' actions rather than by their words. Only a brief statement of some of the facts leading to this conclusion need be stated. In the first place, a reading of the location notices shows that they have attempted to comply with section 2320 as to location of mining claims by placing their side lines 300 feet on each side of the alleged discovered lode. Since, however, as will be seen upon an inspection of the map, every one of the seven claims located by Burke and Conway, to say nothing of the Mattly locations, are regular parallelograms adjoining each other in tiers, with common side lines, it follows that the ground in question must be gridironed with lodes, each running mathematically north and south down the middle of the claims, and each 600 feet distant from its neighboring lode. Such a geological condition is beyond the bounds of credibility. It is apparent from this fact alone that the claims were located on paper in such a way as to completely cover the ground over which the pipe line was expected to pass. The High Grade claim has only three courses defined in the notice. Burke sold the Pine Tree claim to respondents for $10. Conway sold the six claims located by him for the same price, a sum which would afford a margin of $4 more than the recording fees. The secretary of respondent company, Mr. Dieter, was placed on the stand and testified with respect to the amounts paid for these claims and the circumstances under which they were purchased. His apparent forgetfulness and his evasiveness made a very bad impression. It is impossible to consider all these facts and reach any other conclusion than that an effort has been made by mere paper locations to cover the route desired. In my opinion the seven claims mentioned are not valid mining locations at all."

I am satisfied that the action of this department throughout this controversy has been correct and is in full accordance with the law, and I feel that a careful review of the case will convince you of the correctness of my position.

Very respectfully, JAMES WILSON, *Secretary.*

And I have here also the reply of the company's attorney written to Senator NIXON in answer to the department letter, which reply I here insert:

WASHINGTON, D. C., *February 24, 1911.*

Hon. GEORGE S. NIXON,
United States Senate, Washington, D. C.

MY DEAR SENATOR: With reference to the matter of the Hydro Electric Co., concerning which you wrote to the Secretary of Agriculture on February 14, and more particularly with reference to the Secretary's letter to you in reply, dated February 20, 1911. For more convenient reference I inclose a copy of the Secretary's letter, with the lines of each page numbered in the margin.

The Secretary's letter bears indubitable internal evidence that it was prepared under precisely the same direction that has shaped, throughout the case, the official action of the department against the company. Of course, the Secretary himself was not aware of the contents of lines 17, 18, and 19 of page 1 of his letter, for he told me exactly the contrary himself on the day following the denial of the company's appeal.

I know that it is natural to expect that a letter from the Secretary of a department will represent fairly and justly the situation which it purports to describe and will not cast inferences or make assertions contrary to actual facts. However, I must say positively that this letter from the Secretary of Agriculture does both cast inferences and make assertions which are contrary to the actual facts of the case, and that it utterly fails to represent either fairly or justly the true situation with reference to the case. I realize the seriousness of my assertions, but I again assure you that I am correct in making the statement exactly as I have made it.

I inclose, for your information, a copy of the affidavits and exhibits which I filed with the Committee on the Public Lands of the House of Representatives in connection with House resolution 980; also a copy of that resolution. I earnestly request that this letter and the inclosures referred to may be considered by you carefully in connection with the letter of the Secretary of Agriculture. I believe that you will then agree with me that this matter should be taken up and investigated thoroughly by the Attorney General's Office. The Attorney General's Office should properly take charge of the case, for the reason that it forms the subject matter of a pending suit brought by the United States against the company.

If I have misrepresented the facts or circumstances in my affidavits filed before the House committee or am now misleading you, I should be prosecuted and should certainly be disbarred from practice before any of the departments. On the other hand, if the affidavits and this letter are true, the official action of the Department of Agriculture has been contrary to the requirements of good administration and the company has been dealt with unjustly.

I beg to request that you refer to page 11 of the letter and read the sentence which begins on line 19 and ends on line 24, especially noting the phrase "and subsequently the court, in its action extending the temporary restraining order to an injunction pendente lite, have been adverse to it." Likewise I beg reference to page 5, lines 17 to 22, where the letter reads:

"Subsequently, on November 17, 1910, the court issued an order continuing the restraining order against the company as a temporary injunction pendente lite. In this situation of the case the company sought from this department some agreement by which it might be permitted to continue construction of its pipe line."

These statements just referred to are false and misleading. The true situation is set forth upon pages 3 and 4 of the inclosed copy of my affidavit submitted to the House committee. I quote from that:

"A temporary restraining order was secured upon an affidavit made by a forest officer, alleging absolute ownership of this quarter section to be in the Government and alleging also that the company was proceeding without any right whatever in the premises and wholly as a trespasser upon the property of the United States and in violation and disregard of the laws of the United States.

"This order delayed the construction of the project for nearly four months and prevented the completion of the project until January 1, 1911. This caused the company an actual pecuniary loss of more than $3,000. Before suit was instituted the company offered to file any bond that might be required for the protection of any interest in the premises which the Government might be adjudged to have, and to obligate itself in any reasonable manner to submit to and abide by the final decision of the court. This offer was made in order to have the company's property rights under the mining and other laws of the United States adjudicated in court without suffering the pecuniary loss which must necessarily follow the stopping of its construction work, the disbanding of its crew of workmen, and the delay in the final completion of the project. Of course it was known to all that these incidents would accompany the issuance of a temporary restraining order. However, the company's requests were disregarded and the restraining order was issued with all the haste which telegraphic communication could accomplish, with result above named.

"Later, in order to permit the completion of the project, it was arranged with the Solicitor of the Department of Agriculture as follows: The company withdraw its objections and exceptions to the report of the master in chancery upon preliminary examination (which report had been adverse to the company and favorable to the Government), and allowed an injunction pendente lite to issue, to be effective unless the Secretary of Agriculture should issue a temporary permit for construction and operation. The Secretary of Agriculture issued such a permit in order to allow operation by the company and at the same time preserve the status of the case and allow the case to proceed to final hearing and adjudication."

You will note that the temporary restraining order was not continued by the court except upon the consent of the company by its counsel in open court, when, upon the faith of a definite understanding with the officials of the Department of Agriculture, the company withdrew its objections and exceptions to the master's report and consented that the injunction pendente lite should issue. There was no action by the court adverse to the company, as stated on page 11. Neither was the company at all in the situation alleged on page 5 of the letter when the company sought the agreement from the department. It was, however, in the unfortunate situation of being unnecessarily held up, and was suffering tremendous loss, also unnecessarily, as set forth above in the quotation from my affidavit. It is true that the report of the master was adverse to the company, but his report was never regularly confirmed by the court. An examination of the master's report by any lawyer familiar with the public-land laws, the mining laws, and the water and right-of-way laws of the United States would, I feel positive, convince such a lawyer that the court could not have approved the master's report. As stated near the bottom of page 5 of the inclosed copy of my affidavit, in every respect "the conclusion of the master in chancery seems to follow closely the argument" of the district law officer of the Forest Service and the assistant United States district attorney. The company has never attempted to leave with anyone the impression that the report of the master was not entirely adverse to the company.

I beg also that you refer to the sentence on page 6, lines 21 to 25. You will notice that there it is stated that the company insists that the expression "lands of the United States" should be stricken out and be supplanted by one certain specific form of expression, namely, lands "legal title to which is in the United States." The meaning of the sentence as used in the letter is unequivocal and entirely definite and certain. The actual intent on the part of the writer of the letter to express exactly the meaning which is expressed is made entirely certain by the sentence on page 7a of a letter, beginning with line 6 and ending with line 10:

"I am convinced that the request is not made in entire good faith and is urged, if not for delay, for the purpose of committing, as far as I can do so, the Government to an admission of one of the principal issues, if not the chief issue, in the pending litigation."

This is certainly a serious charge. It is an obvious and intentional attack not only upon the good faith of the company, but against my own personal and professional integrity. The former of the two statements referred to is untrue. The conclusion and opinion expressed in the latter statement is utterly without foundation. In this connection I request that you refer to Exhibit B of the inclosed copy of my affidavit filed with the committee of the House. This Exhibit B, you will notice, is a copy of the appeal by the company to the Secretary of Agriculture from the action of the Forest Service. While this appeal is dated February 13, it was not mailed until midnight of that day, and was denied within 24 hours after its receipt. Please refer to pages 5, 6, and 7 of Exhibit B, particularly to the last seven lines of page 6 and the first three lines of page 7, where the appeal reads:

"We ask, therefore, that suitable words be substituted or added so that the rights of the Government may be fully protected without requiring the company to admit the above-named point, which is one of the leading points involved in the pending litigation. This request is referred to in paragraph No. 1, of Mr. Lane's letter of December 29, to the district forester above referred to. If the change requested in that letter is in any way objectionable to your department other words which will certainly be unobjectionable to both sides can be easily be substituted."

The Secretary's letter would indicate that the company's appeal had been denied without even having been read. The precipitous haste of its denial by the department would tend also to confirm this indication. The company never asked any admission prejudicial to the Government. It made the reasonable request only that the legal adviser of the Department of Agriculture should substitute any words at all whatever, which would save the company from making against itself an admission which the Secretary's letter describes, as "an admission of one of the principal issues, if not the chief issue, in the pending litigation." I am perfectly willing to submit that any lawyer, or even a law-school student, could, if he were disposed to be fair and reasonable, easily modify the particular language of the stipulation referred to so that it would leave the matter "without prejudice" either to the Government or to the company.

The only reason, excuse, or attempted justification given for the department's attitude toward the company may be classed under two heads: First, that the company, in the opinion of the certain departmental officers, has located certain mining claims fraudulently, and is also fraudulently attempting to assert certain legal rights in the premises. As to this line of accusations, the company answers that the matter is at issue in the United States circuit court; that the process of the court should certainly be expected to protect the United States; and that, pending a judicial determination as to the facts and the law of the case, the company should not, by any arbitrary official action, be deprived of its property without due process of law. Second, that the company has been unwilling to surrender its property rights upon the advice and demand of the forest officers. It has followed the advice of its own counsel and proceeded to construct its project, allowing the Government to bring suit. This was not lese majeste. It was the only means open to the company to obtain a judicial determination of the law of the situation. The company could not bring any suit against the Government.

The company desires nothing more than an opportunity of having its contention decided by the United States courts. The company has already suffered unnecessary loss to the extent of over $3,000, and the proposed stipulation demands also that the company shall pay to the Government $75 a year rental and shall in addition incur expenditures to the extent of probably three or four thousand dollars in construction of and $1,000 a year thereafter in attending to weirs, gauges, and other devices for measuring the stream flow. The amount just stated is in excess of that stated in the inclosed copy of my affidavit. The amount here stated is given upon the authority of a telegram from Messrs. Manifold & Poole, of Los Angeles, who are the engineers of the company, and who are familiar not only with the physical conditions upon the ground but also with the printed regulations and requirements of the Department of Agriculture, known as the "Use Book," covering this subject. The telegram reads:

LOS ANGELES, CAL., *February 18, 1911.*

E. A. LANE, COPP, LUCKETT & PIERCE,
Pacific Building, Washington, D. C.:

Your telegram to Chappell referred to us for reply. If stipulation is same as recited in new Use Book, the full development of the stream will require an expenditure of $4,000 for weirs. Two men will have to be stationed all winter on upper reservoirs to take reading, at an expense of $1,000 per year.

MANIFOLD & POOLE.

The entire subject matter of this case, concerning which the departmental officials have maintained such a frenzied attitude against the company, involves, as a matter of fact, less than 3 acres of treeless, arid, barren, nonriparian, desert land, which no sane man would claim could be forested, but which was, nevertheless, covered by a forest reservation in violation of the express terms of the act of Congress approved June 4, 1897. That act provides:

"* * * No public forest reservation shall be established except to improve and protect the forest within the reservation, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States."

The company in the present case believes in good faith that it is clearly within its rights and within the law. No one could possibly, however, contend that the act of the Government officers was not clearly in violation of the law when they covered a large tract of the Mono Desert, including the land here in controversy, by a forest proclamation reserving such land as a national forest.

This letter is already too long, but it does not attempt to cover the unjust and unfair features of the letter referred to. That letter was plainly written to justify previous departmental action which could not be justified by the true facts and circumstances of the case.

I ask again that you assist me in an effort to have this matter transferred for investigation to the Department of Justice.

Very sincerely,

E. A. LANE,
Attorney for Hydro Electric Co.

I believe that this case is one which is a pertinent one to be considered in connection with the rights of the owners of unpatented mining claims by Congress, and I trust that the resolution will be adopted.

NATIONAL M'KINLEY BIRTHPLACE MEMORIAL ASSOCIATION.

The next business was the bill (H. R. 32907) to incorporate the National McKinley Birthplace Memorial Association.

The Clerk read the bill, as follows:

Be it enacted, etc., That the following-named persons, namely, J. G. Butler, jr., of Ohio; Myron T. Herrick, of Ohio; J. G. Schmidlapp, of Ohio; John G. Milburn, of New York; and W. A. Thomas, of Ohio, their associates and successors, duly chosen, are hereby incorporated and declared to be a body corporate of the District of Columbia by the name of the McKinley National Memorial Association, and by such name shall be known and have perpetual succession with the powers, limitations, and restrictions herein contained.

SEC. 2. That the object of the corporation shall be to perpetuate the name and achievements of William McKinley, late President of the United States of America, by erecting and maintaining in the city of Niles, in the State of Ohio, the place of his birth, a monument and memorial building.

SEC. 3. That the management and direction of the affairs of the corporation and the control and disposition of its property and funds shall be vested in a board of trustees, five in number, to be composed of the individuals named in section 1 of this act, who shall constitute the first board of trustees. Vacancies caused by death, resignation, or otherwise shall be filled by the remaining trustees in such manner as shall be prescribed from time to time by the by-laws of the corporation. The persons so elected shall thereupon become trustees and also members of the corporation.

SEC. 4. That said corporation shall hold its meetings in such place as the incorporators or their successors shall determine.

SEC. 5. That the board of trustees shall be entitled to take, hold, and administer any securities, funds, or property, which may at any time be given, devised, or bequeathed to them or to the corporation for the purposes herein defined, and to purchase necessary lands for site and sell and convey by good and sufficient deed lands that may be donated to the corporation, and to convert the same into money; with full power from time to time to adopt a common seal, to appoint such officers and agents, whether members of the board of trustees or otherwise, as may be deemed necessary for carrying out the objects of the corporation; with full power to adopt by-laws and such rules or regulations as shall be deemed necessary to secure the safe and convenient transaction of the business of the corporation; and with full power and discretion to invest any principal and deal with and expend the income of the corporation in such manner as in the judgment of the trustees will best promote the objects hereinbefore set forth; and, in general, to have and use all the powers and authority necessary and proper to promote such objects and carry out the purposes of the corporation. The trustees shall have power to hold as investments any securities given, assigned, or transferred to them or to the corporation by any person, persons, or corporation, and to retain such investments, and to invest any sums or amounts from time to time in such securities and in such form and manner as may be permitted to trustees or to charitable or literary corporations for investment according to the laws of the States of Ohio, New York, Pennsylvania, or Massachusetts, or any of them, or in such securities as may be authorized for investment by any deed of trust or by any act or deed of gift or last will and testament.

SEC. 6. That all personal property and funds of the corporation held, or used for the purposes hereof, pursuant to the provisions of this act, whether of principal or income, shall, so long as the same shall be so used, be exempt from taxation by the United States or any Territory or district thereof: *Provided*, That such exemption shall not apply to any property, principal, or income which shall not be held or used for the purposes of the corporation.

SEC. 7. That the services of the trustees, when acting as such, shall be gratuitous, but the corporation may provide for the reasonable expenses incurred by the trustees in attending meetings or otherwise in the performance of their duties.

SEC. 8. That this charter shall take effect upon its being accepted by a majority vote of the incorporators named herein, who shall be present at the first meeting of the corporation, due notice of which meeting shall be given to each of the incorporators named herein, and a notice of such acceptance shall be given by said corporation causing a certificate to that effect, signed by its president and secretary, to be filed in the office of the recorder of deeds of the District of Columbia.

SEC. 9. That Congress may from time to time alter, repeal, or modify this act of incorporation, but no contract or individual right made or acquired shall thereby be divested or impaired.

With the following committee amendments:

Amendment No. 1. Line 8, section 1, before the word "McKinley" insert the word "National."

Amendment No. 2. Line 9, section 1, strike out the word "National" and insert in lieu thereof the word "Birthplace."

Amendment No. 3. Line 18, page 2, after the word "property" insert "real or personal."

Amendment No. 4. Line 21, page 2, before the word "sell" insert "to."

Amendment No. 5. Line 22, page 2, before the word "lands" insert the words "any other."

Amendment No. 6. Line 22, page 2, strike out the word "donated" and insert the words "given, devised, or bequeathed."

Amendment No. 7. Line 18, page 3, strike out the final letter "s" from the word "States."

Amendment No. 8. Line 19, page 3, strike out the entire line.

The SPEAKER. Is there objection?

Mr. CRUMPACKER. Mr. Speaker, reserving the right to object, I feel that this bill ought not to go through by unanimous consent. From the reading of the bill I infer that it confers authority, outside of the construction of a memorial, to perpetuate the memory of the late President McKinley. It confers authority to enter into charities and into benevolences and exempt property from taxation.

Mr. HOWLAND. Oh, no; the gentleman is mistaken.

Mr. CRUMPACKER. I can not consent to its being considered at this time under the circumstances.

Mr. MANN. Has the gentleman the bill before him?

Mr. HOWLAND. No such power is contained in the bill as the gentleman thinks.

Mr. CRUMPACKER. One of the sections, as I understand it, provides for the investment of money in charities.

Mr. HOWLAND. Oh, no.

Mr. CRUMPACKER. And the exemption of only so much of its property as is used for memorial purposes. I will ask the gentleman to allow the bill to be passed without prejudice until I can read it over more carefully, or I shall have to object to it.

Mr. HOWLAND. Mr. Speaker, I ask unanimous consent that the bill be passed without prejudice.

There was no objection, and it was so ordered.

EDWARD F. KEARNS.

The next business was the bill (H. R. 26121) for the relief of Edward F. Kearns.

The Clerk read the bill.

The SPEAKER. Is there objection?

Mr. FINLEY. Mr. Speaker, reserving the right to object, is this not an ordinary claim bill?

The SPEAKER. The bill, by order of the House, made two or three days ago, is properly on the Unanimous Consent Calendar, without regard to any other rule of the House.

Mr. MACON. Mr. Speaker, this is Mr. O'CONNELL's bill.

Mr. GARNER of Texas. Mr. Speaker, I ask unanimous consent that the matter may go over without prejudice.

The SPEAKER. Is there objection?

There was no objection, and it was so ordered.

NATIONAL INSTITUTE OF ARTS AND LETTERS.

Mr. THOMAS of North Carolina. Mr. Speaker, I ask unanimous consent to return to the bill (S. 609) incorporating the National Institute of Arts and Letters, which was passed over without prejudice. I am requested by the chairman of the Committee on the Library, the gentleman from Massachusetts [Mr. MCCALL], of which committee I am a member, to call up this bill.

Mr. MANN. I hope the gentleman will defer his request, because if that bill is called up now I shall have to object.

Mr. THOMAS of North Carolina. Then I shall withhold my request. The gentleman from Massachusetts [Mr. MCCALL] requested me to call up the bill and also the next bill (S. 610), incorporating the American Academy of Arts and Letters. I will defer my request for the present, Mr. Speaker.

JOHN J. ADAMS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 12814) for the relief of John J. Adams.

The Clerk read as follows:

Be it enacted, etc., That John J. Adams, private in Company C, First Regiment Wisconsin Volunteer Infantry, and also captain of Company H, Forty-fourth Regiment Iowa Volunteer Infantry, be, and he hereby is, held and considered not to have been mustered into Company C, Twenty-eighth Regiment Wisconsin Volunteer Infantry

The SPEAKER. Is there objection to the consideration of the bill?

There was no objection.

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

INDIAN DEPREDATION CLAIMS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 12422) to amend an act entitled "An act to provide for the adjudication and payment of claims arising from Indian depredations," approved March 3, 1891.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I shall have to object.

DAVID ROBERTSON.

The next business on the Calendar for Unanimous Consent was the bill (S. 4196) to place David Robertson on the retired list of the United States Army.

The Clerk read as follows:

Be it enacted, etc., That in consequence of the long, faithful, and meritorious service of David Robertson, under appointment of the Secretary of War, as hospital steward, and sergeant, first class, Hospital Corps, in the Army of the United States since May 27, 1854, a period of

55 years, the Secretary of War be, and he is hereby, authorized to place said David Robertson on the retired list of enlisted men of the Army, with full pay of his grade and commutation of allowances at the following rates per month: Clothing, $4.56; rations, $30; and fuel and quarters, $20.

Mr. CAMPBELL. Mr. Speaker, reserving the right to object, I would like to know something about this bill.

Mr. MANN. Mr. Speaker, I do not appear for the bill. It proposes to put an enlisted man in the Army on the retired list because he has been in the service for 55 years, and if it shall pass I hope it will not be taken as a precedent for putting anybody on the retired list at high pay who has only been 50 years in the service. It was originally proposed to put this man on the retired list as a second lieutenant. The War Department, and I thought very properly, objected to that, and the bill as now fixed proposes to put him on the retired list at a fairly higher rate of pay, in addition to commutation. I think it amounts to $113.66 a month. The man has served 55 years in the Army as an enlisted man, which they claim is very exceptional, and I assume that is true.

Mr. CAMPBELL. Did he serve through any wars?

Mr. MANN. He must have served through.

Mr. CAMPBELL. Did he do any fighting?

Mr. MANN. He was a hospital steward.

Mr. CAMPBELL. I can see how a man can be in service 55 years without doing very much except doing the work that is done by a man ordinarily enlisted in the service of the United States.

Mr. MANN. The department reported that his services had been very meritorious and faithful, and that is all that can be said about the matter one way or the other.

Mr. CAMPBELL. I know of officers and men who have served four years who did heroic service, but who are not getting one-fifth of $100 a month.

Mr. GOULDEN. Will the gentleman yield? This man served during the Civil War and during the War with Spain, and necessarily had to serve at the front where the armies would be encamped. He could not have been a hospital steward during the Civil War without having served at the front, and was of necessity exposed to the dangers of war.

Mr. CAMPBELL. What does a hospital steward do?

Mr. GOULDEN. He has to fill all prescriptions of the surgeons and has to do a lot of things that are really very important.

Mr. CAMPBELL. Does he go out on the firing line or into the trenches?

Mr. GOULDEN. No; it would not be expected. He could not do his duty if he did that. Neither do the surgeons, commissary officers, and others in similar occupations in the Army. It is a meritorious case.

Mr. MANN. This man enlisted in 1854, and has never lost a day since. That is all there is to it.

Mr. KENDALL. I want to make an inquiry of the gentleman. He expressed the hope that this bill, if enacted, would not be cited hereafter as a precedent?

Mr. MANN. I said that placing a man on the retired list who had been in service for 55 years, I thought, ought not to be cited as a precedent for placing a man on the retired list at high pay who had only served 50 years.

Mr. KENDALL. Will it not be?

Mr. MANN. I have had some fear that the next man would have 54 years of service, the next 53, and the next 50, and so on. This man can not live much longer, of course.

Mr. CAMPBELL. The gentleman from Illinois has been accustoming himself to objecting to matters of this kind for so long that I really wish he would object to this matter.

Mr. MANN. Well, I will say to the gentleman that when this proposition came in to put this man on the retired list as a second lieutenant if it had come before the House I should have objected, but I rather think, with a man who has served 55 years in the Army and has to go out and take care of himself, the Government might afford to pay him enough to live very comfortably upon in his old age as an encouragement possibly for men to enlist in the Army and stay there.

Mr. SULZER. Mr. Speaker, I am in favor of this meritorious bill to place David Robertson, sergeant, first class, Hospital Corps, on the retired list of the United States Army. He deserves this recognition for long and honorable service in the Army.

I call attention to the remarks of the Chief of Staff recommending favorable action, and also to a letter from the Secretary of War to the Military Committee in the Fifty-seventh Congress, returning a bill of similar character authorizing the retirement of Sergt. Robertson, "the oldest enlisted man on the rolls of the Army."

Under an act of Congress of February 14, 1885, enlisted men in the Army or Marine Corps are eligible for retirement after 30 years' service, on their own application, with 75 per cent of the pay and allowances of the rank upon which retired. Prior to the passage of this general law for the retirement of enlisted men there were some cases in which special acts were passed. The act for the retirement of Ord. Sergt. Leffman provided that he should receive "the full pay and allowances of an ordnance sergeant for and during his natural life."

Sergt. Robertson first enlisted May 27, 1854, and has been continuously in service since without losing a day. He will have completed 57 years of continuous, creditable, and efficient service on May 26 next. He has filed in the department a large number of letters from officers of the highest rank in the Army, strongly commending him for his services, character, and efficiency. These include letters from Gens. Schofield, Miles, Chaffee, Corbin, MacArthur, Merritt, Hughes, Brooke, Howard, and a great many other officers of high rank who have personal knowledge of him.

While the department does not consistently recommend establishing by law a precedent for appointing enlisted men on the retired list of commissioned officers of the Army, it is recommended in this case, in view of the unusual circumstances of Sergt. Robertson's case.

If the bill becomes a law, he will receive the full pay of his grade, and with liberal commutation of allowances, as follows:

Full pay, per month	$59.00
Commutation of clothing	4.56
Commutation of rations	30.00
Commutation of quarters and fuel	20.00
Total, monthly	113.56

That is nearly as much as the sergeant would receive as a retired second lieutenant of infantry. This is all I care to say, and I trust the bill will now pass.

Mr. CAMPBELL. If all the men who have served the country well could be treated alike I would have absolutely no objection to a bill of this kind, but there are many thousands of old soldiers who are compelled now to look out for themselves—soldiers who are getting as little as from $12 to $15 a month pension, which is wholly inadequate. Here is one man who is said to have been a hospital steward for 55 years, and there is no record that he ever fought in a single battle or rendered any dangerous or perilous service.

Mr. MANN. A hospital steward, of course, would not go out on the firing line, but he would be engaged in time of battle in taking, from the firing line back to the rear, men who were injured in battle, and that would be almost as dangerous a situation to be in, if not quite as dangerous, as to be on the firing line. If I were in the Army in time of battle I would much prefer to have a gun in my hand and be excited about it than to be engaged in carrying other people off the field. That is all there is in the case.

Mr. CAMPBELL. The man you speak of would be back in the hospital taking care of the wounded after somebody else had brought them in.

Mr. KENDALL. After the ambulance people had brought the wounded in he would be there in the hospital administering remedies to them.

Mr. CAMPBELL. My complaint is that there are hundreds and thousands of others who can not be treated as it is proposed to treat this man.

Mr. MANN. I have never objected to taking care of somebody because others could not be equally well taken care of.

Mr. CAMPBELL. I do not believe in making fish of one and fowl of another for the purpose of getting relief for some and denying it to others equally meritorious.

Mr. KENDALL. Mr. Speaker, if this bill is not to be withdrawn, I hope its passage will not become a precedent for the passage of similar bills.

Mr. MANN. This man served throughout the Civil War, and also served in epidemics of Asiatic cholera in 1854 and in 1857 and in 1866 and in 1867, and in epidemics of yellow fever in 1856 and in 1870, and the record shows that he had 12 honorable discharges from the Army and always reenlisted at once. The record also shows that he has never been arrested and that no charges were ever preferred against him. [Applause.]

Mr. CAMPBELL. I am glad to have the record of the soldier and to know something of what he has done. I shall not object.

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

There was no objection.

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

EDWARD F. KEARNS.

Mr. O'CONNELL. Mr. Speaker, I ask unanimous consent to recur to the bill (H. R. 26121) for the relief of Edward F. Kearns. It was passed over without prejudice.

The SPEAKER. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized to refund, out of any money in the Treasury not otherwise appropriated, the sum of $108, which said sum was paid by the said Edward F. Kearns to the collector of customs at Boston, Mass., for certain medicines held by him as unclaimed and which were found to be unsalable under the pure food and drugs act.

With the following committee amendment:

Provided, That the Secretary of Agriculture shall be satisfied that the goods when sold by the collector of customs were in violation of the food and drugs act of June 30, 1906: *And provided further*, That the said goods be disposed of as the Secretary of Agriculture shall direct.

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

The amendment was agreed to.

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

CONTRIBUTORS TO THE ELLEN M. STONE RANSOM FUND.

The next business on the Calendar for Unanimous Consent was the bill (S. 4378) for the relief of the contributors to the Ellen M. Stone ransom fund.

Mr. MANN. Mr. Speaker, I do not think this bill could be passed without considerable discussion, and therefore I object.

OMNIBUS CLAIMS BILL.

The next business on the Calendar for Unanimous Consent was the bill (S. 7971) for the allowance of certain claims reported by the Court of Claims, and for other purposes.

Mr. MANN. Mr. Speaker, inasmuch as that is the omnibus claims bill and would take up the balance of the time to reach a conclusion on, I shall have to object.

CONVEYANCE OF LAND TO THE CITY OF ALVA, OKLA.

The next bill on the Calendar for Unanimous Consent was the bill (H. R. 23806) authorizing the Secretary of the Interior to convey a certain tract of land to the city of Alva, State of Oklahoma.

Mr. MANN. Mr. Speaker, I reserve the right to object.

Mr. FERRIS. Mr. Speaker, I hope the gentleman will not do that.

Mr. MANN. I certainly will, though.

Mr. FERRIS. Mr. Speaker, the bill came from the Committee on the Public Lands. The city of Alva is not in my district but in that of Representative MORGAN; but I visited that city last year, and I am fully acquainted with the conditions there. At the time the town site of Alva was laid out they reserved a block fully twice as long as the ordinary courthouse square in an average town.

It is so long, indeed, that it is really an inconvenience to the town. They have a courthouse on the west end of this long strip of land, which is within the center of the great courthouse square, and the other end of it is not now in use for any other purpose. The city of Alva is greatly desirous of having a place on which to erect a city hall. It is a very proper place for one, and must have been intended at the time Congress made the original reservation to be used for some other purpose than merely a courthouse.

Mr. FOSTER of Illinois. I will ask the gentleman from Oklahoma whether he does not think a city of 5,000 inhabitants should be able to pay for a lot for a public purpose of that kind?

Mr. MANN. While this bill apparently has the approval of the Department of the Interior, it is shown that when the officials of that department made the approval they knew nothing about it. They stated in their letter on the subject that the building belonging to the Government is located on the northwest corner of the lot and is used for post-office purposes, but the Post Office Department in reporting upon the same bill says that according to the reports of that department the post office of Alva is not situated on the so-called Government acre, but on a block at some distance away.

Now, I think a bill of this kind ought to be reported upon by a department that gets somewhere near to the facts, so that one department will not report that a Government building is on a certain piece of land and another department report that the Government building is a block or two away. Why should we make a record of giving away, at this time, property which nobody knows the value of or anything in regard to the necessities of it?

Mr. FERRIS. I do not think the gentleman is correct when he says that no one knows the value of it. The Post Office Department, within my own knowledge, is correct, and the Interior Department, within my own knowledge, is in error.

Mr. MANN. Does the gentleman know what the value of it is?

Mr. FERRIS. I think when I saw this tract last year it was right in the center of this country town of 2,500 people, in Woods County, in northwestern Oklahoma, and I would estimate its probable value at from four to five thousand dollars. But it is reserved there for public purposes.

Mr. MANN. No one knows when the Government will want to put a building there, when they provide a building, as they eventually will; and while the gentleman has an estimate of the value, that is not based upon knowledge of the value of this property, but based upon a general knowledge, of what property ought to be worth in a town of that size.

Mr. FERRIS. That is largely true.

Mr. MANN. I think I will have to object.

The SPEAKER. Objection is heard. The Clerk will report the next bill.

JOHN M. BONINE.

The next business on the Calendar for Unanimous Consent was the bill (S. 7574) for the relief of John M. Bonine.

The bill was read, as follows:

Be it enacted, etc., That in the administration of the laws relating to pensions and to the National Home for Disabled Volunteer Soldiers or any branch thereof, John M. Bonine, who was a captain in the First Regiment of Arkansas Cavalry Volunteers, and whose name is borne on the records of said regiment as John Bonine, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said regiment on the 9th day of April, 1863: *Provided*, That no pay, bounty, back pension, or other emolument shall become due or payable by virtue of the passage of this act.

The SPEAKER. Is there objection?

There was no objection.

Mr. MANN. I do not object; but I should like to ask the gentleman from Minnesota [Mr. STEVENS] whether the bill that we passed the other day will cover this case? This has the same language in it that the gentleman endeavored then to correct.

Mr. STEVENS of Minnesota. No; I do not think the language is exactly the same.

Mr. MANN. It says:

Provided, That no pay, bounty, back pension, or other emolument shall become due or payable by virtue of the passage of this act.

Mr. STEVENS of Minnesota. Yes; the gentleman will see that this language is different.

Mr. MANN. That is true.

The bill was ordered to a third reading, and was accordingly read the third time and passed.

CHARLES J. SMITH.

The next business on the Calendar for Unanimous Consent was the bill (S. 7648) for the relief of Charles J. Smith.

The bill was read, as follows:

Be it enacted, etc., That in the administration of the pension laws Charles J. Smith, who was a private, unassigned, Third New Jersey Volunteer Cavalry, shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a member of said organization on the 19th day of January, 1865: *Provided*, That no pension shall accrue prior to the approval of this act.

The SPEAKER. Is there objection?

There was no objection.

The bill was ordered to a third reading, and was accordingly read the third time and passed.

ARTHUR G. FISK.

The next business on the Calendar for Unanimous Consent was the bill (S. 4023) for the relief of Arthur G. Fisk.

The bill was read, as follows:

Be it enacted, etc., That the Postmaster General be, and he is hereby, authorized and directed to credit the postal account of Arthur G. Fisk, postmaster at San Francisco, Cal., with the sum of $13,229.79 for postal funds, stamps, and other stamped paper, and with the further sum of $825.86 for money-order funds, on account of losses resulting from earthquakes and fire April 18, 1906.

SEC. 2. That there be, and there is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $14,055.65 for the purposes specified in this act.

The SPEAKER. Is there objection?

Mr. FINLEY. Mr. Speaker, I would like some explanation of this, reserving the right to object.

Mr. KAHN. Mr. Speaker, the bill proposes to relieve the postmaster at San Francisco of certain losses that occurred during the great fire of April 18, 1906. There were some 26 post-office stations in different parts of the burned area. They were all destroyed, and the postage stamps and postal cards and material of that kind were all burned. Nevertheless, the value of this destroyed material has been carried on the books of the department as a charge against the postmaster, and this

is to relieve him of that charge. He was not responsible for the loss, and it has been recommended by three Postmasters General.

Mr. FINLEY. I have no doubt about that. I wanted to know about the departmental proofs as to the amount of the loss.

Mr. KAHN. They sent an inspector there who went over the matter very carefully, and upon that inspector's report the department recommended the bill.

The SPEAKER. Is there objection?

There was no objection.

The bill was ordered to a third reading, and was accordingly read the third time and passed.

EXTENSION OF KENYON STREET.

The next bill on the Calendar for Unanimous Consent was the bill (H. R. 16325) to provide for the extension of Kenyon Street from Seventeenth Street to Mount Pleasant Street, and for the extension of Seventeenth Street from Kenyon Street to Irving Street, in the District of Columbia, and for other purposes.

Mr. DALZELL. Mr. Speaker, I object to that bill.

The next business on the Calendar for Unanimous Consent was the bill (S. 4621) to provide for the extension of Kenyon Street from Seventeenth Street to Mount Pleasant Street, and for the extension of Seventeenth Street from Kenyon Street to Irving Street, in the District of Columbia, and for other purposes.

Mr. DALZELL. I object.

WIDENING OF SIXTEENTH STREET NW.

The next bill on the Calendar for Unanimous Consent was the bill (H. R. 16334) for the widening of Sixteenth Street NW. at Piney Branch, and for other purposes.

Mr. JOHNSON of Kentucky. I object to that.

CODE OF LAWS FOR INSURANCE COMPANIES, DISTRICT OF COLUMBIA.

The next bill on the Calendar for Unanimous Consent was the bill (H. R. 5165) to create a commission to prepare a code of laws for the regulation and control of insurance companies doing business within the District of Columbia.

Mr. JOHNSON of Kentucky. Mr. Speaker, reserving the right to object, I would like to ask some explanation?

Mr. BORLAND. I think I can tell the gentleman something about this, but if the gentleman objects I think it ought to be stricken off the calendar.

Mr. FINLEY. I object.

APPROPRIATIONS FOR THE EXPENSES OF THE DISTRICT OF COLUMBIA.

The next bill on the Calendar for Unanimous Consent was the bill (H. R. 13473) to amend an act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes."

Mr. JOHNSON of Kentucky. I object.

UNDERWOOD STREET.

The next bill on the Calendar for Unanimous Consent was the bill (H. R. 17532) to authorize the extension of Underwood Street.

Mr. JOHNSON of Kentucky. I object.

METROPOLITAN POLICE FORCE.

The next bill on the Calendar for Unanimous Consent was the bill (H. R. 22682) amending paragraph 6 of the act relating to the metropolitan force.

Mr. JOHNSON of Kentucky. I object.

ASSESSMENT OF TAXES IN DISTRICT OF COLUMBIA.

The next bill on the Calendar for Unanimous Consent was the bill (H. R. 21773) to amend an act entitled "An act to distinctively designate parcels of land in the District of Columbia for the purposes of assessment and taxation, and for other purposes," approved March 3, 1899.

Mr. JOHNSON of Kentucky. I object.

WIDENING OF SIXTEENTH STREET NW.

The next bill on the Calendar for Unanimous Consent was the bill (S. 4626) for the widening of Sixteenth Street NW. at Piney Branch, and for other purposes.

Mr. JOHNSON of Kentucky. I object.

ASSESSMENT AND TAXATION IN DISTRICT OF COLUMBIA.

The next bill on the Calendar for Unanimous Consent was the bill (S. 6743) to amend an act entitled "An act to distinctively designate parcels of land in the District of Columbia for the purposes of assessment and taxation, and for other purposes," approved March 3, 1899.

Mr. JOHNSON of Kentucky. I object.

PUBLIC-SCHOOL TEACHERS' RETIREMENT FUND.

The next bill on the Calendar for Unanimous Consent was the bill (H. R. 18295) to establish and disburse a public-school teachers' retirement fund in the District of Columbia.

Mr. JOHNSON of Kentucky. I object.

EXTENSION OF BARRY PLACE NW.

The next bill on the Calendar for Unanimous Consent was the bill (S. 6055) authorizing the extension of Barry Place NW., and for other purposes.

Mr. JOHNSON of Kentucky. I object.

POLICE AND FIREMEN'S RELIEF FUND.

The next bill on the Calendar for Unanimous Consent was the bill (H. R. 22322) for the creation of the police and firemen's relief fund, to provide for the retirement of members of the police and fire departments, to establish a method of procedure for such retirement, and for other purposes.

Mr. JOHNSON of Kentucky. I object.

EAST WASHINGTON HEIGHTS TRACTION RAILWAY.

The next business was the bill (H. R. 26291) to extend the time for the construction of the East Washington Heights Traction Railroad.

The SPEAKER. Is there objection?

Mr. JOHNSON of Kentucky. Mr. Speaker, I object.

SEVENTEENTH STREET NE.

The next business was the bill (S. 8300) to authorize the extension of Seventeenth Street NE.

The Clerk read the bill, as follows:

Be it enacted, etc., That under and in accordance with the provisions of subchapter 1 of chapter 15 of the Code of Law for the District of Columbia, within six months after the passage of this act, the Commissioners of the District of Columbia be, and they are hereby, authorized and directed to institute in the supreme court of the District of Columbia a proceeding in rem to condemn the land that may be necessary for the extension of Seventeenth Street NE. from Brentwood Road to Rhode Island Avenue, according to the permanent system of highway plans adopted in and for the District of Columbia: *Provided, however,* That the entire amount found to be due and awarded by the jury in said proceedings as damages for and in respect of the land to be condemned for said extension shall be assessed by the jury as benefits: *And provided further,* That nothing in said subchapter 1 of chapter 15 of said code shall be construed to authorize the jury to assess less than the aggregate amount of the damages awarded for and in respect of the land to be condemned and the costs and expenses of the proceedings hereunder.

SEC. 2. That there is hereby appropriated from the revenues of the District of Columbia an amount sufficient to pay the necessary costs and expenses of the condemnation proceedings taken pursuant hereto and for the payment of amounts awarded as damages, to be repaid to the District of Columbia from the assessments for benefits and covered into the Treasury to the credit of the revenues of the District of Columbia.

The SPEAKER. Is there objection?

There was no objection.

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

SQUARE 8057, WASHINGTON, D. C.

The next business was Senate joint resolution 82, directing that a portion of square No. 8057, in the city of Washington, D. C., be reserved for use as an avenue and improved.

The SPEAKER. Is there objection?

Mr. MANN. I object.

ASSESSMENT OF PERSONAL PROPERTY, DISTRICT OF COLUMBIA.

The next business was the bill (H. R. 24596) relating to the assessment of personal property within the District of Columbia.

The SPEAKER. Is there objection?

Mr. MANN. I object.

NATIONAL BOARD OF SANITARY INSPECTORS.

The next business was the bill (H. R. 22244) providing for the creation of a national board of sanitary inspectors.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I object.

SUPPORT OF WIFE AND CHILDREN.

The next business was the bill S. 3890 to amend an act entitled "An act making it a misdemeanor in the District of Columbia to abandon or willfully neglect to provide for the support and maintenance by any person of his wife or of his or her minor children in destitute or in necessitous circumstances," approved March 3, 1906.

The SPEAKER. Is there objection?

Mr. JOHNSON of Kentucky. I object.

LOANING MONEY AT USURIOUS RATES OF INTEREST.

The next business was the bill S. 4503 to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers,

trust companies, savings banks, building and loan associations, pawnbrokers, and real-estate brokers in the District of Columbia.

The SPEAKER. Is there objection?

Mr. JOHNSON of Kentucky. Mr. Speaker, reserving the right to object, I believe that if the gentleman who has charge of the bill will agree to several certain amendments that we can pass it. I am heartily in sympathy with the main purposes of the bill.

Mr. PEARRE. Mr. Speaker, that would depend entirely on what the amendments are.

Mr. JOHNSON of Kentucky. I suggest that it be passed without prejudice for future consideration so that the gentleman and I can discuss the proposed amendments.

Mr. SMITH of Michigan. No; let us dispose of it now.

Mr. JOHNSON of Kentucky. There is a license fee of only $500 provided for, to be paid by a man who undertakes to loan money at usurious rates of interest. I would like to see that made higher. Then, under one of the provisions of the bill, a man by paying this $500 is given a right to charge a rate of 24 per cent interest in certain instances. I would like to have that stricken out.

Mr. PEARRE. Mr. Speaker, the license fee of $500 is not too low it seemed to the committee that reported the bill, because pawnbrokers are now charged only $100 license, and pawnbrokers are engaged in the business which is equally detrimental to the public welfare, if not well managed, as the practice of loaning money at high rates of interest.

Mr. JOHNSON of Kentucky. I would not quibble with the gentleman about that, but in another provision of the bill, upon the payment of the fee of $500, they are entitled to lend money at the rate of 24 per cent interest. I would want to move to strike out that section.

Mr. PEARRE. The committee could not consent to that, and for this reason: I think the gentleman will see that this is rather an unreasonable request. The committee has gone into the matter, paragraph by paragraph. Pawnbrokers are allowed to charge 3 per cent a month, or 36 per cent a year. Some objection has been made, Mr. Speaker, to this bill, because a higher rate of interest has not been allowed. In other words, gentlemen who are interested in the loan business have taken the position that men who are engaged in this business should be allowed to charge certainly as much as the pawnbrokers, because they claim that pawnbrokers get a better character of loans, also get a chattel upon the value on which they can pass by sight and inspection, whereas in many instances these loans are made to salaried people, and, in some instances, to people who have no income whatever, and the risk of the business is therefore greater. Yet this bill allows only 2 per cent a month, which I confess to the mind uninitiated in the method of loan sharks seems to be an exorbitant rate, but when you consider fairly all the risks that are to be taken and compare this with the risks that are taken by pawnbrokers, who, as I say, have a chattel in their hands and can readily estimate the value, it will be seen, I think, upon fair consideration, that 2 per cent a month is not too high or is not too low, also, but it is a fair percentage. I say, Mr. Speaker, there are States in the Union that have bills of this sort where 2 per cent is charged and they find that the law works very excellently. Mr. Speaker, the objection I had to this bill at first blush was that 2 per cent a month was exorbitant under all and any circumstances, but when the matter was explained to me by gentlemen who appeared before the committee and I got a better insight into the methods of these small loans upon security upon which there was a great deal of risk, I saw that the rate of interest ought to be increased and that the 2 per cent a month, covering all the cost and expenses of recording, notarial fees, and everything of that sort, was not too large a charge, and the committee, Mr. Speaker, has agreed upon this interest rate, and we think it is a fair rate. It is true——

Mr. JOHNSON of Kentucky. Mr. Speaker, I would like to ask the gentleman, further, why it is stated that certain banks and pawnbrokers in the District of Columbia are exempt from the provisions of this bill.

Mr. PEARRE. Because it was a perfectly wise and proper thing, it occurred to the committee, to exempt banks from the operations of this bill and not to impose the hardships and burdens of a so large license fee and the limitations and restrictions of this bill upon the regularly organized banks, which are controlled by laws already in existence, and which banks do not take advantage of the necessities of the borrower to charge an exorbitant interest charge.

Mr. JOHNSON of Kentucky. Mr. Speaker, while this bill is not all to my mind that it should be, I shall not object.

Mr. FINLEY. Mr. Speaker, I object.

ISSUING OF BONDS, CERTIFICATES OF INVESTMENTS, ETC., OF GAS COMPANIES.

The next business on the Calendar for Unanimous Consent was House joint resolution No. 148, a joint resolution prohibiting the Washington Gas Light Co., Georgetown Gas Light Co., or any other gaslight company in the District of Columbia from issuing any bonds, certificates of indebtedness, or any other evidence of debt, except such as shall actually be required for the payment of necessary betterments and improvements only, without the express consent of Congress.

The SPEAKER. Is there objection?

Mr. MOORE of Pennsylvania. Mr. Speaker, I object.

PRICE OF GAS IN DISTRICT OF COLUMBIA.

The next business on the Private Calendar was the bill H. R. 19049, to fix the price of gas in the District of Columbia.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I reserve the right to object.

Mr. SMITH of Michigan. Mr. Speaker, the gentleman in charge of the bill is here. I remember when this was called up once before the gentleman from Illinois [Mr. MANN] objected. I would like to ask him the question now if he would object to this bill with all of the bill stricken out except the first clause, which fixes the price of gas at 80 cents?

Mr. MANN. I am informed by the commissioners that the gas company has already provided for a reduction of gas to 85 cents a thousand and has agreed to make a further reduction to 80 cents a thousand next January.

Mr. BORLAND. Why not fix it by law now?

Mr. MANN. Is that the case?

Mr. SMITH of Michigan. I have been so informed.

Mr. BORLAND. There is no reason why it should not be fixed by law if they are going to do it anyway.

Mr. MANN. If they are going to do it anyway, I do not know whether it ought to be done by law or not. There might be some case where a gas company needed to be started out in the extremities of the District, where they would need to charge more for gas.

Mr. BORLAND. That case would hardly arise now.

Mr. MANN. I do not know whether there is any danger of it or not. Of course, the objection I had to the bill was to sections 2 and 3.

Mr. SMITH of Michigan. That is what I understood.

Mr. MANN. But if you are going to reduce the price of gas, this would take effect at once and require an immediate reduction in the price of gas, and mix up everybody. If they do not reduce the price of gas to 80 cents, as they have agreed to do, I am perfectly willing myself to vote for a reduction in the price.

Mr. SMITH of Michigan. Will the gentleman pardon me a moment? In conversation with the gentleman from Wisconsin [Mr. CARY], in charge of the bill, he asked me if the bill was called up in his absence if I would not suggest that all of the bill after the first clause be stricken out, and that clause is the one with reference to the price of gas.

Mr. MANN. If that has already been taken care of, practically, why should we have legislation on the subject?

The SPEAKER. Is there objection?

Mr. MANN. I object for the present.

NATIONAL M'KINLEY BIRTHPLACE MEMORIAL ASSOCIATION.

Mr. HOWLAND. Mr. Speaker, I ask unanimous consent to recur to the bill (H. R. 32907) to incorporate the National McKinley Birthplace Association.

The SPEAKER. The gentleman from Ohio asks unanimous consent to recur to the bill, the title of which the Clerk will report.

The Clerk read as follows:

H. R. 32907. A bill to incorporate the national McKinley Birthplace Memorial Association.

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

Mr. CRUMPACKER. Mr. Speaker, I desire to propose an amendment to the bill, which I send to the Clerk's desk.

The SPEAKER. The gentleman from Indiana offers an amendment, which the Clerk will report.

The Clerk read as follows:

Strike out the proviso in section 6 and insert:

"*Provided*, That said corporation shall not accept, own, or hold, directly or indirectly, any property, real or personal, except such as may be reasonably necessary to carry out the purposes of its creation as defined in this act."

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

The amendment was agreed to.

The SPEAKER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

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

NATIONAL INSTITUTE OF ARTS AND LETTERS.

Mr. McCALL. Mr. Speaker, I ask unanimous consent to recur to the bill (S. 609) incorporating the National Institute of Arts and Letters.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent to return to the following bill, which was passed without prejudice, and which the Clerk will report.

The Clerk read as follows:

Be it enacted, etc., That Brooks Adams, of Massachusetts; Charles Francis Adams, of Massachusetts; Henry Adams, of the District of Columbia; George Ade, of Indiana; Henry M. Alden, of New Jersey; Richard Aldrich, of New York; James Lane Allen, of New York; Simeon E. Baldwin, of Connecticut; Arlo Bates, of Massachusetts; John Bigelow, of New York; Robert Bridges, of New York; W. C. Brownell, of New York; John Burroughs, of New York; Richard Burton, of Minnesota; George W. Cable, of Massachusetts; Madison J. Cawein, of Kentucky; John Vance Cheney, of Illinois; Winston Churchill, of New Hampshire; Samuel L. Clemens, of Connecticut; James B. Connolly, of Massachusetts; Royal Cortissoz, of New York; F. Marion Crawford, of New York; Samuel McChord Crothers, of Massachusetts; Charles de Kay, of New York; Theodore A. Dodge, of Paris, France; Finley P. Dunne, of New York; Maurice F. Egan, of the District of Columbia; Henry T. Finck, of New York; John Huston Finley, of New York; Worthington C. Ford, of Massachusetts; John Fox, jr., of Virginia; Henry B. Fuller, of Illinois; Horace Howard Furness, of Pennsylvania; Hamlin Garland, of Illinois; Richard Watson Gilder, of New York; Basil L. Gildersleeve, of Maryland; William Gillette, of Connecticut; Lawrence Gilman, of New York; George A. Gordon, of Massachusetts; Robert Grant, of Massachusetts; Ferris Greenslet, of Massachusetts; W. E. Griffis, of New York; A. T. Hadley, of Connecticut; Edward Everett Hale, of Massachusetts; Arthur Sherburne Hardy, of Connecticut; Robert Herrick, of Illinois; T. W. Higginson, of Massachusetts; Julia Ward Howe, of Massachusetts; M. A. De Wolfe Howe, of Massachusetts; W. D. Howells, of New York; Henry James, of Massachusetts; R. U. Johnson, of New York; George Kennan, of New York; Henry Charles Lea, of Pennsylvania; Nelson Lloyd, of New York; George Cabot Lodge, of Massachusetts; HENRY CABOT LODGE, of Massachusetts; John Luther Long, of Pennsylvania; T. R. Lounsbury, of Connecticut; Robert Morss Lovett, of Illinois; Charles F. Lummis, of California; H. W. Mabie, of New Jersey; Percy Mackaye, of New Hampshire; A. T. Mahan, of New York; Edwin Markham, of New York; Edward S. Martin, of New York; D. G. Mason, of New York; Brander Matthews, of New York; Saint Clair McKelway, of New York; John Bach McMaster, of Pennsylvania; Joaquin Miller, of California; John A. Mitchell, of New York; Langdon E. Mitchell, of Pennsylvania; W. Vaughn Moody, of Illinois; Paul Elmer More, of New York; Harrison S. Morris, of Pennsylvania; John Torrey Morse, jr., of Massachusetts; John Muir, of California; T. T. Munger, of Connecticut; Meredith Nicholson, of Indiana; Thomas Nelson Page, of the District of Columbia; Will Payne, of Illinois; William Morton Payne, of Illinois; Harry Thurston Peck, of New York; James Breck Perkins, of New York; Bliss Perry, of Massachusetts; Thomas Sergeant Perry, of Massachusetts; A. S. Pier, of Massachusetts; James Ford Rhodes, of Massachusetts; James Whitcomb Riley, of Indiana; Edward A. Robinson, of New York; Theodore Roosevelt, of New York; Josiah Royce, of Massachusetts; Montgomery Schuyler, of New York; Clinton Scollard, of New York; Henry D. Sedgwick, of New York; Frank Dempster Sherman, of New York; William M. Sloane, of New York; F. Hopkinson Smith, of New York; Frederic J. Stimson, of Massachusetts; Charles W. Stoddard, of California; Thomas Russell Sullivan, of Massachusetts; Booth Tarkington, of Indiana; Augustus Thomas, of New York; Ridgely Torrence, of New York; William P. Trent, of New York; Henry Van Dyke, of New Jersey; John C. Van Dyke, of New Jersey; Barrett Wendell, of Massachusetts; Andrew Dickson White, of New York; Stewart Edward White, of California; William Allen White, of Kansas; Charles G. Whiting, of Massachusetts; Jesse Lynch Williams, of New Jersey; Harry Leon Wilson, of Indiana; Woodrow Wilson, of New Jersey; Owen Wister, of Pennsylvania; George E. Woodberry, of Massachusetts; Edwin A. Abbey, of New York; Herbert Adams, of New Hampshire; John W. Alexander, of New York; George F. Babb, of New York; Hugo Ballin, of New York; George Gray Barnard, of New York; Paul W. Bartlett, of New York; J. Carroll Beckwith, of New York; Frank W. Benson, of Massachusetts; Edwin H. Blashfield, of New York; Richard E. Brooks, of New York; George De Forest Brush, of New York; William Gedney Bunce, of Connecticut; Daniel Hudson Burnham, of Illinois; Francis D. Millet, of New York; H. Siddons Mowbray, of Connecticut; Leonard Ochtman, of Connecticut; Maxfield Parrish, of New Hampshire; Robert S. Peabody, of Massachusetts; Charles Sprague Pearce, of Massachusetts; Joseph Pennell, of Pennsylvania; Charles A. Platt, of New Hampshire; George B. Post, of New York; Edward Clark Potter, of Massachusetts; A. Phimister Proctor, of New York; Howard Pyle, of Delaware; Edward W. Redfield, of Pennsylvania; Robert Reid, of New York; Frederic Remington, of New York; F. W. Ruckstuhl, of New York; Albert P. Ryder, of New York; John S. Sargent, of Massachusetts; W. E. Schofield, of Pennsylvania; Walter Shirlaw, of New York; Edward Simmons, of New York; William T. Smedley, of New York; Lorado Taft, of Illinois; Edmund C. Tarbell, of Massachusetts; Abbott H. Thayer, of New York; D. W. Tryon, of New York; Elihu Vedder, of Massachusetts; Frederick P. Vinton, of Massachusetts; Lionel Walden, of Connecticut; Henry Oliver Walker, of New Jersey; J. Q. A. Ward, of New York; Whitney Warren, of New York; J. Alden Weir, of New York; Irving R. Wiles, of New York; Emil Carlsen, of New York; John M. Carrère, of New York; William M. Chase, of New York; Timothy Cole, of New York; Walter Cook, of New York; Kenyon Cox, of New York; Frederic Crowninshield, of New York; William T. Dannat, of New York; Frank Miles Day, of Pennsylvania; Joseph De Camp, of Massachusetts; Charles Melville Dewey, of New York; Thomas W. Dewing, of New York; Frederick Dielman, of New York; Paul Dougherty, of New York; Frank Duveneck, of Kentucky; Ben Foster, of New York; Daniel C. French, of New York; Walter Gay, of Massachusetts; Charles Dana Gibson, of New York; Cass Gilbert, of New York; Charles Grafly, of Pennsylvania; Eliot Gregory, of New York; Jules Guérin, of New York; H. J. Hardenburgh, of New Jersey; Alexander Harrison, of Pennsylvania; Birge Harrison, of South Carolina; Childe Hassam, of New York; Thomas Hastings, of New York; Robert Henri, of New York; Winslow Homer, of Maine; John Galen Howard, of California; William Henry Howe, of New York; Samuel Isham, of New York; Francis C. Jones, of New York; H. Bolton Jones, of New York; W. Sergeant Kendall, of New York; Bancel La Farge, of New York; John La Farge, of New York; Francis Lathrop, of New York; Louis Loeb, of New York; Will H. Low, of New York; Frederick Macmonnies, of New York; Carl Marr, of Wisconsin; Walter McEwen, of Illinois; Hermon A. MacNeil, of New York; William Rutherford Mead, of New York; Gari Melchers, of New York; Willard L. Metcalf, of New York; H. K. Hadley, of New York; Victor Herbert, of New York; Edgar Stillman Kelley, of California; Charles M. Loeffler, of Massachusetts; Horatio W. Parker, of Connecticut; Harry Rowe Shelley, of New York; F. Van der Stucken, of Ohio; Arthur Whiting, of New York; Arthur Bird, of Massachusetts; Dudley Buck, of New York; G. W. Chadwick, of Massachusetts; F. S. Converse, of Massachusetts; Walter Damrosch, of New York; Reginald De Koven, of New York; Arthur Foote, of Massachusetts; W. W. Gilchrist, of Pennsylvania; their associates and successors duly chosen, are hereby incorporated, constituted, and declared to be a body corporate of the District of Columbia, by the name of the National Institute of Arts and Letters.

SEC. 2. That the National Institute of Arts and Letters shall consist of not more than 250 ordinary members, and the said corporation hereby constituted shall have power to make its own organization, including its constitution, by-laws, and rules and regulations; to fill all vacancies created by death, resignation, or otherwise; to provide for the election of foreign and domestic members, the division into classes, and all other matters needful or usual in such institution, and to report the same to Congress.

SEC. 3. That the National Institute of Arts and Letters shall hold an annual meeting at such place in the United States as may be designated.

SEC. 4. That the National Institute of Arts and Letters be, and the same is hereby, authorized and empowered to receive bequests and donations and hold the same in trust, to be applied by the said institute in aid of investigations in art and literature and according to the will of the said donors.

Also the following committee amendments were read:

In line 7, page 1, strike out the words "New York" and insert in place thereof the word "Kentucky;" in line 11 of same page, before the word "George," insert the words "Nicholas Murray Butler, of New York;" in the same line, after the word "Massachusetts," insert the words "Bliss Carmen, of Canada;" in line 12, same page, after the word "Kentucky," insert the words "R. W. Chambers, of New York;" in the same line strike out the word "Illinois" and insert in place thereof the word "California;" in line 15, same page, strike out the words "F. Marion Crawford, of New York."

In line 2, page 2, strike out the words "Theodore A. Dodge, of Paris, France;" in line 4, same page, after the word "Columbia," insert the words "Chester Bailey Fernald, of California;" in lines 6 and 7, same page, strike out the words "Henry B. Fuller, of Illinois;" in line 8, same page, strike out the words "Richard Watson Gilder, of New York;" in lines 13 and 14, same page, strike out the words "Edward Everett Hale, of Massachusetts;" in line 18, same page, strike out the words "R. U. Johnson" and insert in place thereof the words "Robert Underwood Johnson;" at the end of the same line insert the words "Owen Johnson, of Massachusetts;" in lines 19 and 20, same page, strike out the words "Henry Charles Lea, of Pennsylvania;" in lines 20 and 21, same page, strike out the words "George Cabot Lodge, of Massachusetts;" in line 23, same page, after the word "Illinois," insert the words "Abbott Lawrence Lowell, of Massachusetts."

In line 6, page 3, after the word "Pennsylvania," strike out the letter "W" and insert in place thereof the word "William;" in line 9, same page, strike out the words "T. T. Munger, of Connecticut;" in line 14, same page, after the word "Massachusetts," insert the words "William Lyon Phelps, of Connecticut;" in line 16, same page, after the word "Indiana," insert the words "Charles G. D. Roberts, of Canada;" in line 18, same page, after the word "Massachusetts," insert the words "George Santayana, of Massachusetts;" in line 20, same page, after the word "York," insert the words "Ernest Thompson Seton, of Connecticut;" in line 23, same page, strike out the words "Charles W. Stoddard, of California."

In line 14, page 4, after the word "Massachusetts," insert the words "Karl Bitter, of New Jersey;" in line 15, same page, after the words "New York," insert the words "Glenn Brown, of District of Columbia;" in line 23, same page, after the word "Massachusetts," insert the words "Bela L. Pratt, of Connecticut."

In line 1, page 5, strike out the words "Frederic Remington" and insert in place thereof the words "Frederick C. R. Roth;" in line 4, same page, strike out the words "Walter Shirlaw" and insert in place thereof the words "Henry M. Shrady;" in line 7, same page, strike out the words "Abbott H. Thayer, of New York;" in line 10, after the words "New Jersey," insert the words "Horatio Walker, of Canada;" in line 12, same page, after the words "New York," insert the words "Adolph A. Weinman, of New York;" in line 20, same page, after the words "New York," insert the words "John M. Donaldson, of Illinois;" lines 24 and 25, same page, strike out the words "Eliot Gregory, of New York."

In lines 9 and 10, page 6, strike out the words "Francis Lathrop, of New York; Louis Loeb, of New York;" in lines 19 and 20, same page, strike out the words "Dudley Buck" and insert in place thereof the words "Howard Brockway;" in line 23, same page, after the word "Pennsylvania," insert the words "David Stanley Smith, of Connecticut;" in line 19, page 7, after the word "literature," insert the words "and the arts."

Is there objection?

Mr. FITZGERALD. I reserve the right to object.

The SPEAKER. The request is to return to the bill which was passed without prejudice.

Mr. FITZGERALD. To that I have no objection.

The SPEAKER. Is there objection to its consideration?

Mr. MANN. I reserve the right to object.

Mr. McCALL. Mr. Speaker, this is a Senate bill incorporating the National Institute of Arts and Letters, and the next

bill, Senate bill 610, incorporates the American Academy of Arts and Letters.

I would say that the object of this bill is to secure a national incorporation of men who are expert in the arts and men of letters for a literary purpose similar to that of the French Academy to Promote Art. It involves no charge whatever upon the Federal Treasury. The purpose is to give them the sanction of a national charter. The incorporators are eminent men taken from different parts of the country.

It is true that a large proportion of them are from the city of New York, but that city is a sort of Mecca for men of letters and artists from all parts of the country. It is believed that an institutional force of men of this character associated together will promote the cause of literature in the United States and the cause of art.

Mr. BARTLETT of Georgia. The gentleman speaks of a "national charter." What does he mean by "national charter?" Some of us believe that the United States Congress has no power to charter associations and corporations to do business except in the District of Columbia and in such Territories as the United States has jurisdiction over. I myself am one of those old-fashioned people who believe that Congress has no right to grant a national charter otherwise than I have stated, and, therefore, I would like to understand more fully what my friend from Massachusetts means by a "national charter."

Mr. McCALL. This bill is in line with the bill we passed not long ago to create an American Academy at Rome.

Mr. BARTLETT of Georgia. I think when that bill was up I expressed some objections to it. I do not mean to intimate that I am going to object now to this bill. I will refrain from doing that out of regard for my friend from Massachusetts. But I do not want to submit to the proposition that we have the right to grant a national charter without making a mild protest.

Mr. MOORE of Pennsylvania. Will the gentleman permit me to make a suggestion?

Mr. BARTLETT of Georgia. I will, certainly, if I have the time.

Mr. MOORE of Pennsylvania. I want to call the attention of the gentleman from Georgia, and of others, to the fact that the gentleman from Massachusetts stated a moment ago that the center of arts and letters was New York. That is an important confession, coming as it does from our distinguished literary colleague from another part of the country. [Laughter.]

Mr. SHACKLEFORD. Mr. Speaker, I desire to——

Mr. McCALL. Mr. Speaker, I will yield to the gentleman from Missouri to ask a question.

Mr. SHACKLEFORD. Mr. Speaker, I do not know what this bill contains. I dislike to object to it; but I dislike still more to see legislation of this character passed by unanimous consent, and therefore I will have to object.

Mr. McCALL. It is a very simple proposition. It is provided in the bill that the academy shall consist of a certain number of members and shall have power to make an organization and adopt by-laws, and so forth, and shall have power to fill vacancies and to elect foreign and domestic members, and so forth, and to make report to Congress.

Mr. SHACKLEFORD. Will they hold any property?

Mr. McCALL. Then the bill provides that the society shall be authorized to receive donations and endowments and to administer the same in aid of literature and the arts.

Mr. SHACKLEFORD. These donations will be invested in some form or other, will they not?

Mr. McCALL. Possibly.

Mr. SHACKLEFORD. Mr. Speaker, then I shall have to object.

Mr. McCALL. I hope the gentleman will reserve his objection. It is not contemplated that they shall hold any considerable property. It is to be something like the French Academy, designed to have a general literary influence.

Mr. THOMAS of North Carolina. Mr. Speaker, I will say to the gentleman from Missouri that this bill involves no charge on the Government. Its object is to promote interest in art and literature.

Mr. GRAHAM of Illinois. Is it the object of this organization to establish a standard of literary excellence of American writers, as the French Academy does for French writers?

Mr. McCALL. It would have for its purpose the raising of the standard. One of the greatest forces in French literature has been the French Academy.

Mr. GRAHAM of Illinois. But is it not true that without anything similar to the French Academy, literature across the Channel, in England, has thrived as well, at least, as it has in France, and that their rather artificial standard in the academy has not given an impetus to literature, but has rather retarded its real growth?

Mr. McCALL. I do not agree with the gentleman about that. I think it has had a great effect upon literature. The French people are, I believe, the most literary people in the world.

Mr. GRAHAM of Illinois. In a sense; yes.

Mr. McCALL. They may not have the strong distinctive marks that the English have, but for literary finish they surpass any other nation.

Mr. GRAHAM of Illinois. Do you believe in anything in the nature of a fixed standard, or rather a court by which the excellence of literature shall be determined?

Mr. McCALL. I do not believe in standardizing too much either literature or art, because that makes them too narrow.

Mr. GRAHAM of Illinois. That is the very point.

Mr. McCALL. I do not think it is contemplated to establish a standard.

Mr. GRAHAM of Illinois. Has not that been the tendency of the French Academy?

Mr. McCALL. I think not.

Mr. SHACKLEFORD. Does this bill confer upon the academy the franking privilege?

Mr. McCALL. No; not at all.

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

Mr. McCALL. Certainly.

Mr. MANN. I notice that this bill provides that reports shall be made to Congress.

Mr. McCALL. Yes.

Mr. MANN. Just what is the purpose of that? Is it to get printing done at public expense?

Mr. McCALL. No; it has no such purpose, but it is to recognize the authority of Congress in the matter. There would be no objection to a provision that there should be no expense incurred for printing.

Mr. MANN. Of what interest is it to Congress to have such reports made to it?

Mr. McCALL. Congress should take a benign interest in objects of this character, and being the incorporating body, reports should be made to it. That may be stricken out, however, if the gentleman wishes it.

Mr. MANN. I notice that the bill also provides for the election of foreign members.

Mr. McCALL. Yes. That would add to the dignity of these organizations undoubtedly.

Mr. MANN. What is the purpose of this—to enable some gentlemen named in both bills to add eight letters, or nearly the full alphabet to their names? In addition to A. B. and B. A. and LL. D. and Ph. D., and so forth, the first bill would add the letters N. I. A. L., National Institute of Arts and Letters, and then you would add A. A. A. L. Why not diversify it and have more letters of the alphabet, and not repeat them so often?

Mr. McCALL. I imagine that we might put in all the letters in the alphabet, but I scarcely think it would be necessary to use such an amazing number of letters as the gentleman has indicated.

Mr. MANN. Would it be as satisfactory if we should pass a bill authorizing them to put the entire alphabet after their names without any restriction?

Mr. McCALL. Possibly, although I imagine it would not promote the general purposes of the bill.

Mr. MANN. Mr. Speaker, I would like to make this remark: Any list of 250 of the literary men of the United States which does not include the name of SAMUEL W. McCALL shows a lack of discrimination on the part of the gentlemen who prepared the bill. [Applause.] Because of such lack of discrimination, I shall feel compelled at this time to object.

Mr. OLMSTED. Mr. Speaker, I will offer an amendment to insert the name of the gentleman from Massachusetts.

Mr. MANN. I had that amendment prepared myself.

AMERICAN ACADEMY OF ARTS AND LETTERS.

Mr. McCALL. Mr. Speaker, there is another bill in the same category, S. 610, an act incorporating the American Academy of Arts and Letters. I ask unanimous consent to return to that.

Mr. MANN. I object.

PROTECTION OF BIRDS, GAME, AND FISH IN THE DISTRICT OF COLUMBIA.

The next bill on the Calendar for Unanimous Consent was the bill (H. R. 23506) to amend the laws for the protection of birds, game, and fish in the District of Columbia.

Mr. SMITH of Michigan. Mr. Speaker, I do not know as that bill would be objected to, but it is a House bill and there is no possible chance of it passing the Senate at this session I therefore ask unanimous consent to pass it without prejudice. While it is a good bill, I do not want to take up the time of the House.

The SPEAKER. Is there objection?

There was no objection.

LICENSE FOR DRIVERS AND VEHICLES FOR HIRE.

The next bill on the Calendar for Unanimous Consent was the bill (H. R. 24071) to amend the license law approved July 1, 1902, with respect to licenses for drivers and passenger vehicles for hire.

The Clerk read the bill, as follows:

Be it enacted, etc., That paragraph 11 of section 7 of the act of Congress approved July 1, 1902, entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes," providing for license taxes in the District of Columbia, be, and the same is hereby, amended by adding thereto the following:

"That any and all persons employed or engaged in driving a horse or horses, or other animal or animals attached to coaches, omnibuses, carriages, wagons, or other passenger vehicles for hire, and all persons engaged as chauffeurs or conductors of motor vehicles for hire shall pay an annual license tax of $1: *Provided*, That such license shall not in any case be issued except upon application therefor to the assessor by the person desiring the license, and under such general regulations as the Commissioners of the District of Columbia may prescribe, after report, made by some member of the Metropolitan police designated to inspect public vehicles, to the major and superintendent of police; and it shall be the duty of the major and superintendent of police to forward said report to the assessor of the District of Columbia. And there shall be kept in the department of police a list of names of all persons licensed under this amendment, their annual license number, and any record that may be necessary concerning the conduct of such persons that may be required in connection with good public-vehicle service. And all public vehicles for hire shall carry, in such place as may be designated by the commissioners, such form of number as may be prescribed by the commissioners, which number shall correspond with the number of the license issued to the driver, chauffeur, or conductor of such public vehicle: *Provided*, That licenses issued under the provisions hereof shall not be assigned or transferred, and every assignment or transfer of any such license shall be illegal, null, and void.

"Any person who shall violate any of the provisions of this amendment shall be punished as provided in paragraph 47 of said section 7. And in addition to such penalty the license of any person licensed under the provisions of this amendment who shall be convicted of a violation of any of its provisions, or of a violation of any of the police regulations regulating the movement and disposition of public vehicles for hire upon the public streets, or of disorderly conduct, may be revoked by the Commissioners of the District of Columbia."

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, I want to say that this bill was discussed once before in the House. I do not know how it got back on the calendar.

Mr. KAHN. This came up, as I recollect it, on District of Columbia day, and we only took up such bills as were not objected to. I think this bill was objected to.

Mr. FINLEY. How does this bill affect the prices charged?

Mr. KAHN. It does not affect them. It seems that some drivers and chauffeurs in this city overcharge passengers, and there is no way of identifying the malefactors. The purpose of the bill is to compel them to take out a license and display a number so that any passenger who is overcharged can identify the person who has overcharged him and the driver or chauffeur will be called before the commissioners.

Mr. FINLEY. It does not increase the charges?

Mr. KAHN. No.

Mr. ROBERTS. Is there any provision in this bill for the revocation of the license in case the person holding it misbehaves himself?

Mr. KAHN. I believe there is such a provision.

Mr. ROBERTS. Does it apply to the license of a chauffeur?

Mr. KAHN. Yes; all kinds of drivers in the District of Columbia. I know the word "chauffeur" is in the bill, because it is spelled differently than it is usually. I suppose that is the Government Printing Office method of spelling.

Mr. MANN. No; that is the method of some assistant in the corporation counsel's office, who is not familiar with the use of the word.

Mr. KAHN. As I understand it, when a bill goes to the Government Printing Office it is read by the proof reader, and he puts in the spelling approved of by the Government Printing Office.

Mr. MANN. Mr. Speaker, I have no doubt that the general purpose desired by this bill is proper, and that there ought to be legislation on the subject. Yet this bill is a House bill and no probability of its becoming a law, and besides it is wonderfully and loosely drawn.

Mr. KAHN. It is drawn by the corporation counsel.

Mr. MANN. The provision which undertakes to prohibit the driving of horses without a license puts no penalty on it whatever. It says it shall not be done, and by your sweet will please do not do it. There is no penalty. It provides that any person who shall violate any provision of this amendment shall be punished as provided in paragraph so and so.

Mr. KAHN. That is an amendment to the license law of the District.

Mr. SLAYDEN. Will the gentleman yield?

Mr. MANN. The gentleman from California has the floor.

Mr. SLAYDEN. As I caught the reading of this bill, it is to regulate charges for passengers in public vehicles.

Mr. KAHN. No; the gentleman is mistaken. This is intended to compel every driver of a vehicle or a chauffeur in the District of Columbia to register and receive a license, and to display a badge showing his number, so that in case he makes an overcharge he can be recognized and dealt with.

Mr. SLAYDEN. Mr. Speaker, here is the question that I want to have the gentleman from California [Mr. KAHN] answer: Is there not some way of compelling these drivers of taxicabs and drivers of ordinary cabs to carry a map so constructed with reference to the principal points, like the Union Station and the Capitol, and things of that kind, as to indicate unmistakably what the proper charge is to almost any part of the city?

Mr. KAHN. Yes; but a stranger in the city probably would not know much about such a map as that.

Mr. SLAYDEN. Well, a resident in the city does not know now.

Mr. KAHN. A resident in the city would undoubtedly take the number of the automobile and try to get redress in that way.

Mr. SLAYDEN. But the gentleman knows, as a matter of fact, that the average citizen will tolerate abuses rather than put himself to the annoyance of complaining and following up a complaint in the court or elsewhere.

Mr. KAHN. That is very true; and yet there are printed regulations carried in every vehicle for public hire, and those regulations say that if a person who is a passenger believes he is being overcharged he should go to the nearest police officer and have the matter regulated by him.

Mr. SLAYDEN. I want to say to the gentleman that I have lived in the same house here in Washington for 12 years, and I frequently take taxicabs from the Union Station to my house. I have had the charge vary not a great deal, but from 10 to 25 per cent for precisely the same service.

Mr. KAHN. Well, they examine the registers of the taxicabs once a year and put a certificate of inspection upon the machines. They vary 10 cents, or possibly 20 cents sometimes, but the effort has been made by the commissioners to have those registers inspected regularly.

Mr. SLAYDEN. It is a curious fact, though, that they never vary against the cab.

Mr. KAHN. Well, sometimes they do, and for this reason: A passenger riding along may strike a 60 or 70 cent charge and then stop near the next higher charge. The company loses that.

Mr. SLAYDEN. Well, they are public enemies, and something ought to be done to regulate them and make them square.

Mr. MANN. Mr. Speaker, this bill was up in the House some time ago, and attention was called then to the fact that the bill in form was not well drawn. It seems to me that if the commissioners desire to have the bill put in proper form they have had plenty of time to do it.

The SPEAKER. Is there objection?

Mr. MANN. I object.

MESSMORE PLACE.

The next business was the bill (S. 8774) to change the name of Messmore Place to Mozart Place.

The Clerk read the bill, as follows:

Be it enacted, etc., That the street now known and designated as Messmore Place and extending from Euclid Street to Columbia Road shall hereafter be designated Mozart Place, and the surveyor of the District of Columbia is hereby directed to enter such change on the records of his office.

The SPEAKER. Is there objection?

Mr. JOHNSON of Kentucky. Mr. Speaker, reserving the right to object, I wish to make a statement that I feel every man in this House is entitled to hear. Finally, I shall not interpose any objection to the passage of this bill; but I desire to say that it has been lobbied for by a man whom every Member of this House ought to know something about. That man is named E. L. Scharf. When I came to Congress four years ago I got a very mysterious note from this man asking me to call at his place and see him at No. 900 Fourteenth Street. I went, and when I got there he asked me if I would be a candidate for reelection to Congress. I told that I would. He then told me that he had looked up my district and found that there were 4,000 Catholic votes therein. He then made a proposition to me that for a pecuniary consideration he would deliver those 4,000 Catholic votes to me. In that connection he also said

that he was a Knight of Columbus, and through that organization he could surely and certainly deliver those votes to me. Mr. Speaker, I wish to say that I am proud of being both a Catholic and a Knight of Columbus, and I emphatically deny that this man can do anything of the kind. I furthermore know that there are several Members on this floor to whom he has made the same proposition, and I have been informed that he has obtained money from Members of this House upon the pretext that he could deliver to them the Catholic vote in their districts and the votes of the Knights of Columbus in the United States for a pecuniary consideration.

The order of Knights of Columbus is not a political organization, but instead strictly fraternal, and it is a reflection upon both the Catholic Church as well as upon the order of Knights of Columbus that this man can go unchallenged and unexposed in his nefarious scheme. Therefore I say what I do relative to him for the purpose of protecting this membership, as well as for the purpose of defending the Catholic Church and the Knights of Columbus from such characters who for a few dollars bring discredit upon that church and upon that order. Every Catholic and every Knight of Columbus will, I know, appreciate an exposure of this Catholic "for revenue only." I have not availed myself of the constitutional privilege of the House to express my opinion of this man, but I have done so to his face, and now repeat it for the protection of the House and the public.

I wish to warn this House against a lobbyist, a man who is lobbying for the passage of this bill that is now up, and who lobbies for various other bills that come along, and then in the meantime offers to deliver to any candidate who will pay him a monetary consideration the Catholic vote and the vote of the Order of the Knights of Columbus in the United States, which I know he can not do. In justice to the membership of this House I wish to make this statement. I now withdraw any objection, Mr. Speaker, to the bill.

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

FIRE ESCAPES ON CERTAIN BUILDINGS.

The next business on the Calendar for Unanimous Consent was the bill (S. 6582) to amend an act entitled "An act to require the erection of fire escapes in certain buildings in the District of Columbia, and for other purposes," approved March 19, 1906, as amended by act of Congress approved March 2, 1907.

Mr. BORLAND. Mr. Speaker, I object to that bill.

The SPEAKER. Objection is heard.

MARGARETHA WEIDEMAN, CLARENCE C. WEIDEMAN, AND AUGUERITE E. WEIDEMAN.

The next business on the Calendar for Unanimous Consent was the bill S. 6639.

The Clerk read as follows:

A bill (S. 6639) for the relief of Margaretha Weideman, Clarence C. Weideman, and Auguerite E. Weideman, owners of lots Nos. 1, 2, and 3, square No. 434, in the city of Washington, D. C.

Be it enacted, etc., That under and in accordance with the terms and provisions of the act of Congress approved February 28, 1903, relating to the construction of a union railroad station in the District of Columbia, which said act was amended by an act of Congress approved April 22, 1904, entitled "An act to provide for payment of damages on account of change of grade due to construction of Union Station, District of Columbia," as amended by an act of Congress approved June 29, 1906, entitled "An act amendatory to an act entitled 'An act to provide for payment of damages on account of change of grade due to construction of Union Station, District of Columbia,' approved April 22, 1904," the commission appointed under said act is hereby authorized and directed to meet and view the property known as lots Nos. 1, 2, and 3, in square No. 434, improved by premises No. 323 Seventh Street SW., city of Washington, D. C., and hear testimony touching the damages to said property which have resulted from changes in grade of streets, avenues, or alleys authorized by the act of Congress approved February 28, 1903, and amendatory acts approved April 22, 1904, and June 29, 1906, relating to the construction of a new railroad station in the District of Columbia, and to appraise and determine the amount of damages, if any, to which the owners of said property so affected by change of grade may be entitled.

SEC. 2. That if any of the parties interested, their personal representatives, or the Commissioners of the District of Columbia, shall be dissatisfied with the appraisement or award of said commission, the court shall, on motion of the parties so dissatisfied, direct the United States marshal to summon a jury of seven disinterested men not related to any person in interest to meet and view the said property, and to appraised and determine the amount of damages to which the owners of said property so affected by change of grade may be entitled, as provided in and by the aforesaid act of Congress, which was amended as aforesaid.

SEC. 3. That a sufficient sum to pay the compensation and expenses of said commission and a compensation of said jurors and the amount of any appraisement or award of damages made in favor of the owners of said property is hereby appropriated out of the revenues of the District of Columbia, and 50 per cent thereof shall be refunded to said District of Columbia by the United States.

The SPEAKER. Is there objection?

Mr. JOHNSON of Kentucky. Mr. Speaker, reserving the right to object, I would be glad to hear an explanation of that bill.

Mr. SMITH of Michigan. Mr. Speaker, a member of the committee, Mr. WILEY, has charge of this bill, and in his absence he requested me if this bill was called up to have the Clerk read a letter, which fully explains this bill. It will take but a moment, and I think that when it is read it will satisfy every Member of the House.

The SPEAKER. The Clerk will read the letter.

The Clerk read as follows:

FEBRUARY 9, 1911.

Hon. WILLIAM H. WILEY,
House of Representatives.

MY DEAR SIR: Referring to Senate bill 6639 for the relief of Margaretha Weidemann et al., I beg to submit the following for your information:

This is one of the many instances in connection with the Union Station Grade Claims Commission, where property holders have been deprived of a hearing before said commission on the ground of failing to file their petition within the time prescribed by the act of Congress. There have been quite a few bills within the past year relative to this matter and Congress has never failed to pass each and every one of them, with the exception of the present one (S. 6639). There is nothing unusual in this bill, and its sole purpose is to have the statute of limitations removed so as to again confer jurisdiction on the commission to hear testimony relative to the property mentioned in said bill. The bill does not carry an appropriation, unless the Grade Claims Commission should decide that the property has been damaged, but this is no different from the original act. It does not mean that a new commission must be appointed, as the original commission is now at work and is at present engaged in hearing testimony in one of the cases where relief was asked of and granted by Congress. I refer to the case of William Frye White, the special act being approved June 22, 1910.

The advertisement used by the District of Columbia in this matter was crude in every respect. It would insert in the daily papers a long list (sometimes nearly a column) of lots in a certain square which the Grade Claims Commission would view on a certain day, and unless one was very familiar with such proceedings the chance of overlooking a particular lot was very favorable. My clients were not versed in such matters and did not observe the advertisement. When the matter was placed in my hands I inspected the records at the office of the clerk of the supreme court of the District of Columbia for the purpose of ascertaining if the property of my clients had been advertised. A careful inspection revealed that no proof of publication (as required by law) had been filed, therefore I concluded that the property had not been advertised, and did not file my petition until several weeks thereafter. The proof of publication was filed something like six or seven months after the running of the advertisement.

In view of the above and the further fact that my petition was filed several months prior to the actual time of the inspection of the property and the taking of testimony by the commission and that no injustice will be done if the bill is passed (but great injustice will be done if the bill is not passed) and as quite a few of similar bills have passed through Congress, I can see no reason why the present bill should not be favorably considered.

During the recent consideration of this bill Mr. FITZGERALD, of New York, stated that inasmuch as the petitioners have failed to file their petition for something like seven years after the time allowed, the bill ought not to be passed, but this statement of Mr. FITZGERALD is erroneous. The original act was passed in 1901, and it was not until September, 1908, that the property was advertised by the commission. This advertisement ran 30 days, and read, in effect, that all owners of property alleged to have been damaged by the change of grade should file their petition within one year from the date of the last day of said advertisement. This would bring it up to October, 1909, and my petition was filed December 8, 1909, or about six weeks after the time allowed by the original act.

Thanking you for your past consideration, I am,
Very respectfully,

——— ———.

Mr. STAFFORD. Mr. Speaker, I would like to ask the gentleman if this bill has been before the District Commissioners for their approval?

Mr. SMITH of Michigan. I understand it has.

Mr. STAFFORD. The report does not show it was so submitted.

Mr. SMITH of Michigan. We have a similar bill on the calendar, reported from the committee.

Mr. STAFFORD. I would like to ask the chairman of the committee why his committee did not recommend in reference to this bill a provision which was incorporated in two similar bills that have passed this House at this session, to report the excess amount of damages that may be recovered, following a suggestion of the commissioners?

Mr. SMITH of Michigan. We followed the suggestion, as I understand it, of the commissioners in this matter. I do not know that this language differs from the rest of them.

Mr. STAFFORD. It differs from the language of the other two bills passed by this House at this session in which there was a limitation placed thereon, on the recommendation of the commissioners, that damages should not exceed a certain amount, whereas this bill has no such limitation.

Mr. SMITH of Michigan. But the gentleman, I think, will concede that the commissioners who would be selected to do this work ought to be competent to determine that question.

Mr. STAFFORD. The District Commissioners pointed out specifically that in these cases there is a tendency on the part

of these commissions to grant too large a reimbursement for the property and that it would be well to safeguard the interests of the District and place a limitation on the amount. In two similar bills this House followed the recommendations of the District Commissioners and placed that limitation in them. I am asking now why did not the gentleman put a similar limitation in this bill?

Mr. SMITH of Michigan. There might have been some reason for the commissioners doing that, but I think the gentleman will concur with me that in this class of bills it is hardly fair to say that they are to find what the amount should be. It is like submitting a case to a jury in a circuit court and having the judge say in advance, "You can sit in this case, but the amount of damages or judgment you are to render is fixed in advance."

Mr. STAFFORD. I am only stating the inconsistency of the position of the Committee on the District of Columbia in recommending a limitation to some bills and not placing the same limitation on other bills.

Mr. SMITH of Michigan. I hope the gentleman will not make that quite so strong. We sometimes report upon bills where we sometimes——

Mr. STAFFORD. The two cases are exactly on all fours with this, and in each of those cases the commissioners recommended a limitation of the amount which could be recovered.

In the report in this case there is no letter from the District Commissioners showing that it has ever been submitted to them, and consequently perhaps they have not had the opportunity to recommend a similar limitation, and I am trying to ascertain from the chairman of the committee wherein there is a difference, and why there should not be a limitation in this case, when in two other cases, identical in form, they did recommend a limitation.

Mr. SMITH of Michigan. I have no hesitancy in saying that if the District Commissioners thought there was any necessity for recommending to the House District Committee that they do that, that they would have thought of that.

Mr. STAFFORD. Where does it show in the bill in this case that this bill was ever submitted to the District Commissioners for report?

Mr. SMITH of Michigan. We have a House bill on the calendar.

Mr. STAFFORD. I am acquainted with the House bill and the report, and nothing in that report shows that the matter has been submitted to the District Commissioners.

Mr. SMITH of Michigan. I desire to say this, that the gentleman from New Jersey [Mr. WILEY], a member of this committee, for whom, I think, everybody in this House has the greatest respect, has given this matter a good deal of consideration. He is unavoidably away to-day, and has been for some days, and he asked me, if this was called up, to say to the House that he had carefully investigated it, and that the letter that has been read here by the Clerk stated the truth, and the whole truth, and he hoped, and I express the same hope, for that reason, that there will be no objection to the passage of the bill.

Mr. STAFFORD. From the letter read, I believe that the claimant shows an excuse for his laches in not presenting this claim when the act was originally passed.

Mr. SMITH of Michigan. If the gentleman will pardon me, after hearing that letter read, I do not think he was very negligent, either, in the circumstances.

They employed an attorney, and the attorney entered appearance some time before, but in the long list of lots published it was overlooked.

Mr. STAFFORD. At this late day in the session, I do not desire to prevent this man from getting his just deserts, but I believe that in this matter it should have been submitted to the District Commissioners. I shall not make any objection.

The SPEAKER. Is there objection?

There was no objection.

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

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 10177) to authorize additional aids to navigation in the Lighthouse Establishment, and for other purposes.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 32865) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes, and had further insisted upon its amendments disagreed to by the House of Representatives, asked a further conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. PERKINS, Mr. WARREN, and Mr. MARTIN as the conferees on the part of the Senate.

The message also announced that the Senate had agreed to the amendment of the House of Representatives to the bill (S. 10274) to authorize construction of the Broadway Bridge across the Willamette River at Portland, Oreg.

MONUMENT TO PRESIDENT JOHN TYLER.

The next business on the Calendar for Unanimous Consent was the bill (S. 3662) for the erection of a monument over the grave of President John Tyler.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and directed to cause a suitable monument to be erected over the grave of the late John Tyler, former President of the United States, in Hollywood Cemetery, Richmond, Va., not to exceed in cost the sum of $10,000.

Mr. MANN. Mr. Speaker, I reserve the right to object.

Mr. LAMB. I hope the gentleman will withhold his objection. I do not see how any Member of this House can object to the passage of a bill to erect a monument to John Tyler, the last of the Virginia Presidents. Many Presidents have been honored in this way, and I see no reason why John Tyler should not be so honored. It is a very modest amount that is carried, and I think my friend is the last man on the floor who should object.

Mr. GOULDEN. How large is the amount carried?

Mr. LAMB. Ten thousand dollars. I will say, further, to my friend from Illinois that this bill received the unanimous report of the Senate committee and passed there without an objection. And it is the unanimous report of the Committee on the Library in this House.

Mr. MANN. With due regard to the Library Committee, I might say to the gentleman that there are some 20 or 30 bills on the calendar reported from the Committee on the Library of the House, not exactly like this, but along the same lines, and I do not think that the reason given is sufficient, namely, that they have reported the bill. As for its being passed and reported by the Senate, while I have great deference and great respect for the opinion of the Senate committee and the Senate itself, still I do not think even that is quite convincing.

Now, why does not the State of Virginia do something for John Tyler's memory? That State is proud of John Tyler, who was formerly President, and why has not that State done something?

Mr. LAMB. Because they thought it would be a pleasure for the Congress of the United States to memorize John Tyler.

Mr. MANN. Perhaps we might think it would be a pleasure for Virginia to do it.

Mr. LAMB. Well, I can not speak for the Legislature of Virginia. I can speak for Virginia, though, along certain lines. Virginia after the war was in such a condition financially that she did not feel she was able to respond to this and many kindred calls. She had to be just to her creditors before she could be generous to her most-favored sons.

Mr. MANN. That is not the case now. Virginia is very prosperous at present, and ought to be proud of the memory of John Tyler.

Mr. LAMB. And so she is.

Mr. MANN. And ought to provide a monument over his grave. It is a disgrace, almost, to Virginia that she has given no thought to the subject of marking the grave of a President elected from Virginia.

Mr. LAMB. Virginia has hoped and believed that the richest Government on the globe would wish to honor the memory of one of her sons who formulated the policies that gave to the General Government the great Commonwealth of Texas. Other States, richer than Virginia, have seen their favored sons who were national characters honored. I will ask my friend why Virginia should be made an exception?

Mr. MANN. That is what I ask my friend. Why should Virginia be made an exception? We are not doing it for other Presidents.

Mr. LAMB. We have done this same thing for citizens of other States who furnished Presidents to the country. My friend knows the record as well as any Member on this floor. I hope my friend from Illinois will withdraw his objection.

Mr. MANN. Out of regard for the gentleman from Virginia himself, who is as gallant an old soldier as ever made a fight [applause], I will not make any objection. [Applause.]

The SPEAKER. Is there objection to the consideration of this bill? [After a pause.] The Chair hears none.

The bill was ordered to be read the third time, was read the third time, and passed.

TO INCORPORATE THE GRAND ARMY OF THE REPUBLIC.

The next business on the Calendar for Unanimous Consent was the bill (S. 10361) to incorporate the Grand Army of the Republic.

The Clerk read the bill, as follows:

Be it enacted, etc., That Louis Wagner, of Pennsylvania; Robert B. Beath, of Pennsylvania; Samuel S. Burdett, of the District of Columbia; William Warner, of Missouri; James Tanner, of New York; Robert B. Brown, of Ohio; Samuel R. Van Sant, of Minnesota; John E. Gilman, of Massachusetts; Allan C. Bakewell, of New York; Grenville M. Dodge, of Iowa; Claire E. Adams, of Nebraska; William A. Ketcham, of Indiana; Alfred B. Beers, of Connecticut; Bernard Kelly, of Kansas; Thomas S. Hopkins, of the District of Columbia; and the commander in chief of the Grand Army of the Republic, ex officio, during his term of office, together with such persons as they may associate with themselves, and their successors be, and they hereby are, constituted and created a body corporate of the District of Columbia.

SEC. 2. That the name of such body corporate shall be the Grand Army of the Republic, and by that name it shall have perpetual succession.

SEC. 3. That the purposes and objects of said corporation shall be as follows:

First. To preserve and strengthen those kind and fraternal feelings which bind together the soldiers, sailors, and marines who united to suppress the late rebellion, and to perpetuate the memory and history of the dead.

Second. To assist such former comrades in arms as need help and protection, and to extend needful aid to the widows and orphans of those who have fallen.

Third. To maintain true allegiance to the United States of America, based upon a paramount respect for and fidelity to its Constitution and laws; to discountenance whatever tends to weaken loyalty, incite to insurrection, treason, or rebellion, or in any manner impairs the efficiency and permanency of our free institutions; and to encourage the spread of universal liberty, equal rights, and justice to all men.

SEC. 4. That the said corporation shall have power to make and alter from time to time such by-laws, rules, and regulations, not in conflict with the laws of the United States, as it may deem proper as to its members and their qualifications and rights and the manner in which they may act and vote by proxy or otherwise, and as to the titles, qualifications, and duties of its officers, directors, or trustees, and the times and manner of their election, and their terms of office, and as to the mode of acquiring and of losing membership in said corporation, and as to the mode of conducting and promoting the affairs and purposes of the said corporation, and as to all the matters within the objects hereinbefore stated.

SEC. 5. That the members of the corporation shall not be less than 5 in number and not more than 25, as may be prescribed by the by-laws of the corporation: *Provided*, That if and when the number of members shall be less than 5 the members remaining shall have power to add and shall add to their number until the number shall not be less than 5: *And provided*, That no act of the corporation shall be void because at the time such act shall be done the number of the members of the corporation shall be less than 5; that all the members of the corporation shall be its trustees; that no member of the said corporation shall, by reason of such membership or his trusteeship, be personally liable for any of its debts or obligations; that each member of the corporation shall hold his membership for a term of five years and until his successor shall be chosen: *Provided, however*, That the members shall be at all times divided into three classes, equal numerically as nearly as may be, and that the original members shall at their first meeting, or as soon thereafter as shall be convenient, be divided into three classes, the members of the first class to hold their membership and office until the expiration of one year, the members of the second class until the expiration of three years, and the members of the third class until the expiration of five years from the 30th day of June next after the enactment of this law, and that in every case the member shall hold office after the expiration of his term until his successor shall be chosen: *And provided further*, That in case any member shall, by death, resignation, incapacity to act, or otherwise, cease to be a member during his term, his successor may be chosen to serve for the remainder of such term and until his successor shall be chosen.

SEC. 6. That the said corporation may take or receive, whether by gift, grant, devise, bequest, or purchase, any real or personal estate, and to hold, grant, convey, hire, or lease the same, for the purposes of its incorporation, and to accept and administer any trust of real or personal estate for any purpose within the objects of the incorporation.

SEC. 7. That the said corporation may have and use a common seal and alter and change the same at its pleasure.

SEC. 8. That the principal office of the said corporation shall be in the District of Columbia, but offices may be maintained, and meetings of the corporation, trustees, and committees may be held in such other places as the by-laws may from time to time designate.

SEC. 9. That this charter shall be subject to alteration, amendment, or repeal at the pleasure of the Congress of the United States.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I reserve the right to object.

The SPEAKER. Who has charge of the bill?

Mr. HULL of Iowa. I reported the bill, Mr. Speaker, from the Committee on Military Affairs, by direction of that committee. It is merely an incorporation of the Grand Army of the Republic as requested by that organization at its last national encampment. The members of the Grand Army of the Republic are getting old. They have some property, but they have no incorporation, and they thought that the proper place to incorporate was through the Congress of the United States.

Mr. MANN. The report of this bill is only seven or eight lines long. The bill proposes to reorganize the Grand Army of the Republic and make it absolutely a close corporation of 25 men. That, Mr. Speaker, looks like a very doubtful proposition.

Mr. HULL of Iowa. Mr. Speaker, I only know that this is the approved Grand Army bill, drawn up by the leading men of the Grand Army and indorsed by the last national encampment.

The members of the Grand Army of the Republic are getting old and are dwindling in numbers, and they believed they ought to have an incorporation. I do not know anything more about it than that. It is a bill which in my judgment can do no harm. It is not intended that this shall be a corporation for pecuniary profit. It is merely to be a corporation of the old soldiers of the Civil War who believe that the time has come when, in order to protect their organization and whatever rights they may have, they should be incorporated. That is the only argument I have ever had for it.

Mr. MANN. It may be important for them to protect their organization, but the Grand Army of the Republic is a large institution, with a large membership, and here it is proposed to turn that organization over to the control of 25 members. It seems to me this is organizing a trust that is of very doubtful propriety.

Mr. HULL of Iowa. It is their own bill, passed upon by their own national encampment.

Mr. MOORE of Pennsylvania. Would not that of itself indicate the propriety of the measure?

Mr. MANN. I accept the statement of the gentleman from Iowa in charge of the bill, but it seems to me sufficient information has not been given to us upon this subject.

Mr. MOORE of Pennsylvania. Are these objects and purposes not clearly defined in section 3 of this bill?

Mr. GOULDEN. I think the gentleman from Pennsylvania is clearly right. That is the purpose of it. This bill is indorsed, as was stated by the gentleman from Iowa [Mr. HULL] at the last national encampment. I am a member of the national committee on legislation, and I want to say that the enactment of this bill is desired by the Grand Army of the Republic, as I believe.

Mr. GRAHAM of Illinois. I would like to ask the gentleman whether before this measure was favorably acted upon by the national encampment the membership knew of it and advocated it?

Mr. GOULDEN. It has been advocated for several years. Its sole purpose is to enable this splendid organization to prepetuate its patriotic work through this incorporated body that will never die.

Mr. MOORE of Pennsylvania. It seems to me, Mr. Speaker, the object of this measure is clearly set forth in the bill itself, on pages 2, 3, and 4, and I hope the gentleman from Illinois [Mr. MANN] will not object.

Mr. MANN. The object is to throw the control of this great organization over to 25 men, an organization which is now exceedingly large and which spreads all over the United States.

Mr. MOORE of Pennsylvania. Will not the gentleman consider the reason for that? These men are all aging very rapidly and are soon to pass away. They desire that the work that they have done as a voluntary organization shall not be overlooked or forgotten. They desire not only to perpetuate the memories that brought them together, but to pass on down to posterity those principles of loyalty and patriotism which inspired them. [Applause.] It is wholly a patriotic purpose, with a view of perpetuating the very best institutions of the country.

Mr. MANN. The question in my mind is this: Here is a great organization with a name that is revered throughout the land. This bill proposes to turn all of that association over to a close corporation, which may or may not represent the sentiments of the Grand Army of the Republic. What jurisdiction would a meeting of the Grand Army of the Republic have over these people?

Mr. MOORE of Pennsylvania. Would it not be better to have that action taken at the instance of those who are most concerned to-day, but who are not to be here for long, rather than to leave it to those who are to come, and who may not be inspired, except by example, to continue the work that these men have done?

Mr. MANN. There are a good many of them left and will be for some years.

Mr. GOULDEN. It does not interfere one particle with the general order. The national encampment and the departments will meet as they have heretofore, and go on, as in the past, making laws and governing themselves as has been the practice heretofore.

Mr. MANN. Why, they could not even use the name "Grand Army of the Republic" without the authority of these gentlemen.

Mr. GOULDEN. No; the gentleman is wrong. These men are the past grand national and state department officers.

Mr. MOORE of Pennsylvania. There are in exisence to-day the Loyal Legion and the Order of the Cincinnati. The Order of the Cincinnati is a very respectable body, with a membership throughout the country made up of the descendants of those who were officers in the War of the Revolution. That organization has inspired confidence in the country and has promoted the principles of patriotism. The idea here is that out of the body of the great rank and file of the soldiery of the country shall grow an institution teaching principles of patriotism, morality, and fraternity that shall go on down through the corridors of time.

Mr. MANN. I have no objection to gentlemen banding themselves together for that purpose, but should they be permitted to take a name now known throughout the country? The great number of members of the Grand Army of the Republic will no longer be members of it if we create a corporation consisting of 25 men, and give them the exclusive right to the use of the name.

Mr. MOORE of Pennsylvania. If the gentleman will permit me, it is simply a case of a father handing down to his son a heritage of which he is proud. It is passing on from one generation to another those things which these men stood for and fought for and which bound them together.

Mr. MANN. The gentleman has repeated that. That is not the question here at all. If we create a corporation under this name, can somebody else use that name?

Mr. BARTLETT of Georgia. Not in the District of Columbia, certainly.

Mr. GRAHAM of Illinois. Or anywhere.

Mr. GOULDEN. I ask unanimous consent that this matter may be passed without prejudice.

Mr. HULL of Iowa. I object to that. I think we ought to settle it one way or the other.

Mr. MANN. They are wiped out of existence, if we give the name to this corporation.

The SPEAKER. The gentleman from New York [Mr. GOULDEN] asks unanimous consent that this bill be passed over without prejudice.

Mr. HULL of Iowa. I object to that. I think we ought to settle it one way or the other. Passing it over now will kill it, anyway.

Mr. GOULDEN. I trust my friend and comrade from Iowa will not object.

The SPEAKER. The gentleman from Iowa [Mr. HULL] is in control of the time.

Mr. HULL of Iowa. I yield to the gentleman from Ohio [Mr. KEIFER].

Mr. KEIFER. Mr. Speaker, I only wish to say that the Grand Army of the Republic has always been controlled by a council of administration, chosen from year to year.

Mr. FITZGERALD. How is it selected?

Mr. KEIFER. My recollection is that in the first place the council of administration was selected by the delegates of each department, one for each department, and certain of the national officers are ex officio members of the council. Usually a State constitutes a department of the Grand Army of the Republic, and in the annual meeting or national encampment of the Grand Army of the Republic each one of the departments selects a member of the national council of administration that has the general control. The national council has all the power that this board would have, constituted under the law that it is proposed to pass. The difficulty I think is that the bill undertakes to recite some of the general objects and purposes of that great fraternal society—the Grand Army of the Republic—but the real point is, as the organization is still large, although small compared to what it used to be, that they want to have somewhere the power to hold property. and while they have an organization and have made some provision for what certain trustees may do, the great purpose of this proposed legislation is expressed in section 6 of the bill:

SEC. 6. That the said corporation may take or receive, whether by gift, grant, devise, bequest, or purchase, any real or personal estate, and to hold, grant, convey, hire, or lease the same for the purposes of its incorporation and to accept and administer any trust of real or personal estate for any purpose within the objects of the incorporation.

Mr. BARTLETT of Georgia. May I interrupt the gentleman?

Mr. KEIFER. Certainly.

Mr. BARTLETT of Georgia. Is there any post or any part of this organization acting under any charter from any other authority, State or otherwise?

Mr. KEIFER. I think not.

Mr. BARTLETT of Georgia. The reason I ask is that I know they are divided into posts; for instance, we have Post McPherson, in Atlanta, and I supposed that was done by authority of the organization.

Mr. KEIFER. The gentleman from Georgia is right in saying that they are divided into posts and numbered in their respective departments. And they are named after some distinguished soldier or officer, and in that way the posts are distinguished in the several departments all over the country. But these posts have no corporate powers; they all have a right of representation in the department and in the national encampments. For instance, in the State of Ohio there is annual or semiannual encampment held in the State. There is one national encampment held every year and has been for a great many years. The departments or posts have no corporate powers. There are instances where the public and individuals have provided posts with particular places of holding meetings, halls, and so forth, or an armory, but they have to have a trustee to hold it, and the title is not vested directly in any post.

Mr. BARTLETT of Georgia. There is one organization known as the Grand Army of the Republic, and these posts are, so to speak, subdivisions of the organization. What authority do the posts derive from the great body which is the Grand Army?

Mr. KEIFER. The Grand Army of the Republic covers all the Grand Army departments in the United States and the posts derive their authority through the department. You find one post out in the Hawaiian Islands. The departments are under the control of the national Grand Army of the Republic. That has been so from the beginning.

Mr. BARTLETT of Georgia. There must be some history as to how this organization was first started.

Mr. KEIFER. Oh, yes.

Mr. BARTLETT of Georgia. They got together and organized themselves into this body and gave themselves a name, and they certainly during all this time, I apprehend, accumulated some property and hold it in some way.

Mr. KEIFER. They have accumulated some property; they have the title to some property, some of them; and they have some held in trust by individuals, as has to be done when the party has not the right to take legal title. Now, the Grand Army of the Republic has some history. We have recently unveiled a statue on Pennsylvania Avenue to Comrade Stephenson, who originated, initiated, and planned in this country the Grand Army of the Republic, the grandest organization that has ever existed in the history of the world.

Mr. BARTLETT of Georgia. Another question leading to what I am going to ask: If this bill passes these gentlemen are organized into a corporation. What will become of the property? No provision is made for the conveyance and acceptance of property now owned by the Grand Army of the Republic. You create a corporation and call it the Grand Army of the Republic; you name the people who are to constitute it and such persons as may desire to associate themselves with these persons and their successors. These men associated themselves together, which they had a right to do, and have been for 50 years accumulating property; they own it and control it, and this bill proposes now to make no provision for the disposition of that property.

Mr. KEIFER. Let me respond by saying that the corporation proposed to be formed will not get any property except that which will be transferred to it by the present organization, the Grand Army of the Republic. The corporation will be authorized to accept and hold property. The personal property there is less difficulty about. The Grand Army of the Republic receives funds and pays them out for charitable purposes and in various ways in carrying out its purposes and business, and there is a department fund and a national Grand Army of the Republic fund. There is also some real estate that has been held, or is being held, as I have explained, that may be transferred to this corporation.

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

Mr. KEIFER. Yes; of course.

Mr. MANN. If this bill should pass, what becomes of the departments of the Grand Army of the Republic and the posts which are now in existence?

Mr. KEIFER. I think they will not be abolished, any of them. They can not be. The departments will continue to hold and occupy their present relation to the national organization.

Mr. MANN. What authority would they have to use the name Grand Army of the Republic?

Mr. KEIFER. I think it would not take away the authority from the Grand Army of the Republic.

Mr. MANN. If there is a voluntary organization using a name, and the Government charters a company by that name, the name belongs to the company.

Mr. KEIFER. The name belongs to the company for corporate purposes; yes.

Mr. GRAHAM of Illinois. Could they not restrain the use of it by another body?

Mr. MANN. There is nothing in this bill authorizing these people to have departments or provide for regulations or to provide an auxiliary membership or to provide anything at all, except that the name, Grand Army of the Republic, and the control of it shall be vested in not less than five men.

Mr. KEIFER. Yes; but if the gentleman will allow me to suggest, it would not be proper to put in here the ritual of the Grand Army of the Republic, although it is generally pretty well known. That would not be necessary. The corporation will not get any property unless it is turned over to it, and will not get the control of it unless it is turned over through the national council of administration or the national encampment.

Mr. MANN. It will have control of the name.

Mr. KEIFER. For corporate purposes only, but if it does not get any corporate property it will not amount to much. If it gets all the corporate property and all of the powers that can be invested in it by the Grand Army of the Republic, it will go on and when all of the veteran soldiers of the Civil War are dead there will be some corporate body somewhere to hold, administer, and distribute the property that the Grand Army of the Republic may leave. That is the great object of it. I did not draw this bill.

Mr. MANN. I am perfectly well aware that the gentleman did not draw the bill or it would not be in the shape it is.

Mr. KEIFER. I think the gentleman is right, but I do not think there is any difficulty about carrying it out.

Mr. MANN. It seems to me this provision would absolutely turn everything over to 25 men to do with it what they please regardless of the opinion of the real Grand Army of the Republic, as expressed at these national encampments. The national encampment has no control over the question at all.

Mr. KEIFER. The national encampment has control of all this property, and the assets of every kind.

Mr. HULL of Iowa. Mr. Speaker, I want to say just one word that I think may clear this subject a little. The national encampment is composed of all department commanders of the different States where the Grand Army is organized. Then in addition to that there are a certain number of delegates elected by districts from the posts of each of the States of the Union where the Grand Army has an organization, and the membership of the national encampment is governed by the number of Grand Army men from each State, in proportion to the membership from that State. The national encampment is an annual encampment. The last annual encampment was held at Atlantic City. The States all have State encampments annually.

Mr. GRAHAM of Illinois. Will the gentleman yield?

Mr. HULL of Iowa. The State encampments are made up of the commanders of each of the posts. They are delegates ex officio, and then each post is represented by additional delegates in proportion to the number of members of that post who are members of the Grand Army of the Republic. That makes the State encampment.

Mr. GRAHAM of Illinois. What provision is there in the bill that all of the things the gentleman has recited shall be retained under this corporate organization?

Mr. HULL of Iowa. At this last encampment, representing all the different posts of the country, representing the States, the State encampments of the country, through the regularly accredited delegates, they selected a certain number of men to be the incorporators under this bill. They prepared this bill.

The Grand Army of the Republic in its national encampment indorsed it, the State encampments believe it is a good thing for them, and if at any time it does not work properly it seems to me that this Congress, appealed to by the membership of the Grand Army throughout the country, would not hesitate at once to alter, amend, or repeal it as they have a right to do; and it seems to me, gentlemen of the House, that when the Grand Army of the Republic has prepared a measure, when it has received the indorsement of all the States that have expressed themselves, and certainly the States that were represented at the meeting at Alantic City—and if I am wrong in this respect my friend from New York will correct me—there was not a single dissenting voice as to the desirability of this legislation at this time. Now, as to the post fund, the post I belong to has a fund of something over a thousand dollars. It is held by trustees and it will probably be continued to be held by trustees, but in many localities of my State, and I assume they are the same in others where the men are getting old, the majority are poor, very poor, and among them there are estimable citizens who help to bear the burden of it. This corporation will simply have an oversight and will not dare to go against the sentiment of the Grand Army in any way, and if it does it will be short lived.

Mr. GOULDEN. I would like to interrupt the gentleman, with his permission——

Mr. HULL of Iowa. Certainly.

Mr. GOULDEN. There is no successor to the Grand Army of the Republic.

Mr. HULL of Iowa. Absolutely none.

Mr. GOULDEN. The last man dead the organization is dead, and this would perpetuate the organization through this corporative body, who have the right to elect their successors. It seems to me the measure is of a patriotic character and ought to pass.

The SPEAKER. Does the gentleman from Iowa yield to the gentleman from Illinois [Mr. McKINLEY]?

Mr. HULL of Iowa. I do.

Mr. McKINLEY of Illinois. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

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

Mr. MANN. Mr. Speaker, I think everybody is in sympathy with the avowed purpose of this bill, but it will not hurt if it goes over and they will have plenty of time to incorporate it in the future. I very much fear the avowed purpose of the bill would be seriously defeated by the passage of the bill at this time and therefore I shall have to object.

The SPEAKER. Objection is heard.

Mr. HULL of Iowa. Mr. Speaker, I would like to move to suspend the rules and pass the bill.

JEANIE G. LYLES.

The next business on the Calendar for Unanimous Consent was the bill H. R. 19239.

The Clerk read as follows:

A bill (H. R. 19239) for the relief of Jeanie G. Lyles.)

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Jeanie G. Lyles, of Anne Arundel County, Md., mother of Lieut. De Witt C. Lyles, late of the Twentieth Regiment United States Infantry, the sum of $513.05, which sum is hereby appropriated, for the invention, by the said Lieut. De Witt C. Lyles, of an attachment to the pack-saddle frames used by the United States Army, the same being 10 per cent of the cost and estimated value of such frames used to date of November 4, 1909; and for the further use by the Army from said date of said invention there shall be paid said Jeanie G. Lyles at the rate of 10 per cent of the cost thereof, being the same basis upon which the above appropriation is made, in full payment for the use of said invention.

The committee amendments were read, as follows:

Page 1, line 8, after the word "of," strike out the words "$513.05" and insert "$2,500."

Page 1, line 12, after the word "Army," strike out the words "the same being 10 per cent of the cost and estimated value of such frames used to date of November 4, 1909."

Page 2, line 4, after the word "shall," insert the word "not."

Page 2, line 4, after the word "paid," strike out the balance of the paragraph and insert "any further sum."

The SPEAKER. Is there objection?

Mr. STAFFORD. Mr. Speaker, reserving the right to object, I would like to inquire as to the policy of the Government as to reimbursing inventors who are employed in the Government service for devices they have invented and which are appropriated and used by the Government. This bill, as I understand it, seeks to reimburse the mother of an Army officer who invented during his service in the Philippines some kind of a device for pack-saddle frames, which, according to the report, has been adopted and used by the department quite generally. I would like the information from some member of the Committee on Military Affairs or the Committee on Patents, or some other gentleman, as to the policy of the Government in reimbursing officials of the Government for the use of devices invented by them for the use of the Government during their term of service.

Mr. RUCKER of Colorado. Mr. Speaker, I am not a member of the committee and I should prefer that some member of the committee should answer questions, but any information I may possess I will gladly give the gentleman.

Mr. STAFFORD. The report is quite extensive and I have read the report quite thoroughly and am conversant with the facts in the case; I would like to know whether the gentleman from Iowa [Mr. HULL] would kindly furnish the House with the information he has at his command. I asked the gentleman from Colorado as to the policy of reimbursing officials who invented devices that are subsequently used by the Government.

Mr. HULL of Iowa. I have had very little information on that subject. I think in some cases they have, some years ago more than at present; but that is a question, I should imagine, that would stand on each individual case.

Mr. STAFFORD. As I understand, the general practice is that any official inventing devices during his term of service the patent goes to the benefit of the employer or to the Government. If that is the case, there is no basis for the payment of this money to the mother of this deceased inventor.

Mr. OLMSTED. I do not know where the gentleman gets that idea. There is no such law as that and no such practice. The Government has provided for damages to inventors where we have used their patents and their inventions, since I have been in Congress, several times.

Mr. STAFFORD. Do you know of any case where the Government has reimbursed any employee for a device that has been invented by him during his term of service?

Mr. OLMSTED. I remember that we did it in the Fifty-fifth Congress, which was the first Congress in which I served. I remember that I made some remarks on the bill.

Mr. STAFFORD. I thought the general rule was that if any person invented a device during his term of employment that device would go to the benefit of the employer, or to the benefit of the Government.

Mr. OLMSTED. Not at all. The Government does not pay him to exercise his inventive powers in that way. A man in the public service has just given to the Government or to the public the benefit of an invention made by him, but I think that is an exceptional case.

Mr. STAFFORD. What is that?

Mr. OLMSTED. It is a device for the sending of several messages by wireless, I think, at one time. It is called a "duplex," or a "quadruplex," method or device whereby several messages are sent simultaneously by the same machine.

Mr. HULL of Iowa. That was a voluntary gift to the Government.

Mr. OLMSTED. And the first one in the history of the Government.

Mr. SCOTT. I would like to say to my friend from Pennsylvania [Mr. OLMSTED] that there have been a good many devices and methods patented for the good of the public by the employees of the Department of Agriculture during the past years. The Chief of the Good Roads Office devised a method of treating Portland cement which competent engineers have declared would have been worth at least a million dollars as a privately owned patent. But he gave it to the Government without any compensation.

Mr. OLMSTED. But he is paid to do just that. Those people in the agricultural service are paid high prices to do that thing.

Mr. SCOTT. They are paid to conduct inquiries, of course, but they are not necessarily paid to perfect inventions as a part of their statutory employment.

Mr. GRAHAM of Illinois. Would not the question depend on the nature of the employment of the party by the Government? For instance, whether he was working under a commission, as in the Army or Navy, or whether he was employed from day to day and at liberty to quit any time he chose. In the one case it would seem as if his invention should really belong to the Government, whereas the Government in the other case would have no claim at all.

Mr. SCOTT. I am of the opinion that a man who is in the permanent employ of the Government and by reason of this employment is able to conduct a series of experiments and investigations, which make it impossible for him to patent a device or a method, ought to give it to the public. I am not asking that he should have special compensation for it. I merely rose to suggest that the gentleman from Pennsylvania [Mr. OLMSTED] was not quite accurate in stating that such a thing has never been done before.

Mr. HULL of Iowa. Yet the gentleman will admit this, I think, namely: That in a great many cases in the past officers of the Army have made valuable inventions that have been adopted by this Government and by Governments abroad, and they have received large profits.

Mr. SCOTT. I do not understand why there should be any differentiation in the cases. It seems to me an officer in the Army is under just as much obligation to patent a process for the benefit of the public as an officer in the Department of Agriculture.

Mr. HULL of Iowa. My opinion is that where a man is under commission, educated and cared for by the Government, and makes a valuable improvement, it ought to belong the Government.

Mr. SCOTT. I think the gentleman is right about it.

Mr. HULL of Iowa. It has not been so, and I am only talking about matters as they are. I know that when the disappearing gun was made it was patented by Army officers. I think it has been given to the Government.

Mr. SCOTT. An officer from my own State—Gen. Crozier—perfected that patent.

Mr. OLMSTED. And Gen. Crozier recommends the passage of this bill.

Mr. MANN. Has the gentleman read the report of the officer who knows about the matter?

Mr. HULL of Iowa. I am not talking about this bill.

Mr. MANN. This officer was off on a campaign, and the lieutenant colonel in charge of the Ordnance Department, the Acting Chief of Ordnance, reports in reference to the man and the saddle:

> In the course of the campaign the padding had worn out and Lieut. Lyles had attached extensions to the frames and arranged to secure them to the quartermaster aparejo by cinchas, thus continuing the outfits in service.

That is all he did.

I read further:

> It will be seen that the general idea of making a packsaddle frame which was separate from padding of any kind and could be attached to any aparejo was first used by Lieut. Lyles. The matter was taken up and further developed by this department, with the result that the standard pack outfits for machine guns, mountain guns, and other ordnance equipment embody this feature.

On the campaign either he or some one under him—probably some man under him—devised the method of getting back to camp by using a frame after a part of the saddle—the padding—had worn out.

Mr. HULL of Iowa. I was not thinking at all about this individual bill. I have no particular information about it and have no personal opinion concerning it.

Mr. STAFFORD. I wish to supplement what the chairman of the Committee on Agriculture has said as to the practice of the Agricultural Department by saying that it is the practice in the postal service also, when postal employees invent devices, not to compensate the inventors for that service, but their work goes gratuitously to the Government. In this year's Post Office appropriation bill we sought to carry an appropriation to provide a reward to inventors for service of that character.

The gentleman from Illinois [Mr. MANN] has pointed out in this instance the fact that the invention was not developed outside of his employment, but while directly in the Government employ. As I understand the law, the burden rests upon the Government officer to show that the device was made by him when he was not otherwise employed by the Government. I do not see wherein there is a showing made here that the Government is obligated to pay this inventor or his heirs for this invention.

Mr. OLMSTED. What would the gentleman think if the United States Steel Corporation, for example, should attempt to utilize the inventions of subordinates and clerks and agents in its employ without compensation?

Mr. STAFFORD. I think that many of those large corporations do so utilize them, and that the law holds that if the devices are created during their hours of employment they are not entitled to any reimbursement for that service. It must be independent of their regular employment before they can be entitled to reimbursement.

Mr. OLMSTED. It is shown here that in perfecting this invention the lieutenant did not do it in Government time.

Mr. MANN. The report does not show that. The report does not show that he did it other than in Government time. Of course he used Government time.

Mr. GRAHAM of Illinois. As a matter of public policy, would it not be wiser to encourage inventions than not to encourage them? If inventors were to receive nothing, and the value of the invention is to go to the public without profit to the inventor, would not the effect of that policy be that the inventor hereafter would not make public any valuable invention that he might develop?

Mr. STAFFORD. I believe it is the proper policy to encourage Government employees to invent devices for the improvement of the Government service. I was favorably inclined toward such a policy that was brought before the Post Office Committee not long ago, but this is not a case of that kind at all. Here it is not a question of an amount of money, but a question of principle involved, a question of policy.

Mr. GRAHAM of Illinois. Even in this case, as a matter of public policy would it not be wise as an incentive to those of an inventive turn of mind to give them some sort of reward for the exercise of their ingenuity?

Mr. STAFFORD. It seems in this case that the son of the claimant here did not develop this device. It seems that the officials of the department developed it.

Mr. DOUGLAS. Mr. Speaker, I demand the regular order.

The SPEAKER pro tempore (Mr. MOORE of Pennsylvania). The regular order is demanded.

Mr. STAFFORD. I will have to object.

SEVERAL MEMBERS. Oh, no! Withdraw your objection.

Mr. STAFFORD. Then, Mr. Speaker, I will withhold my objection.

Mr. RUCKER of Colorado. Mr. Speaker, this is a peculiarly worthy case. This son was the only support that this poor dependent mother had. She had just lost her husband, and also lost another son, and the report shows that he did not occupy any of the time of the Government, either in conceiving this device or in its construction. The report of the committee is unanimous. Gen. Crozier recommended the payment of the full sum of $2,500, in obedience to the idea that the Government did not want to carry an account from year to year. Ten per cent would amount to something over $1,500 already on these frames used. Gen. Crozier said, "Put the lump sum at $2,500, and I will recommend it."

Now, I say that here was an important device. Here was the carrying of these Vickers-Maxim guns over the mountain trails in the Philippines, and while this man was discharging his duty in the Philippines, he contracted the disease from which he died within a very few months in a hospital here in the city of Washington, leaving his mother absolutely helpless so far as money or world's goods were concerned.

Mr. STAFFORD. If he contracted the disease in the service, she is receiving a pension.

Mr. RUCKER of Colorado. Indeed she is not.

Mr. STAFFORD. She is entitled to a pension.

Mr. RUCKER of Colorado. Her husband was not an officer. This was her son.

Mr. STAFFORD. A dependent mother is entitled to a pension when the son dies from disease or injuries contracted in the service.

Mr. RUCKER of Colorado. She has never applied for a pension.

Mr. STAFFORD. She is entitled to it under the law.

Mr. RUCKER of Colorado. She has never applied for one; but let me tell the gentleman further that I do not know any rule of law which would have prevented this boy patenting this device during his lifetime if he had wished to do so. Gen. Crozier refers to that fact, that it might have been patentable; but inasmuch as he did not take out a patent upon it, and the Government used it for two years, therefore it was in public use, and the mother could not now take out a patent.

So that under all the circumstances of the case it occurs to me that it would be heartless indeed to object to the passage of this bill. I wish to ask the gentleman from Wisconsin, if the boy had taken out a patent, would the gentleman from Wisconsin hold that he was not entitled to the patent because he had conceived the idea when he was in the employ of the Government?

Mr. STAFFORD. The question of its patentability would depend upon whether this device was invented during his term of employment or outside of it, and the report here shows that it was originated while he was in the service, and that it was developed by other Army officers.

Mr. RUCKER of Colorado. Does the gentleman realize that it is not always simply a question whether one was an employee at the time he took out a patent, but that in such a case it must also affirmatively appear that the employer's time was taken, in order to vitiate the right of the inventor to the patent. The presumption is not that the employee has taken the time of the employer. I hope the gentleman will not object.

Mr. DOUGLAS. Regular order!

The SPEAKER pro tempore. The regular order is demanded. Is there objection?

Mr. STAFFORD. I shall be constrained to object.

DAVID EDDINGTON.

The next business on the Calendar for Unanimous Consent was the bill (S. 10357) authorizing the Secretary of the Interior to issue patent to David Eddington covering homestead entry.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to cause patent to issue to David Eddington for the northwest quarter of section 20 in township 5 north, range 5 east, Salt Lake meridian, in the Salt Lake land district, Utah, upon proof of compliance with the homestead laws in the matter of residence and cultivation: *Provided*, That the patent which shall issue to the said David Eddington shall reserve the coal to the Government under the act of March 3, 1909.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The bill was ordered to a third reading, and was accordingly read the third time and passed.

ARMY EFFICIENCY.

Mr. McLACHLAN of California. Mr. Speaker, during a recent period, as a consequence of the ill-advised suppression of the "confidential report" of the Secretary of War in reply to the resolution introduced by me during the first session of the present Congress, calling for a report from the military authorities on the preparedness of the Nation to repel invasion, the country has passed through the throes of a "typed war scare." I have been charged in a part of the public press with the responsibility for this recent unnecessary agitation concerning our military unpreparedness. I yield this questionable honor to those who denied the American people the right to a sane and dispassionate survey of the existing conditions in our our military establishment. In the speech I delivered in this House May 19 in support of the resolution calling for a report on the preparedness of the national military forces to repel attempted invasion I especially directed attention to the fact that we were enjoying a period of profound peace, and that as a consequence no offense could be offered any nation if at such a time we sanely took account of our defensive resources. I outlined at considerable length the problem of the defense of the undefended Pacific coast line with the sole purpose of giving the military authorities unrestricted opportunity to disprove my deductions that this great Nation of ours, despite the enormous military appropriations, had an entirely undefended frontier on the Pacific extending from the Canadian to the Mexican border. I neither pictured nor suggested any imminence of war. I simply charged an existing condition. The defenseless condition of our Pacific coast has been a matter of common world knowledge for years. Such a condition would naturally suggest that insufficient military appropriations have been made by Congress to provide for an adequate national defense. But the enormity of our appropriations for military preparation clearly and convincingly show that parsimonious legislation is not responsible for the existing condition of unpreparedness. The remaining deductions, then, are that moneys purposed to place the Army in a state of preparedness are either being diverted from their legislative purpose or are being extravagantly expended. The chairman of the Committee on Appropriations, on the floor of this House sometime ago, gave some startling figures concerning the cost of our Army, and offered the opinion that if we are militarily helpless, notwithstanding the immense treasure expended on our military establishment, that the only alternative to continued helplessness is national bankruptcy.

In part I agree with him. And if the gentleman from Minnesota had not employed his splendid abilities in suppressing the report of the Secretary of War, the condition of national military helplessness could have been sanely discussed, without the foolish cry of "war scare" resounding throughout the land, and even now corrective measures, calling for no additional appropriations, might be under way. We are spending enough money on our Army to have a highly efficient and numerically stronger force than we are maintaining at present. Without in any way reflecting on either the commissioned or enlisted personnel I charge that our Army is wretchedly unorganized and extravagantly administered; that it is in no sense a modern military force, and, that it is unprepared to fight, which is the final function of an Army. I also believe that if we were to spend a billion dollars per annum upon the Army under its present malorganization, we would still be without an efficient military force. I charge, and I challenge denial, that the mobile Army of the United States is entirely without tactical organization, and that it is but a grotesque, illy proportioned aggregation of armed men unprepared in training or complemented equipment to meet the exactments of even a minor war. The very fact that the report of the Secretary of War was suppressed should have suggested to this House that a branch of the Government, costing approximately $100,000,000 per annum, which could not stand public scrutiny needed investigation, and most thorough investigation. What would such an investigation have disclosed? I will tell you in part. It would have disclosed that no organization which could be properly termed a "Regular Army" existed. It would have disclosed our armed military forces scattered in minute nontactical commands, acting as mere property guards in scores of useless military posts, erected at a cost of millions of dollars, as political tribute to legislative noncombatants.

So complete is the dissection and disorganization of the Army that not a single division of efficient troops could be assembled within a period of months, should war come. We have before us a military condition which would not be tolerated in any other country of the world. We are spending approximately

$100,000,000 per annum for our alleged Army. What have we to show for this expenditure? The most tangible thing to date is a "suppressed report" from the military authorities, and I wish to say in defense of the military authorities that they appear perfectly willing to confess the delinquencies of the Army. Our enlisted personnel, owing principally to their time being occupied in caring for useless and extravagant posts, are not being trained in the attributes of a soldier; our officers, from lieutenants of the line to general officers, are without practical field training. We have regiments which have not been assembled for regimental drills in years. We have colonels who have never seen their titular commands assembled. Our general officers have never seen a real properly balanced field command. We have regiments in command of captains, battalions in command of lieutenants, and companies in command of sergeants. We have staff departments without number and a complex extravagant system of purchasing which would not be tolerated in any other branch of the Government. We have all trimmings and no fighting efficiency, which is presumed to be the ultimate function of an Army. I again charge, and I again challenge denial, that the mobile Army is almost entirely deficient in field training and that it is entirely unprepared to take the field.

Thoughtless denial may come from the uninformed; I do not anticipate denial from the Army itself nor from those who know. I think it a conservative estimate, an estimate based on the testimony of those who are daily witnesses to the nonmilitary dispersion of the military appropriations, that an entire and thorough reorganization of the Army along modern military lines will save approximately $20,000,000 per annum and will increase the efficiency of the Army at least 200 per cent.

Under the present intolerable malorganization of the Army the troops in the military departments are in no measure apportioned among the posts with any regard to the proportion of the several arms, so that in case of emergency a properly balanced and complemented military force could be placed in the field; nor are they stationed with any regard to the mobilization of the entire Army in time of war. The troops are scattered in nontactical commands with the sole view of caring for useless and costly properties erected as political tribute to some legislative noncombatant and without regard to military necessity. Owing to this inexcusable dispersion of our troops the administrative expenses of our meager Army reach stupendous figures and the efficiency of the Army is prohibited. Apart from the act creating the General Staff, I question if there has been a single instance where military legislation has been enacted which was designed to improve the Army as an Army. Every session of Congress is marked by legislative tinkering with the Army until to-day it stands a grotesque, illy proportioned, nonmilitary organization, which would collapse under the first pressure of war. I wish to utter serious protest against any further tinkering with this rickety structure. It is the duty of this House to search into the causes of the present condition of our military establishment with a view to correcting this condition. At present we are deliberately squandering millions annually upon an Army which is admittedly unable to perform its ultimate function. Until legislation is enacted designed to entirely reorganize the Army and to place it on a plane of military efficiency the appropriation of moneys to continue the Army under its present organization constitutes a crime of willful extravagance. I have charged that our Army is entirely without tactical organization. This is literally true in actuality. The Army is organized on mere numbers of men without regard to proportions of the several arms. For field service, on paper only, the division is the established tactical unit. A division of troops, under our regulations, consists of nine regiments of infantry, one regiment of cavalry, two regiments of field artillery, one battalion of engineers, one battalion of signal troops, four ambulance companies, four field hospitals, one ammunition train, one supply train.

This is, according to the best military thought, a perfectly balanced organization, approximating 20,000 officers and men, capable of taking the field as an individual force and capable of being welded, with similar complemented forces, into a larger Army without confusion, and forming a military force complemented in its combatant and administrative parts.

To correct existing conditions, I have introduced the following bill:

A bill to provide a tactical organization for the mobile forces of the United States and to increase the efficiency of the Army.

Be it enacted, etc., That the mobile Army of the United States shall include the Infantry, the Field Artillery, and the Cavalry Arms of the Army and such parts of the administrative, supply, and staff departments as may be required for service therewith.

SEC. 2. That the mobile Army shall consist of six divisions and one auxiliary Cavalry division.

SEC. 3. That each division, except the auxiliary Cavalry division, shall consist of—

Nine regiments of Infantry,
Two regiments of Field Artillery,
One regiment of Cavalry,
One battalion of engineers,
One battalion of signal troops,
Four ambulance companies,
Four field hospitals,
One ammunition train,
One supply train;

and that the auxiliary Cavalry division shall consist of—

Nine regiments of Cavalry,
One regiment of horse artillery,
One pioneer battalion of engineers (mounted),
One field battalion of signal troops,
Two ambulance companies, and
Two field hospitals.

SEC. 4. That, except in case of war or threatened war, one-sixth, and not to exceed one-sixth, of the officers and enlisted men required to complete the organization of the mobile Army as provided in this act shall be appointed, promoted, and recruited, all as now required by law, each and every year for the six years immediately following the approval of this act.

SEC. 5. That, following the organization of each division as herein provided, the Commander in Chief of the military forces of the United States shall every year thereafter, when practicable, cause each division to be assembled for a period of at least 60 days in the field and engage in field maneuvers designed as closely as possible to simulate the problems likely to be encountered in time of war.

SEC. 6. That all laws and parts of laws inconsistent with this act are hereby repealed.

A field army, when one could finally be assembled, would be intrusted in time of war to one of our general officers. There is not a general officer in the United States Army who has ever been privileged by his Government to even see such a force assembled. Wherein, then, lies his competency to command? Denied peace-time training, our officers must be more than human to competently lead their men in time of war. To place an untrained military force in the field constitutes governmental murder. Our stupendous pension rolls, carrying the names of thousands maimed or sacrificed through governmental delinquency and military incompetency, we point to as evidence of a nation's gratitude; while, in fact, our pension rolls constitute mere mercenary atonement for the needless sacrifice of life which has marked every war in which we have engaged. Until our Army is placed under a tactical organization which will give the officers and men opportunity to equip themselves for the requirements of war, we will in the future, as we have in the past, amalgamate huge armies of untutored levies with an unprepared Regular Army and again sacrifice thousands of lives and encumber our posterity with a pension roll of crushing proportions. The "divisional" organization will largely correct the existing evils in our military establishment. With this organization, the farcical military departments can be eliminated. Each division can be stationed within a certain territorial zone, to be established by the military authorities, and at stated intervals can be assembled for maneuvers, designed to give the officers and men actual field training. Our present so-called maneuvers are mere farces. They simulate real war about as closely as a rabbit at play does a terrier in action. No initiative is demanded, and only the ideal in all the conveniences finds place in the itinerary of the troops from the time they leave their regular stations until they return. Until that time arrives when the Army is considered seriously and is recognized as a military force which some day may be called upon to sustain the national honor, and legislation is enacted to place the Army upon a real military basis, all military appropriations constitute a criminal waste of funds. We are neither giving the Army nor the taxpayer a square deal. In fairness to both the Army should be either entirely reorganized or immediately disbanded.

Frederick Louis Huidekoper, who has given much study to our military affairs, has the following to say:

The American people should know that their Army is in a lamentable state and that our means of defense, except the Navy, are virtually nil.

The recent report of the Secretary of War was made in consequence of a resolution introduced in the House of Representatives by the Hon. JAMES MCLACHLAN, a Member from California. It disclosed a condition of affairs so disgraceful that it has been suppressed, under the excuse that it was purely "confidential." Mr. Dickinson's report probably did not contain one single thing which is not known to well-informed military men both in the United States and all over the world.

During the War of 1812 our legislators did a lot of boasting that Canada could easily "be captured without soldiers and that a few volunteers and militia could do the business." What happened? In 1814 the United States called out no less than 235,839 troops, but, notwithstanding the size of these forces, Americans suffered the humiliation of seeing their much-vaunted plan of conquest vanish in the smoke of a burning Capital. There is no man so blind as the man who refuses to see. True patriotism does not consist in bragging about one's own perfection, but in ascertaining the real condition of affairs and in rectifying the mistakes so far as lies within one's power.

President Taft in his speech at the dinner given by the American Society for the Judicial Settlement of International Disputes, on December 17, emphasized strongly the fact that some nations are beginning to be threatened with bankruptcy by their tremendous armaments, but that the United States, being confronted by the existing conditions, must maintain its military and naval strength. This constantly increasing

preparation for war will probably never cease until the nations of the world are willing to submit their differences to an international arbitration court and abide by its decision, he declared.

THE VALUE OF DEFENSE.

Lasting peace is desirable above all other things, but to be weak when others are strong is to invite destruction. Might still makes right among nations, and it is high time that Americans knew the real value of their powers of defense.

On October 15, 1910, the United States Army consisted of 4,476 officers and 72,559 men, a total of 77,035. In this country there are 59,687 troops; in the Philippines 17,000, and in Honolulu 1,400. The militia numbers about 110,000 officers and men. In time of war the Regular Army could be increased to 100,000. It would then contain no less than 30 per cent of recruits and consequently be far below the fighting efficiency it ought to possess. That is bad enough in itself.

But the American Army to-day has only enough infantry ammunition for one single campaign. At this instant the Field Artillery does not possess enough manufactured ammunition to fight so much as one battle. At the end of the Civil War the Union Army had 1,800 pieces of artillery. The United States Army to-day possesses but 572 guns of all calibers.

The American officers rank with any in the world, and our Army has more technical troops than are to be found in almost any other army of 450,000 men. The backbone of any army is always the infantry. The brunt of the fighting falls on the infantry. When the reserves are called into action, the infantry is the only arm which has every man engaged in a battle.

COULD NOT FACE INVADERS.

Our Army to-day has only 30 regiments of infantry. Eight of these are in the Philippines, and one in Alaska and Honolulu, leaving only 21 in the United States. Granting that all of these 21 regiments could be utilized, how long would they stand against the 200,000 troops which every military man knows that Germany could land within our territorial limits on the Atlantic Coast, or Japan on the Pacific Coast within five weeks after the declaration of war? There certainly ought to be fully 36 regiments or six infantry divisions within the United States.

The very best that we can do at present would be to put 40,000 to 50,000 men on our western coast in two weeks. Owing to the total absence of proper laws, no plan exists by which any large force could be placed in the field completely equipped for war. Even if the President were to call for 400,000 volunteers at the outbreak of hostilities, the existing laws are so defective that these troops could not be properly organized without additional legislation. Even such legislation, if enacted at the last minute, could scarcely fail to reproduce the conditions which marked the beginning of the Spanish-American War. As a matter of fact, the United States can not to-day put on shipboard in 24 hours one regiment fully ready for war, as some of the European armies can easily do with an entire army corps.

We Americans think our militia a wonderful force. Nothing could be further from the truth from a military standpoint. Read the history of our past wars and see for yourself how much value they have often been as a purely military asset. Our militia has run away or mutinied in no less than 30 battles or marches between 1776 and 1861. The militia must not be blamed for the defective system which has been permitted to remain in force so long. They have always done splendidly when given an opportunity to learn war in actual fighting.

War used to last 100 years. Now it lasts one year or less, and preparation must be made beforehand. All things considered, Pennsylvania possesses the best State militia. Its training is confined to one week in camp and about 70 hours of drill a year. How long would they stand against the German regulars or Japan's veterans? How much faith would the officials of any corporation place in an agent or employee whose training was limited to one week and 70 hours of work a year?

In the War of 1812 we had 56,032 regulars and 471,622 militia against the English and Canadian forces of only about 55,000 men. That war cost us $82,627,009 and $45,808,676 in pensions. In the Mexican War 31,024 regulars and 73,532 militia were required to conquer about 46,000 Mexicans, at a cost of $88,500,208, and the pensions have amounted to $43,956,768.

In the Civil War the United States employed no less than 67,000 regulars and 2,605,341 militia and volunteers to defeat about 1,000,000 Confederates. The war cost the fabulous sum of $5,371,079,748, and $3,837,488,171 have already been paid in pensions, and we are a long way from the end yet.

The Spanish-American War compelled us to use 58,688 regulars and 223,235 militia or volunteers to subdue 200,000 Spaniards, at a cost of $321,833,254, while 76,416 regulars and 50,052 volunteers were employed in the Philippines, at a cost of $171,326,572, and $30,191,725 have already been paid in pensions for them both. How many Americans have any conception of the outrageous extravagance in men and money that has characterized our past wars? How long would any properly run company or corporation tolerate any such mismanagement?

Until the last few years our annual expenditures for pensions have exceeded what it cost to maintain the German army. Since 1791 our Army has cost $6,845,129,239 and our pensions no less than $4,115,829,223. The size of our present pension list is a disgrace to any civilized nation, and this condition of affairs will continue until the name of every pensioner is published once a month in the local newspaper of the city, town, or village where he lives. Public opinion will do the rest.

Washington declared that we "ought to have a good army rather than a large one." To-day we have neither, and the Army needs a thorough reorganization, beginning at the bottom, not the top. The proportion of cavalry, artillery, and infantry to each other in the so-called brigade posts is distinctly faulty. We ought to have—exclusive of militia—a Regular Army of 125,000 to 150,000 troops, and a reserve of at least 250,000 men who have had former service in the regulars or volunteers in time of war. It is estimated that this could be done if the proper laws were passed for little more than the Army costs at present. Certainly if only the just persons were paid, such a saving could be effected that American taxpayers would pay less than they now do for the cost of the Army and pensions.

If the United States possessed an Army and reserve of 375,000 troops, all of whom had had three years' service in the regulars, and a militia of 125,000 men, thoroughly equipped and organized as they ought to be, it would have nothing to fear from any other nation in the world. At the present our defensive strength is virtually nil. Napoleon won his battles because he outnumbered his adversaries on almost every occasion; when he ceased to outnumber them, even he fell.

GOVERNORS MAY REFUSE.

Even the Dick bill leaves it to the governors of the States to call out the militia, and no governor is compelled to obey. The result is that many military men think it easier at the outbreak of war to form civilians into United States Volunteers.

The act of 1792 is practically still in force, having been embodied into all subsequent bills, and governors can refuse to call out their militia, as the governors of Massachusetts, Connecticut, and Vermont did in 1812, 1813, and 1814. The "extra-officers bill," now before Congress, provides for the creation of 612 additional officers, 300 as instructors and inspectors of militia. All of them would be available in war for volunteer commissions. It is to be hoped most earnestly that Congress will pass this measure.

The location of posts in the Army is most defective. Mountain batteries are placed several days' march from any mountains; Cavalry garrisons are put in the north, where they are snowed up half the year; and some of the Infantry posts where they are useless, being far from the centers of distribution. The location of posts has been due to three causes: (1) Indian frontier conditions in the past; (2) the opening of the West—the troops now in Alaska are there partly for that purpose; and (3) political influence.

Often the War Department has tried to abandon posts worthless from a military standpoint, but has been compelled to countermand the order, owing to political pressure. The most positive step in concentration was the reduction of the Coast Artillery posts attempted by Gen. Murray for administrative purposes and better instruction. There were 65 Coast Artillery forts in the 27 defended harbors. Gen. Murray proposed to concentrate them in 32 garrisons, but so great was the local and political opposition that in many places his plan had to be abandoned wholly.

ARMY HAS NO RESERVE.

The American Army has no reserve, because of our defective laws. Gen. Leonard Wood recently called the attention of the Military Affairs Committee of the House of Representatives to the fact that the Army is graduating by expiring enlistments 30,000 soldiers each year. These men have seen three years' service, but no means exist to utilize them in time of war. No bill ever introduced in Congress to create them into a reserve has thus far passed. Had any such measure gone into effect 10 years ago, and had the War Department the necessary reserve supplies and ammunition, we Americans would possess to-day—including the Regular Army and the Militia—a force of fully 450,000 trained men, all that the United States ought ever to need.

Never in our history have we been prepared for war. A good business man can not be made in a day or a month; neither can a good soldier. To employ untrained material is always dangerous and very expensive. In the Revolution we used 231,771 regulars and 164,087 militia and volunteers against England's 150,605 men; yet it cost us $370,000,000 and $70,000,000 in pensions.

WASHINGTON'S WARNING.

We Americans seem to have sublime faith in the truth of the remark once made by Bismarck that "the Lord takes care of babes, fools, and the United States." If we were wise we would bear constantly in mind the warning uttered by Washington in his speech to Congress on December 3, 1793:

"There is a rank due to these United States among nations which would be withheld, if not absolutely lost, by the reputation of weakness. If we desire to avoid insult, we must be able to repel it; if we desire to secure peace, * * * it must be known that we are at all times ready for war."

If Congress would provide a proper organization in sufficient time to be in thorough working order before our next war and would heed what Calhoun said in 1821, "that at the commencement of hostilities there should be nothing either to new model or create," some profit will then have been derived from our costly lessons of the past.

When will our American people awake to the facts and when will our legislators heed the handwriting on the wall?

LEAVE TO PRINT REMARKS.

Mr. THOMAS of Ohio. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on House bill 32907.

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

There was no objection.

Mr. SMITH of Michigan. Mr. Speaker, in the same connection, I ask unanimous consent to insert some remarks in the RECORD on Canadian reciprocity and on the reduction of telegraph rates.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. SMITH of California. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. HAWLEY. I make a similar request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. RUCKER of Colorado. I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. MANN. I ask unanimous consent for leave to extend my remarks in the RECORD, on any subject.

The SPEAKER pro tempore. The Chair will state the request of the gentleman from Illinois, that he be given the privilege to extend his remarks in the RECORD upon any subject. Is there objection?

There was no objection.

Mr. CRUMPACKER. I make the same request.

The SPEAKER pro tempore. The gentleman from Indiana makes the same request. Is there objection?

There was no objection.

RESTRICTION OF IMMIGRATION.

Mr. BURNETT. Mr. Speaker, the subject of restriction of undesirable immigrants is becoming more serious every year, and the people of the whole country are becoming greatly aroused on the subject.

The House Committee on Immigration a few weeks ago reported a bill following in part the recommendations of the Immigration Commission created by an act of Congress several years ago. This bill simply requires that alien immigrants over 16 years old be able to read their own language or dialect. There are provisions in the bill excepting from its operation near relatives of admissible immigrants. The bill is very conservative and will tend to keep out only those who, according to the report of the commission, ought not to be admitted.

The friends of this bill sought to secure a rule from the Committee on Rules to provide for consideration of the bill by the House of Representatives. This rule was never granted, and again the country has the spectacle of a gag rule preventing a free and just consideration of the most important question now before the American people. How long will the people endure this? As part of these remarks I submit a copy of the statement which I made before the Rules Committee on the bill; also a brief prepared by the secretary of the Immigration Restriction League in favor of the illiteracy test:

STATEMENT OF HON. JOHN L. BURNETT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA.

Mr. BURNETT. Mr. Chairman, the provisions of the bill have perhaps not been called to the attention of the committee, and I would like to say it is not nearly so drastic as is generally understood. The bill simply requires that immigrants over 16 years of age must be able to read in their own or some other language, and is even more liberal than that, because there is an exception:

"*Provided*, That an admissible alien over 16 years of age, or a person now or hereafter in the United States of like age, may bring in or send for his wife, his mother, his grandmother, his affianced wife, his father, who is over 55 years of age, or his grandfather, if they are otherwise admissible, whether they are able to read or not; and such persons shall be permitted to land: *Provided further*, That a daughter not exceeding 21 years of age or a son not exceeding 18 years of age, otherwise admissible, if accompanying an admissible alien father or mother, shall be permitted to land, whether said daughter or son is able to read or not."

So, Mr. Chairman, the bill is not nearly so drastic as it is frequently understood to be, and especially as the steamship companies have represented it to be. As I stated a moment ago, when the facts of the matter are brought to the attention of the German people, my observation is that they do not oppose it. But they are made to believe that they have to be able to read English before they can come into this country. That has never been contemplated by the bill nor by the committee.

This committee, of course, is familiar with the history of this legislation so far as it has progressed. In 1906 we had substantially this bill, and it was reported with only two dissents from the committee, after having passed the Senate. We never got a full and free discussion of it, and an aye-and-no vote, bringing it down to a fair expression of the views and opinions of the House, or it would have passed then. But it was switched off. I opposed the switching, because I believed the inauguration of the commission simply meant an effort to delay. As a substitute for the bill a commission—consisting of nine persons, three Members of the House, three Members of the Senate, and three civilians appointed by the President—was provided for. They were required to investigate both in this country and in Europe, and to make their reports and recommendations to Congress. That commission has gone on for almost four years since its creation, and has finally made a report. Mr. Chairman, I will read one or two sections of the report. It is a very full investigation. There are about 40 volumes, when the report is printed in full, and an expense of more than $900,000 has been incurred. All we are asking is to get this bill before the House, and get the sense of the House in regard to it. Let it be not delayed any further. I will read you one or two extracts from the report of the commission, if it has not been done; I do not desire to duplicate any remarks that have already been made. It is this:

"All these methods would be effective in one way or another in securing restrictions in a greater or less degree. A majority of the commission favor the reading and writing test as the most feasible single method of restricting undesirable immigration.

"The commission as a whole recommends restriction as demanded by economic, moral, and social considerations, furnishes in its report reasons for such restriction, and points out methods by which Congress can attain the desired result if its judgment coincides with that of the commission."

For the consummation of that purpose eight members of that commission, out of the nine, decided:

"The investigations of the commission show an oversupply of unskilled labor in basic industries to an extent which indicates an oversupply of unskilled labor in the industries of the country as a whole, and therefore demand legislation which will at the present time restrict the further admission of such unskilled labor.

"It is desirable in making the restriction that—

"(*a*) A sufficient number be debarred to produce a marked effect upon the present supply of unskilled labor.

"(*b*) As far as possible, the aliens excluded should be those who come to this country with no intention to become American citizens or even to maintain a permanent residence here, but merely to save enough, by the adoption, if necessary, of low standards of living, to return permanently to their home country. Such persons are usually men unaccompanied by wives or children.

"(*c*) As far as possible the aliens excluded should also be those who, by reason of their personal qualities or habits, would least readily be assimilated or would make the least desirable citizens."

As has been said by Mr. GARDNER of Massachusetts, this would scarcely affect any immigrants over 14 years of age of the people of northwestern Europe. The following are about the percentages—I merely give it from my recollection: Less than 2 per cent of the Irish would be excluded; less than 2 per cent of the English and Scotch would be excluded; about 2 per cent of the Scandinavians; about 5 per cent of the Germans; less than 10 per cent of the north Italians; less than 2 per cent of the Bohemians; more than 50 per cent of those whom the report of the Immigration Commission says are the ones who are undesirable, the unskilled laborers, who are coming in competition with the laborer of our country. Fifty-odd per cent of the south Italians, under that test, would be excluded and should be for two reasons: First, because of their illiteracy, and also they are the very class that usually come without their families and do not intend to become citizens. We would reach those very classes that we think lower the standards of American living, and, at the same time, come in acute and injurious competition with the working people of our country.

In regard to the opposition to it, much of it is artificial. It is worked up. For purposes of their own the steamship companies and their agencies have misrepresented and misinformed the people in regard to it. You take, for instance, the Jewish people. Many of them are not so much opposed to the illiteracy test, if you will get right down to that, as they are to the physical test. They say the physical test excludes a great many of their race, and they would like to amend the law as it now stands so as not to exclude so many of those of low physique. The south Italians, of course, object to this bill, and the steamship companies do also. The Liberal Immigration League, which, in my judgment, is in part kept up by the steamship interests, believes in the deportation of aliens who commit crimes in this country. The Jewish people who were before our committee objected very seriously to that; they do not believe that there should be the deportation for crimes committed in this country.

Mr. FITZGERALD. I notice that Woodrow Wilson, Andrew Carnegie, and men of the same character are on the executive committee of the Liberal Immigration League, together with Cornelius Bliss, Dr. Parkhurst, and other well-known public men; do you think those men are lending themselves to a scheme engendered solely by the steamship companies?

Mr. BURNETT. Not purposely. And I may add, Mr. Frank Y. Anderson, of Birmingham, whom Mr. UNDERWOOD knows well, is also connected with it. These gentlemen are in it for honest reasons. President Elliott's letter, which was put into the record a short while ago, shows that he does not believe in the illiteracy test. But I refer to the activities of that company in sending out much literature which is nothing but misrepresentation. Neither do I believe that Mr. Woodrow Wilson or Mr. Frank Y. Anderson nor President Elliott would lend themselves to the misinformation that is contained in some of the literature sent out by the Liberal Immigration League; I will acquit them of that.

Mr. GARDNER of Massachusetts. Might I ask Mr. Burnett a question?

The CHAIRMAN. Certainly.

Mr. GARDNER of Massachusetts. Did any of those gentlemen ever appear before our committee, in all the hearings we have had on this subject?

Mr. BURNETT. They did not.

Mr. FITZGERALD. His statement was very broad, that this league was practically maintained by the steamship companies. I doubt if that is a fair statement.

Mr. BURNETT. I do not state it as a fact that all those who are members or directors in that league are influenced by the steamship companies, neither do I believe, as I have said, that Mr. Woodrow Wilson or any of those gentlemen you name were parties to the misinformation that has been sent out by the Liberal Immigration League; and yet it has been done by that league. In my judgment, some of the Liberal Immigration League who are back of the purpose to deport alien criminals are the steamship companies that want to get pay for the return transportation. I am for it, too. I have advocated that very proposition, but for a very different reason from that of some of those who are sending out that literature, and who are advocating the deportation of alien criminals.

As I have said, we could not pass a law, at least without international complications, that would say that no south Italian should come, or that no Greek should come, or that no Syrian should come. But we have the right to, and it seems to me we should, for the protection of our own labor and for the protection of our own civilization, pass a law by which we will demand of them, before they come into this country, at least that they be able to read their own language. That is what this bill does.

As to whether it would pass or not, it is the conclusion of the commission that you created and asked to make a report and to make recommendation. We have done so, and now shall that work be ignored without the House being given the opportunity of expressing itself upon the recommendations? This bill does not even go as far as the commission does, so far as that is concerned.

As to those who are desiring it, it is not confined to labor organizations alone, because I have but few labor organizations in my district. But all over the South and the West there have grown up in the last few years great farmers' organizations, known as the Farmers' Educational and Cooperative Union. There are 3,000,000 of those people, and they are passing resolutions at their annual meetings and in their local meetings in favor of this. The American Federation of Labor, at its last meeting, at Toronto, I believe, passed resolutions demanding that there should be a restriction of this kind. So have many patriotic and other organizations.

Mr. CLARK. Is it not true that all these Western States and the Mississippi Valley States and the Southern States keep agents in New York to try to deflect this very same immigration down there to our country?

Mr. BURNETT. That who keep them?

Mr. CLARK. The States keep them.

Mr. BURNETT. No; Alabama does not keep anybody there; some of the States may do so. Who is doing that? I was talking last year to a coal operator in Mr. UNDERWOOD'S district, and I said: "Whom do you work?" He said: "Welsh, Americans, Negroes, South Italians, and English." I said: "What is the sorriest labor you have?" He said: "The South Italians." I said: "Worse than the Negroes?" He answered: "Yes." I said: "What do you want with them, then?" He said: "For the purpose of keeping down the price of wages." The operators and owners of mines and other great industrial institutions are the ones who are keeping agents in New York to employ this low-class labor.

Mr. CLARK. One good, strong Irishman can do more work than two of them.

Mr. BURNETT. And one negro will do more work than two of them. The only difference between the South Italian and the Negro is that the Negro will not stay at the job and the South Italian will. The

Negro will work two days in the week and loaf the balance; the South Italian, with his little, slow licks, will work most of the time, and every dollar he gets he puts in his pocket and sends it back. Senator PERCY told me the other day that he had North Italians, who are pretty fair farmers and not so illiterate as the South Italians, working on his farm in Mississippi. He said last year those men made enough cotton on the land to buy the land on which they made it, and yet not a dollar did they put in land. Every dollar of it goes back to the old country. It is that class of labor that the organizations of the country are demanding should be excluded, that the people are demanding, that our resolution asks this committee to give the House an opportunity of voting upon.

BRIEF IN FAVOR OF THE ILLITERACY TEST.

(*a*) The illiteracy test would largely cut down the number of undesirable immigrants, thus promoting the assimilation of other immigrants.
(*b*) It would improve the quality of immigration.
(*c*) It is a certain and definite test, easily applied.
(*d*) Elementary education on the part of immigrants is desirable.
(*e*) The illiteracy test is demanded by intelligent public opinion.

(A) THE ILLITERACY TEST WOULD EXCLUDE UNDESIRABLES.

1. It is generally admitted that a large proportion of the aliens coming to us to-day are not as desirable as the former immigration, which settled the Middle and Western States. (See Report of Commissioner General, 1909, pp. 111, 112.)

2. The illiteracy of the various races of immigrants in 1909 was as follows:

Northern and western Europe (chiefly Teutonic and Celtic).

	Per cent.
Scandinavian	0.2
Scotch	.5
Finnish	.5
English	.7
Bohemian and Moravian	1.5
Irish	1.5
Dutch and Flemish	2.6
German	6.3
French	8.0
Italian (North)	8.4
Average of above	3.5

Southern and eastern Europe (chiefly Slavic and Iberic).

	Per cent.
Spanish	10.6
Magyar	10.8
Slovak	19.7
Greek	26.1
Croatian and Slovenian	28.7
Hebrew	29.2
Polish	39.9
Russian	41.7
Portuguese	42.3
Bulgarian, Servian, and Montenegrin	46.5
Ruthenian	51.3
Roumanian	52.3
Italian (South)	56.9
Lithuanian	58.2
Average of above	42.1

Other races.

	Per cent.
Cuban	2.4
African (black)	22.4
Armenian	22.5
Japanese	28.7
Syrian	52.5
Mexican	64.6
Average of above	42.4

From this appears that the illiteracy of immigrants from southern and eastern Europe is over twelve times as great as that of aliens from northwestern Europe, and that the illiteracy of Armenians, Japanese, and Syrians is also high.

In 1909 over three-fifths of the total immigration was of these illiterate races.

3. Ignorance of a trade goes hand in hand with illiteracy. Of one group of illiterate aliens arriving in 1909 less than 5 per cent had any skilled occupation, and 94 per cent of those having occupations were common laborers, and of another group 90 per cent were laborers.

4. The illiterate races now coming do not distribute themselves over the country, but settle in a few States. Thus, of 165,248 South Italians arriving in 1909, 125,139 were destined for Illinois, Massachusetts, New York, and Pennsylvania; and of 77,565 Poles, 52,375 were destined for the same States. Of 57,551 Hebrews, 46,889 had the same destination.

5. These races not merely tend to congregate in certain States, but in the large cities of those States.

The census of 1900, Population, Part I, page 176, shows that, while immigrants of those races which came to us formerly in large numbers settle in the country, immigrants of races now coming herd together in the cities. Thus only one-fourth to one-third of the Scandinavians live in our cities and one-half of the British and Germans. On the other hand, three-fifths of the Italians and Poles and three-fourths of the Russian Jews live in cities.

Further, Chicago contained 91 per cent of all the Poles in Illinois and 84 per cent of all the Italians. New York City contained 47 per cent of all the Poles in the State, 80 per cent of all the Italians, and 94 per cent of all the Russian Jews.

6. And even within the large cities the illiterate races tend to herd together in the slum districts.

The Seventh Special Report of the United States Commissioner of Labor (1894, p. 44) showed that natives of Austria-Hungary, Italy, Poland, and Russia constituted 6 times their normal proportion in the slums of Baltimore, 7 times in Chicago, 5 times in New York, and 26 times in Philadelphia. It appears also (pp. 160–163) that of every 100 aliens, 40 were illiterates in the slums of Baltimore, 47 in Chicago, 59 in New York, and 51 in Philadelphia, and that the illiteracy of southeastern Europeans in these slums was 54.5 per cent, as compared with 25.5 per cent for northwestern Europeans and 7.4 per cent for native Americans in the same slums.

In other words, if an illiteracy test had been in operation since 1882, these slums would now be of insignificant proportions instead of being hotbeds of crime, disease, and pauperism—a menace to the immigrants and to the community at large.

7. In part, this tendency to slum life is directly due to ignorance of gainful trades. In part, it is due to lack of thrift. That the illiterate races are less thrifty than others appears from the fact that the amount of money brought by immigrants is in inverse ratio to their illiteracy.

The Report of the Industrial Commission (p. 284) shows that in 1900, while the British and Germans brought from $30 to $40 per capita, the north Italians $22, the Scandinavians $17, the Poles, southern Italians, and Hebrews brought less than $10, although the latter races were mostly single men, and the former brought many children.

8. The illiterate aliens do not have a permanent interest in our country, and seek not liberty but the dollar. This is shown by the absence of naturalization among them. The census of 1900 shows that, of males of voting age, only one-tenth of the British, Germans, and Scandinavians were aliens, as compared with over one-half of Italians and Poles.

(B) THE ILLITERACY TEST WOULD IMPROVE THE QUALITY OF IMMIGRATION AND WOULD EXCLUDE FUTURE DEPENDENTS AND DELINQUENTS.

The illiterate races are generally inferior in physique, as appears from the fact many more of them are sent to the hospital on arrival. The census of 1904 shows that an illiteracy test would have excluded 18 per cent of the foreign-born insane over 10 years of age and 30 per cent of the foreign-born paupers. The report of the commissioner general for 1904 shows that 42 per cent of the alien murderers and 57 per cent of aliens attempting to murder in 1904 were of the relatively illiterate Slavic and Iberic races. The Slavic and Iberic alien criminals constituted, in 1904, 64 per cent of all aliens detained in penal, reformatory, and charitable institutions, and 87 per cent of the alien inmates of such institutions arrived within five years. The recent alarming increase in insanity in New York State is attributed by the State Lunacy Commission to recent immigration.

In the State prisons of New York State the number of Italians and Russian inmates doubled from 1906 to 1909. It is not claimed that an illiteracy test would exclude all criminals, for many of them are well educated. But that it would exclude a considerable number appears from the fact that over one-fifth of all foreign-born prisoners in the United States are illiterate. In view of the fact that the present provisions of law specifically excluding criminals are almost impossible to enforce, an illiteracy test would be of distinct value in this regard.

(C) IT IS A CERTAIN AND DEFINITE TEST EASILY APPLIED—THE ILLITERACY TEST WOULD SAVE HARDSHIP.

About 44 per cent of those now excluded are debarred as being "liable to become public charges." In a considerable number of cases the alien can not tell until he arrives here whether he will be debarred on this ground or not. The phrase itself is very elastic. The fact often is determined by evidence obtainable only when the immigrant arrives, such as ability of relatives to support him, pregnancy of immigrant women, and other circumstances. If an immigrant is debarred, it means often great hardship to him and to his relatives.

It is not proposed to abolish the present requirements as to economic sufficiency, but in a very large number of cases those debarred for this cause are also illiterate, and to this extent an illiteracy test would save hardship, and often the separation of families. At present this hardship tends to relax inspection on the part of sympathetic officials.

THE ILLITERACY TEST IS DEFINITE.

One defect in the present law is its vagueness and elasticity, especially as to the class of persons "liable to become a public charge." Ninety per cent of all immigrants are admitted by a primary inspector without further inquiry. When any officials, especially superior ones, conscientiously or otherwise favor a lax interpretation of the law, its existing provisions are but a small protection to our people. Any change from a lax to a strict interpretation, or vice versa, is unjust to the immigrant.

A reading test in any language or dialect the immigrant may prefer is perfectly simple and definite, and can be evaded neither by the immigrant nor by the inspector.

An illiteracy test would diminish the work of the boards of special inquiry and give them time for more thorough examination of other cases.

THE ILLITERACY TEST CAN BE EASILY AND EFFICIENTLY APPLIED.

When commissioner at New York, Dr. J. H. Senner voluntarily applied the test for three months, and reported that there was no difficulty in using it and no appreciable delay by reason of it.

The theory of our immigration laws is that, in the first instance, the steamship companies, for their own protection, will not sell tickets to aliens who they know are inadmissible. Although the steamship companies are prone to take chances on the admissibility of an immigrant, and although it has been found necessary to fine them for bringing inadmissible immigrants where such inadmissibility could have been detected before embarkation, yet most of the trouble arises in cases where neither the immigrant nor the steamship company can be certain of the result.

With the illiteracy test a part of the law the steamship agents would have no excuse for bringing illiterates, as it would be perfectly simple for them to ascertain the fact of illiteracy at the time of selling the ticket, and the companies could justly be fined if they brought any aliens found to be illiterate.

This would probably result not in any great diminution of the numbers of immigrants, but in a great improvement in the quality. If the steamship companies can not bring illiterates, they will seek immigrants who can read. The falling off in the desirable immigration from northwestern Europe has been ascribed by competent authorities to the unwillingness to compete with the kind of immigration we are now chiefly getting. One effect of the test would be to improve the sources as well as the quality of our immigration. Further, it is the very ignorant peasants who are now most easily induced to emigrate by unscrupulous steamship agents by false and misleading statements as to conditions of employment in this country.

(D) ELEMENTARY EDUCATION DESIRABLE IN IMMIGRANTS.

Ability to read is now required for naturalization. But the ballot is only one way in which a foreign-born resident affects the community at infrequent intervals. In countless other and more important ways he is affecting the community all the time. The newspapers are the chief source of information as to social, political, and industrial conditions. An immigrant who can not read, unless in very favorable environment, will be assimilated, if at all, much less rapidly than one who can.

The ability to read is essential not merely for citizenship but for residence in a democratic state. It helps the understanding of labor conditions and the obtaining of employment under proper environment.

Then, again, how can one obey the laws and ordinances, whether penal or sanitary, unless he can read them? One difficulty experienced to-day in our large cities in enforcing sanitary regulations and preventing epidemics is the illiteracy of large masses of the immigrant population.

At the present day even manual employment is conducted in a manner which makes the ability to read desirable, if not indispensable. Time slips, records of all kinds, are more and more used in factories and shops, and the ability to read and write is necessary for all but the lowest grades of labor.

(E) THE ILLITERACY TEST IS DEMANDED BY THE PEOPLE.

No single proposed addition to our immigration laws has received the indorsement accorded to the illiteracy test. Bills to enact it into law have passed one or the other House of Congress seven times since 1894, usually by very large votes.

It has been advocated in party platforms and presidential messages; by the Farmers' Educational and Cooperative Union, representing some 3,000,000 farmers of the country, who do not want as farm help the kind of immigrants we are now receiving; by the American Federation of Labor and the Knights of Labor, by the patriotic societies, by the boards of associated charities, and by thousands of other organizations and individuals in all parts of the country. Four thousand five hundred petitions in its favor were sent to the Fifty-seventh Congress. A recent canvass of leading citizens, whose opinion was not known beforehand, showed that 93.1 per cent favored further selection of immigration, and 81 per cent advocated the illiteracy test.

The Immigration Commission, which has been studying the question for nearly four years, says in the statement of its conclusions (p. 40): "The commission as a whole recommends restriction as demanded by economic, moral, and social considerations. . . . A majority of the commission favor the reading and writing test as the most feasible single method of restricting undesirable immigration." The majority in this case consisted of eight out of nine members of the commission.

(F) GENERAL REMARKS.

It is often said, "A man is not a better man because he can read or write." It is not claimed that ability to read is a test of moral worth or even in some cases of industrial value. But, in framing law for selecting immigrants, as in framing any law of classification, we have to consider classes, not individuals.

Taking the world as it is, we find, on a broad view, that the illiterate races, and especially the illiterate individuals of those races, are the ones who are undesirable, not merely for illiteracy, but for other reasons. Those who are ignorant of language are, in general, those who are ignorant of a trade, are of poor physique, are less thrifty, tend to settle in the cities and to create city slums, tend to become dependent upon public or private charity, even if not actual criminals and paupers, have little permanent interest in the country, and are unfitted for citizenship in a free and enlightened democracy.

An illiteracy test would undoubtedly shut out some unobjectionable individuals, but the absence of it is causing untold hardships to thousands already in the country. Let the immigrant who seeks to throw in his lot here take at least the trouble to acquire the slight amount of training necessary to satisfy this requirement, and thus show that he appreciates the advantages he seeks to share.

Mr. BARTLETT of Georgia. I do not want to object to the request. I want to know how long this permission is, to extend remarks. I want to call the attention of the House to the fact that after Congress adjourns there are certain publications of the RECORD, and whenever speeches are handed in to the CONGRESSIONAL RECORD clerk they continue to publish the RECORD.

Mr. COOPER of Pennsylvania. Mr. Speaker, I think I can answer the gentleman from Georgia. I will say to the gentleman that in order to prevent undue delay the Joint Committee on Printing adopted a resolution requiring that all manuscript for printing or extending remarks in the RECORD should be in the hands of the Public Printer within 10 days after adjournment. There has been such unwarrantable delay, running sometimes up to a month after adjournment, that in order to correct that abuse the Committee on Printing adopted this resolution.

The SPEAKER pro tempore. The Chair will have the Clerk read the resolution.

The Clerk read as follows:

RULES FOR THE PUBLICATION OF THE RECORD.

MARCH 1, 1911.

In order to provide for the prompt publication and delivery of the bound edition of the CONGRESSIONAL RECORD, the Joint Committee on Printing have this day adopted the following rules, to which the attention of Senators, Representatives, Delegates, and Resident Commissioners is respectfully invited:

First. The last daily number of the CONGRESSIONAL RECORD shall be issued not later than 10 days after the adjournment of each session of Congress.

Second. All speeches must be in the hands of the Public Printer by the time above specified in order to insure insertion in the permanent or bound edition of the RECORD.

Mr. BARTLETT of Georgia. Mr. Speaker, I was not aware of that resolution. I know that heretofore, when Members were given leave to extend speeches in the RECORD in a given time, that after Congress has adjourned they have from time to time inserted remarks in the RECORD upon subjects never before the House, and which, if they had been, ought to have been replied to on the floor of the House. It is for the purpose of calling the attention of the House to this abuse of the rule, and the liability to abuse this resolution which has just been read, that I have called attention to the matter. I do not object to the extension of remarks by Members, but I think that sometimes time limit ought to be set.

ERECTION OF FIRE ESCAPES IN DISTRICT OF COLUMBIA.

Mr. CARLIN. Mr. Speaker, I ask unanimous consent to return to calendar No. 461, the bill (S. 6582) to amend an act entitled "An act to require the erection of fire escapes in certain buildings in the District of Columbia, and for other purposes," approved March 19, 1906, and amended by act of Congress approved March 2, 1907.

The SPEAKER. The Chair will say that the bill is back on the calendar, it having been objected to.

Mr. FOSTER of Vermont. The regular order!

ELI HELTON.

The next bill on the Calendar for Unanimous Consent was the bill (H. R. 32047) for the relief of Eli Helton.

The Clerk read the bill, as follows:

Be it enacted, etc., That in the administration of the pension laws Eli Helton, who was a member of Company K, Second Regiment Tennessee Volunteer Cavalry, shall hereafter be held and considered to have been discharged honorably as a member of said company and regiment on the 20th day of May, 1863.

With the following committee amendment.

After the word "sixty-three," line 8, insert:

"*Provided*, That no pension shall accrue prior to the passage of this act."

The SPEAKER. Is there objection?

There was no objection.

The amendment was agreed to.

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

JAJI BIN YDRIS.

The next bill on the Calendar for Unanimous Consent was the bill (S. 1031) for the relief of Jaji Bin Ydris.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Jaji Bin Ydris, of Jolo, island of Sulu, P. I., the sum of $537.40, as compensation for loss of his boat, the Panco, and her cargo by reason of a collision with the U. S. launch Ogden on the night of November 29–30, 1900, off Pilas Island, P. I.; and the sum of $537.40 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, with which to carry out the provisions of this act.

The SPEAKER. Is there objection?

There was no objection.

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

FRANK W. HUTCHINS.

The next bill on the Calendar for Unanimous Consent was the bill (S. 9270) for the relief of Frank W. Hutchins.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Frank W. Hutchins, of Vinalhaven, Me., administrator of the goods and estate which were of Edgar Emerson, deceased, late of Penobscot, in the county of Hancock, State of Maine, for the benefit of Margaret Ann Hutchins, of said Penobscot, his surviving mother, he having left no widow or children, out of any money in the Treasury not otherwise appropriated, the sum of $1,080, said sum being in full for all claims against the United States on account of the death of said Edgar Emerson, he having been killed by the United States troops at Fort Barrancas, Fla., through the negligence and carelessness of said troops, and without any negligence or carelessness on his part contributing thereto, while said troops were engaged in target practice, he being at the time employed on a fishing vessel.

The SPEAKER. Is there objection?

There was no objection.

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

LINCOLN C. ANDREWS.

The next bill on the Calendar for Unanimous Consent was the bill (S. 9954) for the relief of Lincoln C. Andrews.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Lincoln C. Andrews, captain, Fifteenth Cavalry, United States Army, the sum of $150 for the loss of his horse by the Quartermaster's Department at Santiago, Cuba, in 1898.

The SPEAKER. Is there objection?

There was no objection.

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

GATE OF HEAVEN CHURCH, SOUTH BOSTON, MASS.

The next bill on the Calendar for Unanimous Consent was the bill (S. 9874) to refund to the Gate of Heaven Church, South Boston, Mass., the duty collected on stained-glass windows.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to refund to the Gate of Heaven Church, South Boston, Mass., the sum of $3,832.59, collected as duty on stained-glass windows.

The SPEAKER. Is there objection?

Mr. MOORE of Pennsylvania. I reserve the right to object.

Mr. ROBERTS. Mr. Speaker, if the gentleman will read the report which accompanies the bill, particularly the letter of the Secretary of the Treasury, he will find there the material facts with regard to this case. Briefly summarized, they are as follows: The rector of this church employed a firm of architects in Boston, who planned, among other decorations there, 30 art windows. Before any contract was made for those windows the achitects went to the collector of the port of Boston and asked him if windows for that purpose would be admitted free of duty. The architects were assured the windows would be admitted free of duty. Accordingly, a contract was made abroad for those 30 windows. Two of them were received at the port of Boston, entered free and duty, and put into position in the church. After that the collector requested of the architects or of the rector of the church permission to see the windows and went out there and looked at them. He again said that the windows should be entered free of duty. The remaining 28 came along in two separate consignments and were entered free of duty. Later it was discovered by somebody that under a decision of the Supreme Court of the United States these windows did not come under the provisions of free entry. The entry was reliquidated and a duty of $3,800 was assessed on them. Now, the point with regard to the windows is simply this: They are not windows in the ordinary acceptance of the term. They are very similar to these coats of arms on the colored glass overhead in the ceiling of this Chamber. These might possibly be termed windows, but they are not exterior windows. The exterior windows of this cathedral are of plate glass and can be opened and shut, while these windows are inside the plate-glass windows and are purely works of art. The House must have in mind that the rector of this church was induced to place this contract abroad upon the theory of a free entry of goods through the erroneous information given him by the Government official.

Mr. BARTLETT of Georgia. What Government official?

Mr. ROBERTS. The collector of the port at Boston.

Mr. BARTLETT of Georgia. Would not an application to the Secretary of the Treasury have given a different report?

Mr. ROBERTS. I do not know what that might have evolved, but, like everybody else doing business at a port of entry, they go to the collector, assuming that he can inform them correctly.

Mr. MANN. This was a former collector of the port, and when a new collector came in he ruled that the duty had to be paid.

Mr. ROBERTS. I believe so.

Mr. OLMSTED. I would like to ask the gentleman why this Gate of Heaven Church went abroad to get its stained-glass windows when at Harrisburg, Pa., they have a high art stained window glass factory that manufactures glass that would make these ceiling lights here look like ordinary windows covered with dust.

Mr. O'CONNELL. Mr. Speaker, I will state that this church is in my district. I was not, at the time these windows were purchased, so well acquainted with Pennsylvania as I am now. If I had been, I am sure that Pennsylvania would have received the contract.

Mr. OLMSTED. If the gentleman had known of it, then he surely would have gone to Harrisburg for these.

Mr. O'CONNELL. Certainly.

Mr. GRAHAM of Illinois. Would it not be contrary to sound public policy to remit this duty On account of the interest I have in my friends on the Republican side of the House it seems to me that the duty ought to be a prohibitive one. The idea of putting stained-glass windows in the gates of Heaven, when I think it is very well understood that the only chance gentlemen on the Republican side will ever have to see what is on the other side is by looking through the windows.

Mr. ROBERTS. I would suggest that perhaps the rosy view of the political future would be enhanced for the gentleman if he could look through stained-glass windows and not through clear glass.

Mr. GRAHAM of Illinois. I look from the inside, the gentleman knows.

Mr. OLMSTED. I am satisfied the gentleman from Illinois and those on his side will look through smoked glass, as through a glass darkly.

Mr. GRAHAM of Illinois. That is because of the brilliance of the view we will have within. We will have to obscure it by smoking the glass.

The SPEAKER. Is there objection?

Mr. MOORE of Pennsylvania. Mr. Speaker, I reserve the right to object and I want to explain why I shall object to the bill. I object, Mr. Speaker.

The SPEAKER. Objection is heard.

Mr. MOORE of Pennsylvania. Mr. Speaker, a little while ago I objected to the passage by unanimous consent of the bill for the relief of the Gate of Heaven Church from the payment of nearly $4,000 duties paid on an importation of stained glass. I recalled that a little Roman Catholic Church for Italians, located in my district, was recently denied a refund of duties paid on musical instruments that were presented to the church by some one in Rome who wanted to encourage a boys' band. The claim of the Gate of Heaven Church was cited as a reason why the refund should be granted to the church in my district. Moreover, I had received complaints from workmen engaged in making stained glass in this country against the admission free of duty of stained glass made in foreign countries, because we had established a duty to protect the workman in this country against unfair foreign competition. But during the last few moments the gentleman from Massachusetts [Mr. O'CONNELL] who represents the district in which the Gate of Heaven Church is located and other gentlemen interested have explained to me that the duty in this case was paid because of mistaken information given to the church authorities by former customhouse officials at Boston. I believe we ought not to override the tariff law in this way, but in view of the explanation of the gentleman from Massachusetts will not insist upon my objection if another effort is made to pass the bill.

COAL LEASES IN THE CHOCTAW AND CHICKASAW NATION.

The next business on the Calendar for Unanimous Consent was the bill H. R. 32531.

The Clerk read the substitute amendment, as follows:

A bill (H. R. 32531) authorizing the Secretary of the Interior to permit the Missouri, Kansas & Texas Coal Co. and the Eastern Coal & Mining Co. to exchange certain lands embraced within their existing coal leases in the Choctaw and Chickasaw Nation for other lands within said nation.

Be it enacted, etc., That the Secretary of the Interior be, and he hereby is, authorized and directed to permit the Missouri, Kansas & Texas Coal Co. to relinquish certain lands embraced in its existing Choctaw and Chickasaw coal lease, which have been demonstrated to be not valuable for coal, as follows: Southwest quarter of the northwest quarter, south half of the southeast quarter of the northwest quarter, northwest quarter of the southwest quarter, east half of the southwest quarter, west half of the southeast quarter, south half of the southeast quarter of the southeast quarter, section 35, township 6 north, range 18 east; north half of the northeast quarter of section 2, township 5 north, range 18 east; embracing 360 acres, more or less, and to include within the lease in lieu thereof the following-described land which is within the segregated coal area and unleased: Northeast quarter of section 36; east half of the northwest quarter of section 36, township 6 north, range 18 east; southeast quarter of southwest quarter and south half of southeast quarter of section 25, township 6 north, range 18 east; embracing 360 acres, more or less.

SEC. 2. That the Secretary of the Interior be, and he hereby is, authorized and directed to permit the Eastern Coal & Mining Co. to relinquish certain lands embraced in its existing Choctaw and Chickasaw coal lease which have been demonstrated to be not valuable for coal, as follows: South half of the northwest quarter of the northwest quarter, southwest quarter of the northwest quarter, south half of the southeast quarter of the southeast quarter, northeast quarter of the southwest quarter of section 1, township 5 north, range 18 east; embracing 120 acres, more or less, and to include within the lease in lieu thereof the following-described land, which is within the segregated coal area and unleased: Southwest quarter of the southwest quarter of section 30, township 6 north, range 19 east; west half of the northwest quarter of section 31, township 6 north, range 19 east; embracing 120 acres, more or less.

The SPEAKER. Is there objection?

Mr. STAFFORD. Mr. Speaker, I reserve the right to object. This is a very important bill, and I think should have some explanation in these closing hours of the session, as it grants certain railroads certain coal lands of the Indians and should not be passed hurriedly without an explanation.

Mr. STEPHENS of Texas. Mr. Speaker, if the gentleman will permit me to explain the bill.

Mr. STAFFORD. I will be glad to have the gentleman do so.

Mr. STEPHENS of Texas. Gentlemen, this is a bill that has been thoroughly investigated and has merits, and I hope it will pass. Several years ago the United States Government passed a bill segregating from the Indian lands in Oklahoma 480,000 acres of land. The land so segregated has been leased to various mining companies, among them these two companies leasing 960 acres.

They ascertained that the land leased, and upon which they had put valuable plants, has but little coal under it. They have followed the veins, the outcroppings, into another tract of land adjoining them, and in that tract of land that they now desire to relinquish and take is found the coal they were after at first. The coal belongs to the Indians. They are paid 8 cents a ton royalty. These men have spent their money in good faith, and their tunnels and slopes have extended to the land which they now desire to lease. The Indians want to lease the land, on which they will get a royalty paid. So it is in the interest of the Indians and these people, of course, who have spent their

money in the development of this coal land; and it was a mistake on their part in not getting the proper land at first, but no man can see what is under the ground, and after developing these lands they ascertained the coal was on the adjoining tract and not on the land which they had leased.

Mr. MARTIN of South Dakota. The particular bill we have under consideration makes no reference to lease of other lands, but authorizes these coal companies to relinquish the particular lands described in the bill.

Mr. STEPHENS of Texas. And to release the other tracts of land.

Mr. MARTIN of South Dakota. What is the necessity of relinquishing these lands by the companies? What becomes of them?

Mr. STEPHENS of Texas. Because they have to pay $900 first, when they get the lease, and then $300 a year after that, and they do not want to pay that when they are getting no revenue from that.

Mr. MARTIN of South Dakota. Are these leases for any specified time?

Mr. STEPHENS of Texas. Thirty years.

Mr. MARTIN of South Dakota. Have they always been paying $300 a year for the use of it?

Mr. STEPHENS of Texas. For the use of the land, and there is no coal on it.

Mr. MARTIN of South Dakota. That money, I suppose, goes to the Indians?

Mr. STEPHENS of Texas. That money goes to the Indians.

Mr. MARTIN of South Dakota. The effect of this legislation, if passed, would be to relieve these companies of the legal obligation to pay for the use of the land and deprive the Indians of that much revenue.

Mr. STEPHENS of Texas. It will not, because they pay $300 a year on the land that was substituted for the land they gave up.

Mr. MARTIN of South Dakota. There is nothing in the legislation like that.

Mr. CARTER. Mr. Speaker, in reply to the gentleman from South Dakota, I will state the act of June 28, 1898, provides this leasing system in the coal lands of the Choctaw Nation. It is provided by this act, commonly known as the Atoka agreement, that lands may be leased in tracts not to exceed 960 acres and for a term not to exceed 30 years. Our veins of coal are, by no means, uniform or regular. In some places the veins drop, in others they lose out completely, and, still, in other instances the cropping either obtrudes or recedes at a sharp angle. These leases were made about 10 years ago, and at that time the crop of the coal was not very well defined and these leases could only be made in the light of such meager information as was then available.

These, I understand, are cases in which the crop recedes at sharp angles and leaves barren a considerable portion of land which was supposed to be underlaid with coal at the time the leases were made. The leases were taken out along the supposed crop of the coal, but this crop took a sudden turn and receded so as to leave those parcels of land sought to be released by this bill out in front of the crop and perfectly barren of coal. The land proposed to be taken in lieu of these released tracts is the land adjacent to and back of that portion of the lease where present operations are being conducted.

Mr. MARTIN of South Dakota. This proposed legislation imposes no obligation upon these companies to take other lands, but releases them from their obligation in regard to these lands?

Mr. CAMPBELL. Their obligations are in the leases heretofore made. This simply transfers the land that is nonbearing for land that does bear coal.

Mr. MARTIN of South Dakota. I have read the bill pretty closely, and it says nothing about taking over other land in lieu of it.

Mr. STAFFORD. I would like to direct the gentleman's attention to line 14 and that which follows on page 3, as follows:

> And to include within the lease in lieu thereof the following-described land, which is within the segregated coal area and unleased.

Mr. MARTIN of South Dakota. The gentleman is correct about that.

Mr. CARTER. That is true. Moreover, the companies operating this coal have run their slopes and entries back until they have almost reached the present limit of the leases. The coal that is sought to be leased can be worked more cheaply by these parties than by others, who would have to make new openings and start from the ground floor in their mining operations. Again, if these companies are not permitted to lease this land, it can not be operated at all under the present law, the mines will be abandoned, the slopes and workings will fill up with water, and the coal, which is now proposed to be leased to these companies, will be greatly damaged and possibly completely ruined.

Mr. MARTIN of South Dakota. Is this proposed arrangement approved by the Commissioner of Indian Affairs?

Mr. CARTER. It has the approval of the Secretary of the Interior, also of the Commissioner of Indian Affairs.

Mr. STAFFORD. In that particular, will the gentleman permit me to read from the report of the Secretary of the Interior the following language which bears on the answer of the gentleman? I am reading at the bottom of the report, on page 2:

> It is not believed that any unleased lands should now be substituted for lands within existing leases if it be decided to make a special sale of the coal deposits with a view of expediting the final winding up of Choctaw and Chickasaw tribal affairs; but if it be decided to defer the sale of such coal deposits, it is believed that the lands should not in the meantime lie idle and unproductive, but should be leased with a view of procuring royalty and adding to the wealth of the nation's income.

I assume the gentleman is very well acquainted with the conditions prevailing in this country. I would like to ask him whether the present existing system of leasing under the method described by the gentleman from Texas, of paying so much per acre——

Mr. CARTER. Per ton, mine run, not per acre.

Mr. STEPHENS of Texas. Per ton.

Mr. STAFFORD. I understood that you said so much per acre.

Mr. STEPHENS of Texas. They pay $900 for the lease at first and $300 a year thereafter, and then a royalty of 8 cents a ton.

Mr. STAFFORD. On the amount mined. I would like to know whether that method has the full approval of the Indian people?

Mr. CARTER. My people, the Indians, are very much opposed to the present system of leasing their lands and are very anxious to have them sold; pending that, however, it is hardly fair to cut them off from the royalty privilege, especially in this case, where the property would go to wrack if abandoned.

Mr. STAFFORD. What is the basis of their opposition to the system of leasing? This bill seeks to extend the system by substituting some land that is not now coal-bearing land.

Mr. CARTER. No; the bill seeks to relinquish barren land for coal-bearing land. Now, the Indians do not have any more objection to this system of leasing than they would have to any other system of leasing. They simply want to sell their land, divide their money, and get it into their pockets, where they have a right to have it. That is the principal reason for their objection to the present system. Incidentally I might state that there is another one of those solemn treaty obligations about which we hear so much on this floor, to the effect that these lands shall be sold and the money divided. This solemn obligation, let it be remembered, was ruthlessly broken before the sale could be accomplished.

Mr. STAFFORD. What is the character of the coal in these deposits—anthracite or bituminous?

Mr. CARTER. Bituminous.

Mr. STAFFORD. Does the gentleman believe that 8 cents royalty is sufficient return to the Indians for the coal that is mined in this Territory?

Mr. CARTER. Well, I think that is sufficient.

Mr. MANN. Did the gentleman from Oklahoma [Mr. CARTER] the other day think, in accordance with the views of his side of the House, that we ought to get 50 cents a ton royalty in far-distant Alaska, where there is no market?

Mr. CARTER. The gentleman from Illinois is now attempting to inject a conservation proposition into my argument, which is irrelevant and immaterial to the case under consideration.

Mr. MANN. The gentleman voted that we ought to get 50 cents a ton in Alaska and only 8 cents a ton in Oklahoma, right near a market.

Mr. COX of Indiana. That is because it is worth more there.

Mr. MANN. The opposition to the Alaska bill was based ostensibly on the ground that we were not to get 50 cents a ton for the Alaska coal. That was stated by the gentleman in charge of the opposition.

Mr. CARTER. I did not understand the gentleman from Illinois.

Mr. MANN. I say that the opposition to the bill touching the sale of coal in Alaska was based on the ground that we were not to receive 50 cents a ton royalty for that coal. That was stated practically in that form by the gentleman in charge of the opposition.

Mr. COX of Indiana. That was probably right, too.

Mr. CARTER. The gentleman from Illinois is mistaken. I voted against the Alaska bill for other good and sufficient

reasons. The minimum royalty provided by that measure was only 3 cents per ton, and not 50 cents.

Mr. KEIFER. May I ask the gentleman from Oklahoma how thick are the veins in these coal lands?

Mr. CARTER. Generally speaking, the workable veins are from 3 to 5 feet, though some of the best coal is worked on thinner veins.

Mr. KEIFER. Is the gentleman from Oklahoma able to state how much per acre that would bring to the Indian at 8 cents a ton royalty?

Mr. CARTER. Experts compute 1,000 tons of coal to the foot-acre. That would be 4,000 tons per acre for a 4-foot vein, and at 8 cents a ton would aggregate $320 an acre.

Mr. KEIFER. Is not 8 cents a ton royalty a pretty high royalty for bituminous coal?

Mr. CARTER. That is all our people expect in the way of royalty, and I think it is a very satisfactory remuneration.

Mr. KEIFER. I am something of a coal miner myself in the State of Missouri, and when we get 6 cents net on a 4-foot vein, and part of it had to be stripped—it is not 20 feet from the surface—we think we are doing pretty well.

Mr. CARTER. None of our coal is that easily mined. Our coal dips at an angle of from 10 to 45 degrees, and extensive stripping is prohibitive on account of the pitch. Some stripping is done, however, on the flatter veins.

Mr. KEIFER. Does the gentleman agree that the greater the depth the less the price per ton of royalty?

Mr. CARTER. Oh, yes; the greater the pitch the more expensive to mine, and, accordingly, the less royalty should be exacted.

Mr. STAFFORD. Will the gentleman from Ohio yield?

Mr. KEIFER. Certainly.

Mr. STAFFORD. I understood that if we do not grant this exchange the coal land that is sought to be transferred to these Indians would be damaged?

Mr. CARTER. It would be to the injury of the property, without doubt.

Mr. STAFFORD. No matter whether it was sold or not?

Mr. CARTER. Yes; no matter whether it was sold or not.

Mr. MARTIN of South Dakota. I desire to call the attention of the gentleman from Oklahoma to the fact that the language here is that "the exchange is hereby authorized and directed."

Mr. CARTER. Yes.

Mr. MARTIN of South Dakota. Does the gentleman think that the Secretary should be directed? I do not think that we ought to take away from the Secretary of the Interior the discretion he has in regard to making these leases generally. Would the gentleman object to striking out the word "direct" and insert here language to the effect that the Secretary may refrain from doing so in his discretion if it is found not to be beneficial to the Indians to make the exchange proposed?

Mr. CARTER. The Secretary has already agreed to that in his report.

Mr. BURKE of South Dakota. I suggest to the gentleman that——

Mr. CARTER. Of course if the chairman of the committee reporting the bill or the gentleman in charge of the bill desires to change the language——

Mr. BURKE of South Dakota. I do not desire to change the language. I am not asking any amendment. I do not object to it.

Mr. MILLER of Minnesota. Will the gentleman yield?

Mr. CARTER. Yes; I yield to the gentleman from Minnesota.

Mr. MILLER of Minnesota. I think I can see one reason why that should not be done. When this bill was before the Committee on Indian Affairs I was inclined to scrutinize it very carefully and at first sight was opposed to it. But after a very careful and thorough investigation I am convinced that it is for the advantage and benefit of the Indian.

One reason why the Secretary, if he has discretionary power in this bill, may not conclude to make this lease on this small part of land is that there are now pending before the department, and of course before this body, questions as to the ultimate disposition of the coal lands; and as indicated in the letter from the Secretary's office which the gentleman from Wisconsin [Mr. STAFFORD] read, some doubt is entertained as to whether we should enact any legislation now, pending the complete settlement of these coal-land questions.

In that connection I wish to say that after some observation on the ground and some information acquired in respect to these coal lands, I do not believe there is any possibility of their being sold within a considerable number of years.

The SPEAKER. Is there objection to the consideration of the bill?

Mr. MARTIN of South Dakota. I reserve the right to object, unless the amendment is considered.

Mr. STEPHENS of Texas. I hope the gentleman will withdraw his objection.

Mr. MARTIN of South Dakota. I think it is very questionable legislation.

Mr. MILLER of Minnesota. I wish to reach that point and then I will be through.

The Secretary might feel, in the absence of some direction by Congress, that he ought not to make any disposition of any portion of this land, thinking that Congress might in the near future make disposition of the whole. In view of that, if he did take that course, it would be to the serious injury of these Indians. It is simply a question of common business. Anybody conversant with mining operations knows that a company may perform all the mechanical features of locating and developing an ore body, then follow by opening up shafts and drifts, and you have then covered the big part of the mining cost.

A small adjoining body of ore can be mined from these same workings without the cost exceeding the value of the ore. Coal can thus be mined that would never be touched by a company if entirely new workings had to be constructed. Such is the case here. The area to be leased under this bill is very small, consisting of fragments adjoining the lands leased by this company. These fragments probably will never be mined and the Indians never receive anything of value out of them unless some such lease as this be made. Therefore, that the interests of the Indians may be served, I trust the gentleman will withdraw his objection.

Mr. MARTIN of South Dakota. Upon the responsibility of the Committee on Indian Affairs I will not interpose an objection, but I think it is a very doubtful policy to direct absolutely the exchange of a contract that apparently has grown unbeneficial to the corporation and beneficial to the Indians, and to do it by unanimous consent.

Mr. CARTER. The Secretary has tacitly already given his consent.

Mr. STEPHENS of Texas. Mr. Speaker, the objection is withdrawn.

The SPEAKER. Is there objection?

There was no objection.

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

BUST OF THE LATE SAMUEL J. TILDEN.

The next business on the calendar for unanimous consent was the bill (H. R. 24792) to provide for the erection of a bronze statue to the memory of the late Samuel J. Tilden at Washington, D. C.

The bill as proposed to be amended was read, as follows:

Strike out all after the enacting clause and insert:

"That the expenditure of the sum of $2,500, or so much thereof as may be necessary for the purpose indicated, is hereby authorized to be expended for the erection of a suitable bust of the late Samuel J. Tilden, said expenditure to be made under the direction of the commission hereinafter provided for in this act.

"SEC. 2. That a commission to be composed of the chairman of the Committee on the Library of the Senate, the chairman of the Committee on the Library of the House of Representatives, and the Hon. John Bigelow, of New York, shall select and approve of the model and plans of said bust, the artist who shall execute the same, and shall have general supervision of the construction thereof."

The SPEAKER. Is there objection?

Mr. STAFFORD. Reserving the right to object, my purpose is not to object to the project of erecting a statue in honor of the late Samuel J. Tilden——

Mr. McCALL. This is for a bust.

Mr. STAFFORD. Or a bust, but I notice that in the substitute there is no provision whatsoever as to the place where the bust is to be located. In the original draft of the bill authority was vested in the commission to designate a site for the statue.

Mr. McCALL. I have no copy of the bill before me.

Mr. STAFFORD. In the substitute there is no designation of any site whatsoever.

Mr. SULZER. Mr. Speaker, I will state to the gentleman that the bust will be placed in the Capitol.

Mr. STAFFORD. There should be some designation of the location in the bill itself.

Mr. SULZER. The commission provided for in the bill will attend to that.

Mr. STAFFORD. But the commission are not even authorized to designate the place.

Mr. McCALL. I think there should be a provision that the commission shall decide the location.

Mr. SULZER. Very well. We will accept that amendment.

Mr. MANN. Where is it proposed to put this bust in the Capitol?

Mr. SULZER. In the rotunda of the Capitol would be a good place.

Mr. MANN. I am not sure that ought to be done.

Mr. SULZER. And by the amendment that will be left to the commission.

Mr. MANN. I understand, but why should a bust of Mr. Tilden be placed in the Capitol? He never was identified with Washington in national affairs.

Mr. McCALL. Mr. Tilden is entitled to a high place in the history of the country.

Mr. MANN. I know it, and I have a high respect for him.

Mr. McCALL. In the opinion of many men, good judges, he was elected President of the United States. It came at a time when any controversy over the question as to who was elected President would have been attended with very grave danger to the country, and Mr. Tilden's patriotic action at that time in submitting to arbitration and counseling his friends to do so, and in submitting to the judgment of the tribunal, entitles him to the gratitude of the American people. It seemed to the Committee on the Library that while the proposition to have a statue erected at a cost of $25,000 was not one that we should pass, yet the proposition to have a bust costing $2,500 would be a recognition by the Government of the United States of the man who had rendered it signal service.

Mr. MANN. I do not know that I would object to an expenditure of $2,500, or even a larger sum, for some recognition of the memory of Mr. Tilden, but the question of the desirability of inaugurating the custom of placing busts of defeated candidates for President in the Capitol does not strike me as wise.

Mr. SULZER. It is not intended to place a bust in the Capitol to a defeated candidate for President, but to a great man who rendered great service to his fellow man.

Mr. McCALL. The gentleman from Illinois states the case technically rather than fairly. It is perfectly well known that many intelligent men in this country honestly believed that Mr. Tilden was elected President, and it is also known that the passions of men were aroused, and there might easily have been a conflict at that time. It was due in great measure to the statesmanship and moderation of Mr. Tilden that a conflict of some kind was not precipitated. I trust this country will never have a precedent like that again, when the decision of the question who was elected its President must be taken from the constitutional tribunal and conferred on a special tribunal. But, if it ever does come about, and if a man who, in the opinion of a great many, was elected should bow to the decision and counsel peace and moderation, that man will have conferred a lasting benefit on the country, and a bust will be a slight recognition. So the precedent can not do any harm in the future.

Mr. OLMSTED. Was not there about as much danger in the crisis attending the election of Mr. Cleveland, and did Mr. Blaine not behave about as well when he was nearly elected?

Mr. McCALL. Looking at the returns, Mr. Blaine was not elected, and there was no one who claimed that he was elected. It would have been necessary to throw out returns in order to elect him. Mr. Tilden was declared not elected by returning boards in certain States throwing out votes. On the vote and the returns he was elected President of the United States. Now, I do not say that the returning boards did not do perfectly right in throwing the votes out, but I do assert that Mr. Tilden showed the moderation and wisdom of a great statesman in his conduct at that critical time, and I trust the House will vote unanimously this slight recognition.

Mr. SULZER rose.

Mr. COOPER of Wisconsin. Has the right been reserved to object?

Mr. McCALL. Yes.

Mr. COOPER of Wisconsin. I want to ask the gentleman from New York a question.

Mr. SULZER. Certainly.

Mr. COOPER of Wisconsin. Some years ago I read a detailed account of cipher dispatches which passed between immediate friends of Mr. Tilden and certain politicians and election officers at the time of that great controversy. It was then openly charged by a great many Republicans that it was fear of—I will not say exposure—but of something of that sort which prevented the threatened revolution. There were some most corrupt dispatches from Tilden's immediate friends and from his nephew, if that account was true.

Mr. TALBOTT. Why does not the gentleman cite the dispatches on both sides?

Mr. SULZER. I will answer the gentleman.

Mr. MANN. Mr. Speaker, this matter came before the House once before, a good many years ago, in reference to providing a bust or monument for Samuel J. Tilden. Some gentlemen on this side of the House stated there would be no objection to it, if it should be agreed that the inscription would be placed on the monument in cipher. Thereupon it went up in the air.

Mr. SULZER. Mr. Speaker, in the first place I want to say, in reply to the gentleman from Wisconsin [Mr. COOPER], as a friend of the late Samuel J. Tilden, entirely familiar with the subject matter to which he referred, that Mr. Tilden in his lifetime absolutely denied any knowledge, directly or indirectly, regarding the so-called cipher dispatches. That is a long story, and I shall not go into it now.

Mr. PARSONS. And permit me to say that Mr. Tilden showed that he could not have knowledge or participation in this.

Mr. SHERLEY. It does not need any defense of Mr. Tilden against charges of that kind.

Mr. SULZER. Mr. Speaker, what the gentleman from New York [Mr. PARSONS] says is quite true. I agree also with the statement of my friend from Kentucky. Mr. Tilden needs no defense. Few men in the history of this Republic have rendered greater service to his country than the late Samuel J. Tilden. He needs no eulogy and no vindication from any man. He is embalmed in the immortal pages of American history, and as the years come and go his heroic struggle for better and higher things in the public life of America will loom larger and larger on the horizon of his fellow countrymen. In my opinion, it is fitting and proper that this tribute to the memory of Samuel J. Tilden should be paid, especially when we consider all that he did for civic righteousness, for genuine reform, and for good government.

For nearly half a century Samuel J. Tilden was a forceful figure in American politics. He stood for the eternal principles of truth and right and justice in public affairs. He believed in fair play and equal opportunity for all. He was broad and liberal in his views, had charity for all, trusted the people, and never lost faith in humanity. He was an eminent lawyer, a philosophical statesman, a great civic reformer, an ideal citizen of the purest patriotism, and a philanthropist whose benefactions will benefit mankind for generations yet to come.

Gov. Tilden was the foe of every public evil, and in his lifetime he did more to correct governmental abuses than any man since the days of Thomas Jefferson. He knew himself; he believed in the destiny of the Republic, and he made the corner stone of his political convictions that cardinal principle—equal rights to all and special privileges to none. He was a Democrat through and through—a statesman of the old school. He belongs to the Nation. He deserves a monument in the Capitol of the country he did so much to aid and served so faithfully.

Mr. Tilden was an indefatigable worker and accomplished what he purposed. He believed in plod and progress. He had eloquence, patience, and confidence, energy and industry. He had tenacity of purpose and always bided his time. He never relied on luck or trusted to chance. He met Napoleon's test—he did things. He was the inplacable foe of private monopoly, of unjust taxation, of organized greed, of discriminating legislation that robs the many for the benefit of the few.

He was a faithful public official and preached the doctrine that public office is a public trust. He was a reformer who reformed. He did not talk about a policy one day and abandon it the next. What he promised he consummated. He never indulged in theatricals; he was not a spectacular statesman. He has had many feeble imitators, but no equals. At a critical time in the life of the Republic he began the work of civic purification; he foresaw the coming storm—the indignation of an outraged people, and the great work he began will not culminate until civic righteousness is enthroned in every municipality and in every capital of America.

This great work for reform that he accomplished will grow brighter and brighter as the years come and go, until it finally becomes his most lasting monument, more enduring than marble and brass, and forever sacred in the hearts of his grateful countrymen.

Tilden was the great American reformer. The enthusiasm for civic righteousness which his memory inspires is not of the frothy sort. It is not ephemeral. It is based on the sound judgment of thinking men, not on their impulses, and is therefore enduring. He was honest. He was sincere. If the Democratic Party had not been convinced that he was the best representative of its ideas he would not have been nominated for President. From the very first there was a sanguine feeling of safety under his wise and sagacious leadership. This feeling of safety begets confidence, confidence begets buoyancy, and

buoyancy begets enthusiasm, which sweeps down barriers and makes heroes of us all.

In his day Samuel J. Tilden was the ablest financier in the United States. His views 50 years ago are the statutes now. He never made a mistake on a question of finance. His judgment was always sound. He knew while others thought. These are broad assertions, but they are fully justified by the facts. His counsel was sought for over 30 years by the safe and conservative public men of affairs of the country, and not by the stockjobbers and reckless speculators, for with them he refused to have any dealings.

Samuel J. Tilden was a great man—a great lawyer, a great patriot, a great statesman, a great philanthropist—and he deserves a monument in the capital of his country. If he had become President he would have entered upon the duties and the responsibilities that would have fallen upon him not as one entering upon a holiday recreation, but very much in that spirit of patriotic consecration in which a great soldier enters a battle for human rights. He had drunk deep at the fountains of freedom and of patriotism. He gave to his country that love which others yield to wife and children. He was whole in himself, possessing firmness without obstinacy, courage without bravado, religion without cant. He was no hypocrite. To the call of civic duty he never hesitated. The traditions of the fathers were his inspiration. He stood for equal rights to all. He loved justice. The Constitution was his sheet anchor. He had no personal ends to serve, no other ambition than to save the Republic from the canker of corruption which ate out the heart of every republic of ancient times. He believed we were only trustees for future generations, and would be recreant to our trust if we failed to hand down to them unimpaired the free institutions we now enjoy.

Mr. Speaker, in my judgment, patriotic America agrees with me that Samuel J. Tilden deserves a monument. In counting up that long array of names whom the people have honored by electing to the highest office in their power, the future historian will linger long to inquire whether it was a fraud or a blunder that robbed the great reformer of New York of a seat that he was so eminently qualified to fill, and regarding that I have no fears as to the final verdict impartial history will record in the annals of America.

Mr. FISH. Mr. Speaker, I regret any controversy has arisen here in regard to one of the greatest men that the State of New York ever produced. Gov. Tilden was born in the district which I have the honor to represent.

Mr. BARTLETT of Georgia. And which the gentleman has well represented for the past two years.

Mr. FISH. And it was my pleasure to serve in the legislature while Mr. Tilden was the governor of our State. I regard it as very unfortunate that anything has been said here apparently to his detriment in regard to the returns before the Electoral Commission when he was a candidate for President, for I believe that he acted with the greatest moderation and from a sense of the highest patriotism, and that he deserved the greatest commendation for the manner in which he acted at the time of the appointment of that commission, as at that time not only did he and the entire Democratic Party believe that he had received a majority of the votes in the Electoral College, but in that belief there were not a few in the Republican Party.

Again, I recollect, when he was governor of our State, how he fought and broke up the canal ring in our State, and I imagine the Democracy of our State might well wish that they had him at Albany to-day instead of the spineless executive whom they have. [Laughter.] If Samuel J. Tilden were governor of the State of New York, we would not have had the incapacity and incompetency which have existed there for the last two months, when legislation has been held up because the governor of the State of New York has been unwilling to show his hand for fear that one wing or the other of the Democracy might be against him in the next national convention. I hope there will be no question, on our side of the House at least, in allowing this small appropriation to the honor and memory of one of the greatest sons of the State of New York. [Applause.]

The legislature has been in session for about two months. Half of the natural or usual session has expired, and yet nothing in the interest of the people has been enacted, not one of the platform promises of the Democratic Party, not even the first step toward direct primaries, on which the Democratic orators dwelt so eloquently during our last State campaign. And why is it so? Owing to the deadlock over the election of a United States Senator. A gentleman who has held high office was nominated in the Democratic caucus who is a fair representative of the average Democratic sentiment of the State. He was nominated according to the precedents and usages which have governed that party for half a century or more. A considerable group of that party in the legislature have refused to vote for the caucus nominee without having made any allegation against his character. The grounds assigned in the public press as the reasons for their hostility are that he represented the special interests, and it has been charged by a high prelate, as well as the press, that the opposition is due to religious intolerance and narrow prejudice.

If there is any truth in the first charge, I maintain that it is a case of the basest ingratitude, as many of these gentlemen had the benefit of the backing of the special interests in their campaign. I would be loath to believe that their opposition had arisen owing to the religious convictions of the caucus nominee, as several of the gentlemen so vigorously opposing him represent counties within my congressional district, and up to this time, I am glad to say, religious intolerance had not gained a foothold in our district. For my part, I say a plague upon both your houses. My only interest is that the legislation of our great State should not be held up indefinitely. Had the executive of our State had any determination or any backbone he could have settled the question in the early days of the struggle. He has wabbled hopelessly, each faction believing he was its backer, a sort of Dr. Jekyl and Mr. Hyde, and consequently the deadlock has continued. Other Democratic governors have recently shown more vigor. Imagine what Samuel J. Tilden or Grover Cleveland would have done under similar conditions.

It bodes no good to our country should a spirit of such intolerance spread—no candidate for political office should be voted for or against on account of his religious convictions. Only within the past few weeks a distinguished Member of this House, a prominent candidate for the Democratic nomination for governor in the State of Kentucky, withdrew from the contest largely, if not wholly, owing to the intolerance and bigotry that had been aroused in his own party owing to his candidacy.

What is required in the executive chair at Albany is an intellectual giant, not a pigmy.

I have digressed too long from the subject matter immediately before the House. It is too late a day to detract from the reputation of Samuel J. Tilden. His name and fame are part of the history of the United States, and this House will honor itself rather than him by making an appropriation for a bust to his honor and to his memory.

The SPEAKER. Is there objection?

Mr. FITZGERALD. Mr. Speaker, in spite of the speech of my colleague from New York [Mr. FISH], I hope there will be no objection.

Mr. MANN. Mr. Speaker, I have great admiration for the memory of Samuel J. Tilden, but I shall object to this.

The SPEAKER. Objection is heard.

RELIEF OF SOLDIERS.

Mr. KINKAID of Nebraska. Mr. Speaker, I move to suspend the rules and pass H. R. 25071 as amended, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That in the administration of the homestead laws of the United States any person who was honorably discharged from his last contract of service as an officer, soldier, sailor, or marine in the Army, Navy, or Marine Corps of the United States, after actual service by him during the War of the Rebellion, the War with Spain, or the Philippine insurrection, shall be entitled to credit in lieu of residence for the time he actually served in such Army, Navy, or Marine Corps under his several contracts of service, but no patent shall issue to him until he has resided upon, improved, and cultivated his homestead for a period of at least one year after he shall have commenced his improvements: *Provided*, That nothing herein contained shall be construed to confer additional homestead rights upon any such person who is not otherwise entitled thereto.

The SPEAKER. Is a second demanded?

Mr. MANN. Mr. Speaker, I demand a second if no one else demands one.

The SPEAKER. The gentleman from Nebraska is entitled to 20 minutes and the gentleman from Illinois to 20 minutes.

Mr. MANN. Is the gentleman going to tell us what the bill is?

Mr. KINKAID of Nebraska. Mr. Speaker, the purpose of this bill is to place soldiers and sailors of the Civil War and the Spanish-American War upon the same relative footing as to their homestead rights that they are now accorded under the pension laws. Now, under the pension laws a soldier is allowed to draw a pension whose last discharge is honorable, and the purpose of this bill is to allow a soldier who is a homesteader credit for the time of his service in the Army in lieu of residence upon the homestead where he has an honorable discharge from his last service. That will correspond precisely with the pension laws.

Mr. MANN. Now, under this proposition, a soldier in the Army who is dishonorably discharged, who deserted, and thereafter enlisted because of bounty being paid, and served, per-

haps, until his regiment was mustered out, which may have been only a few months, and was honorably discharged there, gets all the benefits of an honorably discharged soldier?

Mr. KINKAID of Nebraska. There might be one of that kind in ten thousand who were not deserters at all, but again whom the records would show a technical desertion, and for which relief is being afforded in every session of the Congress, some 40 of such bills having been passed in the last few days.

Mr. MANN. Whenever a meritorious claim comes up it is passed, but the gentleman proposes to eliminate all questions of dishonorable discharge and charges of desertion, regardless of their merits.

Mr. KINKAID of Nebraska. It is considered that as a matter of law they are entitled to this now. They are, on the letter of the statute and perhaps on the spirit of the statute; but the Interior Department has not felt itself authorized to grant it, and therefore has recommended this legislation.

Mr. MANN. Now, why should we not require that a man should go on the homestead and live on the homestead? These men want to take a homestead right and go on for a year nominally and then sell their right. What good reason is there for that in the law at all?

Mr. KINKAID of Nebraska. Well, the homestead law has been justified for very many years. I do not think it is necessary to go into a discussion of the homestead law.

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

Mr. KINKAID of Nebraska. Certainly.

Mr. STAFFORD. This bill would confer upon soldiers who have deserted and subsequently enlisted, and then have been discharged, the right to sell what is known as land scrip, which might be availed of by anybody, and entitle them to prove up their claim under the homestead laws.

Mr. KINKAID of Nebraska. Pardon me, but there is no scrip of the kind in existence now, and this has nothing to do with the sale of scrip.

Mr. STAFFORD. Any person who has served during the Civil War may for that period of service obtain land scrip and transfer it to any outside person. Even the widow of the soldier of the Civil War could obtain that privilege.

Mr. KINKAID of Nebraska. If you will pardon me, this does not affect the land scrip in any way whatever. It only affects the residence. In the case of a soldier, say, who has had two services with honorable discharges and one service where he failed on account of illness, or being absent, or some accident, or some misfortune, perhaps being in the hospital at the time his company was discharged, it prevents him from receiving an honorable discharge, similar to thousands of cases which have passed this House.

Now, there are many soldiers who do not go to the trouble of getting a special bill passed here, and this is to make a general law to give them the credit for the time of their service in lieu of residence to the extent of the service in the Army.

Mr. STAFFORD. This bill does not require, as the gentleman states, that the soldier must have an honorable discharge. I understand he must only be discharged honorably by reason of his last service?

Mr. KINKAID of Nebraska. The last service.

Mr. STAFFORD. The gentleman stated it was two.

Mr. KINKAID of Nebraska. If his service was honorable, that is supposed to blot out anything else, even if there be anything wrong.

Mr. KEIFER. Do you claim he should be given credit for all the service, at different times, even though after some of them he should not be honorably discharged?

Mr. KINKAID of Nebraska. That would be the effect of the bill; yes, sir; because his last service was honorable. That is the reason of it. All of his services perhaps were honorable, but some one has been technically dishonorable on account of some misfortune of his in not securing a discharge.

Mr. KEIFER. It would not make any difference whether it was technical under the bill, if it was actual.

Mr. KINKAID of Nebraska. No; it makes no difference. There may be a thousand cases that were all right, with only technical defects, and one that was dishonorable.

Mr. KEIFER. Under existing law we can dispose in the War Department of these technical charges of absence without leave, can we not?

Mr. KINKAID of Nebraska. Yes. But there are thousands of good men throughout the United States who do not want to secure special legislation, and yet they ought to be able to secure homes and be credited with the time of their service in lieu of residence on the claims.

Mr. KENDALL. But they would not be able to get very far with this Committee on Pensions anyway, would they?

Mr. KINKAID of Nebraska. Would it not be better to go to the department and get an honorable discharge in those cases of technical defect of record? [Cries of "Vote!"]

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

Mr. KINKAID of Nebraska. I will.

Mr. MANN. What is the law now as to the credit for Army services in the matter of right to homestead?

Mr. KINKAID of Nebraska. The law is he secures credit for the time of his service unless he is lacking an honorable discharge for some particular service.

Mr. MANN. The gentleman must answer the question fairly. The law is now, he gets credit for Army service for a certain length of time. How much is that?

Mr. KINKAID of Nebraska. For the time of service.

Mr. MANN. Suppose he serves five years; how much credit does he get?

Mr. KINKAID of Nebraska. Not exceeding four years in any case.

Mr. KEIFER. Is not the law he is entitled to credit for the time he served in the Civil War?

Mr. KINKAID of Nebraska. For the time of service not exceeding four years, but he must live at least one year on the homestead, and this conforms to that. It was unanimously reported by the committee and recommended by the Secretary of the Interior; in fact, it was written by the direction of the Secretary of the Interior.

Mr. MANN. Is the gentleman able to quote to the House the existing law on the subject? The gentleman proposes now, without reference to any existing law on the subject at all, to pass a bill that he says is almost exactly the same as existing law.

Mr. KINKAID of Nebraska. It is precisely the same as existing law, except that the departments have not been according to a homesteader credit for the time of his service where he has had several services and has not had an honorable discharge as to one particular service. Now, in the pension laws, where there has been an honorable discharge granted for the last service, he secures a pension. Now, this provides he will be accorded the time of his service in lieu of residence when his last service or discharge is honorable.

Mr. MANN. Did the gentleman draw this bill himself?

Mr. KINKAID of Nebraska. No, I did not draw it; it was drawn in the Interior Department.

Mr. MANN. But the gentleman introduced the bill?

Mr. KINKAID of Nebraska. I did.

Mr. MANN. Does the gentleman undertake to say the bill, as introduced, makes any change in existing law in that provision that the discharge shall be from the last service or that it only applies to an honorable discharge from the service? Is that the only change that is made?

Mr. KINKAID of Nebraska. That is the only change.

Mr. MANN. Why did the committee strike out the words "and cultivation?"

Mr. KINKAID of Nebraska. That was a mistake, a clerical error in the Interior Department. I would not make such a mistake.

Mr. MANN. But the gentleman introduced the bill, which he says conforms to existing law with reference to a law not read, and which is not according to the law and does not correspond to the law.

Mr. KINKAID of Nebraska. Every one who is familiar with the homestead laws is perfectly familiar with the rule that the soldier is allowed credit for his services in lieu of residence not exceeding four years' time, and I suppose Congress will take legislative notice of this law.

Mr. WANGER. Mr. Speaker, I ask unanimous consent to be permitted to print my remarks in the RECORD.

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

Mr. MILLER of Kansas. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from Kansas [Mr. MILLER] asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. KEIFER. Mr. Speaker, I ask unanimous consent to have a telegram read—a short one—on the subject under discussion.

Mr. MANN. It can not be read now.

Mr. Speaker, just a word. Under the law as it exists a veteran of the war who takes up a homestead claim is entitled to credit for the period of his service in the Army, not to exceed four years. He must reside at least one year upon the homestead.

This proposition is that if that soldier has been dishonorably discharged after a service of two years or any other period, and then rendered subsequent service and received an honorable discharge from his last service, he can apply his entire service, including both periods—both that period during which he rendered service with honorable discharge and that which he rendered when he deserted—as a credit on his residence on the homestead. Now, the man who wants to live on the homestead is not interfered with by existing law at all; the man who wants to take a homestead and live on it is not affected by this proposition at all. He can now go on the land and live there and get his homestead. It is only those who want to claim nominal residence on the homestead, and thereby acquire the property without living on it, who will be benefited by this proposed bill.

Mr. KENDALL. I would like to ask the gentleman if he thinks that would be very inequitable in view of the fact that the men who would avail themselves of this privilege are now all old men and broken in health, and with not very adequate resources, financially?

Mr. MANN. Oh, I am frank to say that undoubtedly in many cases the rule with reference to all the discharges being honorable discharges, both as to pensions and in this class of cases, works an injustice. On the other hand, this proposition would operate in quite a contrary way and would put a premium on desertions from the Army.

Mr. KENDALL. The gentleman knows that desertions were rare as compared with the whole number of enlistments.

Mr. MANN. If the gentleman from Iowa had served in Congress as long as I have he would have learned ere this that the number of desertions from the Army was not very small, and that men constantly went into the service and deserted from their regiments in order to reenlist in other regiments, because bounties were paid for enlistment.

Mr. KENDALL. What I said was that desertions were rare in proportion to the number of men involved in the service.

Mr. KINKAID of Nebraska. I yield two minutes to the gentleman from Illinois [Mr. STERLING].

Mr. STERLING. I can not agree entirely with my colleague in regard to his statement that it makes no difference in the case of a soldier who intends to live on the land. Every man who takes up a homestead on the public lands is always desirous and anxious to get his title just as soon as possible. The man who goes there in absolute good faith and expects to make the land his home for the rest of his life hesitates to make valuable improvements and build a home on land to which he has not the title and can not get title for five long years. I am not surprised that every old soldier wants every day allowed him to which he is entitled under the law.

I say another thing. I have a great deal of sympathy with a great many of these old soldiers who are charged on the records with desertion. I believe there are many of those cases that are unjustly charged, and at this late day it is very hard to get a hearing in order to correct these military records. I know of two instances that came under my own personal knowledge where two old Union soldiers were mentally disqualified on account of sufferings in war prisons to report their capture. They were charged with desertion, and for a time after the war closed were not able to know or understand that they had not been lawfully and properly discharged from the service. These men are now on the record charged with desertion. One of them served nine months and one five months in southern prisons, and the testimony is clear that they were in such a condition that they were not competent to account for their absence from their regiments. A great many of them, I have no doubt, are unjustly charged on the records as deserters, and I think the department and the Government ought to be a little more liberal about correcting those military records.

Mr. KINKAID of Nebraska. Mr. Speaker, I ask for a vote.

The SPEAKER. The question is on suspending the rules and passing the bill with the amendments.

The question being taken, on a division (demanded by Mr. KINKAID of Nebraska) there were—ayes 40, noes 35.

Accordingly, two-thirds not having voted in the affirmative, the motion was rejected.

ALVA, OKLA.

Mr. MORGAN of Oklahoma. Mr. Speaker, I ask unanimous consent to return to the bill (H. R. 23806) authorizing the Secretary of the Interior to convey a certain tract of land to the city of Alva, State of Oklahoma, to suspend the rules, and pass the bill as amended.

The SPEAKER. The gentleman from Oklahoma asks unanimous consent to suspend the rules and pass the following bill, with the amendments.

The bill, as proposed to be amended, was read, as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized to convey to the city of Alva, county of Woods, State of Oklahoma, the south half of lot No. 1 in block No. 40 within the original town site of the city of Alva and reserved originally as a site for the United States land office, to be used by said city of Alva as a site for a city hall and other public purposes.

Mr. STAFFORD. I demand a second.

Mr. FOSTER of Illinois. Is this a request for unanimous consent?

The SPEAKER. Yes; the gentleman asks unanimous consent to suspend the rules and pass the bill.

Mr. STAFFORD. I reserve the right to object, Mr. Speaker.

The SPEAKER. Perhaps the gentleman from Oklahoma desires to make a statement.

Mr. MORGAN of Oklahoma. Mr. Speaker, I desire to state that this bill was called on the Unanimous Consent Calendar this morning before I arrived in the House. I was here when the House adjourned at 2 o'clock this morning, but I had made an appointment to meet some of my constituents at the office of the Secretary of the Interior at 9 o'clock. I thought I could finish that business and get up here by 9.30, but I was detained there longer than I expected. In the meantime this bill was called on the Unanimous Consent Calendar in my absence. I have tried to be as attentive to this work here as I could be, and I would like very much to return to it and pass the bill.

Mr. HENRY W. PALMER. What is it about?

Mr. STAFFORD. The gentleman has recognition just as if it were called up in its regular order. Will the gentleman answer a question or two?

Mr. MORGAN of Oklahoma. I shall be glad to do so.

Mr. STAFFORD. On reading the report of the Postmaster General, found on page 2 of the report, I find he expresses the opinion that this land should be reserved for Government purposes, or rather that it could be utilized for Government purposes whenever the Government believed it to be necessary to erect a Government building there. As I understand it, this is a city of some 6,000 inhabitants which has no Government building at this time, but that there is a post office on property adjoining this.

In view of that statement of the Postmaster General, why should we dedicate one-half of this lot to the city, even though it is adjacent to other municipal buildings?

Mr. MORGAN of Oklahoma. In answer to the gentleman's inquiry, I will state that this lot is 320 feet long and 136 feet deep. That is, it extends along one end of the block and then 136 feet deep, so that there would be ample room for a city hall on one end of the lot and a post-office building on the other end of the lot; the south half of the lot for a city hall, to be erected by the city, and the north end of the lot for a post-office building, to be built by the Federal Government. There would be ample room for both buildings. The lot is 320 feet long.

Mr. STAFFORD. I am acquainted with the dimensions, but the Postmaster General states that in his opinion if a public building is going to be erected there all the lot would be needed for that purpose.

Mr. MORGAN of Oklahoma. I beg the gentleman's pardon. I do not think he makes the statement that all the lot would be needed. He does not say anything to the effect that all the lot will be required. The gentleman will recognize that one-half of 320 would be 160, so that the lot would be 160 feet long by 136 feet deep, which would be a larger lot than is now required as a site for a post-office building in cities of double the size of Alva. There would be ample room for both public buildings. It could not possibly interfere with any use the Government might have for the property, as there is no use to which the property can be put except for public buildings. There are, of course, no business houses on the public square, and the Government should not dispose of this lot for business purposes.

Mr. STAFFORD. There is nothing in the report of the Postmaster General or of the Acting Secretary of the Treasury, to whom the matter was referred, to show that the department favors the release of half of this tract. In fact, the reading of the report and the letter of the Acting Secretary would lead me to believe that it was desirable to retain the entire Government acre, as it is called. If the gentleman can point out any place where the Postmaster General or the Secretary of the Treasury approves of the transfer of one-half of this lot, I shall be willing to withdraw my objection.

Mr. MORGAN of Oklahoma. I will state that the bill was before the Secretary of the Interior and the Postmaster General and the Secretary of the Treasury. There are letters from all three departments, and not a single objection is pointed out.

Mr. STAFFORD. If the gentleman wishes me to point it out, we have the direct statement of the Secretary of the Treasury that the Government acre is an ideal place for a post-office building, now much needed. There is no qualification of the statement; nothing stated except the direct statement that the Government acre is an ideal place for a post-office building, now much needed.

Mr. MORGAN of Oklahoma. It seems to me that the gentlemen should consider the fact that this bill authorizing the transfer of this lot to the city of Alva was directly before the departments. It was considered by the Secretary of the Interior, the Secretary of the Treasury, and the Postmaster General. Not a single objection was made.

Mr. STAFFORD. Not a single instance where they approved of it.

Mr. MORGAN of Oklahoma. The failure to point out an objection, I submit, is in reality an approval.

Mr. STAFFORD. When you have the express language of the Secretary of the Treasury that this Government acre is an ideal place for a post-office building, now much needed, and when he goes on to state that it is desirable to have the post-office building separated from other buildings, how can that be construed except that it is not advisable to deed one-half of it for other purposes? Now, if this acre of land was of no use in the immediate future, that would be another thing. I feel obliged to object.

Mr. MORGAN of Oklahoma. I want to call the gentleman's attention to a letter from the Acting Secretary of the Treasury and also the Secretary of the Interior. Of course this bill can be passed to-day only by unanimous consent. The department has not objected, and I hope the gentleman will not object. [Cries of "Regular order!"]

The SPEAKER. Is there objection?

Mr. STAFFORD and Mr. MANN objected.

GATE OF HEAVEN CHURCH.

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 9874) to refund to the Gate of Heaven Church, South Boston, Mass., duty collected on stained-glass windows, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to refund to the Gate of Heaven Church, South Boston, Mass., the sum of $3,832.59, collected as duty on stained-glass windows.

The SPEAKER. Is there a second demanded? [After a pause.] No one demanding a second, the question will be taken on suspending the rules and passing the bill.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

FORTIFICATIONS APPROPRIATION BILL.

Mr. SMITH of Iowa. Mr. Speaker, I present a conference report on the bill (H. R. 32865) making appropriations for fortifications and other works of defense, for the armaments thereof, for the procurement of heavy ordnance for trial and service, and for other purposes, and I ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. The gentleman from Iowa presents the conference report and asks unanimous consent that the statement of the manager be read in lieu of the report. Is there objection?

There was no objection.

The Clerk read the statement.

The conference report (No. 2304) and statement are as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 32865) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 4.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$300,000"; and the Senate agree to the same.

The committee of conference have been unable to agree on the amendments of the Senate numbered 1 and 2.

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

GEO. C. PERKINS,
F. E. WARREN,
THOMAS S. MARTIN,
Managers on the part of the Senate.

STATEMENT.

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

On amendment 3: There is recommended to be appropriated $300,000 instead of $150,000, as proposed by the House, and $500,000, as proposed by the Senate, for ammunition for mountain, field, and siege cannon.

On amendment 4: It is recommended that the sum of $173,000, proposed by the Senate, for mining casemates, etc., in the Philippine Islands, be stricken out.

The committee of conference are unable to agree on the amendments of the Senate Nos. 1 and 2, appropriating $125,000 for gun and mortar batteries, and $150,000 for lands, at Cape Henry, Va.

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

Mr. SMITH of Iowa. Mr. Speaker, I move that the conference report be agreed to.

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

Mr. SMITH of Iowa. Mr. Speaker, I now move that the House further insist on its disagreement to the two remaining Senate amendments and ask for a conference.

Mr. MAYNARD. Mr. Speaker, I move that the House recede and concur in Senate amendment No. 2, being an appropriation for $150,000 for Cape Henry.

The SPEAKER. That is a preferential motion. First, let us dispose of the other amendment. The question is on agreeing to the motion as to the first amendment, that the House do further insist.

The motion was agreed to.

The SPEAKER. The question now is on the motion of the gentleman from Virginia, that the House recede and concur in Senate amendment No. 2.

Mr. MAYNARD. Mr. Speaker, on that I desire to be heard.

Mr. SMITH of Iowa. Mr. Speaker, I will yield the gentleman five minutes.

Mr. MAYNARD. Mr. Speaker, for the last 10 years the project for the fortification at the mouth of the Chesapeake has been agitating the friends of the Navy and the War Departments, and has been constantly called to the attention of Congress. The Endicott Board and the Taft Board both have recommended in the strongest way that it was necessary to have fortifications at this point. I desire now to read a letter from the Secretary of War, written to a committee of these two Houses in reply to an inquiry as to the position of the War Department on this proposition. The letter is as follows:

WAR DEPARTMENT,
Washington, February 24, 1911.

Senator GEORGE S. NIXON,
Chairman Committee on Coast Defenses,
United States Senate, Washington, D. C.

MY DEAR SENATOR: In reply to your letter of February 11, 1911, requesting an expression of my views as to the desirability of an appropriation of $150,000 for the acquisition of certain lands for coast-defense purposes at Cape Henry, Va., as proposed in an amendment introduced by Senator MARTIN and referred to your committee, I have the honor to inform you that the need for the construction of seacoast defenses for the entrance to Chesapeake Bay has been recognized for a number of years, and the National Coast Defense Board included in its report of February 1, 1906, recommendations for extensive defenses for that entrance. The plans of that board contemplate that the greater part of these defenses will be located at Cape Henry, which affords the most advantageous available site for covering by gunfire the deepest and most important channel between the capes. The cost of acquiring the necessary site at that point is estimated at $150,000, the same amount as that called for by the amendment introduced by Senator MARTIN.

I am of the opinion that the erection of seacoast defenses for the entrance to Chesapeake Bay is a measure that, in the interests of a reasonable degree of preparedness for the national defense, should be undertaken in the near future. The proposed defenses at Cape Henry are the most important of those called for by the Taft Board plan, and would afford, even without the erection of the other proposed defenses for that entrance, a material degree of protection against naval attack.

I believe that the site for these defenses should be acquired as soon as practicable, for the reason that the land will probably continue to increase in value; and I therefore recommend that an appropriation of $150,000 for the acquisition of this site, as provided for by the amendment introduced by Senator MARTIN, be made at the present session of Congress.

Very respectfully, ROBERT SHAW OLIVER,
Acting Secretary of War.

The Taft Board of Defense named this as the one most important project in its recommendations to Congress. Chesapeake Bay is entirely unprotected. We are building battleships which, in time of war, would have to prevent the entrance to Chesapeake Bay of vessels of a foreign nation with whom we might be at war. A fort or a battery erected on Cape Henry would render unnecessary the presence of battleships to protect that point. When the first permanent English settlers came to this country the first place they put their foot was a landing at Cape Henry. If a foreign foe in the Atlantic Ocean wanted to strike us the first place they would strike us would be at Cape Henry. Once inside the capes, Norfolk and Richmond and Baltimore and Philadelphia, and the National Capital itself, would be at the mercy of a foreign fleet. They could level our cities and levy what tribute they pleased upon us. There is no item of the national defense that ought to appeal to the country as the fortification of the mouth of the Chesapeake Bay. The depth of the water there is such and the conformation of the channel such that a vessel drawing 28 or 30 feet of water would have to pass within 2¾ miles of Cape Henry. Any guns erected on Cape Henry could absolutely command the entrance to Chesapeake Bay and prevent a fleet from getting inside the bay. Once inside the Chesapeake Bay, a foreign foe could lie in Lynn Haven Bay, and from that point could shell Norfolk, and they could go up the James River and destroy Richmond, and sail up the Potomac and destroy Baltimore and Washington, and by landing the men as they did in 1812 it would be a short distance to march over to Philadelphia and destroy that large city.

The SPEAKER. The time of the gentleman has expired.

Mr. MAYNARD. I would like a little time.

Mr. SMITH of Iowa. I can not give time to so many gentlemen on this one proposition. I will grant the gentleman from Virginia five minutes if he desires it.

Mr. MAYNARD. Can I give part of that time away?

Mr. SMITH of Iowa. I will consent to that. I will yield the gentleman five minutes.

Mr. MAYNARD. Mr. Speaker, I want to say in conclusion that I know what the argument of the gentleman will be—that this is useless. Against that argument is the statement of the Endicott Board and the Taft Board saying that this is the most important project in the way of fortifications that can be built in this country. What is the use of our spending millions and millions fortifying the canal, what is the use of our fortifying every point on the two coasts, what is the use of our year after year devoting millions to the construction of a Navy, when we render it all futile by leaving open to the attack of an enemy the most important strategical point on the Atlantic coast. I hope it will be the pleasure of this House to concur with the view of all the Army and Navy officials who were upon these two boards, who, without any exception, say that this is the most important public work of that character. I hope it will be the pleasure of this House to concur with those two boards and with the President of the United States, and that the conferees on this proposition recede from their decision and concur in the Senate amendment. I now yield the rest of my time to the gentleman from Alabama [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, we have spent something in the neighborhood of $90,000,000, roughly, on our coast defenses. The money has been expended up and down the Atlantic coast line from north to south and along the Gulf and up and down the Pacific coast line likewise, but a point about midway, the most important point of all, has been neglected. It was neglected upon the supposition that the channel was too wide and that the range of artillery could not prevent the entrance of ships. Now, with the application of high power, with increased caliber of guns, the deep channel of Chesapeake Bay can be controlled from Cape Henry and the shallow channel from a fort put in the middle of the harbor upon an artificial island. Such forts become the first defense for protecting Norfolk and Newport News, the great naval centers of the middle coast line; for protecting the Potomac and Washington; for protecting Baltimore; for protecting all of the great trunk lines of railroads that cross at the head of Chesapeake Bay. Such forts would prevent an enemy from getting a lodgment for a naval base. Without encountering a single existing fort a fleet could now enter the Capes and establish a base at a most strategic point of our country's coast line. He would have the choice of a number of valuable harbors from which to operate, and he could not only operate up and down the Chesapeake itself, but could operate up and down our Atlantic coast and strike the flank of our first line of defense running from New York to Guantanamo and the Panama Canal. Remembering that there are fleets in the Atlantic superior to our fleet, the control of such a base would enable the enemy to control the movement of our fleet and even to destroy it. From the standpoint of the Navy as well as the Army, for the security of the country at its most vital point, I believe we should fortify Cape Henry and build fortifications likewise in the middle of the channel or just about the middle of the north of it and should not delay a day longer to begin this important work. [Applause.]

Mr. SMITH of Iowa. I yield five minutes to the gentleman from Illinois [Mr. GRAFF].

Mr. GRAFF. Mr. Speaker, the gentleman from Virginia [Mr. MAYNARD] says that our opposition to this appropriation for the purchase of land, really for the commencement of project at the mouth of Chesapeake Bay, is based upon the theory that these fortifications would be useless. It is not true. It must be remembered right in the inception of the consideration of these subjects that the cities that have been mentioned are already fortified at their ports in the interior of the bay and that this proposed fortification is a second line of defense. It is true that this work is recommended by the Taft Board, but it is also true that for several years past it has not been in the estimates, showing that, compared with other works of defense, the experts in the War Department preferred other expenditures at this time before we entered upon this work.

In addition to that, when it was considered by the subcommittee on fortifications several years ago, the basis of the project was an artificial island, to be placed in the mouth of the bay, at a cost of something like $3,000,000. To show that time is of some advantage in these matters, even with experts in fortification, only a short time elapsed until those experts in the War Department practically abandoned the idea of a $3,000,000 artificial island, and found that if fortifications were placed at Fort Henry the range of the guns would be sufficient to give effective protection at the mouth of the bay. Now, then, the total amount of estimates submitted to us in the consideration of this fortification bill was between $7,000,000 and $8,000,000.

We cut those estimates by some $2,000,000, and in doing so rejected or lessened estimates which were preferred by the War Department to this project in the Chesapeake Bay, because the estimate for the Chesapeake Bay was not submitted this year. And, therefore, if we should appropriate for the Chesapeake Bay we would put ourselves in a position of assuming to know what was preferable in regard to fortifications over the opinion of the experts themselves.

Mr. MAYNARD. May I interrupt the gentleman?

Mr. GRAFF. Yes.

Mr. MAYNARD. You say you are opposed to this because the specifications were not in this year?

Mr. GRAFF. I did not say anything about specifications at all. I spoke of the estimate.

Mr. MAYNARD. Well, the estimate. The estimate was not in. This amendment is not for the erection of a fort or the emplacement of guns, which would require an estimate, but it is to acquire a site so that they may estimate for an appropriation for the erection of a fort.

Mr. GRAFF. Everybody knows when we make an appropriation sufficient to purchase this land the Government commits itself to this great enterprise involving the expenditure of perhaps $15,000,000 or $20,000,000. I say that we ought not to do this at this time, and in the closing hours of this session attempt to take up and determine the commencement of this enterprise.

Mr. MAYNARD. May I ask the gentleman where he got the esimate of $15,000,000 or $20,000,000?

Mr. GRAFF. I judge that from a long experience, an experience of about six years, with the estimates that have come from the War Department. They have a habit of swelling. The estimates of Taft Board were $6,102,871, to which should be added $3,000,000 for the island and the sites at Cape Henry and Cape Charles.

Mr. MAYNARD. You said none had come, and now you say you fix this upon a guess.

Mr. SMITH of Iowa. Oh, no. It was estimated by the Taft Board, as stated by the gentleman from Illinois [Mr. GRAFF].

Mr. MAYNARD. It was estimated by the Taft Board that if you took an island out in the bay it would cost eight millions or ten millions, but $3,000,000 would be an outside limit for the fortification proposed there, and it is in the power of Congress to say how much that fortification shall cost, how far

they shall go, and where they shall stop, and gentlemen have no right to get up here and guess at twenty millions unless we know it will cost twenty millions. I say that it will cost three millions, and that is an outside limit.

Mr. GRAFF. If the gentleman will permit me, and control his own time——

The SPEAKER. The time of the gentleman from Illinois [Mr. GRAFF] has expired.

Mr. SMITH of Iowa. I yield two minutes more to the gentleman, and he can have more if he desires.

Mr. GRAFF. I want to say to the gentleman that the experience of the Committee on Appropriations with estimates as to fortifications, warrants the committee in believing that the total amount which will finally be found necessary will be very largely beyond the estimates, especially when it has to do with a new enterprise with novel features.

The fact is the War Department has completely changed its attitude respecting that proposition of an artificial island at the entrance of Chesapeake Bay. They insisted upon it as being absolutely necessary just as confidently a few years ago as they are now insisting that it is probably not necessary.

Mr. HOBSON. I would like to propound a technical question, if the gentleman will answer it.

Mr. GRAFF. I do not know that I shall be capable of answering a technical question.

Mr. HOBSON. Was not the time they changed their plan in regard to the island about the time when they changed from the 12 to the 14 inch gun to secure a longer range?

Mr. SMITH of Iowa. There is not now a line in the estimates submitted by the department about that island.

Mr. HOBSON. I think that upon inquiry the gentleman will find that the change was due to the increase in the range and the higher power of the gun. The gentleman certainly ought to know that with the same pressure and power you can get a very much longer range with the 14-inch gun than with the 12-inch gun.

Mr. SMITH of Iowa. The gentleman ought to know that the reason why the 12-inch gun was abandoned was the fact that the erosion was so great at the speed which was used that it was necessary to increase the diameter of the gun and reduce the velocity, and therefore——

Mr. HOBSON. The gentleman is correct in that, but he is incorrect in this way, that they can put the 14-inch shell farther with the same pressure than the 12-inch, and the range that is counted on at both ends at Panama is 17,000 yards. It is about 2¾ miles across the entrance there.

The SPEAKER. The time of the gentleman from Illinois [Mr. GRAFF] has expired.

Mr. SMITH of Iowa. Mr. Speaker, I yield five minutes to the gentleman from Ohio [Mr. KEIFER].

Mr. KEIFER. Mr. Speaker, I am not going to indulge in any special discussion of this question. On January 14, 1907, this question was before the House of Representatives, and at that time I examined the subject with all the care I was capable of, and I then reached the conclusion that the most important point on or connected with the coasts of the United States, continental or island coast, was the mouth of Chesapeake Bay for fortification.

The Taft Board and the Endicott Board, after months of time spent in examining the question, put in their report a list of the important places to be fortified, and headed the list with the fortification of the mouth of Chesapeake Bay. Why? Because the boards saw then, as we ought to see now, that if the mouth of Chesapeake Bay was closed by proper fortification that in war times we would thereby release all battleships within the Chesapeake Bay. We would also release all persons who would be called upon to be engaged on the fortifications at Newport News and Norfolk, at Portsmouth and on the James and on the Potomac and everywhere around the Chesapeake Bay—the most important thing that could possibly happen.

Now, it is said that it is going to cost an immense sum to do this. Four years ago and more it was claimed that it would cost $3,000,000, and that was in connection with the island that was proposed then to be built. I do not understand that it is now regarded as necessary to construct that island, in view of the fact that the range of our guns has been materially increased. It is probably certain that we could now fortify much cheaper than we could have fortified by the erection of an island at the mouth of Chesapeake Bay.

This is the last word I shall have to say on this subject, but I believe now, as I believed in January, 1907, and ever since, that the cheapest way of fortification on the part of this Government is to fortify the mouth of Chesapeake Bay at Cape Henry. Thereby we would release everything within the great bay. If we should have a war, as conditions now exist there, the fleet of a hostile nation can sail into the bay, and we would have to employ our battleships there to meet it. I think if we fortify the mouth of this bay we can reduce the number of battleships that we are being called upon to build from year to year, and in that way save money, and in many other ways save money. [Applause.]

Mr. SMITH of Iowa. Mr. Speaker, I yield five minutes to the gentleman from Kentucky [Mr. SHERLEY].

Mr. SHERLEY. Mr. Speaker, in the consideration of this matter the House is asked to pass upon no new question, and no question that it has not decisively passed on before. There has never been a time in the last five years when the Committee on Appropriations or the Subcommittee on Fortifications has favored the expenditure of the money now asked for the purchase of land, and subsequently the fortification at Fort Henry. There has never been a time when this scheme in its entirety did not involve the expenditure of many millions of dollars. There has never been a time since the original scheme was presented when there has been any official notification to Congress that the War Department had abandoned its pet scheme of building an artificial island in the lower Chesapeake Bay. The gentleman from Alabama [Mr. HOBSON] in his talk here to-day not only spoke in favor of Fort Henry, but incidentally he said that he favored this artificial island in the bay, showing that he at least was in full possession of the knowledge of the plan proposed by the department.

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

Mr. SHERLEY. Briefly, yes.

Mr. HOBSON. I wish simply to say that I do not speak for the War Department; have not been authorized to, and am not acquainted with what their purposes are; but it simply illustrated my own idea of the importance of the place. While we now appropriate for Cape Henry, it would warrant not only that, but this artificial island also, and every dollar put in there would help to protect all the cities above. It would be the cheapest money we could expend.

Mr. SHERLEY. I accept the gentleman's disclaimer, and let it go at that.

Mr. FITZGERALD. The adoption of this amendment means not only this expenditure, but a very large expenditure in addition.

Mr. HOBSON. No; it does not, unless this House and the War Department agree to it.

Mr. SHERLEY. The gentleman has disclaimed speaking for the War Department, and so I am permitted incidentally to say that the War Department, as a part of this scheme, has always contemplated the building of this artificial island. Now, the proposition comes here in various guises from year to year, but it is the old story of letting the nose of the camel into the tent. If you authorize the purchase of this land, you will have practically committed the Government to a scheme of fortification that ultimately means the expenditure of many millions of dollars. As was well stated by the gentleman from Illinois, there has not been a cent in the estimates for this item for the last several years. We have, after consideration, reduced some of the estimates that were submitted to Congress because we did not feel warranted in appropriating the total sum asked. How unreasonable and illogical it would be, after having reduced some of the estimates asked, if we should then appropriate for a matter not even estimated for this year; and I say to the House that it is simply the old fight over again, a fight that has been settled adversely to the distinguished gentleman from Virginia every time it has been brought on the floor. I appreciate the zeal of the gentleman from Virginia [Mr. MAYNARD]. I admire his courage and his determination to stick it out, and it is possible that if he were to remain a Member of this Congress for 20 years more he might finally get favorable consideration for his project. But at present we would not be warranted in any way in appropriating what he asks or in yielding to the Senate in this demand.

Mr. MAYNARD. The gentleman knows that this is my last opportunity to appeal.

Mr. SHERLEY. In that particular I regret it, because I always like to hear the saucy tongue of audacious eloquence that the gentleman uses, even in a bad cause.

Mr. SMITH of Iowa. Mr. Speaker, when this project first came before Congress, every city upon Chesapeake Bay was fully fortified in accordance with the plans of the Endicott Board. In the time of the Endicott Board it was not thought possible to cover this channel entrance to Chesapeake Bay from the capes. Then the Taft Board did conceive the idea of putting in an artificial island, to cost $3,000,000, in the middle of the entrance between Cape Charles and Cape Henry, and from Cape Charles, Cape Henry, and this artificial island to command the channel.

Now, the gentleman from Ohio is in error, there never was an estimate that these complete fortifications could be put in for $3,000,000. There never has been a time when the department said that it did not intend to put the island in if it got a chance. The officers testified at one time before the subcommittee that the fortifications of Cape Henry and Cape Charles were absolutely worthless without the island to command the channel. It is true, since that project has not received much encouragement, that they have since reported that the fortification of Cape Henry would be of material use if the others were not built, but they never receded a step from the proposition that the island is one of the indispensable projects. If they could occupy Cape Henry to-day and Cape Charles to-morrow, and get the three millions the next day, they will ultimately get fortifications there.

I am surprised that the gentleman from Alabama should assert that the 14-inch gun has more range than the 12-inch guns. It has not. The 14-inch gun is designed to have the same range with a less velocity, and so wear the gun less. But it was never intended that it should have any more range than was originally contemplated for the modern 12-inch gun.

Mr. HOBSON. Will the gentleman yield?

Mr. SMITH of Iowa. Yes; for a question, but not for an argument.

Mr. HOBSON. Would the gentleman state whether the 14-inch guns on Cape Henry could command the channel between the Capes?

Mr. SMITH of Iowa. They would not in an effectual way. I want to answer the question; they could to a degree protect the channel against the heaviest battleship.

Mr. HOBSON. Will the gentleman yield again? This is a part of the question. Will the gentleman give us the range required? Will he give us the distance between the particular locations of the forts?

Mr. SMITH of Iowa. I will not. I will state that I have examined the chief officers of the War Department, and they have always stated that without fortification upon Cape Henry and Cape Charles and this island the channel could not be commanded. Now, I am willing to be fair and candid with the gentleman. The water is deeper near Cape Henry, and some of the heaviest vessels could not go through near Cape Charles, and in that instance it would aid in protecting the mouth of the Chesapeake, but it would not protect it against the entrance of lighter-draft war vessels.

Mr. HOBSON. I have been through there many times.

Mr. SMITH of Iowa. I do not yield further. I want to say that this project means millions, it is not simply a matter of $3,000,000. I want this House to know that if it votes this $150,000 it votes to enter at once upon a project involving many millions of dollars, not $3,000,000, as stated by the gentleman from Virginia. We will fortify Cape Henry and spend many millions for the fortification of the mouth of the Chesapeake, and this is to give to the cities on the Chesapeake, now well fortified, a second line of defense before many of the ports named by the Endicott and Taft boards have been fortified at all. I insist that it is a wise policy to proceed with the completion of at least one good line of defense for all the principal ports before entering upon a second line of defense.

Mr. MAYNARD. Will the gentleman yield?

Mr. SMITH of Iowa. For a question.

Mr. MAYNARD. The gentleman has made a statement here that these guns on Cape Henry could not be used against the heaviest battleship. Does not the gentleman know that the channel runs within 2¾ miles of the shore, and that vessels of large draft can not get in? Does he not know that the only free channel, which is a crooked one, goes outside near Fisher Island, and that two or three guns or mortars would absolutely protect it from craft of any kind?

Mr. SMITH of Iowa. Mr. Speaker, the gentleman by his question announces the facts to be as I have stated them, namely, that the lighter draft war vessels could enter, but he says if we had a lot more guns somewhere else to keep them off we can protect the two channels referred to.

I now move the previous question, Mr. Speaker.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Virginia that the House recede from its disagreement to Senate amendment No. 2 and concur in the same.

The question was taken; and on a division (demanded by Mr. MAYNARD) there were—ayes 18, noes 106.

Mr. MAYNARD. Mr. Speaker, I demand the yeas and nays.

The SPEAKER pro tempore. The yeas and nays are demanded. All in favor of ordering the yeas and nays will rise and remain standing until counted. [After a pause.] Four gentlemen have risen, not a sufficient number, and the yeas and nays are refused.

So the motion to recede and concur was rejected.

The SPEAKER pro tempore. The question now recurs on the motion of the gentleman from Iowa that the House insist upon its disagreement and agree to a conference.

The motion was agreed to.

The Chair announced the following conferees on the part of the House:

Mr. SMITH of Iowa, Mr. GRAFF, and Mr. SHERLEY.

GEORGE L. SUMMEY.

Mr. BARTLETT of Georgia. Mr. Speaker, I move to suspend the rules and pass House resolution 1005, which I send to the desk and ask to have read.

The Clerk read as follows:

Resolved, That the bill (H. R. 31327) for the relief of the heirs of George L. Summey, deceased, with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims for a finding of facts under the terms of the act of March 3, 1887, and generally known as the Tucker Act.

The SPEAKER pro tempore. Is a second demanded? If not, the question will be taken on suspending the rules and agreeing to the resolution.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the resolution was agreed to.

CONTESTED-ELECTION CASE—SMITH V. MASSEY.

Mr. MILLER of Kansas. Mr. Speaker, I present the following privileged report (No. 2290) from the Committee on Elections No. 2, in the contested-election case of James Edgar Smith against Z. D. MASSEY, from the first congressional district of Tennessee, which I send to the desk and ask to have read.

The Clerk read as follows:

Your Committee on Elections No. 2, to which was referred the contested-election case of James Edgar Smith *v.* Z. D. MASSEY, from the first congressional district of Tennessee, has carefully considered the same and reports to the House as follows:

There was a vacancy in this congressional district prior to the election of November 8, 1910, caused by the death of Hon. Walter P. Brownlow, and at the election held on November 8, 1910, the following candidates were balloted for for the unexpired term of the Sixty-first Congress: Z. D. MASSEY and James Edgar Smith; and this contest case has to do with this unexpired term.

The contestant, James Edgar Smith, claims to have sent a notice of contest to the contestee, Z. D. MASSEY, on November 19, 1910, in which it is claimed that he alleged the following irregularities occurred in the election:

1. Liberal use of money to influence the voters.
2. Unfair treatment at the hands of certain boards of county election commissioners.
3. In some civil districts my name did not appear upon official ballots.
4. Facts were misrepresented to mislead the voters, also to influence the election commissioners to omit my name from official ballots.

There is no evidence before your committee, however, that this notice of contest was ever received by the contestee, and had it been received it was not a legal or proper notice, as required by the statutes governing contest cases. It is admitted by the contestant himself, in a letter addressed to the Clerk of the House of Representatives, of date February 4, 1911, that he did not comply with sections 105, 106, and 107 of the Revised Statutes of the United States, and assigned as his reason that the election for the unexpired term was held on the same day as the regular election, and the Member-elect taking his seat on December 8, 1910, "rendered the prosecution of a contest within the limits of the law beyond possibility."

Under the alleged notice of contest the contestant attempted to take depositions for the purpose of proving the allegations set out in his alleged notice of contest, but your committee finds that there was no legal or proper notice of the taking of said depositions given to the contestee. The alleged notice shows that it was a letter written by the contestant, of date January 24, 1911, at Bristol, Tenn., and addressed to Hon. Z. D. MASSEY, Washington, D. C. The contestant himself files the answer to this letter, which answer shows that the letter was not received by said contestee until the morning of the 28th of January, the day the depositions were to be taken in Bristol, Tenn. The contestee was not present, therefore, at the taking of said depositions, and no one appeared for him. Notwithstanding the failure of the contestant to give proper and legal notice of contest, and his failure to serve a proper notice of the taking of the depositions on the contestee, your committee has carefully considered the evidence filed by the contestant in support of his allegations in his alleged notice of contest and finds from the evidence presented by said contestant that he has not been able to sustain a single one of the allegations made in his alleged notice of contest. On the contrary, he proves by his own witnesses that there were no irregularities of any kind existing before or during the election that could have in any manner affected the result of said election, and that there were no frauds committed in any civil district or voting place. There was no evidence of any kind presented to the committee to support any of the allegations in said alleged notice of contest.

While the committee does not care to render any opinion upon the merits of this case in view of the fact that no proper notice of contest was given, yet the committee feels that this is a case where it ought to express its disapproval of the institution of a contest where on the face of the entire record there were no grounds for the same. The committee, therefore, recommends that this case be dismissed for want of proper notice, and at the same time expresses the opinion that in a case such as this there ought not to be any fees allowed, and makes no recommendation for the payment of fees.

Mr. MILLER of Kansas. Mr. Speaker, this is the unanimous report from the committee, and I move its adoption.

The SPEAKER pro tempore. The question is on agreeing to this report.

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

STEPHENSON GRAND ARMY MEMORIAL.

Mr. COOPER of Pennsylvania. Mr. Speaker, I move to suspend the rules and pass the following Senate concurrent resolution (S. Con. Res. 7), which I send to the desk and ask to have read.

The Clerk read as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed and bound, in the form of eulogies, including illustrations, 7,000 copies of the proceedings on the occasion of the dedication of the Stephenson Grand Army Memorial, in Washington, July 3, 1909, of which 1,500 shall be for the use of the Senate, 3,500 for the use of the House of Representatives, and 2,000 to be delivered to the Stephenson Grand Army Memorial Committee.

The SPEAKER pro tempore. Is there a second demanded? If not, the question will be taken on suspending the rules and agreeing to the resolution.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended, and the resolution was agreed to.

LEAVE TO EXTEND REMARKS.

Mr. MOORE of Pennsylvania. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. PARSONS. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

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

Mr. FISH. Mr. Speaker, I make the same request.

The SPEAKER. Is there objection to the request of the gentleman from New York? [After a pause.] The Chair hears none.

STARVING ELK IN YELLOWSTONE PARK.

Mr. KEIFER. Mr. Speaker, I ask unanimous consent to have read the following telegram, which I send to the desk.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The Clerk read as follows:

NEW YORK, N. Y., *February 19, 1911.*

Hon. J. WARREN KEIFER,
House of Representatives, Washington, D. C.

Wyoming Legislature memorialized Congress to help rescue 5,000 starving elk in south Yellowstone Park. Please tell Congress I will ship quick from my farm at Yellow Springs 400 tons of alfalfa hay, cured without a drop of rain, and 15,000 bushels of potatoes. No charge to Congress; will see elks get it.

JOHN BRYAN.

Mr. KEIFER. Mr. Speaker, it is not only necessary, but patriotic, to save these elk from starving.

REPORT OF HOUSE OFFICE BUILDING COMMISSION.

Mr. CANNON. Mr. Speaker, I desire to offer a report of the House Office Building Commission, and ask that it do lay on the table.

The SPEAKER pro tempore. The gentleman from Illinois asks that the report which has been presented lay on the table and be printed. Without objection, it is so ordered. [After a pause.] The Chair hears no objection.

RECIPROCITY WITH CANADA.

Mr. GAINES. Mr. Speaker, I ask unanimous consent to have printed as a public document three letters of Wharton Barker, one to James A. Garfield, the other to Senator William M. Evarts, and the other to Senator Justin S. Morrill, on the subject of reciprocity with Canada.

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

ADDRESS OF SECRETARY OF STATE.

Mr. BURKE of Pennsylvania. Mr. Speaker, I ask unanimous consent to have printed as a public document an address delivered by the Secretary of State lately before the Chicago Association of Commerce at Chicago.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent that there be printed as a public document a speech of the Secretary of State lately delivered in Chicago. Is there objection? [After a pause.] The Chair hears none.

CERTAIN MEDICAL OFFICERS OF THE ARMY.

Mr. STEVENS of Minnesota. Mr. Speaker, I move to suspend the rules and that Senate bill (S. 9351) be put upon its passage.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

An act (S. 9351) to amend an act entitled "An act providing for the retirement of certain medical officers of the Army," approved June 22, 1910.

Be it enacted, etc., That the act approved June 22, 1910, entitled "An act providing for the retirement of certain medical officers of the Army," be, and the same is hereby, amended as follows:

Strike out the words "in the War of the Rebellion," following the words "enlisted man," in said act, so that the act as amended will read:

"*Be it enacted, etc.*, That any officer of the Medical Reserve Corps who shall have reached the age of 70 years, and whose total active service in the Army of the United States, Regular or Volunteer, as such officer, and as contract or acting assistant surgeon, and as an enlisted man, shall equal 40 years, may thereupon, in the discretion of the President, be placed upon the retired list of the Army with the rank, pay, and allowances of a first lieutenant."

The SPEAKER. Is a second demanded?

Mr. MANN. Mr. Speaker, I demand a second.

The SPEAKER. Under the rule a second is ordered. The gentleman from Minnesota is entitled to 20 minutes, and the gentleman from Illinois to 20 minutes.

Mr. STEVENS of Minnesota. Mr. Speaker, this is a bill to correct a material error in an act which was passed by Congress a year ago. When the bill reorganizing the medical service of the Army was passed four or five years ago, there was a provision in it allowing the contract surgeons then in the Medical Corps who had served 30 years and were 27 years old upon their entrance into the Medical Corps to be placed upon the retired list with pay and allowances of first lieutenant. At that time there were two or three medical officers who had entered the service older than 27 years of age. Among them was one Dr. Ferguson, who was 30 years of age when he entered the medical service as a contract surgeon, because he had served four years in the Civil War as a private soldier with a splendid record and three years in the Regular Army immediately afterwards as an enlisted man, and that is why he was older than the others at the time he entered the medical service of the Army, and so he was excluded for the provisions of the original medical bill. If his case had been called to the attention of Congress at that time, I have no doubt that he would then have been included. The Senate passed a bill some time last session placing him by name upon the retired list. At the time the bill came before the House Committee on Military Affairs it happened that the Secretary of War was before the committee. He explained the status of this man, that he had a splendid record, and that he had recommended that the committee pass the bill. I think the gentleman from Texas [Mr. SLAYDEN] objected to passing the bill in that individual form and requested that the Secretary of War have a bill framed that would enable the two, as we supposed, who were then living to be placed upon the retired list just as though they had been under the terms of the original bill reorganizing the Medical Corps. Accordingly the Secretary of War had a bill prepared and sent to the Committee on Military Affairs, which substituted it for the original bill of the Senate placing Dr. Ferguson on the retired list. There was a mistake in the bill in limiting the term of service as a private soldier to his enlistment in the Civil War, instead of embracing both the Civil War service and the three years of service as an enlisted man in the Regular Army. Consequently by the terms of the law the term of service of that man in the Regular Army is excluded from consideration in computing the necessary 40 years in the Army required by this law, and so he would be obliged to really serve 43 years before he would be eligible for retirement. This bill does only allow the term of service of this man in the Regular Army to be included in and as a part of his term of 40 years' service. It applies now to only this one officer; the others have gone, so it applies only to the man who is now more than 71 years of age, who has already served 41 years in the Army; was for four years a private soldier in the War of the Rebellion, three years in the Regular Army, and since then has given devoted service in the Medical Corps; and the committee unanimously recommends the passage of the bill.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

LANDS ON DAUPHIN ISLAND, ALA.

Mr. ANTHONY. Mr. Speaker, I desire to call up the conference report on the bill (S. 10638) to authorize the Secretary of War to sell certain lands owned by the United States and situated on Dauphin Island, in Mobile County, Ala., and I ask unanimous consent that the statement may be read in lieu of the report.

The SPEAKER. Is there objection?

There was no objection.

The conference report and statement are as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 10638) to authorize the Secretary of War to sell certain lands owned by the United States and situated on Dauphin Island, in Mobile County, Ala., having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House, and agree to the same with an amendment as follows: In lieu of the matter proposed to be stricken out strike out, in lines 6, 7, and 8 of the bill, the words "being a tract of 900 acres, more or less, constituting the western end of said island," making the bill as amended read as follows:

"That the Secretary of War be, and he is hereby, authorized to sell so much or such parts of that certain tract of land condemned and held by the United States, and situated on Dauphin Island, in Mobile County, Ala., as may not be reasonably necessary for present or prospective military or cognate purposes, for such consideration or upon such terms as he may find reasonable, not less than the original cost, and to execute deeds therefor."

And the House agree to the same.

D. R. ANTHONY, Jr.,
JOHN Q. TILSON,
S. H. DENT, Jr.,
Managers on the part of the House.

FRANK O. BRIGGS,
CHARLES DICK,
JOS. F. JOHNSTON,
Managers on the part of the Senate.

STATEMENT.

The amendment of the House proposes to strike out "900 acres" and insert in lieu thereof "267 acres." As the number of acres merely describes the entire tract constituting the eastern end of the island and not the part that the Secretary of War may sell, because not "reasonably necessary for present or prospective military or cognate purposes," the committee of conference recommends that the entire description as to acreage be omitted.

D. R. ANTHONY, Jr.,
JOHN Q. TILSON,
S. H. DENT, Jr.,
Managers on the part of the House.

Mr. ANTHONY. Mr. Speaker, the conferees of the House receded from the House amendment and agreed on new language, which, I believe, will do away with the objection to the original Senate bill, and I ask that the House agree to the report of the conferees.

Mr. MANN. The gentleman says the conferees agreed on new language. Did they do anything except strike out part of the old language?

Mr. ANTHONY. They struck out the old language specifying the number of acres to be sold.

Mr. MANN. There is no new language inserted, is there?

Mr. ANTHONY. I do not believe there is any new language inserted sufficient to change the make-up of the bill.

Mr. MANN. I would like to know, then, what it is.

Mr. ANTHONY. I would ask that the Clerk read the report.

The SPEAKER. The Clerk will read.

The report was read.

Mr. MANN. It should be the eastern end of the island; but it is out of the bill, so it does not make any difference.

Mr. ANTHONY. Mr. Speaker, I move that the House agree to the conference report.

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

WILLIAM PORTER WHITE.

Mr. STERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 30969) for the relief of William Porter White.

The SPEAKER. The gentleman from Illinois moves to suspend the rules and pass the following bill, which the Clerk will report.

The Clerk read as follows:

Be it enacted, etc., That the President be, and he is hereby, authorized to appoint William Porter White, captain on the retired list of the United States Navy, to the grade of captain on the active list of the United States Navy: *Provided*, That the said William Porter White shall establish to the satisfaction of the Secretary of the Navy, by examination pursuant to law, his physical, mental, moral, and professional fitness to perform the duties of that grade: *Provided further*, That the said William Porter White shall be carried as additional to the number of the grade to which he may be appointed or at any time thereafter promoted: *Provided*, That the said William Porter White shall take rank next after Capt. George Ramsay Clark, as carried on the Navy list, published January 1, 1911: *And provided further*, That the said William Porter White shall not by the passage of this act be entitled to back pay of any kind.

Mr. MANN. Mr. Speaker, I demand a second.

The SPEAKER. Under the rule a second is ordered. The gentleman from Illinois [Mr. STERLING] is entitled to 20 minutes and his colleague [Mr. MANN] is entitled to 20 minutes.

Mr. STERLING. Mr. Speaker, this bill was discussed to some extent yesterday. It went off the Unanimous Consent Calendar on the objection of the gentleman from Wisconsin [Mr. STAFFORD]. The purpose of the bill is to give Capt. William Porter White an opportunity for another examination for promotion in the Navy, and that is the only purpose of the bill.

Capt. White has been in the service of the Navy for more than 30 years. He was designated for appointment to the Annapolis Academy in 1874 by Gen. McNulta. He graduated in 1878 and went on the two-years' cruise, and has been in the constant service of the Navy since then until last June. He has made a splendid record. When a young man, before he entered the Navy, he had made a record for himself in the school at the Orphans Home at Normal. Not on account of any political influence that this poor boy had, but on account of the fact that he had earned recognition on his merit, Gen. McNulta designated him to the Naval Academy.

Last June, after he had been occupying the position of commander for four years, after more than 30 years' continuous and honorable service in the Navy, after he had been promoted from time to time in the regular order, after 26 years of actual life at sea, he made application for examination to be promoted to the rank of captain. The examining board found that Capt. White was qualified for promotion mentally, physically, and morally.

The board found that he was not qualified for promotion professionally. There is not one word or syllable anywhere in the record of that examination or in the record of Capt. White's service that indicates that he ever committed any act that was unprofessional or failed in any respect to conduct himself with professional dignity. In every respect he has been a faithful officer, and in every report that has come to the department during all these 30 years from his superior officers, where they have had personal observation of his conduct and the character of his service, they have reported favorably as to Capt. White's service.

Now, I desire to tell the House frankly something of what I have learned. Understand, it is not in the report of the examining board. I understand that somebody in the Navy found fault with Capt. White because, when he was in port on the Lakes, he on one occasion invited the school children with their teachers to come on board and inspect a warship.

One other instance occurred during his service as commander in the last four years, which was this: There was a change in one of the officers on board the ship *Wolverine*, of which Capt. White was in command. It was the duty of the new officer to supervise and oversee certain repairs of the ship. That officer was a new man. He was unqualified. There was a peculiar character of repairs to be made. Capt. White was the only man aboard competent to personally superintend those repairs. He did it. Somebody somewhere thought that that kind of service was not becoming the dignity of a naval officer.

I say to you, gentlemen, that we have sought everywhere to find the reasons why this board undertook to say that Capt. White was not professionally qualified for promotion. Those two instances are the head and front of Capt. White's offending. "It hath this extent, no more." Those very things appeal to me as some reason why he is entitled to promotion. [Applause.]

Mr. Speaker, I reserve the balance of my time.

The SPEAKER. The gentleman from Illinois [Mr. MANN] is recognized.

Mr. MANN. Mr. Speaker, it is never a pleasant function to oppose any man who wants to better his condition, and it is especially not a pleasant function to oppose the wishes of my colleague, for whom not only personally but for whose opinion also I have the highest regard.

What are the facts in this case, however? This man has already been treated very leniently by the law. After being in the service, after having reached the position of commander, under the law he applied for examination for promotion. On that examination he was found physically and mentally and morally all right, but not professionally qualified for promotion.

Now, a man may make a very good officer who has something the matter with him physically or who may have something the matter with him morally, but what earthly good is he if professionally he is not qualified for the position of captain in the Navy? Under the law which was then in force, when

this examination was completed by a board that had no bias, if they had followed the exact provisions of the law, he would at once have been retired as a commander on one-half pay.

Mr. MAYNARD. What was the alleged grounds of his disqualification?

Mr. MANN. That he did not have the necessary professional attainments.

Mr. HAVENS. Will the gentleman from Illinois yield for a question?

Mr. MANN. I would prefer to make my statement first, and then I shall be very glad to yield to the gentleman.

But at that time, Mr. Speaker, there was no vacancy in the grade above him, so that he could receive appointment anyhow. Thereupon the authorities of the Navy Department, out of the goodness of their hearts, instead of retiring him at once on one-half pay, as the law required, permitted him to remain in the service for a time until somebody had to be promoted.

By reason of that he had the opportunity to ask for voluntary retirement, which he did, and was retired as a captain on three-quarters pay. There is a great difference between retiring as a commander on half pay under the operation of the law and retiring as a captain on three-quarters pay. A captain's pay is much higher than a commander's pay, and then he receives three-quarters pay instead of half pay.

He made application to have the matter reopened, and the department said:

With regard to the examination of Commander White, upon which he failed professionally, it may be remarked that it was conducted by a board composed of high ranking officers, who were under oath honestly and impartially to report upon the case, which was regularly conducted in all respects.

There was no complaint about the board, no exception taken to the board which found the man professionally disqualified for the position of captain in the Navy.

He made another application to the Navy Department, and again they turned him down. Then he applied to Congress, and the Secretary of the Navy, in reporting upon this identical bill, said:

In view of the foregoing facts, and also in the belief that generally private measures for the promotion, reinstatement, or other advancement of particular officers should be avoided, it is the opinion of the department that favorable action should not be taken upon the bill here under consideration.

During the last few days we have rejected a number of bills providing for promotions and retirements, but this is the only one where they have had the gall to ask Congress to pass the bill when the Navy Department reported that it ought not to be passed.

What does the bill propose to do? Here is a man found professionally disqualified for the position of captain. The bill proposes, not to reinstate him in the Navy on the same terms that officers are who may be subject to examination in the future, but it proposes to put him on, to be carried as an additional to the number of the grade to which he may be appointed or at any time thereafter promoted. That takes him out from the provisions of the personnel act. He is no longer carried on the same terms that other officers in the Navy are. He is no longer subject to the plucking board, which is required to cut out a certain number of officers every year if they do not voluntarily retire. This man, professionally disqualified for the performance of the duties of his office, is, so long as he lives, to remain not subject to the same provisions as the other officers of the Navy, but because he is professionally disqualified he is to be put upon a pedestal higher than the others occupy.

Now, I yield to my friend from New York [Mr. HAVENS].

Mr. HAVENS. I wanted to ask the gentleman, who has put so much emphasis upon the examination that purported to disqualify this man professionally, if he knows what the examination consisted of, how many questions were asked him, whether he answered them correctly, what those questions were, and on what grounds the decision was made.

Mr. MANN. I do not know, nor do I think it is the province of Congress, when it provides for an examination by the Navy, nor is it the province of the gentleman from New York, or the gentleman from Illinois, myself, or anybody else, to undertake to say whether the board passed correctly either upon the questions they asked or upon the answers which were made. Since when did the gentleman from New York or myself acquire those professional attainments which will permit us to judge of the answers and the questions of professional men in the Navy?

Mr. HAVENS. I hope I will have time to answer that.

Mr. MANN. I hope the gentleman will; and I will yield to him some time now. I am always good-natured about that. What time does the gentleman want?

Mr. HAVENS. Ten minutes.

Mr. MANN. I can not give you all my time.

Mr. HAVENS. Five minutes.

Mr. MANN. You are as bad as Capt. White.

Mr. HAVENS. Just exactly. Will you give me five minutes?

Mr. MANN. How much time have I remaining?

The SPEAKER. The gentleman has 11 minutes remaining.

Mr. MANN. I yield five minutes.

Mr. HAVENS. Mr. Speaker, this Capt. White, with whom I have become acquainted during this session of Congress and which acquaintance has led me to look into the matter with some considerable care, came up before the examining board at 51 years of age, when he had had over 30 years' experience in active service in the Navy and not a scratch against his record. He had been in active service. He was not acquainted with the Navy Department or the men who were to examine him. They had no personal acquaintance with him or his conduct in the Navy, except as his record showed. They asked him just two questions in writing, and nobody contends that he did not answer them with absolute accuracy. He then submitted, at their suggestion, a voluntary statement covering his conduct as a recruiting officer on the Great Lakes, for the reason that a recruiting officer does not have over him a superior officer or any inspecting board, or did not at that time, to see exactly what the condition of his ship and the discipline of his men were.

This board of examiners took exception to three trivial matters in that statement. I say they are trivial. It does not take an education in the Navy to know that they are trivial, because any man can judge if he takes the trouble to look into it to see whether they are trivial or not.

One was that while his ship was being overhauled and repaired he gave the matter his personal attention, and they thought that that was beneath the dignity of a naval officer. Another was that while his ship was recruiting in the Great Lakes, tied up at the dock in Erie, Pa., while his business was advertising the Navy and recruiting, he addressed a school in Erie, and asked the school principal to bring the boys down with their parents to see what the Navy was like and what a recruiting ship was.

For those trivial matters this board disqualified him for promotion, notwithstanding his record for more than 30 years, and said that he, a man 51 years of age, in perfect health, with the best of habits, mentally equipped in every way, should not longer follow his chosen profession in the Navy, for which the Government had educated him, and they retired him on half pay.

He did not find that out except by chance through a friend in the Navy who wrote him about it. Then he did not know what to do. He was a man with a family. They proposed to retire him on half pay for these trivial things, notwithstanding his record. He was forced to take care of his family and to take advantage of the law that gave him a right to retire on three-quarters pay of the next higher grade. Now he asks nothing but that the stigma that that board carelessly and unjustly put upon him may be taken off. He asks for another examination, and the bill provides that he shall be given an additional number solely in order that he may not displace anybody who has been promoted since.

The bill provides that he shall have no back pay. The bill is a fair bill. If the gentleman from Illinois, whom I have been glad to follow on many matters where his knowledge was greater than mine—if the gentleman from Illinois had taken the pains to look into the facts of this examination and of this bill, I think I would be following him now as I think he ought to follow me.

The gentleman from Illinois reads the letter from the Secretary of the Navy, which says that generally no private bill of this character should be passed. I agree with the Secretary of the Navy, but there come times when justice is larger than precedent, and the dangerous precedent for us to make is to say that, no matter how unjustly a boy that enters Annapolis and pursues his way without a scratch against him in the Navy is treated, we can not in any way interfere; that we ought not to interfere in any way by giving a competent man a chance to have a real examination. Now, suppose Capt. White comes before another board for examination. Does he not go up under every disadvantage, under the disadvantage that this board has plucked him, and if he can show the present board that notwithstanding all those disadvantages he is professionally qualified, should we not give him that chance? To refuse that chance is a dangerous precedent for this House to make. [Applause.]

Mr. MANN. Mr. Speaker, the gentleman from New York [Mr. HAVENS] makes a very pathetic plea and undertakes to give what the examination was. He must get his information from the officer in question. I have made some examination of this case. The gentleman from New York has become acquainted with the claimant. Many other Members of this

House have become acquainted with the claimant this winter. He has called attention to his case to many Members of the House. I made some request, also, to the Navy Department in reference to this case, and I am prepared to say that the gentleman from New York is mistaken in thinking that the professional examination and the finding of disqualification is based upon the technicalities to which he referred.

Mr. SHERWOOD. Will the gentleman yield?

Mr. MANN. Yes.

Mr. SHERWOOD. Will the gentleman state what his unprofessional conduct was?

Mr. MANN. There was no unprofessional conduct charged against him that I know of. He was found professionally disqualified for promotion; that he has not the qualifications professionally for a captain in the Navy. He made the same kind of a statement to the Navy Department, urging that his examination had not been fair, and either the House must vote down this bill or else say that it has no confidence in the fairness of the examinations by the Navy Department for promotions. On June 25 last Commander White addressed a communication to the Navy Department, stating that it had come to his knowledge unofficially that the board of examiners had found him not qualified for promotion, and requesting that he be either examined by another board or that his case be given further consideration by the original board. The Navy Department informed him that the law directs that a board of officers be convened to determine the fitness of other officers for promotion to higher grades, and that this is considered the most reliable and fairest method that could be adopted; that the findings of such a board of officers should not be set aside by the department unless there is conclusive evidence in the minds of the reviewing authority that such board has acted unjustly or has failed to consider important and weighty facts which might reasonably be expected to change its conclusion, and that in this case no such evidence appeared, and the department does not feel justified in reversing the findings of the examining board.

Mr. Speaker, here is a man found by his fellow officers professionally disqualified. He lays his case before the Navy Department, which thereupon considers it again, and they find that the questions and the evidence submitted by the officer, as suggested here by the gentleman from New York, are not sufficient to overcome the findings of the board. If this House wants to set a precedent that whenever a man who gets on the retired list as a captain at three-quarters pay is not satisfied, he shall be put back on the active list so that he may get higher pay without regard to his qualifications, that is the privilege, of course, of the House.

Mr. CAMPBELL. Is it not a fact that it was charged against him or found against him by the board that he had personally supervised the painting or the cleaning up of his ship or the repairing of his ship, and that it was further charged against him that he had addressed some school children and invited them on board his ship? Were those specifications found against him by the examining board?

Mr. MANN. Why, there is no way of getting at that. The examining board does not examine such specifications at all. Those may have appeared in his record; somebody may have criticized him, I do not know, but it is not upon that that the examining board passed at all.

Mr. HUGHES of New Jersey. That was in his statement, I understood the gentleman from New York [Mr. HAVENS] to say.

Mr. CAMPBELL. What did they pass upon?

Mr. MANN. They passed upon his examination and his record.

Mr. CAMPBELL. In what way did they find him disqualified?

Mr. MANN. They found him professionally disqualified.

Mr. CAMPBELL. Because he had no more dignity than to oversee the repairs of his ship or to leave his ship and address school children?

Mr. MANN. Of course, that question answers itself. It is absolutely ridiculous to suppose that the Navy Department is composed of officers of that kind. If they are, we better not pass the naval bill that is coming over here. We better wipe them out of existence.

Mr. CAMPBELL. That is what I say, and every man on that board ought to be discharged if he found against the officer on those grounds.

Mr. MANN. Of course, no man on the board found against this officer on any such ground. That is one of the imaginary grievances of this man who has been haunting the halls of Congress.

Mr. CAMPBELL. What were the grounds upon which he was found inefficient?

Mr. MANN. The grounds were that he was not sufficiently qualified as captain. I can not tell you what the questions and answers were. The gentleman might as well ask me upon what grounds the Civil Service Commission does not pass a man who takes their examination.

The SPEAKER. The time of the gentleman has expired.

Mr. STERLING. Mr. Speaker, I yield four minutes to the gentleman from Alabama [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, in my judgment the average board constituted by the Navy Department is the most just body of men that can be found in American life. I believe that the average naval officer is the highest type of American citizenship. I have long felt that whenever a board makes a finding that that finding should have the greatest weight with all Americans. I am still of that opinion. I have long been of the opinion that retiring boards of all kinds should be particularly respected, their findings particularly accepted by the public at large, but I confess in the last few years when cases have come before the Naval Committee and have come under my observation that they have convinced me that the time has come, has been ripe long since, when it should be known throughout the naval service that there is an appeal even from a board. I believe that officers, high spirited, who have given long years to their country's service, ought at least to have the equivalent of a trial, to be confronted with a statement of their delinquencies when those delinquencies are to cut short their careers, and in some cases attaching more or less of reflection, which to some officers would mean more than death itself.

I have come to a decided conclusion in regard to two cases coming up before this body, one from the regular retiring board and the other from the selecting-out board, or plucking board, in which we ought to consider the merits of the individual cases and establish a precedent that there can be an appeal from a retiring board in the Navy. I believe that this precedent would not only be in line with justice in this case and in the other case I have in mind, but actually it will be in the interest of the public service. Officers ought to feel that even though they were unpopular, as I have known some to be, that they would be judged on their professional merits. I have known cases where the most efficient officers in the service were unpopular and had enemies—sometimes enemies of high rank. It is possible that one such enemy on a board may influence the whole board. The officer may get no chance to speak in his own behalf. I believe the precedent established would be in the interest of the public service. That belief I have only come to reluctantly, and only after serving on the Naval Committee and seeing the cases that have come before it. I am in favor of the adoption of this measure.

Mr. STERLING. I yield two minutes to the gentleman from Virginia [Mr. MAYNARD].

Mr. MAYNARD. Mr. Speaker, I am interested in this case. I have taken trouble to inquire into some of the facts, and I have examined particularly the conclusions, I believe, without reflecting on the board that examined this candidate for promotion in the slightest. They simply relieved the plucking board and gave them a chance to pluck one more, so as to give promotion to those below them, and perhaps more favored ones. We know the same thing pertains to the Army that pertains to the Navy. Let an officer be stationed out on the frontier at an Infantry post or a Cavalry post. He does not get into the department, but spends his whole life out there until he becomes a colonel, and then the time comes for a general to be nominated. He has not a friend in the high places here to call attention to his deserts, because he has spent his whole life on the outposts, the frontiers. So the merits of that officer to promotion to general never come to the attention of the appointing power, and the only way he obtains his rank is because he gets it by retiring with the next highest rank.

The same thing obtains in the Navy. This man has been doing his duty regularly wherever he went, and without complaint, without one mark against his record. He has never had the soft snap in the department, where he met the people who composed these boards; he had no ties of friendship that would help him at a time like this. When he comes before the board, perhaps unpopular, I do not know; perhaps popular, I do not know, but without special friends, without the acquaintance of a single man on the board, this board has the opportunity to reject this man. And when the regular plucking board comes in session it gives them an opportunity to pluck one more man lower down, and gives a chance for promotion to those who have influence and friends.

The SPEAKER. The time of the gentleman has expired.

Mr. STERLING. Mr. Speaker, I yield to the gentleman from California [Mr. ENGLEBRIGHT].

Mr. ENGLEBRIGHT. Mr. Speaker, as a member of the Naval Committee I reported this bill, and I can assure this

House that I made a square report, and that I included in it everything that could be said in opposition to the passage of this bill. We considered this case carefully. This officer has a long record and a magnificent one. He applied for reexamination, and for reasons other than his record he was refused and forced upon the retired list.

Mr. STERLING. Mr. Speaker, I want to say just one word in reply to what my colleague from Illinois [Mr. MANN] has said in regard to this bill. The Secretary of the Navy nowhere recommends the report of this naval board. He expressly declines to express any opinion about the correctness or the incorrectness of this report. This is the language of the Secretary of the Navy. After writing a long letter giving a detailed statement of the facts in the case, he says:

The foregoing is not intended as an expression of the department's views concerning the correctness or incorrectness of the Naval Examining Board's finding in the case.

Now, the Committee on Naval Affairs of the House investigated the whole case thoroughly, and they say:

The findings of the board of examination do not seem to be in harmony with the previous good record of the officer.

That is the finding of this committee here, who, I dare say, have acted impartially in the matter. I do not think any Member of this House has the right to question the motive or the sincerity of the report of any committee in this House without some fact on which to base it. With that report before us, the gentleman from Illinois [Mr. MANN] is not justified in his statement that Capt. White has been lobbying about the House during the session of this Congress seeking the influence of Members of this House.

I am interested in this case, gentlemen, because Capt. White and I were boys together. I knew him then; I knew him when he was fighting his way as an orphan boy in order to qualify himself for his country's service. He comes from a long line of valiant soldiers. His father, when the boy was 4 years of age, died in the defense of his country in the swamps around Vicksburg. His grandfather was a soldier in the Civil War, his great-grandfather was a captain in the War of 1812, and his great-great-grandfather was a soldier in the Revolution. This man, the last of the line, has manfully maintained the reputation of his fathers. Is it any wonder the boy aspired to be a soldier? Do you wonder that he objects to being retired in this way just in the prime of life?

All he asks at our hands is an opportunity for a reexamination before another naval board. If he does not pass it to the satisfaction of the Secretary of the Navy that will end the matter. If he does, the President is then authorized to appoint him as a captain.

The gentleman from Illinois imputes, it seems to me, some bad motive to Capt. White because he resigned from the service. Under the law, after this board had found that he was not qualified professionally for promotion, he would have been retired on half pay as a commander.

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

Mr. STERLING. Yes; certainly.

Mr. RICHARDSON. Does the record show that Capt. White was notified at all by the examining board, or informed of their action?

Mr. STERLING. He was informed unofficially that they would act unfavorably.

Mr. RICHARDSON. Did they give him any official notice?

Mr. STERLING. They did not give him any official notice. He was informed that they would act unfavorably. He then resigned, with the rank of captain, on three-fourths pay. It was the exercise of a perfectly proper privilege under the law. The authorities in the Navy Department recognized that as a proper step in his case. As a matter of fact, they thought that was the thing he should do. In conclusion, if Capt. White should pass the examination and be promoted to the rank of captain, he would then occupy the same position as any other captain. He would be subject to promotion and retirement, just as any other captain, and he would have no special standing in the service, as was indicated by the gentleman from Illinois [Mr. MANN].

Mr. Speaker, I ask for a vote.

Mr. MANN. The gentleman is mistaken as to the facts in regard to that.

Mr. STERLING. I think not.

The SPEAKER. The question is on the motion to suspend the rules and pass the bill.

The question was taken; and on a division (demanded by Mr. MANN) there were—ayes 124, noes 8.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

TEN EYCK DE WITT VEEDER.

The SPEAKER. The gentleman from Texas [Mr. GREGG] is recognized.

Mr. GREGG. Mr. Speaker, I move to suspend the rules and pass the bill (S. 10172) for the relief of Ten Eyck De Witt Veeder, commodore on the retired list of the United States Navy.

The Clerk read the bill, as follows:

Be it enacted, etc., That the President be, and he is hereby, authorized to appoint Ten Eyck De Witt Veeder, now a commodore on the retired list of the United States Navy, to the active list of captains of the United States Navy, to take rank next after Capt. Charles Brainard Taylor Moore, United States Navy: *Provided*, That the said Ten Eyck De Witt Veeder shall be carried as additional to the number in the grade to which he may be appointed under this act or at any time thereafter promoted: *And provided further*, That the said Ten Eyck De Witt Veeder shall not by the passage of this act be entitled to back pay of any kind.

Mr. ROBERTS. Mr. Speaker, I demand a second.

The SPEAKER. The gentleman from Massachusetts [Mr. ROBERTS] demands a second, which, under the rules, is ordered. The gentleman from Texas [Mr. GREGG] is entitled to 20 minutes, and the gentleman from Massachusetts [Mr. ROBERTS] is entitled to 20 minutes.

Mr. GREGG. Mr. Speaker, this is rather an unprecedented bill in the House. We have had a great many bills here promoting men, but through this bill an officer of the Navy actually seeks to be demoted instead of promoted.

Capt. Veeder was sent before a retiring board. That board meets for the purpose of selecting for retirement certain men in the Navy. Capt. Veeder was selected for retirement by that board and retired as a commodore.

This bill seeks to replace Capt. Veeder upon the active list of the Navy with his old rank of captain. The retiring board are a star-chamber proceeding. They meet, and they are required to give no reason to anybody for selecting an officer for retirement. The law provides that when this board meets, the records of the various officers shall be available for that board. Of course that contemplates that the board shall consider an officer's record. How else are they to have a standard of comparison in deciding upon the relative efficiency of the men whom they are considering?

When Capt. Veeder was before the board, they did not consider a part of his record, and the very part that was most material in passing upon his efficiency. You know that the next grade in the active line above that of captain is that of rear admiral, which contemplates the command of more than one ship. Capt. Veeder was to be considered relative to his efficiency in that capacity, that is the capacity to command more than one ship. During the latter part of his service he commanded a special squadron on its return from the Philippine Islands to the United States. In the performance of that duty he was exercising command of a squadron, showing his ability to command more than one ship. His record as captain was without a blemish. He had served well and faithfully. He had made a good captain. Then when they came to consider the next trip, the question of his ability to command more than one ship, they did not have Capt. Veeder's record before them.

Mr. PUJO. Mr. Speaker, will the gentleman yield for a question, for a matter of information?

Mr. GREGG. Yes.

Mr. PUJO. Does not the record of the investigation made by the Naval Committee show, by an official communication from the Secretary of the Navy, that—

The medical record of Commodore Ten Eyck D. W. Veeder, United States Navy, retired, on file in the Navy Department, was at the disposal of the board of selection at the time it acted in recommending his retirement, but was not called for.

That statement is in the report, is it not?

Mr. GREGG. That is a fact.

Mr. PUJO. Now, do I understand the gentleman to say that this board of selection for retirement passed on this case without having the entire record before them.

Mr. GREGG. They did. They had none of his medical record. It just impresses me with the idea that they did not care anything about his record. They were going to retire him anyway, and when his record was available they did not even call for it.

Now, the record of Capt. Veeder, in command of this special squadron, was made by Admiral Pillsbury, and it is eminently satisfactory and shows clearly that Capt. Veeder was qualified to command. His past record shows him qualified to command one ship. His last record, which they did not consider, shows him qualified to command more than one ship. [Applause.]

I reserve the remainder of my time, Mr. Speaker.

Mr. ROBERTS. Mr. Speaker, this case is one of a class of cases that have come before the Naval Committee at intervals since the passage of the personnel bill. There have been within my recollection at least two similar cases, where officers had been arbitrarily retired by the board of selection, or, as it is popularly termed, the "plucking board," the officers seeking by a special act of Congress to be reinstated.

Up to the time of this Veeder case the Committee on Naval Affairs had declined absolutely even to consider such cases. We did it for the reason that to do so establishes a dangerous precedent. It invites every officer in the service who may be retired through the operation of this law, to come to Congress for special relief; but the committee have always said, "If any case comes to us where it can be shown that there was malice or spite on the part of the officers making up the retiring board, we will go into the facts of that case, and if the allegations are justified, the committee will consider measures of relief."

When this case came before the committee there were no allegations whatever in the nature of malice or spite or unfairness on the part of the board. The committee asked Commodore Veeder to make a statement as to what he would prove if the committee deemed it wise to consider his case. In a written communication to the committee he said he expected to prove that this board of selection did not have before it his complete professional record and that it had before it an incorrect medical record. He said explicity in his letter that he did not know whether the incomplete professional record or the incorrect medical record had any influence on the board or not, but says that it might have done so.

When we got into the facts of the case it appeared that the board did have before it an incomplete professional record and had before it no medical record whatever. Now, the law explicitly provides that the entire record of the officers who are to be considered by this board shall be at the disposal of the board. The law does not say that the record must be there; it makes provision whereby this board can compel, if necessary, the production of these records, if they are deemed necessary in the consideration of the case.

It transpired, further, that the reason the full professional record—and I want to call the attention of the House to this fact, that the professional record for more than 40 years was before this board of selection and that the incomplete portion of it only related to about three months of his service—and, furthermore, that three months' record had not been made up at the time the records were called for, but was made up subsequently.

Now, the House wants to consider this situation.

Mr. HOBSON. Will the gentleman yield?

Mr. ROBERTS. If it is for a question.

Mr. HOBSON. Did the board have the special-service squadron record of this man?

Mr. ROBERTS. The special-service record had not been made up at the time the board sat in the discharge of its duties.

Mr. HOBSON. The question is very simple. That record of the special-service squadron having been completed many months before, why was it not made up by the Bureau of Navigation and laid before the board?

Mr. ROBERTS. Because the records are not made up immediately on the completion of a given tour of duty. It is not customary to make them up immediately.

Mr. HOBSON. When you come to retiring an officer it is customary for the reports to be made up.

Mr. ROBERTS. Let me say to the gentleman that he must know that the officials in the Navy Department can not possibly know what officers are being considered for retirement by the special board.

Mr. KOPP. How many instances are there on record where the officers are reinstated after being reported by the board of selection?

Mr. ROBERTS. None whatever.

Mr. KOPP. If this establishes a precedent, is it not a fact that there will be many clamoring for reinstatement on the same terms?

Mr. ROBERTS. I so stated a moment ago. If Congress by its action in this case establishes a precedent that when any officer has been selected out of the line under the operation of law can come here and be reinstated, then you are going to have every officer who has heretofore been selected out under like conditions, and every officer who will hereafter be selected out, come here with his bill for relief. And there will be no reason in the world why they should not have the relief. Now, just one word more. This law was passed in 1899 and known as the personnel law. It carried this provision for the arbitrary retirement of a certain number of officers below the grade of rear admiral, which was in order to create a continuous flow of promotion in the Navy and obviate a hump. The board which must sit upon these officers and pass upon the question of their retirement is composed of rear admirals, all of the board being senior to the officers who may be retired. Being senior, there can be no possibility that these officers would be actuated, even in the recesses of their hearts, by any selfish motive, because the retirement of the officers junior to themselves would not benefit them in the slightest degree.

The board which passed upon Commodore Veeder was made up of Admirals Wainwright, Ward, Murdock, Berry, and a fifth whose name has escaped me for the moment. I want to say this of these officers, who may not be known to the entire membership of this House, that there are not in the entire Navy of the United States five officers of greater honor, of a keener sense of duty, of a more tender heart, or of men who approach the discharge of a difficult duty with more reluctance than these five men. They are compelled by the law itself to have a vote of four out of five upon that board before any officer can be retired under its operations. Not even a majority rule is sufficient to retire a man under this law. Having selected out the men whom they deem proper to retire, their names are sent, not to the Secretary of the Navy, but directly to the President, and by him placed upon the retired list.

Mr. LIVINGSTON. Has the President the power to veto their action?

Mr. ROBERTS. That is a question in my mind. I think the President might, and I think he does have the power to review the action of this board, but the law does not expressly give it to him in the language of this personnel act.

Mr. LIVINGSTON. Does the Secretary of the Navy have the right to see that report and approve it or not?

Mr. ROBERTS. By the terms of the personnel act the findings of this board shall be in writing, signed by all of the members, not less than four governing, and shall be transmitted to the President, who shall thereupon, by order, make the transfer of such officers to the retired list as are selected by the board.

I want the membership of this House, in passing upon this bill, to consider the difficulties surrounding such service and the delicacy of the position of the officers upon this board. It is not a permanent board. It is one that is convened annually. Its personnel changes from year to year. The board keeps no records whatever of its proceedings. There is nothing left behind by which any man can infer even that malice or any unworthy motive actuated a single member of the board. The situation that these officers find themselves in would be analogous to that of Members of this House who were appointed upon a board to select annually for dismissal from this House a certain number of its Members—a very embarrassing situation in which to find themselves.

Mr. LIVINGSTON. If the Secretary of the Navy nor the President of the United States have the power to review the findings of that board, does the gentleman not think that this man ought to have the right to go to Congress?

Mr. ROBERTS. I will agree with the gentleman that they should have the right to go to Congress if they can show that there was anything unfair in the proceeding; and the fact that there was no portion of a man's record of any kind before the board is not in the slightest degree evidence of unfairness on the part of the board or any member of it, for the record could have been had if it was desired.

Mr. GREGG. The gentleman says that they ought to have a right to appeal to Congress if there was any evidence to show any unfairness. The gentleman said awhile ago that absolutely no record was kept by them. If no record was kept, then how could anybody show that there was any unfairness in their deliberations?

Mr. ROBERTS. Just as we hear from the little birds what motives actuate certain men under certain conditions, and which, if they actually exist, can be shown by evidence.

Mr. GREGG. Does the gentleman believe we ought to act upon the song of a bird in a case of this kind?

Mr. ROBERTS. If we have not got anything else, yes; particularly if it is an evil song. Now, the position of these officers is like that I have mentioned of Members of this House upon whom was forced the duty of selecting each year a certain number of its Members to be retired—a very embarrassing position for any man to find himself placed in—and these officers approach that duty under oath that they will discharge their duty in that position for the best interests of the service.

Mr. HILL. But they have to discharge a certain number of people, do they not?

Mr. ROBERTS. They have to discharge a certain number, and it varies from year to year. I want to call attention again to the fact that it was no act of theirs or of the Navy Department which compels them to discharge that number. It is an act of

Congress which compels them to do it and which places upon them this disagreeable and onerous duty. Now, until we can have something more than a mere assumption that the board was unfavorably influenced by the absence of a record, which the board could have had if it so desired, it seems to me, in the best interest of the Navy Department and of the morale of the service, that this House should uphold the action of these officers. Now, will the gentleman use some of his time?

Mr. GREGG. I now yield four minutes to the gentleman from Georgia [Mr. BRANTLEY].

Mr. BRANTLEY. Mr. Speaker, this bill in its effect restores to active duty in the Navy a gallant sailor, a splendid officer, a man in the full vigor of mind and body—a man splendidly trained and who has made an enviable record and who is now capable of rendering good service to his country. That is all that it does. It is a bill that strengthens the Navy by adding to its effective force such a man, and any bill that does that is a good bill. Mr. Speaker, we have upon the statute books what is called the Navy personnel law. It authorizes a most arbitrary proceeding for the forcible retirement of naval officers—a proceeding that we have nothing akin to in any other branch of this Government. Men who contract with this Government for life for service in the Navy are under this law stripped of that constitutional protection of contract that is accorded to all in civil life and to those even in the Army. The gentleman has just stated that an officer so retired might appeal to the President. The law provides for no such appeal. Upon the contrary, the law and practice is that the board administering this law keeps no records of any sort, so that there is nothing upon which to base an appeal to the President, even though he could entertain it. There is but one remedy afforded an officer who believes he has been unjustly retired, and that is to appeal to the Congress. If Congress turns a deaf ear to a meritorious appeal it means to say that there shall be sanctioned in this free Republic a star chamber bound by no law, keeping no record of what it does, and making no explanation thereof, because its acts are nowhere reviewable. Congress contemplated no such star chamber, for the law under consideration says that this board shall retire those "least efficient," and provides that the records of all the officers shall be available to the board.

Assuredly, the law contemplates that in determining who are the least efficient the records of the officers under consideration must be before the board to determine that question. It appears in this case that the medical record of this officer was not before the board. It appears that his complete service record was not before the board, and therefore the spirit and clear meaning of the law was not complied with, and unless Congress listens to this appeal and restores this officer, who asks for nothing except that he be permitted to serve his country at a lower rank than he now holds and at a less compensation than he now receives, he has no remedy and the plain violation of the spirit of the law goes unrebuked. Mr. Speaker, it seems to me that a man who has given all the years that this particular officer has given to his country is entitled to the consideration he asks. It may be that the Naval Committee has not heretofore reported favorably similar bills to this. They need not report favorably in the future other similar bills unless they believe them to be meritorious. It is true that the Secretary of the Navy in this case made no adverse recommendation of the pending bill, as he has done with other similar bills.

The SPEAKER pro tempore (Mr. CURRIER). The time of the gentleman has expired.

Mr. GREGG. Will the gentleman use some of his time?

Mr. ROBERTS. I have only four minutes remaining.

Mr. GREGG. I yield five minutes to the gentleman from Alabama [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I undertook in the course of the remarks of the gentleman from Massachusetts [Mr. ROBERTS] to establish some facts for the committee by a simple question, and he declined to give plain answers, and so I give them here. I asked why that part of Capt. Veeder's record relating to his command of the special-service squadron was not before the board. His answer was that the Navy Department had not had time to make up this record.

Mr. ROBERTS. If the gentleman will pardon me, I said the Navy Department had not made it up.

Mr. HOBSON. Very well. I asked him why the Navy Department had not made it up, and he produced the impression that it did not know that Capt. Veeder would be recommended and could not produce the record.

Mr. Speaker, Capt. Veeder was retired out of active service on July 1, 1910, the statutory day for such retirement. His service with the special squadron he commanded was between August 1 and September 18, 1908. It is a regulation of the Navy Department that reports on fitness should be made regularly. There had been several reports of fitness since the time when the special service had been made. It can not be stated that the Navy Department did not have the record in question, for it must have been on file for nearly two years previous. Mr. Speaker, the circumstances surrounding this case are peculiar in the extreme.

Capt. Veeder would in his next promotion have been a rear admiral, and in that higher grade would have had the duty of commanding ships in squadrons or fleets, and the question of fitness of the officer and the question of the efficiency of the service was essentially one of whether he was prepared at that time to assume the future duties of commanding ships in numbers.

And here was a case in his record, two years previously, where he had commanded two ships, a special squadron composed of the *Alabama* and *Maine*, that had been partially disabled in the Far East after starting out with the fleet that went around the world. This constituted a most difficult command. It appears that this officer's record was especially meritorious in commanding this squadron and bringing it back to America. I was on duty with Capt. Veeder for many months. I confess I was utterly surprised when I heard that he had been plucked, because I had regarded him always—and I knew that my opinion was that of the Navy at large—as one of the most efficient officers in the service. I realize that he did make enemies with officers in the grades both above and below him, but, in my judgment, as in the case of other officers I have in mind, they arose out of the discipline that he imposed and the fearlessness he showed in the face even of superiors.

It is far from me to bring anything into this House that ought not to be brought, and I will not use names that ought not to be used, but I was informed reliably that an attempt was made to pluck this officer in 1909, and a member of the board that failed to pluck him remarked, "We did not get him this year, but, d—n him, we will get him next year."

I will not take second place to anyone in my admiration for members of the board—this last board that did the final act—particularly certain members with whom I am well acquainted, but I do claim they should have had before them the record of this officer bearing on his fitness to command ships.

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

Mr. GREGG. I yield one minute more to the gentleman.

Mr. HOBSON. I do know this, that in the Navy there is today a condition, not exactly of terror, but one almost approaching it. A group of officers in the department seem to hold in their hands the question of life and death for the professional future of officers in general. Officers have come before our committee and asked to be relieved from answering questions to give us information that we ought to have. There ought not to be any such condition in the naval service. I believe the law is wise that established this plucking board. I know that its duties are difficult; I know that they are founded on the good of the service; I do not wish to discredit its work, but I believe we ought to have an appeal.

This does not mean any lack of confidence in the gallant officers who compose the present board or who will compose future boards any more than the regulations and safeguards of appeal mean lack of confidence in honest judges.

Mr. ROBERTS. Does the gentleman yield for a question?

Mr. HOBSON. I certainly can not. I have but a minute remaining.

Mr. Speaker, I say that there ought to be an appeal, and that the board should know that there is an appeal, a tribunal of last resort in case an officer is plucked unjustly. I would be the last man to make this a precedent for other cases. In fact, I have voted against other cases. But I have come to the deliberate conclusion that the Congress has an interest in this question of the administration of the Navy where such a vital matter is concerned, and that we ought to act favorably upon this bill. [Applause.]

Mr. ROBERTS. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. The gentleman has four minutes remaining.

Mr. ROBERTS. Mr. Speaker, I will yield my four minutes to the gentleman from Pennsylvania [Mr. BUTLER].

Mr. BUTLER. Mr. Speaker, will the House give me its attention for one moment only? For 12 years I have stood with all my might against establishing a precedent like this, but I promise you that my duties in this regard are now over. If you set this precedent, if you open this gate, then you must hereafter, in justice to all others forcibly retired with similar rec-

ords, restore them to the active service, and the discipline of the Navy is gone. The section of the personnel act herein involved is useless and done forever.

Mr. LIVINGSTON. I suggest to the gentleman that the law be either amended or repealed entirely.

Mr. BUTLER. There should be, of course, in most instances, a place where all men could come to redress their grievances. I have no feeling here; my only purpose is to do what is right. I have for eight or nine years stood with firmness against all appeals of this character. Officers of the Navy with similar records for efficiency and similarly situated have visited me at my home in Pennsylvania, appealing to me to assist to open the gates in order that they might be restored. I repeat, their records were exactly like this record. There was no difference between them. Efficient men, all subject to the same rule. The threat spoken of here was never substantiated by proof; it was never tried. Now, gentlemen, set the precedent, if you please. I make no further effort for discipline in this branch of the service. The attempt would only waste time important for other duties.

Mr. ROBERTS. That threat has not been proved.

The SPEAKER pro tempore. The time of the gentleman has expired. Will the gentleman from Massachusetts use the remainder of his time?

Mr. ROBERTS. I yield three minutes of my time to the gentleman from Massachusetts [Mr. WEEKS].

Mr. WEEKS. Mr. Speaker, the gentleman from Pennsylvania has just stated that he has no personal feeling in this matter. On the contrary, I have a strong personal friendship for Commodore Veeder. I was in the Navy years ago, during which time we were shipmates for two years, and I esteem him as an officer and a man. But, Mr. Speaker, I shall vote against this bill because I think Commodore Veeder should not be restored to the active list of the Navy, not for personal reasons, but on account of the making of a bad precedent by the passage of this bill, which would do the naval service serious harm.

Among the many beneficial things that have been done for the naval service in the last few years, nothing, in my opinion, has been of greater value to the Navy personnel than the legislation which authorized what is known as the "plucking board." Under proper conditions this board selects for retirement from the service men who from habit or for some other reason have been less efficient than others, taken from the captain's, commander's, and lieutenant commander's grades. Many of those who have been thus selected are good men. Some of them are my personal friends, who have asked me to introduce bills to restore them to the active list; but I have uniformly refused to do it, because I believed that if the action of the board was going to be overturned by an act of Congress it would produce results which would inevitably do serious injury to the personnel of the Navy. Congress is prone to pass good laws when considering a principle, and then, when influenced by personal sentiment and active personal lobbying, as in this case, to undo its own work. This is one of those cases. So for that reason, not for any reason other than that, I think this bill ought not to pass. If it does pass, I want to say here and now that there have been other men who have been selected out, as competent as the applicant in this case, who will have bills introduced in their behalf to restore them to the service, in which case Congress should take immediate and unanimous action in putting them back.

Mr. ROBERTS. Mr. Speaker, did the gentleman from Massachusetts [Mr. WEEKS] use all of his time?

The SPEAKER pro tempore. The gentleman used two minutes. One minute now remains.

Mr. WEEKS. Mr. Speaker, I will reserve the balance of my time.

Mr. ROBERTS. If the gentleman does not care to use it, I would be glad to have him yield it back to me.

The SPEAKER pro tempore. Does the gentleman yield back the remainder of his time to the gentleman from Massachusetts [Mr. ROBERTS]?

Mr. WEEKS. Yes.

Mr. ROBERTS. Mr. Speaker, the gentleman from Alabama [Mr. HOBSON] stated he had heard unofficially, in a way that he could not disclose, that an officer on the retiring board last year—not on this year's board—had said, "We are after you, and we will get you next time." I want to say that several members of the Committee on Naval Affairs have endeavored earnestly to verify that statement, but without success.

Now, when gentlemen are speaking of unofficial statements, I want to say that naval officers, who shall be nameless here, have said to me that this man, by reason of his temperamental infirmities, should have been retired from the active naval service years ago for the best interests of the service, and that the reason why he was not taken out years ago was because there were men worse than he by whose retirement the service would be benefited to a greater degree.

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

Mr. GREGG. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. Foss], the chairman of the Committee on Naval Affairs.

The SPEAKER pro tempore. The gentleman from Texas had four minutes remaining, and he has yielded that time to the gentleman from Illinois [Mr. Foss].

Mr. FOSS. Mr. Speaker, this is a meritorious bill. It has been passed by the Senate, it has been favorably recommended by the House Committee on Naval Affairs, and it is here now before the House.

I may say to the Members of this House that I had charge of the personnel bill on this floor 12 years ago, and I wrote the report upon that personnel bill, which I have here in my hand.

This personnel law provided for the compulsory retirement of officers by a board, and I wish to say to this House that I have religiously opposed every bill which has come before our committee putting men back on the active list after they have been compulsorily retired by a board. But this case differentiates from all the cases which have ever come before the committee, because it appears—and I have here the letter from the Secretary of the Navy—that the whole and complete record of this officer was not before that board. This board is a sort of star chamber, and the least that any man should have is that his whole record be before the board.

Mr. KOPP. Will the gentleman yield?

Mr. FOSS. No; I have not time. When I wrote the report upon this personnel law I expressly used this language:

> The most important point in this connection is that the selection of officers for compulsory retirement is based on their records in the files of the Navy Department, and that those selected are the ones considered, on the whole, least efficient; not inefficient, but less efficient than those who remain. These records are the reports of senior officers, rendered semiannually, and with respect to which the officer concerned is informed of any unfavorable comment, and his answer thereto filed with the report. As will be seen at once, not only does this assure the retention on the active list of the most valuable and efficient officers, but it furnishes an immense stimulus to the best effort on the part of every officer, to the greatest efficiency professionally, and the most zealous performance of duty.

What appears in this case? Why, there appears the absence of this officer's record when he was upon the most important duty which he was ever called upon to perform in the whole 40 years of his service, when he was in command of a special squadron from the Philippine Islands to this country. This record was not before that board, and yet the important point for that board to determine when it was to pass upon his record was the question whether he was fit to go from the grade of captain to the grade of rear admiral. What does that mean? That means whether he is fitted to command more than one ship. Yet the record of this officer in command of more than one ship, in command of this special squadron, the record which was to determine his fitness in going from the grade of captain to the grade of rear admiral was not before this board.

That is the question for the House to settle. [Applause.]

The SPEAKER pro tempore. The question is on the motion to suspend the rules and pass the bill.

The question being taken, on a division there were—ayes 89, noes 30.

Accordingly (two-thirds voting in favor thereof) the rules were suspended and the bill was passed.

The announcement of the result was received with applause.

By unanimous consent, the similar House bill (H. R. 31106) was ordered to lie on the table.

ROBERT E. PEARY.

Mr. DAWSON. I move to suspend the rules and pass the bill (S. 6104) providing for the appointment of Commander Robert E. Peary a rear admiral in the Navy as an additional number in grade, and placing him upon the retired list.

The bill, as proposed to be amended, was read as follows:

Strike out all after the enacting clause and insert:

"That the President of the United States be, and he is hereby, authorized to place Civil Engineer Robert E. Peary, United States Navy, on the retired list of the Corps of Civil Engineers with the rank of rear admiral, to date from April 6, 1909, with the highest retired pay of that grade under existing law.

"SEC. 2. That the thanks of Congress be, and the same are hereby, tendered to Robert E. Peary, United States Navy, for his Arctic explorations resulting in reaching the North Pole."

The SPEAKER pro tempore. Is a second demanded?

Mr. MACON. Mr. Speaker, I demand a second, and I make the point of no quorum. This is an unusual bill.

The SPEAKER pro tempore. The gentleman from Arkansas demands a second. A second is ordered under the rule. The gentleman from Iowa [Mr. DAWSON] is entitled to 20 minutes

and the gentleman from Arkansas [Mr. MACON] to 20 minutes. The gentleman from Arkansas makes the point of order that no quorum is present. The Chair will count.

Pending the count,

Mr. MACON. Mr. Speaker, will the Chair please announce how many are present?

The SPEAKER pro tempore. The Chair will announce in a moment. Gentlemen are coming in so rapidly now that it keeps the Chair busy counting.

Mr. MACON. My purpose was that if there is anything approximating a quorum present, I will withdraw the point.

The SPEAKER pro tempore. There are 187 Members present.

Mr. MACON. Mr. Speaker, this is a very unusual bill, and I wanted the House present, or a majority of them, to hear the discussion of it. I withdraw the point of no quorum.

The SPEAKER pro tempore. The gentleman from Arkansas withdraws his point of no quorum.

Mr. DAWSON. Mr. Speaker, I yield three minutes to the gentleman from New York [Mr. ALEXANDER].

Mr. ALEXANDER of New York. Mr. Speaker, for more than 20 years I have had the pleasure and privilege of knowing Capt. Peary personally and with some degree of intimacy. We graduated from Bowdoin College—he in 1878 and I in 1870. His character for absolute honesty and unflagging industry was early established, and his whole life has been one of honor and exalted action.

Soon after his admission to the Navy in 1881 he became interested in arctic exploration, and since 1888 his purpose has been prosecuted with indomitable courage and iron persistence. With him it has not been a case of seizing an opportunity which occurred or was thrust upon him. He made his opportunity by hard work, great sacrifice, and large risks. In prosecuting his ambition he paid out of his own money, earned by lectures, magazine articles, and a published book, a large proportion of the expenses of his several expeditions. A broken leg and the loss of eight toes testified to his determination to win. Thus for 23 of the best years of his life did he toil and suffer.

Mr. Speaker, since 1899 Capt. Peary has been a cripple; and yet, with patient persistence, with admiration for his work, with a determination to reach the farthest north, he spent his money, he borrowed from friends, he laughed at physical disability, and bravely went forward with his plans, until, with the help of God, he planted the Stars and Stripes at the North Pole. [Applause.]

But, Mr. Speaker, he has done much besides. He has filled in all the unknown gaps in the northern coast line of the American half of the arctic regions. He has rounded and determined the northern end of Greenland; he has placed his records, with the Stars and Stripes, on the northern point of the three most northern lands in the world; he has added a long series of meteorological and tidal observations; he has brought back a large amount of material in the domain of natural history; and he has made many soundings in new waters, including a line of soundings from Cape Columbia to the North Pole. [Applause.]

Nor should the combination of circumstances which Peary has encountered be forgotten. After devoting 28 years of his life to the accomplishment of what has been before the world for 400 years he found on his way home that another proposed to claim having accomplished the same object. He had complete and accurate information as to what that other had done, what he intended to claim he had done, and he knew the absolute falsity of those claims. He was in full possession of the knowledge that this other would deliberately attempt to defraud the people of this country and the world, morally and financially. At the first opportunity, his first contact with civilization, he issued the warning which his knowledge demanded of him, couched in parliamentary language. This warning not being heeded, he issued another, absolutely definite and explicit and easily understood by everyone. It has been said that Peary acted in a churlish and unsportsmanlike manner, but the thoughtful man, in the silent watches of the night, must admit that the world's great explorer was compelled to make these statements, first, because as a commissioned officer of the Government, it was his duty, knowing of this deliberate attempt to defraud, to warn the public, and, second, in protection of himself, so that those who were sure to be duped could not later accuse him of being accessory to their deception by suppression of knowledge in his possession.

Yet the result of this has been to call down upon him criticism and even insult, notwithstanding the absolute truth of his statement has been proved. Nevertheless, when the suggestion is made to recognize his work in the way that foreign Governments would do, he is met by the counter suggestion that he, too, is a fakir.

Mr. Speaker, is Peary untruthful? To answer this question it is only just to one's self to look over the report of the Committee on Naval Affairs and see what conclusions it reached after a temperate and reasonable examination of the evidence. The essential part of the report is contained in the following:

> Robert E. Peary reached the North Pole on April 6, 1909. From a camp which he established at a point estimated by observation at 89 degrees, 56 minutes, north latitude, on said date (slightly over 4 miles from the exact pole), he made two excursions on that and the following day, which carried him close to and beyond the pole. Your committee have come to the above conclusion after a careful examination and hearing by the subcommittee extending over several days at which Capt. Peary appeared in person and gave important testimony, submitting all his papers, original data, daily journal kept by him during the journey, and notes of astronomical observations, and soundings, etc. Your committee also heard the report of the National Geographic Society, of Washington, the report from the president and one of the board of governors of the Royal Geographical Society, of London, which society, through its official computer, had made an independent examination of the data and proofs; and also a report from Hugh C. Mitchell and C. R. Duvall, expert computers of astronomical observations, from the Coast and Geodetic Survey of the United States. These men, independently of any other person, working on the original data of the observations taken by Peary, stated before your committee that on the above-named dates Peary passed within a little over a mile of the exact pole and stated in conclusion that the march of April 7, 1909, may have carried Peary even within a stone's throw of that point."

As to the possibility of faking the observations, which is the only plausible scientific basis for disputing the claims of Peary, the report says:

> Mr. Mitchell, of the Coast and Geodetic Survey, makes a conclusive and careful report on the observations of Marvin, Bartlett, and Peary. He and Mr. Duvall agree that the observations taken by Peary at Camp Jesup were latitude 89° 55′ 23″, longitude 137° west, and that this place, Camp Jesup, is indicated to be 4.6 geographic miles from the North Pole. But this was not his closest approach to the pole. Mr. Mitchell states that the result of observations at 6.40 o'clock on the morning of the 7th and of Peary's travel immediately after those observations in the direction of the sun, an estimated distance of 8 miles, indicate that Peary was at a probable distance of 1.6 miles from the pole. Mr. Mitchell and Mr. Duvall figured the position of Peary at the pole independently, but based on the same observations and by independent methods. Their calculations agree within a second of latitude. Mitchell states that from his professional experience it would have been impossible for the data of these observations to have been obtained other than under the circumstances claimed. The observations at the pole were made at different times. He states that in using these observations in connection with each other they, in a measure, prove each other, and that error could be detected had the observations not been made at the points set forth in the data.

Mr. Speaker, the only other point raised by the critics which merits attention relates to the possibility of Peary having actually made the long and rapid marches necessary to bring him back from the pole within the time stated. His average was 25½ miles per march. In support of the credibility of this claim the committee, citing the records of other polar travelers, quotes, as the most significant, that of Shackleton, the English Antarctic explorer. It says:

> Shackleton on his outward journey made marches of 18 and 20 miles. He returned without dogs, and he and his men, dragging their own sledges, made marches of 20, 26, and 29 miles.

If Shackleton, dragging his own sledges, could make marches of 26 and 29 miles, Peary's claim is not unreasonable, that he, with the help of dogs, and traveling over a path already marked out, made an average of 25½ miles per march. This is the opinion of mathematicians and scientific men, and these alone are qualified to give an opinion worthy the consideration of this House. So long as scientific men who have examined the data are satisfied of the reality of Peary's achievement, it would be a great injustice to deny him credit for it.

Mr. Speaker, the question now is whether this work is worthy of official recognition by the Government of the United States; and if it is, whether it is worthy of recognition on a scale commensurate with the magnitude and the meaning of the work done, and with the dignity of the Nation.

During the years in which Great Britain held the record of "highest north," not less than 20 of its officers were knighted or made admirals, and received, in several instances, considerable grants of money for their Arctic efforts. Nansen, who attained the "highest north" for Norway, was given by his country the position of ambassador to Great Britain. Abruzzi, who later attained the "highest north" for Italy, was made an admiral in the Italian Navy. Lieut. Ernest Shackleton, who succeeded in reaching within about 100 miles of the South Pole, has been knighted and given a grant of $100,000 by the British Government.

Mr. Speaker, the work of all of these men was gallant and meritorious, but they did not achieve the full measure of success—the attainment of the Pole itself, the finish of the centuries of effort—as did Peary. It is also to be noted in connection with all of these efforts that the time devoted by each man was from one to four or five years, while Peary has practically devoted his entire life to it.

Mr. Speaker, it has been suggested that the thanks of Congress are very rarely extended to civilians. It is true that the

long list of those thus honored belong among the heroes of our Army and Navy, but the exceeding great honor is not confined to them. In 1878 Congress expressed the thanks of the American people to Stanley, the great African explorer, who found Dr. Livingstone. The joint resolution provided:

That regarding with just pride the achievements of their countryman, Henry M. Stanley, the distinguished explorer of Central Africa, the thanks of the people of the United States are eminently due and are hereby tendered to him as a tribute to his extraordinary patience, prudence, fortitude, enterprise, courage, and capacity in solving by his researches many of the most important geographical problems of our age and globe; problems of a continental scope, involving the progress of our kind in commerce, science, and civilization.

The eminent services of Gen. Horace Porter for recovering the remains of John Paul Jones about four years ago are familiar and still fresh in memory.

In 1883 John F. Slater, of Connecticut, was given the thanks of Congress and a gold medal for contributing $1,000,000 to the work of uplifting the emancipated slaves.

The Khedive of Egypt was given a vote of thanks by Congress in 1882 for presenting to the United States the obelisk which has a place in Central Park.

John Hay was thus honored for his memorial address on President McKinley, delivered in 1902 to the two Houses of Congress assembled in joint convention in the Hall of this House.

Mr. Speaker, if these distinguished men were worthy the thanks of Congress—and no one will dispute it—we should certainly not deny a similar honor to-day to the distinguished explorer who has reached the goal which some of the best men of all the civilized nations of the world have endeavored, without success, to attain during the past 400 years. And all this for the credit, the honor, and the prestige of his country. [Applause.]

Mr. DAWSON. Mr. Speaker, I yield two minutes to the gentleman from Pennsylvania [Mr. MOORE].

Mr. MOORE of Pennsylvania. Mr. Speaker, I earnestly hope the House will take the broad view of the question presented to them by this bill. The world at large has honored and respected the verdict of the American scientists who certified to Peary's achievement.

The verdict that we will render to-day should be based not upon personal prejudice, but upon the findings of our own scientists in whom we ought to have confidence. They hold official station in this Government and are qualified to speak. This they have done after inspecting the instruments and the records, and they have testified that an American citizen did discover the North Pole.

The world has formed its estimate of Peary, and I wonder what will be thought of us should we—after he has surpassed his rivals of other nations—decide to-day to disown him in his own country.

In two minutes it is impossible to enlarge upon this question, except to say that after 23 years of perseverance in eight separate voyages, this American citizen whom we carefully watched on every voyage, and who was watched with pride by the people of this Nation, returned to his own country to find his every act questioned and his world-renowned achievement hanging in the balance in the house of his friends. To-day we are to decide whether we shall discredit him. His place in history is fixed; we can not alter that; the world will recognize him as it now recognizes Columbus. It is within our power to honor or disparage him. I hope none of us will contribute to his further humiliation. [Applause.]

Mr. DAWSON. Will the gentleman from Arkansas use some of his time?

Mr. MACON. I wish the gentleman from Iowa would use half of his time for I may use the whole of mine in one speech. There is no one who has requested time from me on this side.

Mr. DAWSON. I yield two minutes to the gentleman from New York [Mr. HARRISON].

Mr. HARRISON. Mr. Speaker, in two minutes it is not possible to do credit to this subject, but I believe that the Members of this House who may have it in their hearts to vote to deny to Commander Peary the recognition which is due will do so under a misapprehension of the facts; they do so because they have allowed their judgment of the achievements of this great man to be clouded by the alleged achievements of another man, of whom the less we say the better.

Commander Peary does not need recognition at the hands of the American Congress, but we should take this opportunity to give him the credit which is his due. [Applause.] What we do to-day will not add to his imperishable fame. He has established his name high upon the list of the world's heroes, and what the American Congress may do or may not do can not tarnish that name nor remove it from the high position that it occupies. In my judgment, though, in an age of materialism, we should not hesitate to do full honor to achievements of great physical glory. We can not hesitate to do honor to the name of the man who has emblazoned in the annals of the world's heroic deeds the American attributes of manhood, of courage, of honor, and of fortitude. This man, undismayed by the shadows of "the lost adventurers, his peers," endured for years the hardship and privations and sufferings of the arctic climate to place, at last, at the farthest north, upon the pole itself, the Stars and Stripes of our country. [Applause.]

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

Mr. DAWSON. Mr. Speaker, I yield two minutes of my time to the gentleman from Tennessee [Mr. PADGETT].

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. PADGETT] is recognized for two minutes.

Mr. PADGETT. Mr. Speaker, the Senate bill as it came to the House provided that Capt. Peary should be made an admiral of the line. Personally, I did not favor that, neither did the committee, and we struck out all of the bill after the enacting clause and provided instead that he should be promoted in the Corps of Engineers and retired with the grade of rear admiral in that corps. He is already in the Engineer Corps, and it simply gives him promotion in the corps in which he has served, and not in the line. With that amendment I am in favor of the passage of the bill.

Now, I shall make the other matter very short. If I had all of these evidences before me, I would be wholly incompetent, personally, to pass upon them intelligently.

But all of the scientific bodies of the world and all the scientific men who are competent to pass upon it have, I believe, without any exception, accepted the proofs of Capt. Peary and have accorded to him the honor of reaching the pole.

Mr. MACON. Will the gentleman allow me to interrupt him?

Mr. PADGETT. No; I have not time. I am perfectly willing to accept their judgment. They are competent to weigh and consider the evidence. I am not. That is the judgment of scientific men and scientific bodies who have no interest in Capt. Peary, whose interest is on the other side of the question, because some other country might desire to secure for its citizenship the honor they have accorded to him. I ask for the passage of the bill. [Applause.]

Mr. DAWSON. Mr. Speaker, I yield one minute to the gentleman from California [Mr. ENGLEBRIGHT].

Mr. ENGLEBRIGHT. Mr. Speaker, in justice to a worthy American citizen, and to honor the man who planted the American flag at the North Pole, performing a feat requiring the greatest of courage and endurance, which has again given a citizen of the United States the honor of the favorable attention of the civilized world, I hope this bill will pass. The success of Capt. Peary in reaching the North Pole was due to the experience he had gained in his years of previous exploration in the arctic regions, his thorough acquaintance with the natives of Greenland, and a well-laid-out plan, carefully studied and carried out in detail as it had been planned; an expedition made up of men of courage, energy, and determination, who were capable of standing the unusual hardships in those frozen regions, and who took their lives in their hands when they left their base of supplies at Cape Columbia and started north over the ice-covered sea to encounter dangers that might have led to the destruction of the whole party.

Every man in the party knew his duty, had his proper place in the expedition, and was prepared to do his proper share in carrying out a plan that would permit the leader of that expedition to reach the goal that has been an object of explorers for many years, and which has cost many lives and a large expenditure of money.

The plan laid out was to divide the party into supporting units, each party to go north a portion of the distance, lending all the assistance possible to leave the remainder of the party in the best possible condition, and then return and leave a trail in good shape for the return of the other units of the party. Each supporting party was independent in the matter of supplies and equipment, but prepared at all times to render assistance to the others.

The result was that Capt. Bartlett accompanied Peary to latitude 87° 47′, or within 133 miles of the pole. At this point they exchanged signed statements as result of observations, and Bartlett turned back with his supporting party, leaving Peary with picked dogs, good sledges, and plenty of provisions, and in fact the very best equipment and supplies for the final journey. In five marches from where Peary and Bartlett parted Peary reached the long-sought-for goal. Mr. Mitchell, of the Coast and Geodetic Survey, makes a conclusive and careful report on the observations of Marvin, Bartlett, and Peary. He and Mr. Duvall agree that the observations taken by Peary at

Camp Jesup were latitude 89° 55′ 23″, longitude 137° west, and that this place, Camp Jesup, is indicated to be 4.6 geographic miles from the North Pole. But this was not his closest approach to the pole. Mr. Mitchell states that the result of observations at 6.40 o'clock on the morning of the 7th, and of Peary's travel immediately after those observations in the direction of the sun an estimated distance of 8 miles, indicate that Peary was at a probable distance of 1.6 miles from the pole.

Mr. Mitchell and Mr. Duvall figured the position of Peary at the pole independently, but based on the same observations and by the independent methods. Their calculations agree within a second of latitude.

Mitchell states that from his professional experience it would have been impossible for the data of these observations to have been obtained other than under the circumstances claimed. The observations at the pole were made at different times. He states that in using these observations in connection with each other they, in a measure, prove each other, and that error could be detected had the observations not been made at the points set forth in the data. In other words, the two independent observations taken on the 6th and 7th, with the sun in the same direction, practically agree upon comparison.

On the return of the Peary party to the United States the standard chronometer used by Peary was sent to its makers for rating and comparison.

When this instrument was examined before the expedition started the previous year, it was found to have a predicted daily rate of 0.2 of a second losing. On the return a comparison showed the instrument to have a daily rate of 2.2 seconds gaining. This correction and comparison in chronometer rate showed, according to Mr. Mitchell, that Peary's time was 10 minutes fast on his expedition to the pole and that the sun, instead of being observed on the assumed meridian (70) was observed 10 minutes before it had reached that meridian. One effect of this was in the assumed direction of the sun, it being really 2½° east of south when it was assumed to be due south. This error of chronometer carried Peary to the left instead of in a direct line with the pole. This is shown from his observations at Camp Jesup, where two altitudes of the sun, taken 6 hours apart, gave an absolute determination of both the latitude and longitude of that point and showed that the forward line of march was between 4 and 5 geographic miles to the left of the pole. This very error proves the truth of his position and the correctness of his observation, based upon his own chronometer. Had his chronometer been exactly correct, Camp Jesup would have been in direct line with the pole, as he had supposed from his own observations, and the forward march would have brought him exactly over its location. His detour to the right, however, on the following day brought him within 1.6 miles of the exact center, which is substantially the goal he sought.

The return journey was made more quickly than the outward journey. There was a trail easily distinguishable and both men and dogs realized that they were returning to land.

Peary covered 27 outward marches (413 miles) in 16 return marches with the pick of Eskimos and dogs all in good condition, 25½ miles per march.

MacMillan, of the first supporting party, covered 7 outward marches (82 miles) in 4 return marches, 20½ miles per march.

Borup, of the second supporting party, covered 12 outward marches (136 miles) in 7 return marches with partially crippled men and poor dogs, 19½ miles per march.

Bartlett, of the fourth supporting party, covered 22 outward marches (280 miles) in 13 return marches, 21½ miles per march.

Bartlett returned from his farthest, 87° 47′, in the same number of marches (13) as Peary did from that same point.

Mr. MACON, the gentleman from Arkansas, has attempted to throw doubt on the capability of this party to have made the fast time that Capt. Peary reports to have made, especially on his return journey, but there are ample records to show what men and dogs can do in the frozen regions, and Capt. Peary did what other men would have been capable of doing had they had his experience and equipment and followed out a plan which his experience only qualified him to carry out successfully.

Capt. Peary's achievement is one that I am proud of, was performed by an American citizen, and I see no reason why this House, as the representatives of the American people, should not join in indorsing the honors accorded him by prominent men and societies throughout the world, and accord to him such honor as is within the power of Congress to bestow by promoting him to be a rear admiral on the retired list and granting him the thanks of Congress; and I hope the bill will pass.

Mr. DAWSON. I yield to the gentleman from New York [Mr. OLCOTT].

Mr. OLCOTT. Mr. Speaker, may I, in this minute, call the attention of the House in respect to Peary's services. His record includes, in arctic work, eight expeditions north, which effected the rounding of the northern end of Greenland in 1900, characterized by the president of the Royal Geographical Society of London as being, next to the attainment of the pole, the most important geographical achievement in the arctic regions; the attainment of the "highest north" in 1906; the completion of the exploration of the northern coast lines of Grant Land in 1906; the attainment of the pole in 1909; the discovery and bringing to this country, from northern Greenland, of the "Ahnigito," the largest meteorite in the world.

Some persons have forgotten that Peary undertook to get to the North Pole in obedience, not only to his own ardent desire, but also to what may be fairly regarded as explicit instructions from the Naval Department. In the files of that department will be found a letter from the then Acting Secretary Charles H. Darling, dated September 5, 1893, granting Peary leave of absence for the specific purpose of discovering the pole and admonishing him that—

the attainment of the pole should be your object; nothing else will suffice. Our national pride is involved in the undertaking, and this department expects that you will accomplish your purpose and bring further distinction to a service of illustrious traditions.

These were his instructions. He has fulfilled them. He is surely entitled to his reward.

Mr. DAWSON. I yield to the gentleman from Pennsylvania [Mr. BUTLER] one minute.

Mr. BUTLER. Mr. Speaker, I am not a scientist, and I do not myself know, from reports submitted to us, whether Mr. Peary reached the North Pole, but I do know men who know more than I do, and they are of the opinion that he did reach the North Pole. [Applause.] I feel that I have been guilty of an injustice toward this man, whom I now recognize as a great American explorer. I was one of those who declined for one year to recognize him as the discoverer of the North Pole, but after having listened to his statement for eight hours, and after having joined with my colleagues for that length of time submitting many questions to him, I concluded that he was right and that I was wrong. [Applause.]

I thought that Dr. Cook had also reached the North Pole, and I thought the honor here sought and about to be bestowed should be shared by him; but when Dr. Cook acknowledges that he did not reach the North Pole, I agree with him that he was once mistaken; he should agree with me that I was misled. [Applause and laughter.]

Mr. DAWSON. I yield three minutes to the gentleman from Alabama [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, when the gentleman from Arkansas refers to faking and cites an example where they assume the longitude and work out a simple equation, anybody can do that; leave one quantity unknown and you can work the equation. But in Peary's observation at the pole he took 13 distinct observations. You can not fake them. He did not use any particular longitude. He made three full sets of observations, four of each, and worked summer lines. He seldom worked out longitude on the trip, but followed as near as possible the seventieth meridian, that of Cape Columbia. His chronometer was set for mean time of that meridian. Each day when his chronometer said it was noon he knew that the sun was south and he headed in the opposite direction. As it turned out, his chronometer did gain a little time, and he slid off a little to the left, which brought him 5 miles from the pole instead of a mile and a half, as he thought.

Now as to the artificial horizon and the low altitudes the gentleman from Arkansas complained of. I have used an artificial horizon. I may add that I have helped to navigate a squadron across the Atlantic Ocean. It would take time to make a full explanation. But I will tell you, gentlemen of the House, that you can no more fake such records as Peary made than you could fly. Each observation was taken on the upper and lower limb of the sun and then the horizon was reversed so that the effect of the wind would not have any influence. He made three complete sets of these observations in the proximity of the pole, and they could not possibly have been faked.

He went through to the North Pole just as the supporting parties reached their highest position. After reaching the point where the final plans could be made he announced them to the whole expedition. First Dr. Goodsell and McMillan were sent back. Then he announced to Borup, "We will go on and march five days, and at the end of five days you will retire. The rest will take the pick of the dogs and food and sleds and go on." At the same time he turned to Marvin and said,

"After five marches farther, Marvin, you will retire." Then to Bartlett after five marches still farther, "Bartlett, you will retire," and then he allotted himself five marches more to make the pole, though he planned to have and did have 40 days of fuel and provisions left when Bartlett turned back.

In the case of Borup, he said, "Borup, at the end of five days I hope you will be beyond the eighty-fifth parallel," and at the end of five marches Borup was 85° 23′. He said to Marvin, "I hope you will get to the eighty-sixth parallel," and after the five additional marches Marvin was at 86° 38′. He said to Bartlett, "I hope you will get to 87," and Barlett got to 87° 47′. In each case they made the allotted distance and some better. Then he allotted to himself five marches more to make the pole. With the pick of the dogs and Eskimos, with the pick of the sleds, like a race horse whose strength has been husbanded for the finish, he made his dash to the pole, and went through, with some to spare, in his five marches, like the others had on their five marches, and reached the pole at 10 a. m. on the morning of the 6th of April, two hours ahead of time. [Applause.]

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

Mr. HOBSON. One half minute. The discovery of the North Pole is a national asset to inspire the youth of the land. Whatever you do to-day, the truth will remain. Names like "Independence Bay," "Grant Land," "Cape Columbia," and "Cape Sheridan" will tell the story that an American discovered the pole by having those qualities of brain and character that the world must forever admire and honor. [Applause.] It is due to this House, it is due to America, that we make fitting recognition; but whatever you do the fact will remain and go down to history that in arctic exploration this American has been the greatest of them all. [Applause.]

Mr. DAWSON. Mr. Speaker, I yield one minute to the gentleman from Massachusetts [Mr. McCALL].

Mr. McCALL. Mr. Speaker, I do not question the sincerity of the gentleman from Arkansas [Mr. MACON], but his position would require me to believe something that seems to me impossible. Here was Peary, who had lived 12 years of his life in the Arctic Circle, had made the most careful and scientific preparations for this expedition, had devoted his life almost to this work, and was at last within two and one-fourth degrees of the pole at the very beginning of the six months' arctic day, with perfect equipment, and when he had the chance finally to realize his dreams and to succeed in the absorbing work of his life, the gentleman's theory would require us to believe that he really abandoned it, and that he made a fake trip of five or six days, when two days more would have made his arrival there certain. It is incomprehensible to my mind that having got so near the pole, under such advantageous circumstances, he should not have continued two days more in order to win the tragic race that had been run between the nations for four centuries. I shall vote with great heartiness in favor of this resolution. I believe that nearly every man of intelligence in the world, outside of the American Congress, believes that Peary conquered the pole and is entitled to this recognition. [Applause.]

Mr. DAWSON. Mr. Speaker, I believe that every man in this House agrees that if Capt. Peary reached the North Pole he should be suitably recognized by the American people. The question, therefore, before the House is, first, did he reach the North Pole; and, second, does this bill suitably reward him for that achievement? There is no dispute about his trip northward to latitude 87° 47′, the point where Capt. Bartlett turned back. The only question of doubt that has been raised by the gentleman from Arkansas [Mr. MACON] is from that point beyond. As is well known, he reached the point near Camp Jesup, which is indicated on the chart before me, and from that point he penetrated 10 miles farther in one direction and then 8 miles at right angles. During that time he made certain observations. Those observations were returned to Washington, and they were placed in the hands of two expert computers in the Coast and Geodetic Survey, Mr. Mitchell and Mr. Duvall; and I want to say for Mr. Mitchell that I never saw a clearer headed witness before any committee of this Congress. He knew what he was talking about. He had taken those observations and had not computed them, mind you, until the chronometers had been rated. Upon the return of the ship the chronometers were sent back to the man who had furnished them to the ship and there rated, and those ratings were sent direct to those computers. With those observations and those ratings of the chronometers Mr. Mitchell and Mr. Duvall, using independent methods, determined the exact location of Capt. Peary when he made these observations. Their computations agreed, and the results are indicated on this chart, which stands in the well of the House. They show beyond any peradventure of a doubt that he reached within 1.6 miles of the pole and penetrated 4 or 5 miles beyond the pole.

So that after sitting in subcommittee and listening for many hours to the testimony of Capt. Peary himself, after examining his notebooks which he presented to the committee, after this testimony of unprejudiced experts who were competent to determine, I say that removed the last vestige of doubt in the minds of reasonable men that Capt. Peary reached the pole.

Now, the question is, Does this bill suitably reward him or does it unduly reward him? The Senate bill proposed to make him an admiral of the line of the Navy. Our committee thought that unwise, that such honors should be reserved for the fighting men of the Navy, and so we propose to advance him one grade in his own corps. Peary now has the rank of captain. His pay as a rear admiral on the retired list will be $300 per year less than the pay he now receives from salary and allowances under his present rank. So there is no financial reward in this bill. We do propose to give him the thanks of Congress.

The President of the United States recommends this recognition. The Secretary of the Navy recommends it. Nearly all the geographic societies of the world have already recognized Capt. Peary's splendid achievement. I can not conceive that Congress will deny this deserved recognition to one who has brought to his country the prize for which the explorers of the world have been striving for generations. [Applause.]

The SPEAKER pro tempore. The question is on the motion of the gentleman from Iowa to suspend the rules, agree to the amendments, and pass the bill.

The question was taken; and on a division (demanded by Mr. MACON) there were—ayes 154, noes 34.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Coggeshall, one of its clerks, announced that the Senate had disagreed to the amendment of the House of Representatives to the bill (S. 1981) to amend section 1 of an act approved January 30, 1897, entitled "An act to prohibit the sale of intoxicating drinks to Indians, providing penalties therefor, and for other purposes," had asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. CLAPP, Mr. BROWN, and Mr. CHAMBERLAIN as the conferees on the part of the Senate.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 10638) to authorize the Secretary of War to sell certain lands owned by the United States and situated on Dauphin Island, in Mobile County, Ala.

The message also announced that the Senate had passed without amendment bills of the following titles:

S. 10823. An act to extend the time for the completion of a bridge across the Missouri River at Yankton, S. Dak., by the Yankton, Norfolk & Southern Railway Co.;

H. R. 9624. An act for the relief of Hansell Hatfield, of McMinn County, Tenn.; and

H. R. 32907. An act to incorporate the National McKinley Birthplace Memorial Association.

CONFERENCE REPORT ON FORTIFICATIONS BILL.

Mr. SMITH of Iowa. Mr. Speaker, I present a conference report upon the fortifications bill (H. R. 32865).

The SPEAKER. The gentleman from Iowa presents a conference report upon the fortifications bill.

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that the statement be read in lieu of the report.

The Clerk read as follows:

SECOND CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 32865) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1 and 2.

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

GEO. C. PERKINS,
F. E. WARREN,
Managers on the part of the Senate.

STATEMENT.

The managers on the part of the House at the second conference on the fortifications appropriation bill submit the following written statement in explanation of the accompanying conference report:

On the amendments of the Senate numbered 1 and 2, appropriating $125,000 for gun and mortar batteries, and $150,000 for purchase of land at Cape Henry, Va., it is agreed and recommended that the Senate recede, striking the items from the bill.

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

Mr. SMITH of Iowa. Mr. Speaker, the effect of this is a complete agreement, the Senate receding upon all the matters in dispute. I move the adoption of the conference report.

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

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

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

Mr. MACON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

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

INVESTIGATING BUSINESS METHODS OF THE GOVERNMENT.

The SPEAKER laid before the House the following message from the President, which was read as follows, was referred to the Committee on Appropriations, and ordered to be printed.

The Clerk read as follows:

To the Senate and House of Representatives:

I ask that you include in the sundry civil bill an appropriation for $75,000 and a reappropriation of the unexpended balance of the existing appropriation to enable me to continue my investigation by members of the departments and by experts of the business methods now employed by the Government with a view to securing greater economy and efficiency in the dispatch of Government business.

The chief difficulty in securing economy and reform is the lack of accurate information as to what the money of the Government is now spent for. Take the combined statement of the receipts and disbursements of the Government for the fiscal year ended June 30, 1910—a report required by law and the only one purporting to give an analytical separation of the expenditures of the Government. This shows that the expenditures for salaries for the year 1910 were $132,000,000 out of $950,000,000. As a matter of fact, the expenditures for personal services during that year were more nearly $400,000,000, as we have just learned by the inquiry now in progress under the authority given me by the last Congress.

The only balance sheet provided to the administrator or to the legislator as a basis for judgment is one which leaves out of consideration all assets other than cash, and all liabilities other than warrants outstanding, a part of the trust liabilities and the public debt. In the liabilities no mention is made of about $70,000,000 special and trust funds so held. No mention is made of outstanding contracts and orders issued as incumbrances on appropriations; of invoices which have ont been vouchered; of vouchers which have not been audited. It is, therefore, impossible for the administrator to have in mind the maturing obligations to meet which cash must be provided; there is no means for determining the relation of current surplus or deficit. No operation account is kept, and no statement of operations is rendered showing the expenses incurred—the actual cost of doing business—on the one side, and the revenues accrued on the other. There are no records showing the cost of land, structures, equipment, or the balance of stores on hand available for future use; there is no information coming regularly to the administrative head of the Government or his advisers advising them as to whether sinking-fund requirements have been met, or of the condition of trust funds or special funds.

It has been urged that such information as is above indicated could not be obtained, for the reason that the accounts were on a cash basis; that they provide for reports of receipts and disbursements only. But even the accounts and reports of receipts and disbursements are on a basis which makes a true statement of facts impossible. For example: All of the trust receipts and disbursements of the Government, other than those relating to currency trusts, are reported as "ordinary receipts and disbursements;" the daily, as well as the monthly and annual statements of disbursements, are mainly made up from advances to disbursing officers—that is to say, when cash is transferred from one officer to another it is considered as spent, and the disbursement accounts and reports of the Government so show them. The only other accounts of expenditures on the books of the Treasury are based on audited settlements, most of which are months in arrears of actual transactions; as between the record of cash advanced to disbursing officers and the accounts showing audited vouchers, there is a current difference of from $400,000,000 to $700,000,000, representing vouchers which have not been audited and settled.

Without going into greater detail, the conditions under which legislators and administrators, both past and present, have been working may be summarized as follows: There have been no adequate means provided whereby either the President or his advisers may act with intelligence on current business before them; there has been no means for getting prompt, accurate and correct information as to results obtained; estimates of departmental needs have not been the subject of thorough analysis and review before submission; budgets of receipts and disbursements have been prepared and presented for the consideration of Congress in an unscientific and unsystematic manner; appropriation bills have been without uniformity or common principle governing them; there have been practically no accounts showing what the Government owns, and only a partial representation of what it owes; appropriations have been overencumbered without the facts being known; officers of Government have had no regular or systematic method of having brought to their attention the costs of governmental administration, operation, and maintenance, and therefore could not judge as to the economy or waste; there has been inadequate means whereby those who served with fidelity and efficiency might make a record of accomplishment and be distinguished from those who were inefficient and wasteful; functions and establishments have been duplicated, even multiplied, causing conflict and unnecessary expense; lack of full information has made intelligent direction impossible and cooperation between different branches of the service difficult.

I am bringing to your attention this statement of the present lack of facility for obtaining prompt, complete, and accurate information in order that Congress may be advised of the conditions which the President's inquiry into economy and efficiency has found and which the administration is seeking to remedy. Investigations of administrative departments by Congress have been many, each with the same result. All the conditions above set forth have been repeatedly pointed out. Some benefits have accrued by centering public attention on defects in organization, method, and procedure, but generally speaking, however salutary the influence of legislative inquiries (and they should at all times be welcome), the installation and execution of methods and procedure, which will place a premium on economy and efficiency and a discount on inefficiency and waste must be carefully worked out and introduced by those responsible for the details of administration.

It was with this strong conviction, based on years of observation in public service as well as on analogy found in corporate practice, that I asked Congress a year ago for an appropriation of $100,000 to pay the expenses of an inquiry into the methods of transacting public business, with a view to "inaugurating new or changing old methods so as to attain greater economy and efficiency." First of all, this inquiry has sought to know what is the problem before each administrative head, i. e., what are the powers, duties, and limitations imposed on each officer; what is the organization and equipment by means of which these powers and duties are executed or made effective; what are the methods and procedure employed; what records are kept; what reports have been made. These inquiries have been made, and the results have been indexed and tabulated and made available to the several departmental committees. In the progress of the work the estimates for 1912 have been brought together on a uniform basis; expenditures have been reclassified, and the objects of expenditure have been codified; uniform forms of expenditure documents have been devised and are now being considered for installation; the auditing organization and procedure are under discussion; new forms of expenditure, accounting, and reporting are being critically reviewed to the end that a common method and procedure may be introduced throughout the service. A general constructive program has been mapped out.

The appropriations asked for will enable the President, as the responsible head of the administration, to provide the means for effectively undertaking the revision of administrative methods and accounts, so far as lie in his powers without legislative action. The amount asked for was small, because it was

expected that as soon as a well-supported plan was developed a very large number of highly competent technical men might be found in the service who might be brought into cooperative relation to make the work of revision one of evolution and permanent benefit to the Government. The cooperation and the high character of service obtained among regular employees has even surpassed my hopes.

Predictions and forecasts of economy are relatively easy to make, but are seldom of value. It must be admitted, however, by all that under such circumstances as have prevailed in the past any well-directed and well-sustained effort which will cause each branch of the service to cooperate in a program of economy and efficiency will each year produce results that will mean many times more than the cost; if inquiry is accompanied by constructive effort, which aims toward uniformity of practice, systematic handling of the business will come inevitably as a result of greater intelligence of administrative direction and control.

I strongly urge, therefore, that Congress provide the necessary funds to carry on this important work. I urge this, not only that the President may have before him the information necessary to the intelligent exercise of his present powers, but that he may also lay before Congress such recommendations as may be deemed necessary to make a well-considered constructive program effective.

WM. H. TAFT.

THE WHITE HOUSE, *March 8, 1911.*

LOSSES BY FIRE IN PANAMA.

The SPEAKER also laid before the House the following message from the President, which was read as follows, referred to the Committee on Claims, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith a letter addressed to me by the Attorney General, under date of February 24, together with accompanying papers, in regard to certain claims for damages on account of the fire on January 12, 1906, which destroyed the Malambo Ward in the city of Panama. This fire was said to have been caused by the negligence of the sanitary department of the Isthmian Canal Commission in fumigating one of the buildings located in that district.

The joint commission which assembled under the treaty with Panama early in 1907 considered these claims, and, although unable to determine the exact origin of the fire, recommended that the claims be compromised by paying in all $53,800.

The correspondence relating to these claims, together with a copy of the proceedings before the joint commission and its recommendation, were transmitted to Congress and published in House Document No. 1411, Sixtieth Congress, second session, a copy of which document is transmitted herewith.

Particular attention is invited to the following paragraph from the letter addressed to me by the Attorney General:

> The case, however, is such as naturally appeals to one's sense of justice. There is practically no doubt that the claimants in this case lost their property and homes through the negligence of the agents of the Government in fumigating their houses. I therefore suggest that you urge upon Congress the propriety of making an appropriation for their relief.

The Secretary of War has advised me of his concurrence in the recommendation of the Attorney General, and in view of all the circumstances I now recommend that an appropriation be made to pay the sum suggested by the joint commission, namely, $53,800.

WM. H. TAFT.

THE WHITE HOUSE, *March —, 1911.*

JOHN B. LORD.

The SPEAKER laid before the House the bill (S. 2045) for the relief of John B. Lord, etc., with a House amendment disagreed to by the Senate.

The Clerk read as follows:

A bill (S. 2045) for the relief of John B. Lord, etc., with a House amendment disagreed to by the Senate.

Mr. SMITH of Michigan. Mr. Speaker, I move that the House insist upon its amendment and agree to the conference asked by the Senate.

The motion was agreed to.

The SPEAKER. The Chair announces the following conferees, which the Clerk will report.

The Clerk read as follows:

Mr. CAMPBELL, Mr. NYE, and Mr. BORLAND.

TO PROMOTE THE EFFICIENCY OF THE NAVAL MILITIA, AND FOR OTHER PURPOSES.

Mr. FOSS. Mr. Speaker, I move to suspend the rules and pass the bill H. R. 29706.

The SPEAKER. The gentleman from Illinois moves to suspend the rules and pass the bill which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 29706) to promote the efficiency of the Naval Militia, and for other purposes.

Be it enacted, etc., That of the Organized Militia as provided for by law such part of the same as may be duly prescribed in each State, Territory, and for the District of Columbia shall constitute a Naval Militia.

SEC. 2. That on and after three years from the date of the passage of this act the organization of the Naval Militia shall be units of convenient size, in each of which the number and ranks of officers and the distribution of the total enlisted strength among the several ratings of petty officers and other enlisted men shall be established by the Secretary of the Navy, who shall also establish the number of officers and the number of petty officers and other enlisted men required for the organization of such units into larger bodies for administrative and other purposes, and the arms and equipment of the Naval Militia of the several States, Territories, and the District of Columbia shall be the same as, or the equivalent of, that which is now or may hereafter be prescribed for the landing forces of the vessels of the United States Navy, and such other and additional arms, armament, and equipment, including vessels and stores, supplies, and equipment of all kinds for the repairing, maintenance, and operation of the same, as the Secretary of the Navy may from time to time prescribe for the training of the Naval Militia in duties afloat.

And the Secretary of the Navy is hereby authorized, in his discretion, to issue from time to time to the governors of the several States and Territories and to the commanding general, District of Columbia Militia, or to the other proper State, Territorial, and District authorities, respectively, as a loan, vessels and such stores, supplies, and equipment of all kinds as may be necessary for the maintenance and operation of said vessels, and may detail to said vessels such number of officers and enlisted men as he may deem desirable for duty as shipkeepers: *Provided*, That such enlisted men shall be in addition to the number now or hereafter allowed by law for the regular Naval Establishment.

SEC. 3. That in the event of war, actual or threatened, with any foreign nation involving danger of invasion, or of rebellion against the authority of the Government of the United States, or whenever the President is, in his judgment, unable with the regular forces at his command to execute the laws of the Union, it shall be lawful for the President to call forth such number of the Naval Militia of a State or of the States, or Territories, or of the District of Columbia, as he may deem necessary to repel such invasion, suppress such rebellion, or to enable him to execute such laws, and to issue his orders for that purpose through the governor of the respective State or Territory, or through the commanding officer of the Naval Militia of the District of Columbia, from which State, Territory, or District such Naval Militia may be called, to such officers of the Naval Militia as he may think proper: *Provided*, That from and after the issue of such call it shall be unlawful for the governor of any State or Territory, or any other State or Territorial officer, or any official of the District of Columbia, to discharge from service in the Naval Militia any officer or man except by reason of the expiration of his term of enlistment.

SEC. 4. That whenever the President calls forth all or any part of the Naval Militia of any State, Territory, or of the District of Columbia, to be employed in the service of the United States, he may specify in his call the period for which such service is required, and the Naval Militia so called shall continue to serve during the term so specified, either within or without the territory of the United States, unless sooner relieved by order of the President: *Provided*, That if no period be stated in the call of the President, the period shall be held to mean the existence of the emergency, of which the President shall be the sole judge, except that no officer or enlisted man shall be required to serve more than two years under such call: *And provided further*, That no commissioned officer or enlisted man of the Naval Militia shall be held to service beyond the term of his existing commission or enlistment: *Provided further*, That when the military needs of the Federal Government, arising from the necessity to execute the laws of the Union, suppress insurrection, or repel invasion, can not be met by the regular forces, the Naval Militia and all Naval Reserves shall be called into the service of the United States in advance of any organized volunteer naval force which it may then be determined to raise.

SEC. 5. That every officer and enlisted man of the Naval Militia who shall be called forth in the manner hereinbefore prescribed shall be mustered for service without further appointment or enlistment, and without further examination previous to such muster, except for those States and Territories and the District of Columbia, if the case may so be, which have not adopted a standard of professional and physical examination prescribed by the Secretary of the Navy for the Naval Militia, and whose officers and petty officers shall not have been examined and found qualified in accordance therewith by boards of officers which shall be appointed by said Secretary: *Provided, however*, That any officer or enlisted man of the Naval Militia so qualified who shall refuse or neglect to present himself for such muster upon being called forth as herein prescribed, shall be subject to trial by court-martial and shall be punished as such court-martial may direct: *Provided further*, That when in the service of the United States, officers of the Naval Militia may serve on courts-martial for the trial of officers and men of the Regular or Naval Militia Service, but in the cases of courts-martial convened for the trial of officers and men of the Regular Service, the majority of the members shall be officers of the Regular Service; and officers and men of the Naval Militia may be tried by courts-martial the members of which are officers of the Regular or Naval Militia Service, or both: *And provided further*, That when vessels commanded by Naval Militia officers cooperate or act in conjunction with vessels commanded by officers of the Navy, the exercise of command over such combined force shall be determined by the rank which such commanding officers hold, except that, for the purposes of this proviso, Naval Militia captains, commanders, and lieutenant commanders shall be junior to lieutenant commanders of the Navy, unless specially certified for a higher grade by examination held under the authority of the Secretary of the Navy.

SEC. 6. That the Naval Militia, when called into the actual service of the United States, shall be governed by the Navy regulations and the articles for the government of the Navy.

SEC. 7. That the Naval Militia, when called into the actual service of the United States, shall, during their time of service, be entitled to the same pay and allowances as are or may be provided by law for the Regular Navy.

SEC. 8. That when the Naval Militia is called into the actual service of the United States, or any portion of the Naval Militia is called forth under the provisions of this act, their pay shall commence from the day of their reporting in obedience to such call at their local ship, armory, or quarters; but this provision shall not be construed to authorize any species of expenditure previous to arriving at such places which is not provided by existing laws to be paid after their arrival at such places.

SEC. 9. That the adjutant general of each State, Territory, or the District of Columbia, or such other person, board, or bureau as may be provided by the laws of such State, Territory, or the District of Columbia to perform for the Naval Militia the duties ordinarily performed by such adjutant general shall make returns to the Secretary of the Navy, at such times and in such form as the Secretary of the Navy shall from time to time prescribe, of the strength of the Naval Militia, and also make such reports as may from time to time be required by the Secretary of the Navy. That the Secretary of the Navy shall, with his annual report of each year, transmit to Congress an abstract of the returns and reports of the adjutants general, or of such person, board, or bureau of the States, Territories, and the District of Columbia, with such observations thereon as he may deem necessary for the information of Congress.

SEC. 10. That the Secretary of the Navy is hereby authorized to procure by purchase or manufacture and issue from time to time to the Naval Militia such number of United States service or other arms, accessories, accouterments, equipment, uniforms, clothing, equipage and military and naval stores of all kinds under such regulations as he may prescribe as are necessary to arm, uniform, and equip all of the Naval Militia in the several States, Territories, and the District of Columbia in accordance with the requirements of this act without charging the cost or value thereof or any expense connected therewith against the allotment of such State, Territory, or District from the annual appropriation provided for the arming and equipping of the Naval Militia in the annual appropriation for the Navy, or in any other general appropriation for the Naval Militia that may hereafter be made, nor requiring payment therefor, and to issue from time to time ammunition suitable for such arms as the Naval Militia of the several States, Territories, and the District of Columbia may be equipped with, and to exchange said arms, accessories, accouterments, equipment, equipage, stores, and ammunition when the same shall have become obsolete, without *receiving any* money credit therefor, for other arms, accessories, accouterments, equipment, equipage, stores, and ammunition suitable for the Naval Militia: *Provided*, That said property shall remain the property of the United States, except as hereinafter provided, and be annually accounted for by the governor or other proper officer of the States, Territories, and the commanding general, District of Columbia Militia: *Provided further*, That each State, Territory, and the District of Columbia shall when and as required by the Secretary of the Navy turn into the Navy Department, or otherwise dispose of, in accordance with the direction of the Secretary of the Navy without receiving any money credit therefor, and without expense for transportation or otherwise, such or all property theretofore issued under the provisions of this act. When and as each Naval Militia is uniformed as above required, the Secretary of the Navy is authorized to fix an annual clothing allowance to each State, Territory, and the District of Columbia based upon the number of enlisted men of the said Naval Militia, and thereafter issues of clothing to such States, Territories, and the District of Columbia shall be in accordance with such allowance, and the governors of the States and Territories and the commanding general, District of Columbia Militia, shall be authorized to drop from their returns each year, as expended, clothing corresponding in value to such allowance. To provide means to carry into effect the provisions of this section, the necessary money to cover the cost of procuring, exchanging, or issuing of arms, accessories, accouterments, equipment, uniforms, clothing, equipage, ammunition, and military and naval stores to be exchanged or issued hereunder is hereby appropriated out of any money in the Treasury not otherwise appropriated: *Provided*, That the sum expended in the execution of the purchases and issues provided for in this section shall not exceed the sum of $200,000 in any fiscal year: *And provided further*, That the Secretary of the Navy shall annually submit to Congress a report of expenditures made by him in the execution of the requirements of this section.

SEC. 11. That when it shall appear by the report of inspections, which it shall be the duty of the Secretary of the Navy to cause to be made at least once in each year by officers detailed by him for that purpose, that the Naval Militia of a State or Territory or of the District of Columbia is sufficiently armed, uniformed, and equipped for active duty, the Secretary of the Navy is authorized, on the requisition of the governor of such State or Territory or of the commanding general, District of Columbia Militia, to pay to such officer as may be properly designated and appointed by said governor or commanding general so much of its allotment from the annual appropriation for arming and equipping the Naval Militia in the annual appropriation for the Navy as shall be necessary for the payment, subsistence, and transportation of such portion of said Naval Militia as shall engage in actual service or instruction afloat or on shore; and the officers and men of such Naval Militia while so engaged may be paid therefrom the same pay, subsistence, and transportation or travel allowance as officers and men of corresponding grades of the Regular Navy are or may hereafter be entitled to by law, and the officer so designated and appointed shall be regarded as a disbursing officer of the United States and shall render his accounts through the Navy Department to the proper accounting officer of the Treasury for settlement, and he shall be required to give good and sufficient bonds to the United States, in such sums as the Secretary of the Navy may direct, faithfully to account for the safe-keeping and payment of the public moneys so intrusted to him for disbursement.

SEC. 12. That the Secretary of the Navy is authorized to provide for participation by any part of the Naval Militia of any State or Territory or the District of Columbia on the request of the governor of said State or Territory or the commanding general of the militia of said District, in any cruise, maneuvers, field instruction, or encampment of any part of the Regular Navy, afloat or on shore. In such case the Naval Militia so participating shall, if so requested by the governor or commanding general and allowed by the Secretary of the Navy, receive the same pay, subsistence, and transportation as is provided by law for the officers and men of the Regular Navy, and no part of the sums appropriated for the support of the Regular Navy shall be used to pay any part of the expenses of the Naval Militia of any State, Territory, or the District of Columbia while engaged in such cruise, maneuvers, field instruction, or joint encampment of the Regular Navy and Naval Militia, but no payments to the Naval Militia under the provisions of this section and no allowances for mileage shall be made from appropriations made for the Navy, but shall be made solely from the sums appropriated for such cruise, maneuvers, field instruction, or for the Naval Militia: *Provided*, That officers of the Regular Navy in command of vessels upon which Naval Militia may be embarked, or in command of camps, navy yards, or other places in which Naval Militia may be encamped or be, shall remain in command of said vessels, camps, navy yards, or other places, as aforesaid, irrespective of the rank of the commanding or other officers of the Naval Militia on board said vessels or within said places: *Provided further*, That said commanding officers of the Regular Navy may, in the exercise of their discretion, place upon any duty to which his rank or rating would entitle him if he were of the same rank or rating in the Regular Navy, or duty of a lower grade, any officer, petty officer, or enlisted man of the Naval Militia so under his command as aforesaid, and may temporarily or permanently relieve from duty so imposed such officer, petty officer, or enlisted man; and in making details to command and duty, and relieving from command and duty as aforesaid, said commanding officer shall be held to the exercise of a reasonable discretion only, and for the purposes of this section it is to be presumed that a member of the Naval Militia is competent to be detailed for any duty to which his rank would entitle him until the contrary be apparent to such commanding officer: *And provided further*, That any officer or petty officer or enlisted man of the Naval Militia placed on duty as aforesaid or detailed to duty on a vessel assigned to the Naval Militia shall have, during the time that he is on duty, all authority over all persons inferior to himself in rank or equivalent rank necessary for the purpose of carrying out the duty upon which he has been so detailed.

SEC. 13. That whenever any officer or enlisted man of the Naval Militia shall, upon the recommendation of the governor of any State, Territory, or the commanding officer of the District of Columbia Naval Militia, and when authorized by the Secretary of the Navy, attend and pursue a regular course of study at any military or naval school or college of the United States or on board ship, such officer or enlisted man shall receive from the annual appropriation for the support of the Navy the same travel allowances and quarters or commutation of quarters to which an officer or enlisted man of the Regular Navy would be entitled for attending such school or college or doing duty on such ship under orders from proper authority. Such officers shall also receive commutation of subsistence at the rate of $1 per day, and each enlisted man such subsistence as is furnished to an enlisted man of the Regular Navy while in actual attendance upon a course of instruction.

SEC. 14. That the annual appropriation made by Congress for arming and equipping the Naval Militia in the annual appropriation for the Navy shall be available for the purpose of providing for issue to the Naval Militia any stores and supplies or publications which are supplied to the Navy by any department. Any State, Territory, or the District of Columbia may, with the approval of the Secretary of the Navy, purchase for cash from the Navy Department, for the use of its Naval Militia, stores, supplies, material of war, or military publications, such as are furnished to the Navy in addition to those issued under the provisions of this act, at the price at which they are listed for issue to the Navy, with the cost of transportation added, and funds received from such sales shall be credited to the appropriation to which they belong and shall not be covered into the Treasury, but shall be available until expended to replace therewith the supplies sold to the States and Territories and to the District of Columbia in the manner herein provided.

SEC. 15. That each State or Territory or the District of Columbia furnished with material of war under the provisions of this or former acts of Congress shall, during the year next preceding each annual allotment of funds, have required every ship's company, engineer's, navigator's, and other divisions, or units, of its Naval Militia not excused by the governor of said State or Territory, or the commanding general District of Columbia Militia, to participate during at least five consecutive days in such form of military or naval exercise as may have been prescribed by the Secretary of the Navy, and in default of such prescribing by the Secretary of the Navy, then in some form of Naval Militia exercise during at least five consecutive days to be prescribed by the governor of the said State or Territory, or the commanding officer of the District of Columbia Naval Militia, and shall also have required said divisions to assemble for drill and instruction at armories or other places of rendezvous or for target practice not less than 24 times, and shall have required during such year an inspection of each of said divisions or units, to be made by an officer of said Naval Militia, or by an officer of the State service, or by an officer of the Regular Navy.

SEC. 16. That the Secretary of the Navy is hereby authorized and empowered, upon the request of the governor of any State or Territory, or of the commanding general District of Columbia Militia, having an organized Naval Militia, to detail an officer or officers to inspect, instruct, and examine such Naval Militia at such times and places as may be appointed by any of said governors or commanding general, and may, upon his own motion, also detail officers for the purpose of formulating standard regulations for the organization, discipline, training, armament, and equipment of said Naval Militia, and for the professional examination of the officers, petty officers, and men composing the same, with a view to producing uniformity among the Naval Militia of the various States and assimilating them to the standard of the United States Navy.

SEC. 17. That upon the application of the governor of any State or Territory, or of the commanding general District of Columbia Militia, furnished with material of war under the provisions of this act or former laws of Congress, the Secretary of the Navy may, in his discretion, detail one or more officers or enlisted men of the Navy to report to the governor of such State or Territory, or to the commanding general of the District of Columbia Militia, for duty in connection with the Naval Militia. All such assignments may be revoked at the request of the governor of such State or Territory, the commanding general of the District of Columbia Militia, or at the pleasure of the Secretary of the Navy. The Secretary of the Navy is hereby authorized to appoint a board of five officers of the Naval Militia, which shall from time to time, as the Secretary of the Navy may direct, proceed to Washington, D. C., for consultation with the Navy Department respecting the condition, status, and needs of the whole body of the Naval Militia. Such officers shall be appointed for a term of four years, unless sooner relieved by the Secretary of the Navy.

The actual and necessary traveling expenses of the members of such board, together with a per diem to be established by the Secretary of

the Navy, shall be paid to the members of the board. The expenses herein authorized, together with the necessary clerical and office expenses of the division of Naval Militia affairs in the office of the Secretary of the Navy, shall constitute a charge against the whole sum annually appropriated under the appropriation for the arming and equipping of the Naval Militia in the annual appropriation for the Navy, and shall be paid therefrom, and not from the allotment duly apportioned in any particular State, Territory, or the District of Columbia; and a statement of such expenses shall be submitted to Congress by the Secretary of the Navy in connection with his annual report.

SEC. 18. That the Naval Militia embarked upon any vessel of the Navy, or other vessel, or encamped at any military post or camp of the United States, may be furnished such amounts of ammunition for instruction in firing and target practice as may be prescribed by the Secretary of the Navy, and such instruction in firing shall be carried on under the direction of an officer selected for that purpose by the Secretary of the Navy.

SEC. 19. That when any officer, petty officer, or enlisted man of the Naval Militia is disabled by reason of wounds or disabilities received or incurred in the service of the United States he shall be entitled to all the benefits of the pension laws existing at the time of his service, and in case such officer, petty officer, or enlisted man dies in the service of the United States, or in returning to his place of residence after being mustered out of such service, or at any time in consequence of wounds or disabilities received in such service, his widow and children, if any, shall be entitled to all the benefits of such pension laws.

That, in addition to any pay or allowance to which he may be entitled, any person who shall have been honorably discharged from the United States Navy as enlisted man, petty officer, or warrant officer, from the last period of his service in the Navy, having served for at least three years in the Navy, and shall be an enlisted man, petty officer, warrant officer, or commissioned officer of the Naval Militia of any State or Territory or the District of Columbia, shall receive from the pay of the Navy, and to be computed from the Navy pay tables in force at the time of payment, one month's pay of the regular or equivalent rank or rate in which he was serving when honorably discharged, as aforesaid, for every full year of service that he may complete from and after the passage of this act in such Naval Militia.

SEC. 20. That, for the purpose of securing a list of persons especially qualified to hold commissions in the Navy or in any reserve or volunteer naval force which may hereafter be called for and organized under the authority of Congress, other than a force composed of organized Naval Militia, the Secretary of the Navy is authorized from time to time to convene examining boards at suitable and convenient places in different parts of the United States, who shall examine as to their qualifications for naval duties all applicants who shall have served in the Regular Navy of the United States or in the organized Naval Militia of any State or Territory or the District of Columbia. Such examination shall be under rules and regulations prescribed by the Secretary of the Navy. The record of previous service of the applicant shall be considered as part of the examination. Those applicants who pass such examination shall be certified as to their fitness for naval duties and rank, and shall, subject to a physical examination at any time, constitute an eligible class for commissions, pursuant to such certification, in any volunteer naval force hereafter called for and organized under the authority of Congress other than a force composed of organized Naval Militia; and the President is hereby further authorized, upon the outbreak of war, or when, in his opinion, war is imminent, to commission in the Regular Navy for the exigency of such war such of the persons whose names have been certified as above provided as he may select: *Provided*, That no one shall be commissioned to a higher rank than the rank for which he may have been recommended by said examining board: *And provided further*, That the President may also commission or warrant as of the highest rank formerly held by him, or the present equivalent of such former rank in case the nomenclature or some of the specific duties of the same may have been changed, any person who having been formerly a commissioned or warrant officer of the United States Navy shall have been honorably discharged from the service: *And provided further*, That persons may be commissioned in the Navy for engineer duties only, and for all line duties other than engineer duties, and when so commissioned shall have the full rank, pay, precedence, etc., of the line grade for which they are commissioned.

SEC. 21. That all laws and sections of laws conflicting with the provisions of this act are hereby repealed.

BUSINESS OF THE HOUSE.

During the reading of the bill, the following occurred:

The SPEAKER. The Clerk will suspend the reading for a moment. Without objection, the Chair will state to the House that from the information which the Chair is able to obtain the naval appropriation bill and the sundry civil bill have both been disposed of by the Senate so far as amendments are concerned, and are now at the Printing Office. They ought to be here some time about 6 o'clock p. m., possibly even before 6, but some time between the present moment and 7 o'clock p. m. Therefore, considering that this is the last night of the session, in the opinion of the Chair the House ought not to recess.

NAVAL MILITIA.

The SPEAKER. Is a second demanded?

Mr. FOSTER of Illinois. I demand a second.

The SPEAKER. Under the rule a second may be considered as ordered. The gentleman from Illinois [Mr. Foss] is entitled to 20 minutes and his colleague [Mr. FOSTER] to 20 minutes.

Mr. FOSS. Mr. Speaker and gentlemen, a number of years ago, as Members of the House will recall, and the matter has been frequently discussed in the House, we passed a bill known as the "Dick bill," defining the relations of the Regular Militia to the Regular Army. A few years after that there was reported from the Naval Committee a bill much shorter than this one, which provided that the same provisions as were in the Dick bill should apply also to the Naval Militia. This bill now before the House substantially takes the provisions of the Dick bill and applies them to the Naval Militia, so far as they can be applied, in view of the fact that the Navy is a different service from the Army.

This bill has been unanimously reported from the Naval Committee and has been indorsed by every Naval Militia in this country. We have to-day 20 Naval Militias in the many different States, constituting a membership in all of 7,000 men, who have been giving of their time and money to prepare themselves for the service of their country in time of war. These different organizations come here to Washington every year and hold a convention. They come at their own expense, showing their interest in the service, to which they give a large portion of their time. At their regular convention here last year they appointed a board of officers who met with the officers of the Navy and prepared this bill, which has the approval not only of the Naval Militia throughout the country, but also the approval of our Navy Department.

Now, Mr. Speaker, I do not care to take up the time of the House. I wish to say that this House passed a shorter bill a number of years ago applying the provisions of the Dick bill to the Naval Militia, and that bill went to the Senate, but went so late that it failed of passage.

Mr. HAY. Will the gentleman allow me to ask him a question?

Mr. FOSS. Yes.

Mr. HAY. How much will this bill cost?

Mr. FOSS. It is provided in this bill that it shall not exceed $200,000 a year, and there is no compensation in this bill to the men. It does not go so far as the bill which we passed here the other day.

Mr. FOSTER of Illinois. Does not the report say that each man will get about $10?

Mr. FOSS. They get about $10 now. But under this bill they will get practically what the militia get in the Dick bill, and that is between $40 and $50 per man, all told. Now, here on page 9, to answer the gentleman's question, it says:

> To provide means to carry into effect the provisions of this section, the necessary money to cover the cost of procuring, exchanging, or issuing of arms, accessories, accouterments, equipment, uniforms, clothing, equipage, ammunition, and military and naval stores to be exchanged or issued hereunder is hereby appropriated out of any money in the Treasury not otherwise appropriated: *Provided*, That the sum expended in the execution of the purchases and issues provided for in this section shall not exceed the sum of $200,000 in any fiscal year.

That puts the Naval Militia just where the regular militia was in the Dick bill, and nothing more. But it seems to me, in view of the fact that for years our regular militia has been having that, whereas the Naval Militia has not, it is no more than fair and just that we should pay these on the same basis as under the Dick law.

Mr. HAY. This bill provides for an annual appropriation?

Mr. FOSS. Not to exceed $200,000.

Mr. HAY. But it makes it a permanent annual appropriation?

Mr. FOSS. Yes; it makes it a permanent annual appropriation.

Mr. HAY. Does not the gentleman think that that appropriation ought to be submitted every year like all other current appropriations?

Mr. FOSS. It does not say that it shall be $200,000, but that it shall not exceed that sum. Now, they expect to get 10,000 men, which will require $200,000 for these equipments.

Mr. HAY. Does the gentleman think that it will be less than $200,000?

Mr. FOSS. Seven thousand men would require $140,000.

Mr. HAY. But they must have equipments?

Mr. FOSS. Yes; they must have equipments.

Mr. HAY. What I am objecting to is that this provides a permanent annual appropriation which does not need to be submitted to Congress each year.

Mr. FOSS. We had that with the regular militia. As the gentleman knows, they have been getting $2,000,000 under the Dick law every year. In addition to that they have had $2,000,000 more, and in addition to that still they had one million and a half dollars last year for maneuvers, as I recall, making five and one-half million dollars—a great deal more than the Naval Militia bill ever had all together.

Mr. HAY. The militia estimate is submitted by the War Department every year. This is to be made a permanent annual appropriation.

Mr. FOSS. Yes; just as you do under the Dick law.

Mr. HAY. It being done in the Dick law does not make it right.

Mr. FOSS. We have now got it. Why not treat the two organizations alike?

Mr. HAY. What is the objection to the estimate being sent down every year, as is usual in these other military and naval appropriations?

Mr. FOSS. The provisions of the Dick law were taken as the model in the framing of this bill. That is why they were inserted in the same manner here as in the Dick law.

Mr. STAFFORD. Will the gentleman from Illinois yield for a question?

Mr. FOSS. Yes.

Mr. STAFFORD. I believe that the Naval Militia exists on the Great Lakes?

Mr. FOSS. Yes; it has a splendid organization in the gentleman's own State, I think.

Mr. STAFFORD. I beg the gentleman's pardon; we have no such organization in the State of Wisconsin. Other States have, but we have not in the State of Wisconsin.

Mr. MANN. They are not very patriotic up there.

Mr. STAFFORD. I will say to the gentleman that they are just as patriotic as they are down in Illinois, a few miles away.

Now, I want to ask the gentleman from Illinois [Mr. Foss] as to the character of the service rendered by these Naval Militia organizations. Do they render service only during the period of navigation, in the summer months?

Mr. FOSS. No; they are training all throughout the year, and in the summer months the Navy allows them vessels which we do not use in the regular Navy, and they go out on them, and get training under the direction of the naval officers which are furnished by the Navy Department. They are doing splendid service. In the Spanish-American War nearly all the Naval Militia went into active service. We had 60 men from the Illinois Naval Militia alone on the *Oregon*. Over 3,000 men from the Naval Militia were engaged in the Spanish-American War. They enlisted in that war and rendered splendid service, and there is no body of men in this country who render a more splendid service in time of war. They give their time and money to this work.

Mr. COX of Indiana. Will the gentleman yield for a question?

Mr. FOSS. Yes.

Mr. COX of Indiana. I understood the gentleman in charge of the bill, a moment ago, to say that this bill is fashioned very largely after the Dick bill?

Mr. FOSS. Yes.

Mr. COX of Indiana. Will the gentleman kindly inform me what was the cost of the Dick bill in its appropriation—what was the approximate cost of it?

Mr. FOSS. The gentleman from Virginia [Mr. HAY] was interrogating me a moment ago about that. I think $4,000,000 is allotted every year, and a million and a half extra for maneuvers.

Mr. COX of Indiana. The law has been added to from time to time as Congress would convene, and it has been changed from the form in which it was enacted in the first instance, has it not been?

Mr. FOSS. The appropriation under the Dick law was $2,000,000 annually, I think, and then $2,000,000 has been carried in the regular appropriation bill.

Mr. COX of Indiana. Four million dollars, then.

Mr. FOSS. And then in addition to that is a large appropriation for maneuvers, which last year was a million and a half, but not as much this year.

Mr. COX of Indiana. The Dick bill in the first instance appeared to be a very innocent measure, that would not take very much from the Treasury of the United States, but it was only the nucleus for the building up of a great military arm of the Government. I want to call the attention of the gentleman to the fact that the militia bill that passed the House the other day was estimated to entail a cost upon the Treasury of the United States of between eight and ten million dollars.

Now, as the Dick bill was in the first instance an innocent-appearing bill, not important in magnitude of appropriations apparently, does not the gentleman believe that this bill is but the entering wedge, the beginning of a small organization that later on will pile up a tremendous appropriation out of the Treasury?

Mr. FOSS. Oh, no; we can never have in the Naval Militia a large number of men like that.

Mr. COX of Indiana. Oh, I do not contend for a moment that it would reach the enormous sum of eight or ten million dollars a year; but does not the gentleman believe that it will grow in size and magnitude so far as appropriations are concerned?

Mr. TALBOTT. It will grow with the country.

Mr. FOSS. I do not expect that it will grow anywhere near like the one the gentleman refers to.

Mr. COX of Indiana. The gentleman now limits the cost to $200,000.

Mr. FOSS. Yes.

Mr. COX of Indiana. But the gentleman would not insist for a moment that that would bind future Congresses.

Mr. TALBOTT. We have some men connected with the Naval Militia who spend $10 where the Government spends $1 to maintain it.

Mr. FOSS. How much time have I remaining?

The SPEAKER. The gentleman has eight minutes.

Mr. FOSTER of Illinois. Mr. Speaker, I observe in this bill that it makes a permanent appropriation without any estimate from the department.

Mr. MANN. What section is that?

Mr. FOSTER of Illinois. Section 10. Does the gentleman think that is good policy?

Mr. FOSS. Whether it is good policy or not, we have done it in the Dick law, and I think we ought to treat the two services alike.

Mr. FOSTER of Illinois. Do not you think estimates ought to be made each year and given to Congress?

Mr. FOSS. I would say to the gentleman that if I was framing the Dick law perhaps I would be in favor of changing it, and would change it accordingly; but so long as we have treated the regular militia in that way, I think it is no more than fair that we should treat this body of men the same.

Mr. FOSTER of Illinois. I yield to the gentleman from Indiana [Mr. Cox] five minutes.

Mr. COX of Indiana. Mr. Speaker, I do not profess to be a military expert in any sense of the word, and must confess that I do not know very much about this bill; but I am opposed to the principle of it.

It is a matter of military history that a few years ago Congress passed what was known as the Dick bill, very innocent in its appearance, yet it has turned out that in that innocent measure powerful and tremendous pressure has been brought to bear upon Congress from time to time, until the other day this House passed what is known as the militia bill, making it in a measure a part of the standing Army of the country, in which bill it was openly conceded by everybody and denied by none will entail an expense upon the Treasury of the United States of approximately eight or ten million dollars per year. It is admitted that the bill as it passed the House makes the militia of this country a part of the standing Army of the country.

Here is a bill which the author claims to be exceedingly innocent, not dangerous from any viewpoint. So far as the money that will be necessary to carry it into execution, so far as the appropriations made by Congress from time to time, it is infinitesimally small, but let no man be deceived for one moment but that we are laying the foundations in this bill and in this measure upon which it is hoped by its friends later on to build an organization as strong in proportion to the Navy as the militia is strong in proportion to the Army of the Government to-day.

Mr. MANN. Will the gentleman yield?

Mr. COX of Indiana. I will.

Mr. MANN. Of course the gentleman knows that we must be able in time of war to supply additional men for the Navy. Does the gentleman know that at the time of the Spanish War we took trained men—for instance, Illinois, I think, sent 700 or 800 men to the Navy on 50 or 60 different vessels, men who were trained. Does not the gentleman think that is worth a good deal in a time of war when the Navy is the real defense?

Mr. COX of Indiana. Perhaps that might be true, but there has never been a time in the history of our country, from the time of the Revolutionary War down to the present time, but that our Government on land and on sea depended for its defense, not upon the enlisted men, but upon the volunteer men, the men who were willing to volunteer and go to war.

Mr. MANN. I think it is not difficult to get men to enlist in the Army, volunteer men, and capable men, but in the Navy now the men are largely mechanics. These men are trained at mechanism. They like to get different kinds of mechanicians and electricians, trained men. They did with us on the warships in the time of the Spanish War. They performed the duties of men who had been in the service for years, which would not be possible with untrained men. Here is Dr. Stratton, out here in the Bureau of Standards, served on one warship——

Mr. COX of Indiana. I yielded to the gentleman for a question and not for a speech.

Mr. MANN. I beg the gentleman's pardon.

Mr. COX of Indiana. I appreciate the statement made by the gentleman from Illinois, but upon the same principle it has always been argued that we needed to enlarge the standing Army to the end that we might get more efficient soldiery, and yet there has never been a time in the history of our country when we could depend on the standing Army as a matter of defense. Even in the Spanish War they were absolutely unable to take care of the situation, but thousands of young men volunteered from the North, the South, the East, and the West to defend our Government during the Spanish-American War.

And so it will be in the future. You can go on increasing your standing Army by adding the State Militia, you can go on increasing the Navy by adding the Naval Militia, and yet if we become engaged in war you must depend upon the volunteer forces.

Mr. HARDY. Will the gentleman yield?

Mr. COX of Indiana. I will yield to the gentleman for a question.

Mr. HARDY. Does not the gentleman think he is out of place in interfering with an opportunity for a great raid on the Treasury?

Mr. COX of Indiana. No; I do not. The naval bill, Mr. Speaker, carries $126,000,000. The Army appropriation bill carries more than $100,000,000. Preparations have been begun to fortify the Panama Canal, and I heard a statement made by the chairman of the Committee on Appropriations the other night to the effect that before that was done it would cost the Government $60,000,000.

We hear much criticism, Mr. Speaker, throughout the country, and I believe it is just and meritorious criticism, of the enormous increase in the expenditure of the people's money. We ought to realize that every dollar we appropriate here must be made and earned by the people, and it is few and far between the times that any man ever rises on the floor of the House and says a word in defense of the ninety-odd million taxpayers of this country who must bear the brunt, who must pay the expenses, in the last analysis of the situation.

Where are we drifting? Unerringly to an absolute military despotism. I would rather depend upon the sound judgment, the fairness of my Government to deal with problems not only at home, but abroad, in the settlement of these disputes, than I would depend upon your Navy and your Army, upon your militia, belonging to the Army or the Navy.

Mr. TILSON. May I ask the gentleman a question?

Mr. COX of Indiana. Yes.

Mr. TILSON. Why not rely, then, on the honesty of your fellow men and not have courts or policemen?

Mr. COX of Indiana. There is no comparison between the two. One belongs to the military and the other the civil arm of the Government, and I believe the time is fast coming when a vast majority of the cases now being litigated in our courts will be settled instead of going to court. I see that condition springing up all over the country. If that should be used as a line of comparison upon the same principle, I believe that the time will come when a large amount of that controversy will be settled.

Mr. Speaker, I do not suppose that I will change one man's vote on this bill, but I am conscientiously opposed to it, because I am opposed to it on principle. Every time that an appropriation is desired here, I care not if it be for the Army or the Navy, a strong defense can, and usually is, made for it upon the floor of the House by raising the immediate urgency of the situation. Here is a plea made this evening to put these men on the same basis with the State Militia. That argument may be fair in one sense of the word, but it does not appeal to me, because I do not admit the premises upon which the appeal is based. I challenge the premises upon which it is based, because I do not concede the right or the necessity of making the State Militia a part of the standing Army of this country. Let us not forget that no matter how much this bill may carry, we must and will be charged with the responsibility of making appropriations to carry it into effect. I hope that the bill will be defeated, and that two-thirds of the membership of this House will vote against it.

Mr. FOSTER of Illinois. Mr. Speaker, I yield one minute to the gentleman from Texas [Mr. HARDY].

Mr. HARDY. Mr. Speaker, I think the Democratic Party would like to record itself in favor of economy. On the floor of this House I have heard increases in the pay of numerous officials advocated in the name of economy. Not long since—just the other day—I heard a measure advocated for the enlargement of the National Guard by putting the State militia on the pay list and making them a part of the standing Army at an avowed cost of about $8,000,000 per annum now, with a prospect of the cost being increased up to $15,000,000 in a few years. I have heard a general civil pension list advocated in the interest of economy. All these measures are advocated in the interest of economy, and now we find this naval proposition, said to cost only $200,000 a year now, with a probability that it will cost $500,000 in a short time, advocated in the interests of economy. Since I have been here I have heard the building of four battleships a year at the cost of over $40,000,000, advocated in the interest of economy. If we get enough of this kind of economy shouldered off on us in the closing days of this Congress and of Republican power in this House, we will have enough economy to bankrupt the United States. [Applause on the Democratic side.]

Mr. FOSTER of Illinois. I yield five minutes to the gentleman from Alabama [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I appreciate the time the gentleman gives me, the more since he is aware of the fact that I am in favor of this bill. I was not here when the chairman of the committee was explaining the measure. I dare say he has explained that this bill has practically the unanimous indorsement, not only of the Naval Committee, but also of the Navy Department and also of the Naval Militia of the whole country. It is the result of many months, even of years, of hard work to get the divergent forces together on a sound basis to promote efficiency in the Naval Militia. It would be impossible in the time limit to explain the bill section by section, but the effect of the bill is simply to put the Federal Government in a legitimate relation with the Naval Militia for the accomplishment of the purpose for which that militia exists, and I would like my Democratic colleagues to realize that it is not a question of the size of the militia. It does not involve in any sense the question of the strength of the naval or military arm of the Government, but it is simply to perfect the relation that exists between the Federal Government and the Naval Militia that already exists as authorized by law, for the purpose of increasing its efficiency and making it of greater service when war comes.

It is patent to anyone who has thought on questions of national defense that when war does come, this Nation having no merchant marine, which we all deplore—not only because it makes us dependent for transportation of commerce, but because it gives us no reserve for the expansion of the personnel of our Navy when war comes—that makes the question of what naval reserve we do have of primary importance to the efficiency of the whole Navy when the war comes. We are spending a great deal of money upon that Navy. In my judgment we can economize upon the amount of money, and will before long; but we do spend a great deal of money upon that Navy, and this will give us the maximum of return in making that money more effective and in the end more economical. I can not refrain, even in the short time I have, from referring to the wonderful record made by the Naval Militia in the War with Spain—a record it made in spite of all the difficulties this bill will remove.

They are such a fine body of men, of such high character, such high attainment, technically and educationally, that they performed the most valuable service, services that can not be overestimated, in spite of great difficulties. If the war had been more serious, if we had reached a stage when the first line of battle had been destroyed or crippled, and then the country was depending for the issue of war upon the second line of battle, then we would have realized, what our people have not yet fully realized, the great service of the Naval Militia in that war with Spain. I hope that when we consider matters of general efficiency in matters of national defense that not only now, but in the future, we will bear in mind this question of the Naval Militia, and that we will have a broad and liberal attitude toward it, not as a part of the forces that lead toward militarism, that some fear, but simply a way to make effective what we have embarked upon in the strength of our Navy.

Mr. FOSTER of Illinois. Mr. Speaker, I yield the balance of my time to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES of New Jersey. It displeases me very much to differ from such a distinguished economist as the gentleman from Alabama [Mr. HOBSON], and I do it with great reluctance. Of course there does not seem to be any particular reason why we should halt at this comparatively unimportant amount. In the last 10 or 15 days we have done our best, as nearly as I can figure, to hook up every man, woman, and child in the United States directly with the Treasury. If we have not quite succeeded in doing it, the agents and ambassadors we have appointed here in the last few days will see that it is done in the near future. [Applause.]

Now, you can get up a plausible argument for any of these propositions, and very plausible arguments have been made. The gentleman from Alabama would seriously have us believe that the very endurance of this Nation is going to depend upon

these young gentlemen who are going out for a week or two in the summer on a cruise on some Government vessel at the Government's expense.

I hope that nobody will be frightened into the belief that the existence of this Nation is going to be jeopardized by the withholding of this appropriation, because my belief is, having some knowledge of these affairs, that nothing more important than the pinochle championship will be decided when these men go into action next summer. [Laughter.]

Mr. DENBY. Will the gentleman yield? I was going to ask if the gentleman has any knowledge of the record of the Naval Militia during the War with Spain.

Mr. HUGHES of New Jersey. Well, I know that not more than 50 per cent of them got seasick. [Laughter.]

Mr. DENBY. I was one of the 50 per cent that did not get seasick; but, seriously, will the gentleman yield just a moment? He is making a very serious and unpleasant attack upon a body of men who did their duty in the Spanish War as ably and as effectively as any body of men who ever went to that or any other war.

Mr. MANN. The gentleman from Michigan [Mr. DENBY] misunderstands the gentleman from New Jersey [Mr. HUGHES], who is only talking facetiously.

Mr. HUGHES of New Jersey. The gentleman from Michigan misunderstood everything I said. The men who went to the Spanish War did their duty. Everybody will admit that; and they will be just as brave and just as efficient and just as seasick, as the gentleman suggests, if a war should come, whether this money is appropriated or not. And after the money we have appropriated and the pipes we have connected with the Treasury in the last few weeks, it would really do me good to see one raid on the Treasury checked, even if we only saved $200,000.

Mr. AUSTIN. Did you not propose to pay Commander Peary $10,000 the other night for the discovery of the North Pole?

Mr. HUGHES of New Jersey. I will admit that I was wrong in doing that. I intended to add another clause to that amendment, but in the hurry and haste and confusion, which the gentleman will remember, I was unable to put it on. I intended to have that money paid out under vouchers executed by the gentleman from Arkansas [Mr. MACON], as I thought that would be a sufficient safeguard on the Treasury. [Laughter.]

Mr. Speaker, I yield back the balance of my time.

Mr. FOSS. Mr. Speaker, I yield two minutes to the gentleman from Tennessee [Mr. PADGETT].

Mr. PADGETT. Mr. Speaker, I think my position in reference to the Navy is sufficiently well known in the House not to credit me with being too extravagant in naval affairs. This bill, however, I do favor. I think it is a wise precautionary measure. The cost of it is a minimum. It is intended to encourage the Naval Militia to be prepared for a conflict if one should come, in the same sense that we rely upon our State militia.

Now, the other day I voted against the militia pay bill for the reason that, in my judgment, it was merging the militia into the Regular Army to too great an extent. I believe that the militia and the Regular Army should be kept separate and apart. They should be entirely distinct. It should be in reality and in truth a militia. I did not believe that that bill accomplished that purpose, and therefore I voted against it.

I believe that the present bill does accomplish that purpose. It maintains the integrity of the Naval Militia as a separate institution. It treats it as a naval militia, and it is used for the purpose of training 7,000 or 8,000 men in naval matters, so that in case of need we would have these men who have had training and experience to come into and form a part and a valuable part of the organized forces if occasion required. I think it would be well, therefore, that we should pass this naval militia bill.

Mr. FOSS. Mr. Speaker, I yield one minute to the gentleman from Illinois [Mr. GRAHAM].

Mr. GRAHAM of Illinois. Mr. Speaker, I am in favor of this bill, because I am in favor of an efficient Navy. I believe that prevention is better than cure, and there is little danger to us of invasion from abroad so long as we have an efficient Navy.

I believe in it for another reason, because an efficient Navy will render unnecessary a large standing army, and from my reading of history I can not recall a single instance where the liberties of any people were endangered or overthrown by a large and efficient navy, whereas I have read of many instances where the liberties of the people were destroyed by a large standing army. The Navy stands for prevention; the Army stands for the remedy. Therefore I say the Navy can not be encouraged too much or kept in a too efficient condition, and as this measure tends to the greater efficiency of the Navy, I am for it. [Applause.]

Mr. FOSS. Has the gentleman consumed all of his time?

The SPEAKER pro tempore. He has consumed all of his time.

Mr. FOSS. Then I yield one minute to the gentleman from Michigan [Mr. DENBY].

Mr. DENBY. Mr. Speaker, the purpose of this bill is simply to increase the efficiency of an arm of the service which is to-day extraordinarily efficient for the purposes for which it was created, and which in times past has always demonstrated its power fully to discharge its duty.

I do not want to go into a recital of the history of the Naval Militia. There will be no time for that. But let me call attention simply to the fact that in 1908, when the militia was relatively, compared with what it is to-day, very inefficient, they yet manned alone absolutely four converted cruisers, which took the places of four armored vessels and released them to act against the enemy where they were more needed. One of these cruisers maintained an efficient military blockade of the port of San Juan, P. R., for three weeks. Other vessels of the Naval Militia blockaded other ports, and satisfactorily did the work of men-of-war. Every one of these ships was brought into the service at small cost, and the use of each one made available a regular naval vessel for service it would not otherwise have performed.

Mr. FOSS. I will yield the balance of my time to the gentleman from Massachusetts.

The SPEAKER pro tempore. The gentleman has four minutes, which he yields to the gentleman from Massachusetts [Mr. WEEKS].

Mr. WEEKS. Mr. Speaker, the greatest military necessity which this country has is an adequate naval reserve. Sixty thousand men would be required to man our fleet in time of war. We would have for that purpose but 45,000 men, if the quota of the Navy were filled. We have no naval reserve, except that furnished by the Naval Militia of the several States, numbering from 6,500 to 7,000 men.

The record which they made in the Spanish War is a clear demonstration that those men would be efficient and useful in case of another war, and they would be the principal source from which we could draw a supply of men with which to man the ships of the Navy not manned by the regular force; they would especially be available to man vessels for coast defense, and taking the place of men who ought to be serving actively at sea.

Now, it is complained that we are going to spend $200,000 a year for this service. We have been spending $125,000 a year for it, but not one penny of this money goes to the men themselves. It goes to buy their uniforms and to purchase equipment, which equipment belongs to the United States, and it would be available in case of war. Not a naval militiaman has ever received one penny from the Government which has gone into his own pocket, and not one of them will receive a penny of this appropriation. I have served 10 years in the Naval Militia, and I am proud of it. I know the time men put in to make themselves effective and useful in time of need—time which would otherwise be used for personal purposes—and we owe to them as well as to the Government that we do everything possible to make them as efficient.

Now, this is a small matter in dollars and cents, but it is a very large matter from the standpoint of our military defense. It is a more useful appropriation—and I think I speak advisedly—in proportion to the dollars appropriated than any appropriation we make for the military service of this Government. It would be flying in the face of Providence not to take advantage of the opportunity which we have to make these men more efficient.

How will this bill make them more efficient? It will make them more efficient because the Government can call on them at once in case of need. Under the old regulations they were simply State militia; they were in no way bound to United States service. Their officers and men were not examined until the need came, and then very frequently we found officers and men serving in capacities for which they were not competent. Under this bill they will be examined. The officers will be commissioned only after they have passed an examination which is approved by the Secretary of the Navy.

The men will have to pass a technical examination, the petty officers will all have to pass examinations. They will all have to pass physical examinations, so that we may be sure when the time comes that every one of the men in this force will be fit for the position which he occupies at the time, and we will

not be wasting money on men who can not be made suitable for the service.

More than 3,000 of these naval militiamen went into the Spanish War. As has been stated by the gentleman from Michigan, they manned four large vessels and very many other small vessels used in the coast defense. Sixty of these men were on the *Oregon*. A great many of the Illinois naval militiamen were serving on other vessels of the fleet before Santiago, and in not a single instance which has come to my attention did these men fail to perform good service. I want to call attention to the fact that many of the gentlemen who are now crying economy when referring to this $200,000 appropriation were willing enough to vote for a pension bill, largely going to men who do not need it, which carried $45,000,000 or $50,000,000. These Spanish War militiamen were patriotic as well as useful men. I shipped 500 of them at the beginning of the Spanish War, and only one of those 500 men has ever applied to me for a pension. Shattered in health, he died before he received the pension which was due him. [Applause.]

The SPEAKER. The question is on the motion to suspend the rules and pass the bill.

The question being taken, on a division (demanded by Mr. FOSTER of Illinois) there were—ayes 102, noes 37.

Accordingly, two-thirds voting in favor thereof, the rules were suspended and the bill was passed.

ENROLLED BILLS SIGNED.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 32907. An act to incorporate the National McKinley Birthplace Memorial Association;

H. R. 9624. An act for the relief of Hansell Hatfield, of McMinn County, Tenn.;

H. R. 25081. An act for the relief of Helen S. Hogan;

H. R. 31596. An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1912;

H. R. 32436. An act making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1912, and for other purposes; and

H. R. 32866. An act making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1912.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 3662. An act for the erection of a monument over the grave of President John Tyler;

S. 9270. An act for the relief of Frank W. Hutchins;

S. 6639. An act for the relief of Margaretha Weideman, Clarence C. Weideman, and Auguerite E. Weideman, owners of lots Nos. 1, 2, and 3, square No. 434, in the city of Washington, D. C.;

S. 10357. An act authorizing the Secretary of the Interior to issue patent to David Eddington covering homestead entry;

S. 8300. An act to authorize the extension of Seventeenth Street NE.;

S. 4023. An act for the relief of Arthur G. Fisk;

S. 4196. An act to place David Robertson on the retired list of the United States Army;

S. 10274. An act to authorize construction of the Broadway Bridge across the Willamette River at Portland, Oreg.;

S. 9954. An act for the relief of Lincoln C. Andrews;

S. 9874. An act to refund to the Gate of Heaven Church, South Boston, Mass., duty collected on stained-glass windows;

S. 1031. An act for the relief of Jaji Bin Ydris;

S. 8774. An act to change the name of Messmore Place to Mozart Place;

S. 9351. An act to amend an act entitled "An act providing for the retirement of certain medical officers of the Army," approved June 22, 1910;

S. 7031. An act to codify, revise, and amend the laws relating to the judiciary;

S. 7574. An act for the relief of John M. Bonine;

S. 10177. An act to authorize additional aids to navigation in the Lighthouse Establishment, and for other purposes;

S. 10536. An act directing the Secretary of War to convey the outstanding legal title of the United States to lot No. 20, square No. 253, in the city of Washington, D. C.;

S. 9094. An act to authorize the Secretary of War to sell to the Nahant & Lynn Street Railway Co. a portion of the United States coast-defense military reservation at Nahant, Mass.; and

S. 7648. An act for the relief of Charles J. Smith.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills and joint resolutions:

H. R. 28626. An act to amend the internal-revenue laws relating to distilled spirits, and for other purposes;

H. R. 26290. An act providing for the validation of certain homestead entries;

H. R. 32436. An act making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1912, and for other purposes;

H. R. 32866. An act making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1912;

H. R. 32883. An act to extend the time for the completion of a bridge across the Morris and Cummings Channel at a point near Aransas Pass, Tex., by the Aransas Harbor Terminal Railway Co.;

H. R. 32251. An act authorizing the sale of portions of the allotments of Nek-quel-e-kin, or Wapato John, and Que-til-qua-soon, or Peter, Moses agreement allottees;

H. R. 32721. An act to extend the time for commencing and completing the construction of a dam authorized by the act entitled "An act permitting the building of a dam across the Mississippi River in the county of Morrison, State of Minnesota," approved June 4, 1906;

H. R. 31237. An act making appropriations for the support of the Army for the fiscal year ending June 30, 1912;

H. R. 30273. An act for the relief of the city of Quincy, the towns of Weymouth and Hingham, and the Old Colony Street Railway Co., all of Massachusetts;

H. R. 29157. An act making appropriations for the payment of invalid and other pensions of the United States for the fiscal year ending June 30, 1912, and for other purposes;

H. R. 25370. An act to waive the age limit for admission to the Pay Corps of the United States Navy for one year in case of Paymaster's Clerk Arthur Henry Mayo;

H. R. 18014. An act to amend section 996 of the Revised Statutes of the United States as amended by the act of February 19, 1897;

H. R. 17433. An act amending section 1709 of the Revised Statutes of the United States;

H. R. 31239. An act to authorize Park C. Abell, George B. Lloyd, and Andrew B. Sullivan, of Indianhead, Charles County, Md., to construct a bridge across the Mattawoman Creek, near the village of Indianhead, Md.;

H. R. 28406. An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1912;

H. R. 31596. An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1912; and

H. J. Res. 294. Joint resolution for the appointment of members of the Board of Managers of the National Home for Disabled Volunteer Soldiers; and

H. J. Res. 291. Joint resolution authorizing the Secretary of War to receive for instruction at the Military Academy at West Point Mr. Melchoir Batista, of Cuba.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 288. An act for the creation of the police and firemen's relief fund, to provide for the retirement of members of the police and fire departments, to establish a method of procedure for such retirement for any purposes; to the Committee on the District of Columbia.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

Sundry messages in writing from the President of the United States were communicated to the House of Representatives, by Mr. Latta, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills of the following titles:

March 2, 1911:

H. R. 31856. An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1912, and for other purposes;

H. R. 32082. An act limiting the privileges of the Government free bathhouse on the public reservation at Hot Springs, Ark., to persons who are without and unable to obtain the means to pay for baths;

H. R. 32344. An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of

oil or gas on the public lands of the United States, or their successors in interest;

H. R. 20603. An act for the relief of Henry Halteman;

H. R. 28215. An act to fix the time of holding the circuit and district courts for the northern district of West Virginia;

H. R. 28626. An act to amend the internal-revenue laws relating to distilled spirits, and for other purposes; and

H. R. 29857. An act to amend section 3287 of the Revised Statutes of the United States, as amended by section 6 of chapter 108 of an act approved May 28, 1880, page 145, volume 21, United States Statutes at Large.

On March 3, 1911:

H. R. 26656. An act to prevent the disclosure of national-defense secrets; and

H. R. 31806. An act to amend section 1 of the act approved March 2, 1907, being an act to amend an act entitled "An act conferring jurisdiction upon United States commissioners over offenses committed on a portion of the permanent Hot Springs Mountain Reservation, Ark."

RESIGNATION FROM NATIONAL MONETARY COMMISSION.

The SPEAKER laid before the House the following communication:

SIR: The condition of my health makes it impossible for me to properly participate in the important work which is contemplated by the National Monetary Commission during the coming spring and summer. I therefore herewith tender my resignation as a member of that important body, to take effect at your pleasure.

Thanking you for the great honor of the appointment, I am,
Your obedient servant, S. C. SMITH.

Hon. JOSEPH G. CANNON,
Speaker, House of Representatives, Washington, D. C.

The SPEAKER appointed Hon. JAMES MCLACHLAN of California to be a member of the National Monetary Commission, vice Sylvester C. Smith, of the same State, resigned.

LOTS 3 AND 4, SQUARE 103, DISTRICT OF COLUMBIA.

Mr. SMITH of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (S. 9125) authorizing the Secretary of War to convey the outstanding title of the United States to lots 3 and 4, square 103, city of Washington, D. C.

Mr. BORLAND. Mr. Speaker, I demand a second.

The SPEAKER. Under the rule, a second will be considered as ordered. Will the gentleman from Michigan state where the original bill is?

Mr. SMITH of Michigan. The bill is on the calendar.

The SPEAKER. Has the Senate bill been reported from the District of Columbia Committee?

Mr. SMITH of Michigan. Yes; in this way. There were four Senate bills that have been reported by polling the committee.

The SPEAKER. The bill is not on the calendar.

Mr. SMITH of Michigan. It has been reported.

The SPEAKER. It has marked on it "February 13, 1911, referred to the Committee on the District of Columbia." There is no evidence that the bill has ever been reported by that committee to the House.

Mr. SMITH of Michigan. Then, Mr. Speaker, I ask that the bill be laid aside for the present.

DESIGNATION FOR ASSESSMENT AND TAXATION.

Mr. SMITH of Michigan. Mr. Speaker, I move to suspend the rules and pass the bill (S. 6743) to amend an act entitled "An act to distinctively designate parcels of land in the District of Columbia for the purposes of assessment and taxation, and for other purposes," approved March 3, 1899.

The Clerk read the bill, as follows:

Be it enacted, etc., That the act of Congress approved March 3, 1899, entitled "An act to distinctively designate parcels of land in the District of Columbia for the purposes of assessment and taxation, and for other purposes," be, and the same is hereby, amended by adding to section 2 of the said act at the end thereof the following:

"That each square in the city of Washington shall bear a number or other designation that will distinguish it from every other square in said city, and that each lot or parcel of ground in such square shall bear a number or other designation that will distinguish it from every other lot or parcel in such square.

"That the commissioners shall cause to be prepared a series of volumes of plats to show the separate parcels of land created by subdivisions, sales, wills, condemnations, dedications, decrees of court, or otherwise, each with its distinctive number; said plats shall be recorded in the office of the surveyor and shall be added to from time to time where new numbering or designations are required through deeds or otherwise.

"That whenever any piece or parcel of land within the District of Columbia is otherwise correctly described and designated in any taxation or assessment of the same or any sale thereof for unpaid taxes or assessments, the omission of the name or names of the owner or owners thereof, or the insertion of a wrong name or names as the owner thereof, shall not be held to invalidate or in any wise affect the legality of any such tax, assessment, or sale of such property.

"That in order to enable the commissioners to carry out the provisions of the above-mentioned acts and amendments the sum of $8,000 is hereby appropriated, one-half from the revenues of the District of Columbia and one-half from any moneys in the Treasury of the United States not otherwise appropriated; said sum to be expended by contract or by per diem services in the discretion of the commissioners of said District under the direction of the assessor of the District of Columbia."

The SPEAKER. Is a second demanded?

Mr. JOHNSON of Kentucky. I demand a second.

The SPEAKER. Under the rule a second is considered as ordered, and the gentleman from Michigan has 20 minutes and the gentleman from Kentucky 20 minutes.

Mr. SMITH of Michigan. Mr. Speaker and gentlemen, if I can have the attention of the House for a few moments in reference to this bill, I will explain it. It is an important bill.

Mr. MANN. Was this bill on the Unanimous Consent Calendar this morning?

Mr. SMITH of Michigan. It was this morning. Everything from the District of Columbia was on the Unanimous Consent Calendar in the hope that we might get some of it through in that way.

The House report on this bill is 1044, being descriptive of what is expected to be accomplished by the bill. I want to say that I think the Members of the House would be greatly surprised if they could see some of the descriptions of property here in Washington, and I confess that I am greatly surprised myself as time has passed on year by year when they have not come to Congress and asked for some legislation of this kind. Three or four years ago a bill of this kind was passed with reference to property in the District outside the city. In other words, a bill was passed fixing the description of a piece of property, for instance, by block and lot, as they doubtless do in your home city and mine.

If you have the report before you, you gentlemen could see. I will read the last clause in the report of the committee, which will give a little idea of how property is described here. I read from page 3 of the report:

As stated in a former report, this bill is for the purpose of simplifying the records of the office, preventing errors of location of improvements in assessing property for taxes, doing away with complicated descriptions in the annual advertised tax-sale list, enabling the taxpayer to identify his property from the face of his tax bill without recourse to other records, and the consequent reduction of the liability to error in many respects. As an instance of changes required, there will be found on page 131 of the published tax list of 1910 a description reading "of sublot 21, 1,866 feet next to west 18.92 feet." Under the new project this would become lot 809, square 202, which would be a short and correct designation, while the present designation is cumbersome and faulty.

I think every Member of the House will agree with me that it is an impossible and imperfect description, and certainly they are justified in asking legislation for this correction.

If this bill is passed, for illustration, that imperfect description which I have now just read would be described as follows under the new project:

Lot 809, square 202.

That would be a short and correct designation, while the present designation is cumbersome and faulty. If I were permitted, I could stand here for the next hour and give you similar descriptions of property here in the city. Therefore, I say to you that in my judgment, after talking with the assessor of the District and the other officials of the District, I regard this as very important legislation, and I sincerely hope that there will be no objection. The question has been raised, perhaps not to-day, but once, about the cost. On page 3 of the report will be found a little idea from the letter of the commissioners as to the cost. They say:

This city work will consume about one year of time and necessitate preparation of 1,300 separate sheets or maps of the different squares in the city, and will require the correction or tabulation on 60,000 cards, a detail estimate of the cost being as follows:

For examination of deeds, descriptions, and other data preliminary to preparing maps, $1,500; for employment of 4 clerks, at $750, $3,000; for 3 draftsmen, at $1,000, $3,000; for cards, drawing paper, and other supplies, $500.

I repeat, Mr. Speaker, I hope there will be no objection to the passage of this bill.

Mr. JOHNSON of Kentucky. Mr. Speaker, the gentleman from Michigan has correctly described this bill as being one of the most important bills coming from the District of Columbia Committee. I wish to describe it further as being one of the most dangerous bills that ever came out of that committee, and I ask the attention of the House to see wherein the danger lies. Under ordinary circumstances a man's real estate, if it is to be sold for taxes or other debts, is advertised for sale in the papers, and the name of the man who owns the property is used. When he sees his name in print in connection with the fact that his property is to be sold, that attracts his attention. If he does not see it himself, some friend or neighbor may call his attention to the fact that his property is about to be sold for taxes or debt.

I say that if this bill becomes a law there will be no description of the property to be sold other than the number of the

lot and the square in which it lies. Under these circumstances a man may sit idly by and have his property sold for almost nothing under his very nose, perhaps, and the land grabbers take it up. I say that if this bill passes that when a man's property is sold for taxes or for some other purpose and it is advertised simply as lot numbered so-and-so that that attracts the attention of nobody except the speculators who stand around the courthouse and watch for real-estate bargains; and I say that when you have passed this bill you have imposed upon the ignorant and you have imposed upon the hard-working man, who has but little time to see the papers, and you have brought about a practical confiscation of his property. This bill goes so far as to say that even though the property may be correctly described as to the number of the lot, that if the wrong name should be used in connection with the description even that does not invalidate the sale; and then the man who owns a little house and lot is shut out from ever redeeming it, and the land grabber, who sits around to take up these things, gets it; and, I repeat, I agree with the gentleman when he says that this is an important bill, and I repeat it is one of the most dangerous bills to the humble home owner or the nonresident that could possibly be imagined or conceived in the mind of the man who seeks unfair advantages.

Mr. SMITH of Michigan. May I ask the gentleman a question? I hope he will not try for a moment to prejudice the House in talking about land grabbers and all that, because that is foreign to the matter, and there is nothing in it. I have one plain question I wish to put to you. Do you contend for a moment as a legislator that the description given in the last part of this report is a good description of property?

Mr. JOHNSON of Kentucky. I say this, that if we have a law which warrants a bad description that we certainly should not pass one which enacts into law one infinitely worse.

Mr. SMITH of Michigan. When it actually describes a piece of property by lot and block, so that no human being can make a mistake?

Mr. JOHNSON of Kentucky. Then you say in this bill, though the wrong name be mentioned in that advertisement in connection with his name and lot, it shall not invalidate the sale. I hope, Mr. Speaker, that no man on this floor will jeopardize the property of the man who does not read the newspapers or the man who would not know the number of his own lot if he saw it in print and vote for this bill, because I say to you that I conscientiously believe that nothing could be more dangerous than this. [Applause.]

Mr. SMITH of Michigan. Mr. Speaker, I have no desire to take any further time, and I ask for a vote. I hope that two-thirds of the Members of this House will vote for the passage of this bill in the interest of the people.

The question was taken, and the Chair announced the noes appeared to have it.

On a division (demanded by Mr. SMITH of Michigan) there were—ayes 31, noes 24.

Mr. SMITH of Michigan. Mr. Speaker, I ask for the ayes and noes and make the point of no quorum.

The SPEAKER. Does the gentleman demand the yeas and nays?

Mr. SMITH of Michigan. Oh, no; I will withdraw it, Mr. Speaker, and the point of no quorum. [Applause.]

So (two-thirds not having voted therefor) the motion was rejected.

The SPEAKER. The Chair sent his messenger over to the Senate to know where the bills were which were to be here at 7 o'clock, and the answer comes back that they would not be able to get the bills over here before 8 o'clock.

Mr. DALZELL. Mr. Speaker, I move that the House take a recess until 8 o'clock.

The motion was agreed to.

Accordingly the House took a recess until 8 o'clock.

AFTER RECESS.

At 8 o'clock p. m., the recess having expired, the Speaker called the House to order.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Bennett, its Secretary, announced that the Senate had passed with amendments bills of the following titles; in which the concurrence of the House of Representatives was requested:

H. R. 32909. An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1912, and for other purposes; and

H. R. 32212. An act making appropriations for the naval service for the fiscal year ending June 30, 1912, and for other purposes.

NAVAL APPROPRIATION BILL.

Mr. FOSS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the naval appropriation bill (H. R. 32212) with Senate amendments, disagree to the Senate amendments, and ask for a conference.

The SPEAKER. The gentleman from Illinois asks unanimous consent to take from the Speaker's table the naval appropriation bill, disagree to the Senate amendments, and ask for a conference.

Mr. SIMS. I object, Mr. Speaker.

Mr. FOSS. Mr. Speaker, I move to suspend the rules and take from the Speaker's table the naval appropriation bill (H. R. 32112) with Senate amendments, disagree to the Senate amendments, and ask for a conference.

Mr. SIMS. Mr. Speaker, I make the point there is no quorum present.

The SPEAKER. The gentleman from Tennessee [Mr. SIMS] makes the point there is no quorum. The Doorkeeper will close the doors and the Sergeant at Arms will notify absent Members. As many as are in favor of the motion will, as their names are called, answer "yea," as many as are opposed will answer "nay," those present and not voting will answer "present," and the Clerk will call the roll.

During the call the following occurred:

Mr. LIVINGSTON. Mr. Speaker, I raise the point that a motion is pending, and as we vote we should vote "yea" or "nay."

The SPEAKER. The motion of the gentleman from Illinois——

Mr. SIMS. That is the way I stated it. The Members do not understand it. They are voting "present."

The SPEAKER. The gentleman has the privilege to vote "present." It may not make much difference which way a Member votes, provided he is here for a quorum.

Mr. SIMS. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SIMS. The point of no quorum was made before any question was made as to a second or anything of the kind. I do not suppose any vote should be taken on the motion. The point of no quorum was made before the Speaker put the motion at all.

The SPEAKER. The point of no quorum was made. The Speaker did put the motion, and the point of no quorum being made——

Mr. SIMS. Well, I demand a second, Mr. Speaker.

Mr. FOSTER of Vermont. Regular order, Mr. Speaker.

The SPEAKER. The Chair supposed that the gentleman from Tennessee [Mr. SIMS] did not care for debate. Perhaps the Chair was too hasty.

Mr. SIMS. I am very anxious for debate, Mr. Speaker, and I made the point of no quorum before the motion was made.

The SPEAKER. The gentleman is strictly correct. The trouble about the matter is this: The Chair, in taking for granted that the gentleman from Tennessee, and other Members, and the Chair, desired to have the presence of a quorum under the rules of the House, and, overlooking the fact that a second was not demanded, evidently did what the Chair should not have done if the Chair had considered a moment, namely, ordered the doors closed, without any intention of cutting off debate. But, unfortunately the lack of a quorum has been ascertained and nothing can be done until it is obtained, and the Chair apprehends that the House can apply the remedy, possibly, by unanimous consent. There certainly was no desire on the part of the Chair——

Mr. SIMS. I am confident of that, Mr. Speaker, but I did not want the motion to suspend the rules to be voted on when I made the point before the motion was made.

Mr. NORRIS. I would like to inquire of the gentleman if it is not true that the gentleman did not make his point until after the motion was made, but that he did make it before the Chair stated the motion?

The SPEAKER. The gentleman did make the point of no quorum before the motion was put.

Mr. NORRIS. But was it not after the gentleman from Illinois made the motion?

The SPEAKER. Precisely; but the House was not dividing.

Mr. NORRIS. No; that is true.

The SPEAKER. It was on the point of dividing.

Mr. MANN. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MANN. Under the ruling of the Speaker, do we proceed with the roll call or is that order vacated?

The SPEAKER. It seems to the Chair there is nothing left but to proceed with the roll call. The want of a quorum having been ascertained, there must be one of record before any business can be done.

Mr. SIMS. Mr. Speaker, all I want is an opportunity to demand a second and have a quorum here.

Mr. PAYNE. Mr. Speaker, is there any question before us that has to be voted on?

The SPEAKER. Yes.

Mr. PAYNE. Then I think we ought to have the regular order.

The SPEAKER. No advantage will be taken, and none ought to be taken, by reason of a technical disregard of the rules of the House; but, after all, the steps to ascertain a quorum are bigger than the rules. The Clerk will call the roll. As many as are in favor of the motion will vote "aye," those opposed will vote "no," and those present and not voting will vote "present."

Mr. HAY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman from Virginia will state it.

Mr. HAY. If upon the roll call it is disclosed that two-thirds of a quorum have voted in favor of the motion of the gentleman from Illinois, will not that carry the motion, and thereby cut off debate?

The SPEAKER. No; not if two-thirds of a quorum have voted. The Chair suggests that the proper way out of this seeming tangle is for gentlemen to take each other in good faith.

Mr. SIMS. That is exactly what I want to do, Mr. Speaker.

The SPEAKER. And the Chair repeats that, by unanimous consent, or otherwise, no advantage will be taken.

Mr. SIMS. Mr. Speaker, I make this request for unanimous consent that I may have an opportunity to demand a second and that a debate on the bill be had, and then I will withdraw any other demand.

The SPEAKER. The trouble is we are in this condition, that, it having been ascertained that there is no quorum, nothing can be done except to attempt to ascertain the presence of a quorum.

Mr. SIMS. Mr. Speaker, I am perfectly willing that the other side shall go on and have the time, in spite of the motion. [Cries of "Regular order!"]

Mr. FINLEY. Mr. Speaker, I submit to the Chair that the only business that can be transacted is to ascertain a quorum, and, in doing that, all Members, if they choose, can answer "present."

The SPEAKER. Yes; but it is also a vote.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. If, when the roll is being called, all of a quorum should vote "present" except 4, and 3 of those should vote for the motion and 1 against it, that would pass the motion, a quorum being present.

Mr. PAYNE. I think that can be decided later.

The SPEAKER. If a quorum is present, a valid vote, in the opinion of the Chair, would have been taken.

Mr. PAYNE. Has the roll call commenced, Mr. Speaker?

The SPEAKER. Yes.

Mr. SIMS. Mr. Speaker, all I can say is, just to state the fact, that I made the point of no quorum before the Chair put the vote, for the purpose of having the question of a quorum ascertained before it was put, and of course I do not want to be cut off in demanding a second.

The SPEAKER. The Chair states for the third time that the gentleman from Tennessee is correct; but the Chair misapprehended the gentleman's object and thought that he desired to have a quorum present on the vote, and the Chair went on to put the motion in the most expeditious way; and the gentleman not protesting, the Chair, until the gentleman did protest, was misled, not purposely, by the gentleman, and here we are. The want of a quorum having been ascertained, nothing can be done until it is obtained. Then anything can be done.

Mr. CARLIN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CARLIN. I want to get the status correctly.

The SPEAKER. The Chair thinks that gentlemen understand the status. The Clerk will call the roll.

The question was taken; and there were—yeas 123, nays 97, answered "present" 16, not voting 147, as follows:

YEAS—123.

Adair	Campbell	Driscoll, M. E.	Good
Austin	Cassidy	Durey	Graff
Barchfeld	Chapman	Dwight	Graham, Pa.
Barclay	Cocks, N. Y.	Englebright	Grant
Bartlett, Nev.	Cole	Esch	Griest
Bennet, N. Y.	Cowles	Fairchild	Guernsey
Bingham	Crumpacker	Fish	Hamilton
Booher	Currier	Floyd, Ark.	Hanna
Burke, Pa.	Dalzell	Fordney	Haugen
Burke, S. Dak.	Dawson	Foss	Hawley
Calder	Dodds	Foster, Vt.	Hayes
Calderhead	Draper	Gardner, N. J.	Helm
Henry, Conn.	Langham	Morse	Simmons
Higgins	Lenroot	Norris	Smith, Iowa
Hobson	Lindbergh	Nye	Snapp
Hollingsworth	Lively	Olcott	Southwick
Houston	Loudenslager	Olmsted	Stafford
Howell, Utah	McCall	Padgett	Steenerson
Howland	McCreary	Payne	Sterling
Hubbard, W. Va.	McKinley, Ill.	Pratt	Sturgiss
Humphrey, Wash.	McKinney	Pray	Sulloway
Jones	McLachlan, Cal.	Prince	Swasey
Keifer	McLaughlin, Mich.	Rauch	Talbott
Kendall	McMorran	Reeder	Tawney
Kennedy, Iowa	Macon	Roberts	Volstead
Kennedy, Ohio	Madison	Robinson	Vreeland
Kinkaid, Nebr.	Mann	Rodenberg	Wanger
Knowland	Miller, Kans.	Scott	Weeks
Kopp	Miller, Minn.	Sharp	Woodyard
Kronmiller	Moore, Pa.	Sheffield	Young, N. Y.
Lafean	Morgan, Okla.	Sherley	

NAYS—97.

Adamson	Cullop	Hay	Peters
Aiken	Dent	Heflin	Pujo
Alexander, Mo.	Denver	Henry, Tex.	Rainey
Anderson	Dickinson	Hitchcock	Roddenbery
Ashbrook	Dickson, Miss.	Hughes, N. J.	Rucker, Colo.
Barnhart	Dixon, Ind.	Hull, Tenn.	Rucker, Mo.
Beall, Tex.	Driscoll, D. A.	Humphreys, Miss.	Sabath
Bell, Ga.	Dupre	Johnson, Ky.	Saunders
Borland	Edwards, Ga.	Johnson, S. C.	Shackleford
Burleson	Ellerbe	Keliher	Sheppard
Burnett	Ferris	Kinkead, N. J.	Sherwood
Byrns	Finley	Kitchin	Sims
Cantrill	Fitzgerald	Lamb	Sisson
Carlin	Flood, Va.	Lee	Smith, Tex.
Carter	Fornes	Lever	Stanley
Cary	Foster, Ill.	Lloyd	Taylor, Ala.
Clark, Mo.	Gallagher	Maguire, Nebr.	Taylor, Colo.
Clayton	Garner, Tex.	Martin, Colo.	Thomas, Ky.
Cline	Garrett	Mays	Tou Velle
Collier	Godwin	Mitchell	Underwood
Conry	Gordon	Moon, Tenn.	Wickliffe
Cooper, Wis.	Graham, Ill.	Morrison	Wilson, Pa.
Covington	Hamlin	Moss	
Cox, Ind.	Hardwick	O'Connell	
Cox, Ohio	Harrison	Oldfield	

ANSWERED "PRESENT"—16.

Andrus	Broussard	Hill	Livingston
Ansberry	Butler	Howard	McDermott
Boehne	Goulden	Langley	Massey
Brantley	Greene	Latta	Smith, Mich.

NOT VOTING—147.

Alexander, N. Y.	Fuller	Lindsay	Randell, Tex.
Ames	Gaines	Longworth	Ransdell, La.
Anthony	Gardner, Mass.	Loud	Reid
Barnard	Gardner, Mich.	Lowden	Rhinock
Bartholdt	Garner, Pa.	Lundin	Richardson
Bartlett, Ga.	Gill, Md.	McCredie	Riordan
Bates	Gill, Mo.	McGuire, Okla.	Rothermel
Bennett, Ky.	Gillespie	McHenry	Slayden
Boutell	Gillett	McKinlay, Cal.	Slemp
Bowers	Glass	Madden	Small
Bradley	Goebel	Malby	Smith, Cal.
Burgess	Goldfogle	Martin, S. Dak.	Sparkman
Burleigh	Gregg	Maynard	Sperry
Byrd	Hamer	Millington	Spight
Candler	Hamill	Mondell	Stephens, Tex.
Capron	Hammond	Moon, Pa.	Stevens, Minn.
Clark, Fla.	Hardy	Moore, Tex.	Sulzer
Cooper, Pa.	Havens	Morehead	Taylor, Ohio
Coudrey	Heald	Morgan, Mo.	Thistlewood
Craig	Hinshaw	Moxley	Thomas, N. C.
Cravens	Howell, N. J.	Mudd	Thomas, Ohio
Creager	Hubbard, Iowa	Murdock	Tilson
Crow	Huff	Murphy	Townsend
Davidson	Hughes, Ga.	Needham	Turnbull
Davis	Hughes, W. Va.	Nelson	Wallace
Denby	Hull, Iowa	Nicholls	Washburn
Diekema	James	Page	Watkins
Dies	Jamieson	Palmer, A. M.	Webb
Douglas	Johnson, Ohio	Palmer, H. W.	Weisse
Edwards, Ky.	Joyce	Parker	Wheeler
Ellis	Kahn	Parsons	Wiley
Elvins	Knapp	Patterson	Willett
Estopinal	Korbly	Pearre	Wilson, Ill.
Fassett	Küstermann	Pickett	Wood, N. J.
Focht	Law	Plumley	Woods, Iowa
Foelker	Lawrence	Poindexter	Young, Mich.
Fowler	Legare	Pou	

So (two-thirds not voting in the affirmative) the motion was rejected.

The Clerk announced the following additional pairs:

Until further notice:

Mr. WOOD of New Jersey with Mr. WILLETT.

Mr. WILSON of Illinois with Mr. WEBB.

Mr. TILSON with Mr. WATKINS.

Mr. TAYLOR of Ohio with Mr. THOMAS of North Carolina.

Mr. STEVENS of Minnesota with Mr. SULZER.

Mr. PICKETT with Mr. STEPHENS of Texas.

Mr. PEARRE with Mr. SPIGHT.

Mr. PARSONS with Mr. SPARKMAN.

Mr. NEEDHAM with Mr. SMALL.

Mr. MOXLEY with Mr. ROTHERMEL.

Mr. MOON of Pennsylvania with Mr. REID.

Mr. MONDELL with Mr. RANSDELL of Louisiana.

Mr. MARTIN of South Dakota with Mr. RANDELL of Texas.
Mr. MADDEN with Mr. PATTERSON.
Mr. LONGWORTH with Mr. A. MITCHELL PALMER.
Mr. LAWRENCE with Mr. PAGE.
Mr. HENRY W. PALMER with Mr. NICHOLLS.
Mr. KNAPP with Mr. MOORE of Texas.
Mr. KAHN with Mr. MCHENRY.
Mr. JOHNSON of Ohio with Mr. MCDERMOTT.
Mr. HEALD with Mr. LEGARE.
Mr. GILLETT with Mr. JAMIESON.
Mr. GARDNER of Massachusetts with Mr. HAVENS.
Mr. FULLER with Mr. HARDY.
Mr. FOCHT with Mr. HAMMOND.
Mr. FASSETT with Mr. HAMILL.
Mr. THISTLEWOOD with Mr. GREGG.
Mr. DENBY with Mr. GOLDFOGLE.
Mr. DAVIS with Mr. GILLESPIE.
Mr. DAVIDSON with Mr. GILL of Maryland.
Mr. CREAGER with Mr. ESTOPINAL.
Mr. COOPER of Pennsylvania with Mr. DIES.
Mr. BOUTELL with Mr. CRAIG.
Mr. BATES with Mr. CANDLER.
Mr. BARNARD with Mr. BURGESS.
Mr. ANTHONY with Mr. BROUSSARD.
Mr. AMES with Mr. BRANTLEY.
Mr. ALEXANDER of New York with Mr. ANSBERRY.
Mr. HOWELL of New Jersey with Mr. TURNBULL.
Mr. MALBY with Mr. LINDSAY.
Mr. CAPRON with Mr. GILL of Missouri.
Mr. BURLEIGH with Mr. BOWERS.
Mr. YOUNG of Michigan with Mr. WEISSE.
Mr. MILLINGTON with Mr. MAYNARD.
Mr. MURDOCK with Mr. RHINOCK.
Mr. GARDNER of Michigan with Mr. HUGHES of Georgia.
Mr. ANDRUS with Mr. RIORDAN.
Mr. LOWDEN with Mr. SLAYDEN.
Mr. BARTHOLDT with Mr. DENT.
Mr. BUTLER with Mr. BARTLETT of Georgia.
For the balance of the session:
Mr. HUGHES of West Virginia with Mr. BYRD.
Mr. WILEY with Mr. WALLACE.
Mr. SMITH of California with Mr. CRAVENS.
From 6 p. m. until the end of the session:
Mr. LANGLEY with Mr. JAMES.
From noon of March 2 until the end of the session:
Mr. KÜSTERMANN with Mr. BOEHNE.
From 7.30 p. m. until Saturday morning:
Mr. PLUMLEY with Mr. LATTA.
For the balance of the day:
Mr. LOUD with Mr. KORBLY.
Mr. GREENE with Mr. RICHARDSON.
For the session:
Mr. BRADLEY with Mr. GOULDEN.
Mr. HILL with Mr. GLASS.
Mr. MOREHEAD with Mr. POU.
Mr. SMITH of Michigan with Mr. CLARK of Florida.
From January 19 until the end of the session:
Mr. SLEMP with Mr. FLOOD of Virginia.

The result of the vote was announced as above recorded.

The SPEAKER. A quorum being present, the Doorkeeper will open the doors.

Mr. FOSS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the naval appropriation bill (H. R. 32212) with the Senate amendments, disagree to same, and ask for a conference with the Senate.

Mr. GARNER of Texas. I object.

Mr. SIMS. Reserving the right to object, I want to make a statement.

The SPEAKER. The gentleman from Illinois [Mr. Foss] asks unanimous consent to take from the Speaker's table the naval appropriation bill with the Senate amendments, disagree to the same, and ask for a conference with the Senate.

Mr. GARNER of Texas. Mr. Speaker, I object.

The SPEAKER. Objection is made.

Mr. SIMS. In view of assurances which I have received from the Naval Committee, I have no objection.

The SPEAKER. The gentleman from Texas [Mr. GARNER] objects.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. TAWNEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the sundry civil appropriation bill (H. R. 32909) with Senate amendments, disagree to the same, and agree to the conference asked for by the Senate.

The SPEAKER. The gentleman from Minnesota asks unanimous consent to take from the Speaker's table the sundry civil appropriation bill, disagree to the Senate amendments, and consent to the conference asked for by the Senate. Is there objection?

Mr. GARNER of Texas. Reserving the right to object, I would like to make a statement.

Mr. HARDWICK and Mr. FINLEY objected.

The SPEAKER. Two gentlemen have objected, one from Georgia and one from South Carolina.

Mr. TAWNEY. Mr. Speaker, I move to take from the Speaker's table the sundry civil appropriation bill, suspend the rules, disagree to the Senate amendments, and consent to the conference asked for by the Senate.

The SPEAKER. The gentleman from Minnesota moves to take from the Speaker's table the sundry civil appropriation bill, disagree to the Senate amendments, and agree to the conference asked for by the Senate. Is there any gentleman on the Appropriation Committee that is opposed to this motion that demands a second?

Mr. GARNER of Texas. I demand a second, Mr. Speaker.

The SPEAKER. The gentleman from Texas demands a second, and under the rule a second is ordered. The gentleman from Minnesota is entitled to 20 minutes and the gentleman from Texas to 20 minutes.

Mr. TAWNEY. Mr. Speaker, there are about 15 hours of the last session of the Sixty-first Congress remaining. The sundry civil appropriation bill, one of the most important appropriation bills that the House or the Congress of the United States is required to pass, contains items affecting every congressional district in the United States. This bill has been amended in the other branch of Congress. A great many and very important amendments have been added to the bill. It will require a great deal of time on the part of the conferees of the two Houses to come to an agreement and settle the differences between them. That work, even if it begins now, will probably not be completed before late in the morning hours of this night. And when it is finally agreed to and passed it must be enrolled, and there is no appropriation bill passed by Congress that requires more care and more time in its enrollment than the sundry civil appropriation bill. The subcommittee of the Committee on Appropriations, of which I am chairman, has devoted a great deal of time and labor to its consideration.

I will leave the House of Representatives and the responsibilities that I have endeavored to discharge to the best of my ability in a few hours, and I would like, before the close of my service, to be able to say that the sundry civil appropriation bill, which affects every congressional district in the United States, has become a law. [Applause.]

I trust, therefore, Mr. Speaker, that no political consideration will interfere or be permitted to interfere with the final consideration of this bill, and the amendments which the Senate have added to it must be disposed of in conference and the bill enrolled before final action by Congress can be taken.

I trust, therefore, Mr. Speaker, the Members of the House will vote in favor of disagreeing to these amendments and give the conferees an opportunity to meet at the earliest possible moment for the purpose of settling the differences between the two Houses, that we may enact at least this appropriation bill before the adjournment of the Sixty-first Congress.

Mr. COX of Indiana. Will the gentleman yield?

Mr. TAWNEY. Certainly.

Mr. COX of Indiana. Is the Carpenter tract in this bill?

Mr. TAWNEY. It may be, but the Carpenter tract need not disturb any Member of the House. Members of the House are familiar with the Carpenter tract, whether they are conferees or not.

Mr. BARTLETT of Georgia. Did I understand the gentleman to say that there were 185 amendments?

Mr. TAWNEY. I did not state the number, but there are a great many. We have not received the printed bill, unless it has come to the committee within the last few moments with the amendments numbered. I do not know that I can say how many amendments there are.

Mr. BARTLETT of Georgia. Has the Senate reduced the appropriation for the tariff board?

Mr. TAWNEY. I understand that amendment has been made.

Mr. BARTLETT of Georgia. From $400,000 to $200,000?

Mr. TAWNEY. Yes.

Mr. HUGHES of New Jersey. Will the gentleman yield for a question.

Mr. TAWNEY. Yes.

Mr. HUGHES of New Jersey. Will the gentleman state how much has been added to the sundry civil bill, approximately?

Mr. TAWNEY. I can not state how much has been added to it, even approximately. I know this: That the bill as reported by the Senate committee to the Senate added very little. I

understand from Members of the House who were present in the other body this afternoon that there were a number of amendments added on the floor of the Senate, but no consideration was given to these amendments, and I think the House can trust the conferees on the sundry civil appropriation bill to not agree to anything that is not fair and just and right. I trust that this motion will be agreed to. Mr. Speaker, I reserve the balance of my time.

Mr. GARNER of Texas. Mr. Speaker, the House may just as well understand in the beginning what is the purpose of at least a seeming majority of a minority. We propose, if we can, to defeat the tariff board that is supposed to come to us from the Senate to-morrow morning at 8.30 o'clock. Now, then, let us understand each other. The object of referring this back to the committee is for the purpose of calling the President's hand.

Mr. STANLEY. What does that mean?

Mr. GARNER of Texas. I think I know. The President has said, if we are to trust those sitting on that side and some sitting on this, that he intends to call an extra session for the purpose of considering the reciprocity agreement with Canada. I submit, Mr. Chairman, that if he is to call a special session to consider reciprocity, this side of the House is capable of passing the sundry civil appropriation bill. [Applause on the Democratic side.]

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

Mr. GARNER of Texas. Certainly.

Mr. STANLEY. Can the gentleman tell me any possible use of trying to call a man's hand when you know he is a four-flusher before you call. [Laughter on the Democratic side.]

Mr. HARDWICK. That is the very time to call it.

Mr. GARNER of Texas. Mr. Speaker, I have as much respect for the President as has any man who sits in this Hall, but I have doubted from the beginning that he was sincere when he said that for the sole purpose of considering a reciprocity agreement with Canada he would call a Democratic Congress together to consider that agreement with all the possibilities attaching thereto.

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

Mr. GARNER of Texas. Certainly.

Mr. TAWNEY. The gentleman now proposes, then, to make it imperative upon the President to call an extra session, whether he wants to or not, by defeating appropriation bills?

Mr. GARNER of Texas. Not at all; I do not. But when the gentleman and his committee agree that they will not force through this House at the last hour the tariff board, we will agree that every one of your conference committee reports can go through, and not before. [Applause on the Democratic side.]

Mr. TAWNEY. I will say to the gentleman that I have had no knowledge whatever of any purpose on this side to force through any bill for a tariff board or anything else.

Mr. GARNER of Texas. Ah, the gentleman is not on the Committee on Rules.

Mr. TAWNEY. No; I am not.

Mr. GARNER of Texas. And doubtless does not know the object of that committee with reference to the tariff board. It is the purpose—and I am honest and I have never tried to mislead this House—it is the purpose of at least a majority, it seems to me, of this side of the House to defeat a tariff board. Now, if you will yield, or, rather, if you will give us a chance for deliberate consideration of the tariff board, every one of your appropriation bills can go to a conference committee, and you can report them, but if you refuse, and by a rule force down our throats a tariff board that at least one-fifth of the House does not want on this side——

Mr. BARTLETT of Georgia. One-fifth! Three-fifths.

Mr. GARNER of Texas. I mean one-fifth—sufficient to call the roll—then we propose that you shall fight your battles through to the end.

Now, Mr. Speaker, I think I have made myself clear as to the purpose of this objection to go to conference. I do not care to discuss the matter further, and therefore I yield to my friend from Georgia, Mr. HARDWICK, for five minutes.

Mr. HARDWICK. Mr. Speaker, I thank my friend from Texas for the compliment he pays in saying that, not wishing to be obstreperous himself, he yields to me. I want to be equally candid in expressing exactly the same sentiments that my friend from Texas has already expressed. We feel like the announced program in this House to vote through in the morning, as soon as it reaches this body from the Senate, without opportunity of amendment or debate, the proposition of the Committee on Rules to be brought on the floor of this House in reference to the tariff board is not fair to us and is not fair to the country, and a certain number of gentlemen on this side of the House propose, so far as it lies within our power or our parliamentary resources, to exhaust every expedient that we can command to defeat it if we can. Now, Mr. Speaker, on this very proposition, the motion of the gentleman from Minnesota to send this bill to conference and to disagree to all the Senate amendments, there are at least two good reasons why Democratic Members ought not to vote for that motion. There are at least two of the Senate amendments that every Democrat ought to concur in.

The Senate has amended the item making appropriation for the existing tariff board, making it available for only one fiscal year instead of two, with an appropriation of only $200,000 instead of $400,000. When gentlemen on the Republican side insisted over the unanimous opposition of the Democrats in this Chamber in appropriating for this board for two fiscal years, in violation of all precedents and of all decency, because the people have intrusted us with power to make appropriations for the next fiscal year after the one we are now appropriating for, at least, we think we have a perfect right to use all honorable means to fight such a proposition. Now, Mr. Speaker, I also want to say to gentlemen on the other side that the Senate of the United States has adopted an amendment calling on this tariff board to give all possible information with reference to the woolen schedule to Congress prior to the first Monday in December, 1911, so that the Democratic House will have this much-boasted light that is to come from Republican sources. We are entitled to this information; it was paid for out of the public purse, out of the money of the people of the United States; so, Mr. Speaker, there are at least two of these Senate amendments that ought to be concurred in and not sent to conference, and we do not desire to be put in the attitude of concurring in the gentleman's motion that we disagree to these two amendments.

Now, Mr. Speaker, the gentleman from Texas [Mr. GARNER] was frank. I have tried to be equally so. We do not think that the President of the United States ought to have a monopoly of forcing things. We do not think that the Senate of the United States ought to have a monopoly of forcing things by threatening an extra session. We regard this proposition to establish a general tariff board under the proposed law as pointing purely to a protective-tariff board, a board to bolster up and preserve and perpetuate the protective-tariff system that has robbed the American people for so long, and that they are already so sick of, and it ought not to be supported by votes on this side, and ought never to pass without combined, earnest, and persistent opposition of the Democrats who sit in this Chamber.

Therefore we are not inclined to yield to this proposition of the gentleman. We are not responsible on this side for the condition of the public business. We have had in this Congress neither power nor responsibility. With a majority of more than 50 in this Chamber, with a Senate more than two-thirds Republican, if the Republican Party has been unable to transact the public business it has framed its own indictment before the American people for incompetency and incapacity. [Applause on the Democratic side.]

Mr. GARNER of Texas. Mr. Speaker, I yield five minutes to the gentleman from Alabama [Mr. CLAYTON].

Mr. CLAYTON. Mr. Speaker, I need not remind the gentlemen on the opposite side of the Chamber that they are responsible for any failure to pass any necessary appropriation bill. This Congress has been in session since the first Monday in December, and it was the business of the majority, in absolute control here, to have so conducted the public business that in these closing hours of the session the great appropriation bills should have been in such condition that it would not be necessary to resort to unusual rules and motions to obtain consideration of them. The gentleman from Minnesota [Mr. TAWNEY] can not charge this side with any necessity for the calling of an extra session. The great committee, of which he has been so long the honored and faithful chairman, could have so shaped legislative matters here that this bill could have been passed before this good hour and time. The gentleman and his party will be responsible for the failure of any important bill in this Congress. He can not shift the responsibility here.

Mr. Speaker, the gentlemen on this side who have preceded me have defined well and accurately the determination of what I believe to be a majority on this side of the Chamber.

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

Mr. CLAYTON. Certainly.

Mr. HOBSON. Has he or anyone else polled this side of the Chamber? The first time I heard of this proposition was a few minutes ago, when I came in. [Applause.]

Mr. CLAYTON. I will answer my colleague by saying it has been polled.

Mr. HOBSON. When?

Mr. CLAYTON. The gentleman will let me answer his question, inasmuch as I have yielded to him. When the question of a tariff board was up, my recollection is that a roll call revealed the fact that only thirty and odd gentlemen on this side voted for a tariff board and that ninety and odd voted against it. That is what I consider to be a poll of this side. [Applause.]

Mr. HOBSON. That was some time ago.

Mr. CLAYTON. Certainly; a few days ago.

Mr. GARNER of Texas. We may have changed our mind since then.

Mr. HOBSON. I want to ask the gentleman whether——

Mr. CLAYTON. But it was not last year or last month.

Mr. HOBSON. I want to ask the gentleman whether, in speaking in the name of what he says is the minority, he has conferred with any of the leaders on this side and speaks with authority. I want to know.

Mr. CLAYTON. I have not conferred with those whom the gentleman may consider the leaders [laughter], for I do not know whom the gentleman would consider the leaders. On a question that occurred this evening he led in the great movement to crown Commander Peary with honor, and on the other side the gentleman from Arkansas [Mr. MACON] led in opposition to that.

Who the leaders are on this side I do not know, except in this way: I can tell you who the leaders of the Democratic Party are here, and I can tell you who the leaders of the Democratic Party always are. [Laughter and cries of "Name them!"]

They are the men with sense enough and tact enough and industry enough to find out the way that the majority of the Democrats want to go and get into line and then say, "Come on, boys!" [Laughter and applause.] No man ever succeeded in leading the Democratic Party in a fight that did not do that, and any leadership has always failed in the Democratic Party if the leader has not had wisdom enough to know that this is a fundamental idea with the Democrats—to lead them they must be consulted and the majority wishes be obeyed. [Applause.]

On the tariff-board question ninety-odd men on this side voted against it, and I believe that more than ninety-odd men to-night are ready to vote against it again.

Mr. HOBSON. I just want to ask the gentleman——

Mr. RUCKER of Missouri. Consider me polled from now until sunrise in the morning. [Laughter.]

Mr. CLAYTON. I will ask the gentleman from Texas [Mr. GARNER] to give me two minutes more.

Mr. GARNER of Texas. I have yielded my time to the gentleman from New York [Mr. FITZGERALD].

Mr. CLAYTON. Then I will ask for one minute more.

Mr. GARNER of Texas. I will yield it.

Mr. CLAYTON. There is one more thing that I want to call attention to. It has just been called to my attention that it is proposed for the Committee on Rules to hold a meeting and rescind that part of the rule that allows a measure to be defeated where one-third are opposed to it, and that is in furtherance of this scheme to pass in the closing hours of this session the tariff-board bill. [Applause.]

Mr. Speaker, the Democratic Party does not need the tariff board provided for in that special bill. We have already voiced our sentiments, and I am sorry that my colleague from Alabama [Mr. HOBSON] was not present, or, if he was present, that he did not note the polling of the Democrats on that question when the vote was had before. [Applause.] We want to see these great appropriation bills passed, but we intend, if we can, to defeat the tariff-board bill which was pending here some few days ago. [Applause on the Democratic side.]

Mr. GARNER of Texas. Now, Mr. Speaker, I yield three minutes, the balance of my time, to Mr. FITZGERALD, of New York.

Mr. FITZGERALD. Mr. Speaker, if the rules would permit me to discuss what happened in committee, I could perhaps explain a little more intelligently the situation to-night, but while I am foreclosed from stating what occurred in committee, I can refer, nevertheless, to a resolution introduced in the House to-day by the gentleman from New York [Mr. PAYNE]. It is the most extraordinary resolution presented to the House during my service. It provides that when a certain bill shall come from the Senate, which under agreement there is to be voted upon at 8.30 o'clock to-morrow morning, it shall be laid before the House by the Speaker, the previous question shall be considered as ordered on the motion to concur in pending amendments, and the question shall be taken on that motion, which shall cover all the amendments at once.

It is impossible to tell, Mr. Speaker, before the Senate acts just what will be the character of the amendments which will be attached to that bill when it comes to this House. Knowing that such resolutions as that presented by the gentleman from New York are seldom introduced by gentlemen in authority upon that side unless an understanding has been reached previously that they will be reported and acted upon by the House when the opportunity presents, a large number of gentlemen upon this side have determined that they will resort to every expedient under the rules to prevent any such parliamentary outrage being perpetrated in the dying hours of this Congress. [Applause].

There is no disposition to prevent that side of the House enacting the supply bills, and enacting them in whatever form a majority, taking the responsibility, shall determine; but if necessary to protect the House from the outrage intended to be perpetrated, by delaying or deferring action upon these appropriation bills, it is believed that there will be sufficient votes here to accomplish that purpose, and the sooner gentlemen on that side who have outlined this very peculiar and extraordinary policy realize the situation and their responsibility, perhaps the more speedily the House will proceed to dispose of its business in an expeditious manner. [Applause on the Democratic side.]

Mr. TAWNEY. Mr. Speaker, in my 18 years' service in this House I have never before witnessed an effort on the part of the minority to defeat the final passage of the supply bills because they anticipated that they might at a later hour of the session be called upon to vote for or against any proposition pending in the other branch of Congress. I do not know what the program may be or is on this side of the House. I do not believe that it would be possible to adopt any rule in this House for the consideration of amendments agreed upon at the other end of the Capitol in advance of knowing what those amendments are. The gentleman from Alabama [Mr. CLAYTON] says that gentlemen on the other side are capable of passing these appropriation bills. I admit that. Nobody questions the ability of the Democratic majority in the next House to pass the appropriation bills and to enact such legislation as the majority may agree to.

But I say to the gentleman from Alabama that he can not charge this side of the House with the responsibility for the failure to pass the supply bills, which carry the money necessary to the life of this Government, by instituting a filibuster here, in the absence of anything against which that filibuster is to act.

Gentlemen also criticize the Committee on Appropriations and this side of the House by saying that we have had plenty of time in this session of Congress to prepare and pass these appropriation bills. The gentleman from Alabama, in his long experience in this House, knows that at the short session of Congress we are at this hour trying to put into conference the sundry civil bill at the same hour that that bill has gone to conference in almost all of the short sessions of Congress in which he has ever served. It was two years ago to-night when the conferees on the sundry civil bill, at 2 o'clock in the morning, were considering the differences between the two Houses. We have not delayed the preparation nor the consideration of these appropriation bills. We now have time enough to conclude their consideration and passage before the adjournment of this Congress, unless the minority, for the purpose, as the gentleman from Texas [Mr. GARNER] has said, of forcing somebody to show their hand, proceed and continue to prevent the House from putting these bills into conference. The responsibility, therefore, for the failure to pass the necessary supply bills rests upon those who prevent their passage, not upon those who are struggling to secure their passage. [Applause.] The responsibility for an extra session of Congress, if one is called, rests likewise on those who prevent the passage of supply bills, thereby making it absolutely necessary, in order to continue the life of our Government, to call an extra session of Congress.

Mr. GARNER of Texas. Will the gentleman yield for a question?

Mr. TAWNEY. I trust, therefore, Mr. Speaker, that we may have a sufficient number of votes in favor of placing the sundry civil bill in conference, that the amendments may be disposed of before 12 o'clock, or in time that this bill may be enrolled. Gentlemen may proceed to filibuster against other bills if they choose to, and thereby accomplish their purpose, but this bill is one that must be passed in a few hours, in order that it may be enrolled, if it is finally to become a law. [Applause.]

Mr. GARNER of Texas. Will the gentleman yield?

Mr. TAWNEY. I have no more time.

Mr. GARNER of Texas. The gentleman has time.

The SPEAKER. The question is on the motion of the gentleman from Minnesota.

The question was taken; and on a division (demanded by Mr. GARNER of Texas) there were 205 ayes and 44 noes.

Mr. HARDWICK. The yeas and nays, Mr. Speaker.

The SPEAKER. The gentleman from Georgia demands the yeas and nays. Twenty-eight gentlemen have arisen, not a sufficient number.

Mr. HARDWICK. The other side.

The SPEAKER. As many as are opposed to taking the vote by yeas and nays will rise. [After counting.] On this vote there were 28 in favor of taking the vote by the yeas and nays and 209 opposed. The yeas and nays are refused, and, two-thirds having voted in favor thereof, the motion of the gentleman from Minnesota is agreed to.

The Chair appointed as conferees on the part of the House Mr. TAWNEY, Mr. SMITH of Iowa, and Mr. FITZGERALD.

NAVAL APPROPRIATION BILL.

Mr. FOSS. Mr. Speaker, I am going to ask unanimous consent to take from the Speaker's table the naval appropriation bill (H. R. 32212), disagree to the Senate amendments, and ask for a conference. I want to say that there are a great many amendments to this bill. It is very important that we should get into the conference at once. Some of the conferees on the naval bill are conferees on the sundry civil bill, and it will be all that we can do to-night to get consideration of these amendments.

The SPEAKER. The gentleman from Illinois asks unanimous consent to take from the Speaker's table the naval appropriation bill, disagree to the Senate amendments, and ask for a conference.

Mr. HUGHES of New Jersey. Mr. Speaker, reserving the right to object, I want to ask the gentleman from Illinois if he will bring back the amendment that I am interested in?

Mr. FOSS. We have no disposition to foreclose the gentleman from New Jersey.

Mr. HUGHES of New Jersey. Will the gentleman bring it back and let me decide whether I want the House to vote on it?

Mr. FOSS. We have no disposition to foreclose the gentleman from New Jersey.

Mr. STANLEY. Mr. Speaker, reserving the right to object, I wish to see the amendment that I offered on the floor and which was agreed to.

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

The SPEAKER appointed as conferees on the part of the House Mr. Foss, Mr. LOUDENSLAGER, and Mr. PADGETT.

COMMITTEE APPOINTMENT.

The SPEAKER appointed Representative FAIRCHILD, of New York, to the Committee on the Territories.

WITHDRAWAL OF PAPERS.

Mr. COWLES, by unanimous consent, was given leave to withdraw from the files of the House, without leaving copies, papers in the case of A. C. Bryant, Sixty-first Congress, no adverse report having been made thereon.

Mr. WASHBURN, by unanimous consent, was given leave to withdraw from the files of the House, without leaving copies, papers in the case of Herbert A. Kimball, Sixty-first Congress, no adverse report having been made thereon.

GRANT OF LAND TO TRINIDAD, COLO.

Mr. TAYLOR of Colorado. Mr. Speaker, I ask unanimous consent to suspend the rules and pass the bill (S. 10591) to grant certain lands to the city of Trinidad, Colo.

The Clerk read the bill, as follows:

Be it enacted, etc., That the following-described lands, situate in Las Animas County, Colo., namely: The southwest quarter of the northeast quarter of section 19, in township 32 south, range 68 west of the sixth principal meridian, containing 40 acres, more or less, be, and the same are hereby, granted and conveyed to the city of Trinidad, in the county of Las Animas and State of Colorado, upon the payment of $1.25 per acre by said city to the United States. The above lands are granted and conveyed to the city of Trinidad, to have and hold for its separate use for purposes of water storage and protection of water supply; and for said purposes said city shall forever have the right, in its discretion, to control and use any and all parts of the premises herein conveyed, and in the construction of reservoirs, laying such pipes and mains, and in making such improvements as may be necessary to utilize the water contained in any natural or constructed reservoirs upon said premises, and to protect its water supply from pollution and otherwise: *Provided, however,* That the grant hereby made is and the patent issued hereunder shall be subject to all legal rights heretofore acquired by any person or persons in or to the above-described premises, or any part thereof, and now existing under and by virtue of the laws of the United States: *And provided,* That there shall be reserved to the United States all oil, coal, and other mineral deposits that may be found in the lands so granted, and all necessary use of the lands for extracting the same: *And provided further,* That the lands hereby authorized to be purchased, as hereinbefore set forth, and all portions thereof shall be held and used by or for the said grantee for the purposes herein specified, and in the event the said lands shall cease to be so used they shall revert to the United States, and this condition shall be expressed in the patent to be issued under the terms of this act.

The SPEAKER. Is there objection?

Mr. PARSONS. Reserving the right to object, I would like to ask the gentleman how many acres are comprised in this grant?

Mr. TAYLOR of Colorado. Only 40 acres. It is on a hillside, barren land, and it runs into a reservoir, and the city desires to purchase it for the protection of the water supply.

The SPEAKER. Is there objection?

There was no objection.

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

GRANT OF LAND TO OMAK, WASH.

Mr. TAYLOR of Colorado. Mr. Speaker, I ask unanimous consent to suspend the rules and pass the bill S. 10756.

The Clerk read the bill, as follows:

Be it enacted, etc., That there is hereby granted and conveyed, for public-park purposes, to the town of Omak, county of Okanogan, State of Washington, a municipal corporation, the following-described lands, or so much thereof as said town may desire, to wit: All of Government lot No. 3, section 25; and all of Government lot No. 4, section 26, both lying in township 34 north, and range 26 east of Willamette meridian, and containing 29.12 acres, more or less.

SEC. 2. That the said conveyance shall be made of the said lands to the said town by the Secretary of the Interior upon the payment by the said town for the said lands, or such portion thereof as it may select, at the rate of $1.25 per acre, and patent issued to the said town for the said lands selected, to have and to hold for public-park purposes, subject to the existing laws and regulations concerning public parks, and that the grant hereby made shall not include any lands which at the date of the issuance of patent shall be covered by a valid, existing, bona fide right or claim initiated under the laws of the United States: *Provided,* That there shall be reserved to the United States all oil, coal, and other mineral deposits that may be found in the lands so granted, and all necessary use of the lands for extracting the same: *And provided further,* That the said town shall not have the right to sell or convey the lands herein granted, or any parts thereof, or to devote the same to any other purpose than as hereinbefore described, and that if the said lands shall not be used as public parks the same, or such parts thereof not so used, shall revert to the United States.

The SPEAKER. Is there objection?

Mr. PARSONS. Mr. Speaker, reserving the right to object, how much does this authorize the city to take?

Mr. TAYLOR of Colorado. Twenty-eight and twelve one-hundredths acres.

Mr. PARSONS. Why does the city need the land?

Mr. TAYLOR of Colorado. Mr. Speaker, I would say that this small park is similar to the parks in bills we passed the last session of Congress for a number of towns. It is in the nature of an outing place and a park for this little city. It is vacant public land. The city wants to buy it and use it, the same as the other towns to which we have granted the same privilege.

Mr. PARSONS. How near to the city is it?

Mr. TAYLOR of Colorado. It is near; I do not know exactly. I will yield to the gentleman from Washington [Mr. POINDEXTER], who knows.

Mr. POINDEXTER. It is immediately opposite the town; across the river.

Mr. BENNET of New York. Will the gentleman yield to me——

Mr. TAYLOR of Colorado. Certainly.

Mr. BENNET of New York. To ask the gentleman a very highly complimentary question? During this Sixty-first Congress, how many bills has the gentleman from Colorado gotten through to protect the water supply or get a public park for some town in his State?

Mr. TAYLOR of Colorado. I am pleased to answer that. I passed a bill through the last session of this Congress allowing 15 different cities and towns in the State of Colorado to buy public parks, ranging all the way from 40 to 640 acres each, at $1.25 an acre.

Mr. BENNET of New York. It seems to me, then, that the gentleman is clearly entitled to the passage of this bill.

Mr. TAYLOR of Colorado. I thank the gentleman from New York. However, this bill does not apply to the State of Colorado. This is a bill for a town in Washington.

Mr. FOSTER of Illinois. I will ask the gentleman if he has supplied all of the towns in Colorado and is now attempting to assist Washington?

Mr. TAYLOR of Colorado. I believe in public parks and playgrounds, and I am glad to be of service to a sister Western State.

Mr. FOSTER of Illinois. I think he is doing a very meritorious service in helping other States.

Mr. MANN. Will the gentleman yield?

Mr. TAYLOR of Colorado. With pleasure.

Mr. MANN. This is the second one of these bills that the gentleman has passed. I would like to inquire about how much he is going to ask for? The other day we passed a bill here in

the House for a pumping station on the Fort Keogh Military Reservation, and as soon as we had passed it the Senate added an amendment on the sundry civil appropriation bill granting a county or less for a park. That is for Miles City. Is the gentleman going to be equally modest?

Mr. TAYLOR of Colorado. I have no idea how successful I may be; but I certainly will always be glad to assist all cities and towns to secure a public park.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and the bill is passed.

THE OREGON PLAN.

Mr. POINDEXTER rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. POINDEXTER. Mr. Speaker, I rise to make a request for unanimous consent. In view of the statements made last night by the gentleman from Kansas [Mr. SCOTT] in regard to the laws under which the people of Oregon had been conducting their public affairs for the last six years, and of the fact that there was no opportunity at that time to reply to the gentleman, and that in printing his speech he is leaving out of it—as to which I have no objection—the colloquies which took place between him and myself at that time, I ask unanimous consent to print on the same subject, and in behalf of a majority of the people of Oregon who have adopted the laws, a statement which I made in an address in New York City on the 23d of January.

The SPEAKER. Is there objection?

There was no objection.

The speech referred to is as follows:

REPORT OF AN ADDRESS BY MILES POINDEXTER, SENATOR-ELECT FROM THE STATE OF WASHINGTON, AT A DINNER OF THE INSURGENTS' CLUB, MONDAY, JANUARY 23, 1911, AT REISENWEBER'S RESTAURANT, NEW YORK CITY.

MR. CHAIRMAN AND GENTLEMEN: I didn't know whether I was going to get here at all for quite a while, but we are accustomed to persevering in my part of the country, and so I am here. I am glad to be here, because it verifies a declaration that I had been contending for for the last two years at least. During this session of Congress, the early part of it, various rather exciting parliamentary questions came up, and the question of insurgency arose. I think it was one of your newspaper men who invented that term as applied to this situation. I think it was Mark Sullivan who first used it, and instead of being a term of opprobrium it has got to be something that I see from the action of this club is a term of distinction and honor. [Applause.]

What I started to say was that during some of these fights we frequently heard the declaration that insurgency was myth, just as we had during the tariff debate heard from the distinguished Senator from Massachusetts that the ultimate consumer did not exist—there was no such person. [Laughter.] He got pretty busy around about November 8, I noticed, about the country. But they told us that insurgency was myth. Then, when we got into a political campaign in the State of Washington—a pretty big undertaking, a pretty big campaign in many ways—we read in the great metropolitan morning papers and papers from other leading cities of the State, all through that campaign, that insurgency was myth. So, I say, I am glad to be here to-night, after the campaign is over and people have had time to reflect, not as if it were a mere froth on the bottle that was going to disappear into thin air, and to find a gathering of young men in New York City under the name of the Insurgents' Club, here in the flesh and blood to-night, ready to go out and continue this fight. It makes us feel that we are just in the beginning of it, rather than in the end.

Now, we have got a young newspaper man in Washington named Joe Smith, who is rather a rantankerous writer. We call him an anarchist. He is not an anarchist, but he is one of the greatest types I ever saw in my life, and a very brilliant newspaper man. I heard your newspaper men giving definitions of insurgency. I thought Joe Smith's definition was better than any of them. It reminded me of the definitions we used to read in the school dictionaries that we studied in the fourth grade in the old-time school. He said, "An insurgent is one who insurges." That is the best definition I ever heard yet. [Laughter and applause.]

Now, I suppose that one reason why this movement has been favored in the West, and been successful more or less in the West, is because the western people are accustomed to a great deal of independence. That is one reason why people go west. Sometimes you talk to the old-time westerners out there, those who were born in the West, and make any derogatory remarks about the West, they answer you by saying, "Why, we came from the East, so you are abusing your own people." And that is true. The reason that this Atlantic coast was settled was because people loved independence, came away from the restrictions of religious and social conventions of Europe, and settled in the country where they could follow their own impulses. Following the same line of least resistance, those who were strong and independent and aggressive, young men usually—not all of them were men of this kind, but many of them—went into the country where they were free from the old conventions that had surrounded them and hampered them in many ways in the little communities where they were raised. Consequently when a political organization, or any other kind of organization, attempted to set up a dictatorship, attempted to command the actions of the electors of the State, or the members of a party, there was a natural impulse of resentment against any such dictatorship; and insurgency in the West is simple, fundamental love, American love, of liberty and independence. And that is what it is in the East.

Now, this question that you are dealing with here is a question of government, a question that deals with the science and theory of government, and that is worthy of any man's attention. It is worth your while. I think Cicero said (the only reason I know that is because it was inscribed on the title-page of the United States History that I had once, and with a great deal of labor I worked out a translation of the original sentence, and it was to this effect:) that "the human occupation which approaches nearest to divinity is in the founding of new states or in the preserving of those that have already been founded." In other words, in the science of government, in the organization and control of human society. One great difference between a meeting of this kind, between this progressive movement which is so pregnant of such great things for the future, so full of life, is that when we meet together we are not bound to old political organizations, thinking about what offices are to be filled, where we are going to find some soft berth for the political worker; but every meeting that you hold, every man that attends one of these meetings is thinking about the theory and science of government for the purpose of preserving the fundamental American idea of equal rights and equal opportunity.

Now, it is a striking fact of history that the growth of that idea, the opposition to caste and privilege, is coincident with the progress of civilization. I have been asked here to-night to tell something about the new means that have been devised in some of the new States of the West as agents and instruments by which the people were being enabled to preserve the principles of the equal operation of the laws. But, if you will pardon me for a moment, before referring to the specific measures which have been adopted in Wisconsin and Oregon and Washington and Kansas and other States of the West I would like to call your attention very briefly to the condition which rendered these new instruments necessary.

We started in ancient times with the simplest form of government, which was an absolute dictatorship, an absolute monarchy, the unlimited and unrestrained government of the masses of the people by one man. As that was modified in the various countries, in various ages of the growth of the communities—the nations of Asia and Europe—there developed aristocracies which in a measure shared the power of government with a monarch, and frequently there was a balance of power between the powerful few and the sovereign, and out of that balance of power, by playing one against the other, people watching their opportunities, slowly and with great pain, suffering, and toil and sacrifice, one by one gained the footholds of liberty and enacted them into law, which, accumulating, made a great body of government under the law, which was transplanted to America.

Now, the fundamental question involved in this movement to-day is whether the old system of government by the few, or the control of the government by the few is to be reestablished in this new country of the West, or whether we are to preserve what we started out to establish in the Constitution of the United States—a government where one man has the same rights that every other man has, where every law that was put on the statute books was enacted for the general welfare and not for anyone's private interest. That is the issue. [Applause.] In other words, the question is, and I think I can show you that it is a live and practical question, whether the people of this country as a whole, the masses of the people, are capable and are going to have the privilege of directing the affairs of government; whether we are going to accede to the doctrine that the people are not capable of directing the Government, but that, as your distinguished citizen, Mr. Wadsworth said when he came down from the Speaker's chair in your State legislature in opposition to a direct-primary law, that he was opposed to that law because it put the power of government in the hands of the people, and the people were not capable of running the Government; that they needed leaders to tell them where, when, and how to vote. That is the issue in this country. Against that doctrine this insurgents' club puts the theory that the people of this country do not need Mr. Wadsworth, nor Mr. Barnes, nor any other leader to tell them where, and when, and how to vote. [Prolonged applause.]

Now, there has grown up a powerful party very recently in this country, based upon the proposition that the people ought to be excluded from the Government. Now, you take any political machine; take the leaders of it; you know many of them; and you know that these leaders and these political machines do not want the people to have a share in the Government. In other words, the less influence that the people have in the affairs of government the better it suits the bosses and the professional politicians. I say that the more influence that the people have in the affairs of government the more general the participation in the making and the administration of the laws among the people, the better it is for the country. And yet I see in the Democratic Party and in the Republican Party—and it is difficult to tell in which party there are most of them—there are men that by every kind of political resource, of ability, of finance, of organization, of experience, whose purpose and object is, whether they admit it or not, to prevent the people so far as possible from sharing in the affairs of Government. Now, why do they want to do that? Well, I will tell you why they want to do it. It is because they and the interests which they represent, out of which they gain their power and emolument, from which they have gained distinction and honor and riches, desire to use the functions of government for private purposes instead of for the general welfare. Now, it is a great thing if a corporation or an individual can take such a thing as the Government of the United States, or any part of it, or any function of it, and use that as an engine to build up his individual power at the expense of the masses of the people. And yet that is what this party to which I am referring proposes to do and what they have successfully done. It is only necessary—I am not going into details—to cite a few instances in order that you may clearly see that this is true.

You take the great agency of roads. Why, that is a public business, the franchises are public, the roads are public whether they are wagon roads or railroads. They are public because they are not confined to a single individual; their uses are not confined to a single community, but they effect the interchange of commodities from one section to another section, and the passage of the people from one community into another community, the mingling of the people among themselves and the exchange of their products and industries throughout the Nation. It is a public function. And yet, with the acquiescence practically of everyone in this country, and perhaps it will be so for many years to come, we have allowed great roads operated by steam and upon iron rails, to be controlled and owned by private parties. We have allowed them to be owned and controlled by private parties upon the theory that the operation of them would be for the general benefit, equal, and uniform among all the people; that there should be no distinction as to service and as to rates. And yet we see all around us certain individuals and certain interests using the highways and arteries of commerce of the country for their individual benefit, for their private aggrandizement, at the expense, aye, to the destruction, of their competitors and their neighbors. There is the use of a public function of government for private purposes, and it has been bolstered up and rendered possible through the political machine which is always present—the agents and representatives of these private interests.

Another function of government that is used for private purposes—that should have been dedicated sacredly to the general welfare—is the taxing power. That is a great subject. I only want to touch briefly upon one phase of it, and say in passing that it is notorious. I know that your distinguished Senator ROOT, in the Senate of the United States, protested against the declaration that the great wealth of the multimillionaires of New York State did not pay its just share of taxes. The people of this country know that that protest is not correct [applause]; that the burdens of the Government of this Nation rest upon the small property holders, most of whose property is in tangible form and in small holdings.

But this is not the particular phase of this question that I wanted to refer to. The making of tariffs, the levying of a tax by way of a customs duty has two objects. One is to provide revenue to support the Government; another is—a theory that met with general favor in this country—for the protection of home industry, to protect generally, according to some general principle, home manufacturers in order to keep our money at home, to give employment to our labor, and to promote the general welfare. That is the only theory under which a tariff can be levied, except for revenue, and yet I have seen political machines, led by the leaders of the Democrats and by the leaders of the Republicans, absolutely repudiate the proposition that a tariff was concerned with the general welfare of the people. Go down to the Washington hotels during the enactment of a tariff law and you can see them on every hand bartering and trading one schedule of a tariff for another schedule of a tariff, with manufacturers as the interested parties, solely for private benefit and without a thought, without any attempt, even, to inquire into the needs of the general public, or the effect it would have upon the masses of the people. That is another one of the functions of the Government that have been seized and used by private parties for their private purposes.

Now, in the early days, under the early ideas of government in America, the main and central idea seemed to be to limit the powers of the Central Government, to preserve as unrestricted as possible the freedom of action of the individual. In those days, of course, there were no great private interests as there are now; nothing that compared with them, and the fathers of the Constitution never dreamed of the power and concentration of industry of modern times, although it is not so very long since they lived. But by the growth in this age of commercialism, of trusts and complex corporations, of corporations that own corporations, of corporations with little corporations growing out of them into every State and community of the Union, reaching out under one management and control into every avenue of trade, into every occupation in which the people of the country engage, affecting prices of every commodity which it is necessary for the people to have in order to live, a new condition has grown up.

The people are confronted with this situation, that their rights, their equal chance, this "square deal," as it is called by your great fellow citizen here, which is nothing more or less than the old idea of special privileges for none and equal opportunities for all, though that doctrine is not threatened by the Government, it has been threatened and it has been destroyed in a measure by these great private parties, who exercise more power than the Government itself, and do so by having seized for their own purposes certain of the functions of the Government, from which they ought absolutely to be divorced. [Applause.] Now, this has brought about a rather strange situation in this country. You see men who used to be jealous of the powers of the Federal Government, or of the State government for that matter, seeking to enlarge those powers. On every hand you see the people, in these great popular movements that are sweeping over the country, urging that the powers of the Federal Government be enlarged; that the agencies of administration be increased; that the powers of the Interstate Commerce Commission be strengthened and enlarged; that the powers of the Executive be more actively administered. Why do they do it? Not because they have come to the notion of sacrificing any part of their personal or individual rights or liberties, but because they realize that the only hope of relief from that worst of all tyrannies, namely, a monopoly by private parties of the necessities of life, can come only from the powers of the Federal Government. [Prolonged applause.]

Now, that brings me to speak of some of these new instruments for this reason, that while the people are determined to increase the powers of the Government to such an extent that the Government shall overshadow and control the mightiest corporations in the land, at the same time they are developing means and measures by which, however powerful the Government becomes, those powers will be in the hands of the people. [Prolonged applause.]

We have lived up to this time, or up till a very few years, under rather a peculiar political system. The Constitution of the United States provides that the President of the United States shall be elected by an electoral college. That is what the Constitution provides. But we have developed a political system in this country, and have been living under it a great many years, in which the provisions of the Constitution are ineffective and to all practical purposes absolutely ignored. We have developed a new system. And what is that system? Why, it is a government by parties, and while we have a Constitution for the Government, after the party gets in control of the Government and finds there a Constitution defining and limiting and pointing out the mode of action of the Government, yet we have no constitution or any law regulating the construction and action of political parties. In other words, we have an irresponsible agent, without any laws for its regulation or its own constitution, put in control of the Government. The character of the Government we have depends just as much upon the officials who administer it as it does upon the form of the Constitution, and a great deal more, in my judgment. I have heard men talk about the honor and the power of a United States Senator and of the United States Senate, and as I read and heard in the last few days of some of the proceedings in that body, the mere fact that there are questions such as are being discussed there in regard to the methods by which some of the Members were elected, the thought has come to me very often that the honor and the power and the distinction of a United States Senator depends absolutely upon the character of men who compose that body. [Applause.] You could make the United States Senate—instead of being a great organization having the respect and confidence of the people of this country—you could very readily make it an organization which had nothing but their contempt and hatred, if the Senators conducted themselves so as to bring about that opinion on the part of the people. Why, constitutions in themselves amount to nothing unless they are administered according to the spirit in which they are framed, and whether or not they shall be so administered depends upon the citizenship of the country.

I come from Virginia, and of course grew up in the atmosphere that centered around the soil of Virginia. I used to read about the great utterances of Chief Justice Marshall. One of them was this: That "the greatest curse that an indignant God could visit upon an unjust and sinning people is an ignorant, a corrupt, or a dependent judiciary." I say that the greatest curse that an indignant God could visit upon an unjust and sinning people is ignorant, corrupt, or dependent citizenship in the country. [Applause.]

Why, down there in South America and in Central America—I had it impressed upon me very forcibly a few weeks ago, while down there—they have fine constitutions and a lot of republics—I heard my friend CHAMP CLARK boast about the old nationalism having created all these republics—yet there is not a single one which is not involved in a military or political despotism. The constitutions that they have do not give the people either industrial or political freedom, because the constitutions are not administered according to the spirit of a free government. And so you can destroy the efficiency of the Constitution of the United States so that the Government of the United States instead of being the least oppressive of all the nations of mankind it could very easily fall into the condition into which our neighbors of the South have fallen. The only thing that will ever prevent it will be the education of the people, the interest of the people in the affairs of government, the courage and determination of the people to see that those affairs are administered by the people and for the people. [Applause.]

Now, I think I heard Mr. Heney say not long ago at a banquet here that we ought to be ashamed of the agencies that are given the people to control the Government, and he pointed out that it was only recently that we gave them the Australian ballot. It is not very long ago that I used to think of what appeared to me in my timidity to be the ultra-radical initiative and referendum, and I admit I am kind of afraid of it now, yet after I see it in operation I like the thing itself and what it accomplishes. [Prolonged applause.]

Speaking of the education of the people, the appreciation of the people of the truth, that the safety of the Republic depends upon the intelligence of its citizens; if you will pardon me for digressing a moment, I want to say right here that the Government should never increase the postal rates on magazines and newspapers, but rather decrease them, instead of imposing upon the people the additional burden of increased rates. I am not saying that because there are a lot of magazine people here. [Laughter.] I am saying it because the farmers, and the artisans, and the lawyers, and the doctors, and all the people in Oregon and Washington want to read and get as cheaply as possible the great magazines which are published here in New York City or anywhere else. They can not be in a condition to take part in the affairs of Government unless they do have access to means of information. [Applause.]

What I was going to say was that while the people of Oregon voted down a State-wide prohibition law under the initiative and referendum on the 8th day of November, they enacted into law a bill increasing the annual appropriation of $47,000 for the State University to $125,000. [Applause.] Every effort that was made there to increase the salary of a public officer was defeated. Quite a number of bills that were presented under the initiative and referendum—I think there was, however, a bill carried under the referendum increasing the salary of judges—they seemed to have an inherent abhorrence of public officials and salaries of public officials, and voted them all down.

Another thing that showed their intelligence. [Laughter.] While they were presented with a proposition of appropriations for educational institutions all over the State—and while they do not vote frequently in favor of appropriations for these educational institutions—strange to say, and I thought it remarkable in a great State covering as much territory as that does, with apparent uniformity of opinion throughout the confines of the State, they voted down propositions for scattering little educational institutions around the State, and centered an appropriation upon a central university. It showed good judgment, careful discrimination upon the part of the voter.

Now, a great deal of criticism has been leveled against what has been called the "recall," the power of recall. That is the law which enables a certain percentage of the voters in the State—in Oregon it is based upon the number of votes cast for supreme court justices—a certain percentage of them can petition for the recall of a public officer. Then the law very humanely gives him an opportunity to resign, and if he does not resign they proceed to hold an election just as if he was not in the office at all. He is considered as a candidate for the office. Anybody else that wants to run against him runs, and they hold an election, and if the people vote against him in that election he goes out of office and his successful opponent goes in. Now, I want to say that a similar power to that has existed since the foundation of the Government. We have the power of recall in the Constitution of the United States. It is in the constitution of every State in the Union, but instead of being lodged in the people, in the body of the people, it is lodged in the legislature. The only difference in this new system is that it takes it from the legislature, or, rather, gives an additional right to the people themselves, which I consider a higher court than the legislature or any other court of the land, to determine the impeachment of an officer who is guilty of malfeasance in office. Now, is there anything radically wrong about that? [Applause.] But in the great city of Seattle at the present time they have a campaign on to put this law into effect and practice. They have a mayor there who was elected in the old way, by the old gang—I started to say the "old guard"—by the old machine. [Question from audience: "Any difference?" Answer by Senator POINDEXTER: "Not a particle."] As soon as he got into office he forgot, apparently, that there was this power of recall on the part of the people, and the people got out a petition against him, a good man to run against him, and they have an election there now in actual operation. I don't think there is any doubt whatever that he will be recalled—and he will hear the call [laughter], and a better man will take his place.

Now, the first law that the State of Washington enacted for the purpose of restoring the control of the government to the hands of the people was the direct primary. The purpose and object and effect of the direct primary is to give a constitution and a law to the organization of political parties, which, as I said before, had none before that law was enacted. We saw in our State there this summer a sample of the action of political parties under the old system of nominating candidates for office. Why, they came to the conclusion—the county chairmen in some of the large counties of the State—that it was not even necessary to have the old-fashioned caucus—too much trouble or something of that kind. So three or four of them got together in a back room and appointed delegates to a State convention. The delegates nominated five judges of the supreme court of the State. Now, a direct primary prohibits a political party from holding conventions, from nominating officers by a convention, and gives the people the direct privilege of voting for the candidates of the party which is to

control the government after it goes into power. The importance of that is this: Under the old system a political machine nominated candidates of the Republican or Democratic Party. In that political machine were the representatives always of the great interests. One of them came down on a private car a few years ago from Seattle to Tacoma, held a caucus on his car, and nominated the governor of the State. The other party does the same way, and the people go out to hold an election to see which one of these men is elected. It does not make a particle of difference how much red fire they burn, how many speeches they make, whichever one is elected is all the same to the great corporations which nominated them. [Applause.]

Direct primary takes control of all the political parties and the nominations of those parties, one of which is bound to assume the reins of government which makes the character and the complexion of the legislative bodies of the State and of the Nation, and gives control to the people, so that you are able to get a hearing for other laws to be enacted in the interests of extending the influence of the people upon the government.

Do you suppose you would ever get a law passed in the Senate of the United States for the direct election of Senators under the old system of nominating the candidates of political parties? The experience of a generation has proved that it was absolutely futile. Now, there is a strong sentiment in the Senate of the United States, and a large number of Senators, increasing in influence, in numbers, and in power, are in favor of electing Senators by direct vote. Almost without exception those Senators who are in favor of electing Senators by direct vote of the people owe their seats in the Senate to the operation of the direct-primary law. [Applause.]

I want to call your attention to some of the laws which the people of Oregon voted upon in the last few years under the so-called initiative and referendum. From 1904 down to the election of 1908 there were 32 different statutes voted upon by the people at the direct election under the initiative and referendum. They voted upon a direct primary law for the direct election of United States Senator. In Oregon they have to all intents and purposes popular election of United States Senators by means of the direct primary law. It operates in this way: Without having gone through the difficult process of amending the Constitution of the United States, the Legislature of Oregon enacted a statute—I do not know that it amounted to anything more than the expression of the opinion of the people of the State—but nevertheless they enacted a statute instructing the legislature to vote for United States Senator for the candidate who received the largest number of popular votes at the general election. Then they passed a direct primary law by which political parties each nominated its candidate for the United States Senate, and these candidates were candidates before the people for the expression of the opinion of the people at the general election, and the candidates for the legislature were given the opportunity of taking one or the other of two pledges.

One of them was to this effect: "I further state to the people of Oregon, as well as to the people of my legislative district, that during my term of office I shall always vote for that candidate for United States Senator in Congress who shall receive the highest number of people's votes for that position at the general election next preceding the election of a Senator in Congress, without regard to my political preference." That is called Statement No. 1. That official document goes along with his announcement of his candidacy. It is his solemn pledge; and a candidate has a great deal of hardihood if he undertakes to go back home and face his constituents after having violated that pledge. The alternative is—I want you to listen to it; I admire the ingenuity of the man that drew it—"During my term of office I shall consider the vote of the people for United States Senator in Congress as nothing more than a recommendation, which I shall be at liberty to wholly disregard if the reason for doing so seems to me to be sufficient." [Laughter.] Just imagine the situation that a candidate with that pledge would be in, in trying to get elected to the legislature. [Laughter.] The consequence is that nearly all of them take the statutory pledge; and, notwithstanding the fact that Mr. McHarg went down there and at somebody's instance tried to get them to violate it, I am glad that, under the circumstances, they elected Mr. GEORGE CHAMBERLAIN to the Senate of the United States. [Applause.]

In 1894 they voted two acts. One was the direct-primary law for direct election of United States Senators. That was carried. People showed their intelligence there. They voted a local-option liquor law. I do not know whether that showed intelligence or not. I leave that to the people to determine. I think myself that it did. They passed these two laws in 1904. In 1906 they voted on an omnibus appropriation bill for State institutions and carried it. They defeated an equal-suffrage movement. They defeated a local-option bill proposed by the liquor people [applause] after having adopted one proposed by the temperance people—showing that they could discriminate.

A bill for the purchase by the State of the Barlow toll road they defeated. Amendment act, calling for a constitutional amendment, carried by overwhelming vote. Amendment giving cities sole power to amend their charters carried by overwhelming vote. [Applause.] Initiative and referendum, to apply to all local, special, and municipal laws, carried by tremendous vote. Bill prohibiting free passes on railroads carried by 57,000 to 16,000; and I noticed that in another election, when a bill was presented to them requiring railroads to furnish free passes to public officials, they voted it down. Gross-earnings tax on sleeping, refrigerator, and oil car companies carried. Gross-earnings tax on express, telephone, and telegraph companies carried by 70,000 to 6,000. Now listen to this: Amendment increasing the pay of legislators from $120 to $400 a year, and they defeated it. [Laughter.] Amendment reorganizing the system of courts and increasing the number of supreme court judges from three to five was defeated by vote of 50,000 to 30,000. Amendment changing general election from June to November was carried. Bill giving sheriffs control of county prisoners was carried. Bill appropriating $100,000 for armories was defeated, and right alongside of that a bill increasing the appropriation for the State University from $47,000 to $125,000 annually was carried. Equal-suffrage amendment came up again—it comes up every year and they vote it down again. [Laughter.] [Question from the audience: "What about the State of Washington?" Answer by Senator POINDEXTER: "The State of Washington voted in favor of it this year."] Modified form of—these are so-called "socialists" and "anarchists," and yet when they proposed to have a modified form of single tax it was voted down. Recall power on public officials was adopted by 58,000 to 31,000. A bill instructing the legislature to vote for United States Senator chosen by the people at the general election was carried by 69,000 to 21,000. Corrupt-practices act governing elections was carried by 54,000 to 31,000. Amendment requiring indictment by grand jury carried. They voted against any law creating new counties. I think they are right.

I want to call your attention to some laws they voted on last year.

Speaking of the ballot and of the means that the people have of understanding these methods: There is a sample ballot. [Exhibiting form of ballot.] Now, the law requires one of the State officials to prepare a ballot head for every bill that is presented. He uses his literary skill and his legal ability in framing a concise, comparatively brief title called a ballot title for the bill, which explains its purposes and objects, and that is printed upon these sample ballots, which are printed in large numbers and distributed among the people of the State some time before election. In addition to that, they have a special book, which is published with arguments pro and con, with bills printed at length. Take this ballot, for instance. The farmer, the artisan, or any citizen gets one of these and takes it home. He can sit down there in the midst of his family and in the quiet retirement of his domicile and can read these titles of these various bills and form a careful and considerate judgment as to whether he is in favor of them or not in favor of them. By the time election day comes around he is ready without a moment's delay to know whether to put his cross opposite "yes" or "no" on these various things.

Now, there was an amendment proposed to the constitution of Oregon in the election of 1910 increasing the initiative, referendum, and recall powers of the people, restricting the use of the emergency clause and veto power of the governor and legislature, and various other radical departures of that kind. That was voted down by 44,000 to 37,000; but right alongside of it the people of Oregon, by direct vote, enacted a law which had long been discussed by the Bar Association of the United States, of the various States, had been recommended by the President of the United States in some of his State addresses—the people of the State of Oregon at the election of 1910 adopted this:

"Amendment to the constitution of the State of Oregon providing for verdict by three-fourths jury in civil cases, authorizing grand jury to be summoned separately from the trial room, prohibiting retrial where there is any evidence to support the verdict;" that is, if there is evidence in the testimony to justify the decision of the jury, the supreme court can not set it aside. I say that law is essential to the vigor of our jury system. It directs the supreme court to enter such judgment as should have been entered in the lower court, fixes the terms of the supreme court, providing that judges of all courts be elected for six years, and increases the jurisdiction of the supreme court. Now, that law will go a long ways toward abolishing what has been called the "quest for error" on the part of the courts of appeals; in doing away with the interminable delay, though the supreme court could see from the record that was before it the true merits of the case, instead of rendering justice according to the rights of the litigants sending it back over its long, weary course from the beginning, to come up in some future years to the supreme court to be reviewed again perhaps upon some error that was made by a slip of the counsel or judge in the second trial. The people of Oregon have done away with that obsolete system.

I am not going to take time to refer to many of these laws. They voted down, of those 32 bills that were submitted at the last general election, all of them except 9. And they showed a great deal of consistency in their votes. For instance, there were a great number of bills presented by the legislature creating new counties. Every time there is a new county created there is a new set of officials, and that is the pabulum out of which political machines exist and grow fat. With the increasing taxes and the population that Oregon has now, the organization of the counties is amply sufficient for all the purposes of the government, and some 8 or 9 of these bills were consistently defeated by the people of Oregon under the initiative and referendum.

A law amending the constitution to enable counties to incur a larger amount of indebtedness for the improvement of the public roads—and mark that it is not the expenditure of money that the people of Oregon object to, but it is the purposes for which it is expended. While they voted down appropriations, while they voted down appropriations for armories, while they voted down the increased salaries of public officials, they voted up appropriations for the State University, and increased the power to incur indebtedness for public roads and the improvement of the public highways of the State. [Applause.] That is the kind of intelligence that the people have.

There is another bill that the people of Oregon adopted at the November election, a bill for a law to amend the direct primary law so as to choose the delegates to a presidential convention at the direct primary, so that under that system the delegates that go to a presidential convention which will name a candidate of the party for President of the United States—the delegates that go from that State will do what is very often not done by delegates from States to national conventions—they will represent the real sentiments of the people in regard to the choice for President of the United States. [Applause.] Furthermore, this law provides that in that very election they can express their choice for President and Vice President of the United States by nominating the candidates of the party for presidential electors. In other words, to a large extent it brings the choice of President of the United States within the real wishes and activities of the people of the country. Presidential electors or conventions under the old system are a long ways removed from the real sentiments and opinions of the great masses of the people.

Another law which they adopted at the November elections was a law requiring protection of persons engaged in hazardous employments, defining and extending the liability of employers and providing that contributory negligence shall not be a defense.

An act authorizing the purchase of an insane asylum: After having provided for these other laws, they provided an insane asylum in order to confine the people who are not competent to enjoy the Oregon system. [Laughter.]

I remember coming down one day during our campaign to a little town. A gentleman who was very active in our campaign (Mr. Murphine) said: "I am going to introduce you to one of the most brilliant men I ever knew, but the only trouble with him is he is crazy." I met him and he was a brilliant man, but he believed in the capacity of the people to govern themselves. We got that fellow [laughter], and many so-called "anarchists," "socialists," and others whose sole offense is that they are in favor of having a form of government that can be controlled by the people—not abolishing the legislature, not limiting the power in any way of the legislature to enact laws, but yet to give the people for whose benefit those laws are

supposed to be enacted—there in the highest tribunal of all, the tribunal of public opinion, the assembly of all the people—the opportunity of exercising their judgment upon the action of the legislature at the polls; either to approve or reject what the legislature has offered them.

In the early days these measures were not necessary. But, as I have said before, in these later days, under the conditions to which we have come—I don't know how you feel about it—but I am firmly convinced, my fellow citizens and members of this club, that if we are to continue a republican government in reality as well as in form, that the direct primary, direct election of United States Senators, direct legislation, and a corrupt-practices act, the Australian ballot, the extension of the direct primary to the election of delegates to presidential conventions are necessary in order to preserve the control of the Government by the people.

I am very much obliged to you for your invitation to me to meet you here to-night. It is a great relief from the round of drudgery in which a Congressman is immersed during a session of Congress to come here and be refreshed by the spectacle of an enthusiastic, vigorous, and numerous gathering of the young men of this city, who are so interested in this great movement to rescue the Government from the control of the agencies of private pelf and private aggrandizement and restore it to the hands of the people for whose benefit it was originally framed. [Applause.]

COMMISSIONED OFFICERS, NAVY AND MARINE CORPS.

Mr. HOBSON. Mr. Speaker, I ask unanimous consent to suspend the rules and pass the bill (H. R. 24256) to authorize commissions to issue in the cases of officers retired or advanced on the retired list with increased rank, as amended, which I send to the desk and ask to have read:

The Clerk read as follows:

Be it enacted, etc., That commissioned officers of the Navy and Marine Corps on the retired list whose rank has been or shall hereafter be advanced by operation of or in accordance with law shall be entitled to and shall receive commissions in accordance with such advanced rank.

The SPEAKER. Is there objection?

Mr. HUGHES of New Jersey. Mr. Speaker, reserving the right to object, I would like to ask the gentleman a question.

Mr. MICHAEL E. DRISCOLL. Mr. Speaker, I object.

Mr. HOBSON. Will not the gentleman from New York reserve his right to object?

Mr. MICHAEL E. DRISCOLL. I will reserve the objection.

Mr. HOBSON. Mr. Speaker, I would like to explain to the gentleman in regard to this bill if he has any objection to it.

Mr. MICHAEL E. DRISCOLL. I reserved the right to object.

Mr. HOBSON. I would like the gentleman to read the bill, if he will be kind enough to do so.

Mr. HUGHES of New Jersey. Mr. Speaker, so far as I am concerned, I have no objection, and I will wait until the gentleman has explained the bill before I object. Is that satisfactory to the gentleman?

Mr. HOBSON. Entirely so; but it will not be at all to me if the gentleman ends by objecting, because this is nothing more than a question of a piece of parchment. It is just like a graduate from a college or university—after he graduates he gets a certificate of his graduation; he gets his diploma signed by the faculty. In this case officers are promoted on the retired list under existing law——

Mr. MICHAEL E. DRISCOLL. It says something here about advanced rank; does this advance the pay?

Mr. HOBSON. No; it does not involve one dollar; it does not involve any question of rank at all, but simply enables the man to get the parchment—the certificate of his commission.

Mr. MICHAEL E. DRISCOLL. I withdraw my objection?

Mr. COX of Indiana. And does not involve any increase of salary?

Mr. HOBSON. No; the parchment is for their families.

Mr. COX of Indiana. In what way?

Mr. HOBSON. They pass these down to their descendants. These are commissions signed by the President, and it is an heirloom and it does not involve a dollar of expense to the Government.

Mr. COX of Indiana. It is left to their family as a memento?

Mr. HOBSON. And it does not involve any change of rank in any way.

Mr. HULL of Iowa. Will the gentleman permit a question?

Mr. HOBSON. Certainly.

Mr. HULL of Iowa. Has the gentleman any objection to inserting "the Army" after "Navy?"

Mr. HOBSON. None whatever.

Mr. HULL of Iowa. We have passed that before, but it never became a law.

Mr. HOBSON. I will ask unanimous consent before the word "Navy" to add the word "Army."

Mr. MANN. Will the gentleman just wait a moment; will the gentleman yield?

Mr. HOBSON. Certainly.

Mr. MANN. As I recall it, we passed this bill once and it went to President Roosevelt and he vetoed it. I am under the impression it was stated that after President Roosevelt vetoed the bill he admitted that he had made a mistake and had vetoed it under a misapprehension.

Mr. HOBSON. Now, I would like to be able to tell the gentleman definitely as to the President, but at that juncture I did not see very much of the President, but I do know that the Secretary of the Navy and the Chief of the Bureau of Navigation, on whose suggestion the President vetoed it at first, withdrew their objection and stated that it was due to a misapprehension. They thought it would affect the rank of others, but when they found it would not they withdrew their objection, and I believe that President Roosevelt concurred in their view.

Mr. HUGHES of New Jersey. Will the gentleman yield for a question?

Mr. HOBSON. Certainly.

Mr. HUGHES of New Jersey. Does this bill carry any appropriation?

Mr. HOBSON. Not a cent.

Mr. HUGHES of New Jersey. How does that happen? [Laughter.]

Mr. HOBSON. I was going to say that it came from a Democrat. At least, I believe that I introduced the bill, although I am not quite certain about it. I never have a superfluous dollar put in any bill that I have anything to do with.

Mr. MANN. The gentleman has passed so many bills lately that I would like to ask him if he intends to call up any more bills to-night?

Mr. HOBSON. I will answer the gentleman by saying that I am flattered by his remarks, and will assure him that I do not know of anything else on my calendar.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Before the word "Navy" insert the word "Army," so that it will read "Officers of the Army, Navy, and Marine Corps."

The SPEAKER. The question is on suspending the rules and passing the bill as amended.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Coggeshall, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 32865) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes, and had further insisted upon its amendments Nos. 1 and 2, disagreed to by the House of Representatives, had asked a further conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. PERKINS, Mr. WARREN, and Mr. MARTIN as the conferees on the part of the Senate.

The message also announced that the Senate had agreed to the amendment of the House of Representatives to the bill (S. 9529) for the relief of Alexander Wilkie.

The message also announced that the Senate had agreed to the amendment of the House of Representatives to the bill (S. 10274) to authorize construction of the Broadway Bridge across the Willamette River at Portland, Oreg.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 32128. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors;

H. R. 32213. An act to authorize the city of Portsmouth, N. H., to construct a bridge across the Piscataqua River; and

H. R. 32822. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

I. W. KITE.

Mr. GOULDEN. Mr. Speaker, I move to suspend the rules and pass the bill (S. 8608) to authorize the President of the United States to place upon the retired list of the United States Navy Surg. I. W. Kite, with the rank of medical inspector.

The Clerk read as follows:

Be it enacted, etc., That the President of the United States be, and he is hereby, authorized to place upon the retired list of the United

States Navy, with the rank of medical inspector, the name of Surg. I. W. Kite: *Provided*, That the said I. W. Kite shall not, by the passage of this act, be entitled to any pay or allowances.

Mr. MANN. Mr. Speaker, I demand a second.

The SPEAKER. Under the rules a second may be considered as ordered.

The gentleman from New York [Mr. GOULDEN] is entitled to 20 minutes and the gentleman from Illinois [Mr. MANN] to 20 minutes.

Mr. GOULDEN. Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. ROBERTS], who is in charge of the bill in behalf of the Naval Committee, so much time as he may want to explain the purpose of the bill.

Mr. ROBERTS. Mr. Speaker, this bill is for the relief of Surgeon Kite, who has had 24 years' service in the Navy. He came up in the due course of his service to be examined for promotion from surgeon to medical inspector. Upon his examination he was found to be morally and professionally fit for the promotion, but his medical examination disclosed physical disabilities, for which he was recommended for retirement. Those physical disabilities were incurred by Surgeon Kite in the discharge of his duty as a surgeon in the Navy.

Now, the point to be borne in mind is that this officer had served with credit the requisite number of years to entitle him to promotion to the higher grade; and he was morally, mentally, and professionally qualified to receive that promotion, but simply because in the discharge of his duty as an officer in the Navy he had brought upon himself physical infirmities the board could not recommend his promotion. In the matter of the physical disabilities, this officer shortly before coming up for examination for promotion had passed the endurance test prescribed by the Navy Department, namely, the walk of 50 miles, showing that he was in good enough physical condition to discharge his duties as surgeon and meet those physical tests. But the medical examination disclosed him to have a weakness of the heart, and a hernia. He had been recommended for operation for that hernia, but the weakness of his heart was such that they did not dare administer the anesthetic. Now, having served the requisite number of years to enable him to receive a merited promotion, it certainly is unfair to this officer to put him on the retired list in the grade in which he was then serving simply because of disabilities he had incurred in the line of his duty as an officer of this Government.

Mr. YOUNG of Michigan. Will the gentleman permit me to interrupt him for a question?

Mr. ROBERTS. Yes.

Mr. YOUNG of Michigan. Will this bill simply give him one extra grade?

Mr. ROBERTS. This bill puts him on the retired list in the grade to which he would have been promoted on the active list but for the physical disabilities.

Mr. YOUNG of Michigan. And one grade higher than that at which he has actually been retired?

Mr. ROBERTS. One grade higher than that at which he was actually retired, the Navy regulation being that when an officer is retired under these conditions for physical disability, he is retired in the grade in which he was then serving, while in the Army an officer under similar conditions would have been retired as of the grade to which he would have been promoted if it had not been for this physical disability.

Mr. HUGHES of New Jersey. Will the gentleman yield for a question?

Mr. ROBERTS. Yes; for a question.

Mr. HUGHES of New Jersey. Is there any particular reason why this should be done for this officer? Is he not one of a number of officers affected equally by this regulation?

Mr. ROBERTS. There are other cases of officers who have been retired in their present grade by reason of this provision of law as it affects the officers of the Navy. The department strongly recommends all such cases as Dr. Kite's, because there is no general law covering them, as in the case in the Army.

Mr. HUGHES of New Jersey. Why does not the appropriate committee, having jurisdiction, report general legislation on this subject?

Mr. ROBERTS. I will say to the gentleman that in the naval bill as it will come from the Senate, or as it was reported to the Senate, there is a provision of general law to cover it.

Mr. Speaker, I yield back the remainder of my time.

Mr. CAMPBELL. I want to ask the gentleman from Massachusetts a question.

Mr. ROBERTS. I will yield to the gentleman for a question.

Mr. CAMPBELL. How old is this man?

Mr. ROBERTS. He served 24 years in the Navy.

Mr. CAMPBELL. We had the case of a man under discussion this morning who served 55 years in the Army.

Mr. ROBERTS. He was not a commissioned officer.

Mr. CAMPBELL. How long did this man serve in the Navy?

Mr. ROBERTS. Twenty-four years.

Mr. CAMPBELL. How old a man is he?

Mr. ROBERTS. As to that I could not say. He is a man in the fifties—53, 54, or 55.

Mr. CAMPBELL. Was he retired?

Mr. ROBERTS. He was retired arbitrarily when he came up for examination.

Mr. CAMPBELL. What pay is he getting as a retired officer?

Mr. GOULDEN. I hope the gentleman will not take this out of our time. We have very little time left.

Mr. ROBERTS. Mr. Speaker, I yield back the balance of my time.

Mr. GOULDEN. Mr. Speaker, I then recognize the author of the bill [Mr. CARLIN].

Mr. CARLIN. Mr. Speaker, we are entitled to close.

Mr. MANN. We concede that. Whenever the gentleman is ready to close I will occupy my time.

Mr. GOULDEN. We will use the balance of our time and ask the gentleman from New York to occupy his time.

Mr. MANN. The gentleman from New York is not going to use his time.

Now, Mr. Speaker, I congratulate the distinguished gentleman from Massachusetts [Mr. ROBERTS], who made the report. He has finally read the report which he submitted to Congress on the 17th day of the past month. Yesterday, when this bill came up, he had not read the report which he submitted. Now, he has made a very fair statement of the case on reading the report, after I had called his attention yesterday to what was in the report.

Now these are the facts: Whenever the Army, through some bit of legislation, gets something that the Navy does not have, every officer in the Navy who is affected thinks he ought to have a special bill so that he will get as good as the Army gets. And whenever the Navy gets some legislation by which its officers receive something that the Army officers do not get, then every Army officer thinks he ought to have a special bill to give him the thing which the naval officer gets.

This man, if he had been in the Army, would have been retired at the next higher grade, but he was in the Navy. The law in reference to the Navy provides that he shall be retired at the grade which he holds.

Mr. HULL of Iowa. Mr. Speaker, is the gentleman certain of that?

Mr. MANN. The only certainty I have of it is the statement of the Navy Department and the statement of the distinguished gentleman from Massachusetts [Mr. ROBERTS], who has looked the matter up since I called his attention to that fact yesterday. He did not then seem to know it.

Mr. HULL of Iowa. Let me ask the gentleman this question: If a man is retired on account of physical disability, he is entitled to the grade to which he would be promoted on account of seniority instead of it being the same grade?

Mr. MANN. That is in the Army.

Mr. HULL of Iowa. It is in both branches in that respect; but if the Army officer fails on account of not being able to pass the mental examination, he is given one year, and then if he is not able to pass he is mustered out entirely.

Mr. CARLIN. The gentleman is mistaken about that.

Mr. MANN. The gentleman will pardon me. In this case the Secretary of the Navy states that under the Army law a man when retired on account of physical disabilities incurred in the service is retired at the grade to which he would have been promoted if he did not suffer from those disabilities, but in the Navy he is retired at the grade which he then holds. I do not know whether it is safe to rely upon what the Secretary of the Navy states, but I presume he is right. That is the law. It applies equally to this surgeon and to other officers in the Navy. Why should an exception be made in the case of this man? No extenuating circumstances are given except the mere fact that under the law he is retired at the grade, and after all he is retired at the grade of surgeon on three-quarters pay. Now, there are a lot of men who will leave here to-morrow at 12 o'clock who would be very glad to be retired with the grade of surgeon on half pay, if they were permitted, as this man is, to continue to do whatever else he pleases during the balance of his life. And some of these men have become physically incapaci-

tated in the performance of their duties in this Chamber, which is more dangerous to health than service on any ship of the Navy.

Mr. ROBERTS. I understood the gentleman to say there were no extenuating circumstances in this case. I want to ask him if he does not think that physical disabilities incurred in the line of duty in the service, which prevent his promotion, are extenuating circumstances?

Mr. MANN. Why, certainly not. That is the law. There is no difference in his case from that of any other man who is retired for physical disabilities incurred in the service. That has been the law ever since there was a retirement in the Navy.

Mr. ROBERTS. No; men are retired for physical disabilities not incurred in the service.

Mr. MANN. Lots of them are retired for physical disabilities incurred in the service. There is many a man on the retired list, retired under the same circumstances, and if this bill is passed every one of them will be knocking at the doors of Congress for special bills in their behalf.

Mr. GOULDEN. Has not this bill been recommended by the Surgeon General, the chief of the bureau, and the Secretary of the Navy?

Mr. MANN. The gentleman can make his statement in his own time. He does not need to take my time.

Mr. GOULDEN. I just wanted to ask that question; that is all.

Mr. MANN. It is true, Mr. Speaker, that the Secretary of the Navy practically, if not really, recommends the passage of this bill, because he thinks existing law discriminates against the Navy; and I am frank to say that it is also true that, while I am opposed to this bill, it is far more meritorious than one bill, if not two bills, which passed this House this afternoon. I yield to the gentleman from Kansas.

Mr. CAMPBELL. Mr. Speaker, I am opposed to this bill because it seems to do something for this man that the law does not now permit. It makes an exception in his case, an exception that can not be made in behalf of many other men similarly situated. I am opposed to it upon that ground and opposed to it on the further ground that this, like other bills of a similar character, are held up until the last hours of the session with the hope that they may be jammed through under circumstances under which they could not go through earlier in the session.

Mr. ROBERTS. Will the gentleman yield?

Mr. CAMPBELL. Yes.

Mr. ROBERTS. The gentleman says the bill was held up until the close of the session so that it might be put through under circumstances which would be favorable to it. I want to ask the gentleman if he is not aware that if this bill could have been reached on the Private Calendar, where it has been for weeks, it would pass by a majority vote, whereas now it has got to have two-thirds? Does he call that more favorable circumstances?

Mr. CAMPBELL. We have had a Unanimous Consent Calendar ever since this session began, and there is no reason why it could not have been reached on that Unanimous Consent Calendar.

Mr. ROBERTS. It was reached, and one objection stopped it.

Mr. GOULDEN. It could not be placed on the Unanimous Consent Calendar until Tuesday of this week.

Mr. CAMPBELL. Which of the gentlemen is right? One says that it could not be reached and the other says it was reached.

Mr. ROBERTS. It could not be put on the calendar until a special rule made it possible in the current week.

Mr. CAMPBELL. This officer is retired at a salary of $3,000 a year, and he is not yet 60 years of age. There are thousands of men who have served their country as faithfully as this man has who are getting less than $500 a year—yes, $300 a year—and I shall protest against advancing this man.

Mr. SIMS. How much more will this bill give him than he now receives?

Mr. CAMPBELL. Five hundred dollars more, and he is now getting $3,000. I shall protest against bills of this sort until Congress is ready to pension everybody who has served in the Army and the Navy of the United States and give them as high a pension as they are willing to give officers and men who have served in the Regular Army and the Navy.

Mr. GOULDEN. I yield to the gentleman from Virginia [Mr. CARLIN].

Mr. CARLIN. Mr. Speaker, it will take but a few moments to explain the merits of this bill. I have not been one of those since my membership in this House who has been willing to single out any particular individual for special favors. If this bill was such a bill, I would oppose it. But, on the contrary, this bill simply gives to an officer of the Navy who has served 24 years in the service of the Government the promotion to which he was entitled and which he had earned by his length of service. When he came up for his examination they found him mentally, morally, and professionally qualified to discharge the duties incumbent upon him, but physically disqualified. An examination of these physical disabilities afterwards disclosed that he had incurred them in his service of 24 years for his country.

The Secretary of the Navy, when this bill was referred to the Navy Department, referred it to the Surgeon General of the Navy, and he recommended the passage of the bill in the strongest terms. The Secretary of the Navy, upon investigation, recommends the passage of it to this Congress. In six lines of his recommendation is found the whole of this case. I read it, in order that you may understand the opinion of the Navy Department with reference to it:

> In the opinion of this bureau the object of this bill is a worthy one, the status of the officer being peculiarly deserving of relief. After 24 years of service in the Medical Corps he was found mentally, morally, and professionally qualified for promotion to the grade of medical inspector, but failed physically, owing to disabilities contracted in line of duty.

Now, it has been stated here by the gentleman from Illinois [Mr. MANN] that this bill is more meritorious than two bills which have passed this House to-day by a motion from that side of the Chamber. We called this bill on the Unanimous Consent Calendar yesterday, and with 150 men present in this House there was but one man who was willing to note an objection, and that was the gentleman from Illinois. It has been, in my judgment, the desire of this House to pass this bill for several days, but one objection has prevented even its consideration. The gentleman from Kansas [Mr. CAMPBELL] says that he would not vote for special privilege. I believe my friend sincere in that statement, but I also believe an examination of the record will show that he has voted as often for special privilege as any other man in this House. But this is not a special privilege; it is the bestowal of a right, recommended by the department, recommended by the Naval Committee of the Senate, recommended unanimously by the Democrats and Republicans of the Naval Committee of this House, saying to this body that this man deserves this recognition at the hands of this Congress, the only body to which he can appeal. I trust it will be your pleasure to respond.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken; and on a division (suggested by the Chair) there were—ayes 92, noes 52.

So (two-thirds not having voted in favor thereof) the motion was rejected.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Coggeshall, one of its clerks, announced that the Senate had insisted upon its amendments to the bill (H. R. 32909) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1912, and for other purposes, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. HALE, Mr. PERKINS, and Mr. CULBERSON conferees on the part of the Senate.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 32212) making appropriations for the naval service for the fiscal year ending June 30, 1912, and for other purposes, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. PERKINS, Mr. HALE, and Mr. TILLMAN as the conferees on the part of the Senate.

M. H. PLUNKETT.

Mr. TALBOTT. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 13384) placing M. H. Plunkett, assistant engineer, United States Navy, on the retired list with an advanced rank, which I send to the desk and ask to have read.

The Clerk read as follows:

> *Be it enacted, etc.*, That M. H. Plunkett, assistant engineer, United States Navy, retired with the rank of lieutenant (junior grade) may in the discretion of the President, by and with the advice and consent of the Senate, be placed on the retired list of the Navy in the grade of passed assistant engineer with the rank of lieutenant, and that this promotion and the increased pay incident thereto shall take effect from the passage of this act.

The SPEAKER. Is a second demanded?

Mr. MANN. Mr. Speaker, I demand a second.

The SPEAKER. Under the rules a second is ordered, and the gentleman from Illinois [Mr. MANN] is entitled to 20 minutes and the gentleman from Maryland [Mr. TALBOTT] to 20 minutes.

Mr. TALBOTT. Mr. Speaker, I do not want to take the time of the House, but this old engineer in the United States Navy is on the retired list by an act of Congress. He was an engineer in the United States Navy during the Civil War. He was captured at Galveston and served a long time in a Confederate prison. When he was discharged from the prison and exchanged, he was found to be afflicted with heart trouble to such an extent that he could no longer remain in the service. He resigned, hoping that he would recover his health, and because he was a capable man in his profession be able to earn a livelihood in his profession without remaining in the Navy.

Mr. SULZER. How old a man is he?

Mr. TALBOTT. He is an old man.

Mr. SULZER. How old?

Mr. TALBOTT. He is old enough to have been an engineer in the Civil War in the United States Navy, to be captured, and to be kept in a Confederate prison until exchanged.

Mr. MICHAEL E. DRISCOLL. Was he put on the retired list?

Mr. TALBOTT. Yes; by an act of Congress.

Mr. MICHAEL E. DRISCOLL. When?

Mr. TALBOTT. I have forgotten the date.

Mr. MICHAEL E. DRISCOLL. In 1865?

Mr. TALBOTT. No, he resigned from the Navy and endeavored to earn a livelihood as an engineer, but his health never recovered and he could not. There was an act passed restoring him to the Navy on the retired list. There was an act passed in June, 1906, that gave to every single engineer officer in the United States Army on the retired list certain rank and emoluments, and from the benefits of that three men were excluded, simply because they had been benefited by a previous act of Congress.

Now, all that this bill does, everything in the world that it does, is to put this old officer, who spent the best days of his life in a Confederate prison after being captured, on a level and an even keel with all the other engineer officers of the Navy during the Civil War.

Mr. CAMPBELL. How much is he getting now?

Mr. TALBOTT. I do not remember.

Mr. CAMPBELL. He is retired now?

Mr. TALBOTT. I want to see this man put on a level with every other engineer officer in the Civil War.

Mr. MICHAEL E. DRISCOLL. Will the gentleman yield?

Mr. TALBOTT. Yes.

Mr. MICHAEL E. DRISCOLL. Very well. The letter of the Secretary of the Navy says, does it not, that on May 9, 1865, he was restored to the Navy and appointed as assistant engineer on the retired list?

Mr. TALBOTT. Yes.

Mr. MICHAEL E. DRISCOLL. That is in 1865. Now, he has been drawing his salary as a retired assistant engineer ever since.

Mr. TALBOTT. So is every other officer on the retired list who was an engineer during the Civil War, and he ought to have exactly what the other officers get.

Mr. MICHAEL E. DRISCOLL. That is 46 years. How much has he been paid during that time——

Mr. TALBOTT. I do not know.

Mr. MICHAEL E. DRISCOLL. I wish somebody would tell how much that is——

Mr. TALBOTT. There are three exceptions, three officers who did not get the benefit of the general law, and he is one of them.

Mr. MICHAEL E. DRISCOLL. He has been drawing $3,000 a year since 1865.

Mr. TALBOTT. That is not the pay on the retired list, and the gentleman knows it.

Mr. MICHAEL E. DRISCOLL. Does not the gentleman think he has been given enough?

Mr. TALBOTT. No; if I thought he had been given enough, I would not be here advocating this bill. [Applause.]

Mr. MICHAEL E. DRISCOLL. And then, here, again, in 1885 he was given an increased allowance out of the Government.

Mr. TALBOTT. I am not going to yield to you. [Laughter and applause.] Mr. Speaker, I do not want to take up the time and attention of the House, and I call for a vote on this bill.

Mr. MICHAEL E. DRISCOLL. The other side has not been heard yet.

Mr. TALBOTT. I reserve the balance of my time.

Mr. MANN. Mr. Speaker, I have no doubt this man is a man who deserves well of his country; that he has many merits. He served in the Civil War; he resigned in May, 1865, before the war was over. In 1871, after he had been out of the service, he was restored to the service and placed on the retired list as a second assistant engineer.

Mr. ANTHONY. At how much a year?

Mr. MANN. Gentlemen ought to know; I do not know how much a year.

Mr. MICHAEL E. DRISCOLL. Will the gentleman yield——

Mr. MANN. I want to make a statement, if the gentleman will permit me; then I will yield to him. I would like to make a statement that is consecutive enough for a man who thinks to know what it means. He was placed on the retired list as a second assistant engineer. He had done nothing except his service in the war to entitle him to be placed on the retired list at all. Other men did well if they got on the pension list; but he was so active in his own behalf with the Government that in 1884 he secured an advance in the retired list by a special act of Congress. He had received favor from Congress once without any justification and had been placed on the retired list as a second assistant engineer. In 1884 he lobbied through a bill to be placed on the retired list as a passed assistant engineer. He considered that between 1871 and 1884 he was entitled to promotion on the retired list. Now, having been passed assistant engineer on the retired list since 1884, he considers at this time that he shall receive another promotion; so he gets the gentleman to put in a bill for him advancing him again on the retired list. He has already received two things which any other man in the Civil War did not get. He has already received one promotion on the retired list by special act of Congress because he was in the Civil War, and he found it so easy to work good-hearted gentlemen like the gentleman from Maryland [Mr. TALBOTT] that he considered he would not be doing well by himself if he did not lobby through another bill. He managed to get it through the Senate without difficulty, where everything of that kind passes, and worked on the sympathies of the gentleman from Maryland. There are two other bills like it waiting to come up when this bill is passed. [Applause.]

Mr. TALBOTT. Mr. Speaker, this old officer has not lobbied any bill through. We want to get it through, however. Now, I have not asked this House in 10 years to pass a private bill——

Mr. McGUIRE of Oklahoma. How much does he get now?

Mr. TALBOTT. I do not know how much he gets on the retired list, but what I want to say is this, that the services of this retired officer entitle him to be placed on the level with other engineers in the service of the Government during the Civil War.

Mr. HUGHES of New Jersey. And most of them are dead, are they not?

Mr. TALBOTT. Well, he is alive, and very much alive, too.

Mr. HUGHES of New Jersey. Then you do not want him put on the same level with them? [Laughter.]

Mr. TALBOTT. No; I want him put on the level with those who are alive.

Mr. McGUIRE of Oklahoma. How much will he get if this bill passes?

Mr. TALBOTT. I do not know that. I say this, that I know him well, and whatever he gets he ought to have. [Applause.]

I was on the other side during that unpleasantness, and I know a little something about it. I have the greatest respect for a man who served his country well, even if he helped to lick me and my people. I do not believe that anybody could have done any more for his country under the circumstances than this old man did, and, from what I hear, nobody suffered more. He was a Confederate prisoner for a long, long time, and that is what took away from him his ability to earn his livelihood. If he had not been a sick man and unable to earn his livelihood, he would not come to this House. He would have been enabled to earn a good deal more money than this promotion could give him.

I now ask for a vote, Mr. Speaker.

The SPEAKER pro tempore (Mr. OLMSTED). The question is on suspending the rules and passing the bill.

The question was taken, and the Speaker pro tempore announced that the Chair was in doubt.

So the House divided; and there were—ayes 96, noes 46.

Mr. MANN. Mr. Speaker, I ask for tellers.

Tellers were refused.

Mr. MANN. The other side, Mr. Speaker.

The SPEAKER pro tempore. There is no other side.

Mr. MANN. If there is no other side, I demand the yeas and nays. I wish to give fair warning about these bills. If

any more of them come up I will ask for a quorum to be present. I will now withdraw the demand for the yeas and nays.

Mr. TALBOTT. I ask unanimous consent to substitute the Senate bill for the House bill.

Mr. MANN. I object to that.

Mr. TALBOTT. Mr. Speaker, I move to suspend the rules and do it, then.

The SPEAKER. Is there unanimous consent to substitute the Senate bill, identical with the House bill, for the House bill, and that the House bill shall lie upon the table?

Mr. CAMPBELL. Mr. Speaker, I object.

Mr. MANN. Mr. Speaker, if they had given me tellers I would not object, but I shall object to this.

Mr. TALBOTT. Mr. Speaker, I move to suspend the rules.

The SPEAKER. The Chair can not recognize gentlemen further for the suspension of the rules for bills on the Private Calendar. Perhaps, later on, the gentleman may get the unanimous consent which he desires.

The Chair will again put the proposition to the House: Is there objection to unanimous consent?

Mr. CAMPBELL. Mr. Speaker, I object.

The SPEAKER. The gentleman from Kansas [Mr. CAMPBELL] objects. Perhaps consent may be given later. [Laughter.]

TARIFF ON WOOL.

Mr. GAINES. Mr. Speaker, I ask unanimous consent to address the House for five minutes.

The SPEAKER. Is there objection? The Chair hears none. The gentleman from West Virginia [Mr. GAINES] is recognized.

Mr. GAINES. Mr. Speaker, I have several times called the attention of the House to the fact that there is in this country no relation between the prices received by the original producers of articles and the prices which are paid by the purchasers—retail purchasers.

I regret, Mr. Speaker, that the distinguished gentleman from Missouri [Mr. CLARK], the leader of the minority, is not present in the Chamber at this time. I have on my desk a piece of blue serge sufficient to make a suit of the kind which usually costs the ultimate consumer from $40 to $60. I desire to present it to the leader of the minority [Mr. CLARK of Missouri], with the request—not upon any condition, but with the request—that he wear it while making some of his free-trade speeches. [Laughter and applause.]

I wish, Mr. Speaker, to read two letters which I have received in connection with this piece of cloth and the receipted bill for it.

BRISTOL, PA., *February 28, 1911.*

Hon. JOSEPH H. GAINES,
The House, Washington, D. C.

MY DEAR Mr. GAINES: The American Woolen Co. advises me by telephone that they have sent you from their New York offices 3¼ yards of standard serge, at $1.28¼ per yard. This is the net mill price they receive for these goods. The weight per yard is 16 ounces. Receipted bill for this merchandise accompanies invoice.

I have taken up with them also the average price of this weight and quality of serge in the years 1905, 1906, and 1907, and they tell me the price was $1.35 on the same basis of figuring as $1.28¼ to-day; so you see that these goods are selling lower than during the three latter years of the Dingley bill period.

Very truly, yours,

JOSEPH R. GRUNDY,
Per H. M. C.

Then I have the following letter from the American Woolen Co.:

AMERICAN WOOLEN CO.,
New York, February 28, 1911.

Hon. JOSEPH H. GAINES,
House of Representatives, Washington, D. C.

DEAR SIR: Following instructions given us by Mr. Joseph R. Grundy, I beg to say that we are forwarding to you to-day by Adams Express, charges prepaid, 3¼ yards of our 16-ounce serge made from half-blood stock, which we have billed at $1.28¼ per yard, the net price at which we are selling these goods to-day to the wholesale trade of the United States.

I beg also to send herewith receipted bills covering this purchase, which I understand was at your request.

Yours, very truly,

FRANCIS R. MASTERS,
Associate Selling Agent.

[Sold on condition that goods shall not be returned nor allowances made for any cause after 30 days from delivery nor after goods are sponged or cut. Address all claims and correspondence (except remittances) to American Woolen Co. of New York. Post-office box 100, Station D, New York City. Cable address, Wolenco, New York. A. B. C. code used. Remit only in New York or Boston funds to American Woolen Co., of New York., post-office box 381, Boston, Mass. Department 1A. Bill No. A6418. New York packing No. SD 10605. Season F 11.]

AMERICAN WOOLEN CO.,
New York, February 28, 1911.

Sold to Hon. JOSEPH H. GAINES, the House of Representatives, Washington, D. C. Shipped via Adams Express (paid), from New York. Terms: Net cash. Style, 716–5; color, M B; yards, 3¼; price, $1.28¼; total, $4.49.

Paid American Woolen Co., of New York, February 28, 1911.

J. CLIFFORD WOODHULL, *Agent.*
Per C. P. LINDBLUM, *Cashier.*

I wish to make merely a few comments upon these facts: I repeat that the kind of woolen goods that the manufacturers of the country are receiving $1.28¼ for is the kind that enters into a suit of clothes for which the retail purchaser pays from $40 to $60, depending upon the reputation of the tailor.

Mr. KITCHIN. Will the gentleman allow me to ask him a question?

Mr. GAINES. I will yield to the gentleman in due time.

Now, Mr. Speaker, I have repeatedly called the attention of this House and endeavored, although ineffectually, to challenge the attention of the American people to the fact that the prices paid by retail purchasers throughout the country are in no case received by the protected manufacturers of the country. And that statement is true not alone with respect to the goods covered by Schedule K, the woolen schedule in the tariff law, but also with respect to agricultural products as well.

I shall content myself with one fact illustrating the truth of the latter fact. Directly beneath me, in the restaurant of this building, one may buy a Grimes's Golden apple from West Virginia, which, in my judgment, is the best apple grown in America—grown within 50 miles of this city, in Berkeley County. He must pay 5 cents for it; but the farmers of Berkeley County do not average 1 cent apiece for those apples. So that when we consider the relation between producers' price and retail price of commodities, whether farm products or manufactured articles, we find that the final price is always from 5 to 10 or even more times greater than the original price received by the producer.

Mr. FORNES. Will the gentleman yield?

Mr. GAINES. Yes. Now I will yield and answer any question propounded by the gentleman.

Mr. FORNES. Do I understand the gentleman to say that the serge which he presents here from the American Woolen Manufacturing Co. sells at $1.28 a yard? Is that correct?

Mr. GAINES. One dollar and twenty-eight and a quarter cents is received by the mill.

Mr. FORNES. And does the gentleman say that the merchant tailors ask their customers, for making up that serge, anywhere from $40 to $50?

Mr. GAINES. From $40 to $60, depending upon the reputation of the tailor and where one makes the purchase.

Mr. FORNES. Is it not a fact, though, that the merchant tailors, as a rule, do not ask more than $25 for that price serge when made up into a suit?

Mr. GAINES. It is not a fact. The truth is that this sort of a suit would cost more than $25 at the ready-made clothing stores.

Mr. FORNES. I beg to differ with the gentleman on that point. Furthermore, is it not a fact that the same class of serge in 1905 sold at $1.10 net?

Mr. GAINES. I have just read the gentleman the information which shows that the price then was higher than now; that in 1905, 1906, and 1907 it was $1.35 a yard.

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

Mr. FORNES. Is it not a fact——

Mr. GAINES. I yield to the gentleman from North Carolina [Mr. KITCHIN.]

Mr. KITCHIN. Has the gentleman any information as to what the foreign price would be?

I ask purely for information. Has the gentleman any information as to what the foreign price for that same article would be?

Mr. GAINES. I have no information as to what the foreign price for this article is. My point is that the high prices paid by retail purchasers of the country do not in any case bear any relation to the prices received by the original producer, either the protected or the unprotected producer, in this country. The producers of manufactured articles and the farm producers do not receive the high prices paid at retail in this country. And the truth is, Mr. Speaker, that the way to get relief for the ultimate consumers of this country is not to strike at the very small prices received by the producers, but to encourage the producers of America until there shall be a sufficient supply in the markets of the United States to reduce the price to the ultimate consumer. [Applause on the Republican side.]

IMPORTS OF WOOL, YEAR ENDING JUNE 30, 1909.

[From Bureau of Statistics Reports, by C. H. Brown, Feb. 25, 1911.]

	Rate.	Pounds.	Value.	Unit value.	Duty.	Ad valorem.
Class No. 1.						
Unwashed wool:						
On the skin	10 cents per pound	1,547,881.00	$213,012.00	$0.137	$154,788.10	72.66
Not on the skin	11 cents per pound	98,399,649.13	20,387,760.69	.207	10,823,961.41	53.09
Washed wool:						
On the skin	21 cents per pound	41.00	6.00	.146	8.61	143.50
Not on the skin	22 cents per pound	11,355.00	1,461.00	.129	2,498.10	170.98
Scoured wool	33 cents per pound	79.50	38.00	.478	26.24	69.05
Class No. 2.						
Washed and unwashed:						
On the skin	11 cents per pound	386,366.85	71,949.69	.186	42,500.36	59.07
Not on the skin	12 cents per pound	16,199,294.00	3,391,162.06	.209	1,943,915.28	57.32
Scoured	36 cents per pound	31.00	49.00	1.58	11.16	22.78
Hair of Angora goat:						
Washed and unwashed	12 cents per pound	1,299,552.50	456,045.00	.352	155,946.30	34.20
Sorted	24 cents per pound	6,521.00	3,608.00	.553	1,565.04	43.38
Class No. 3.						
Washed and unwashed:						
On the skin	3 cents per pound	864,778.60	62,383.71	.072	25,943.35	41.59
Not on the skin	4 cents per pound	76,807,986.00	7,865,221.00	.102	3,072,319.44	39.06
Scoured	12 cents per pound	10,149.00	2,029.00	.200	1,217.88	60.02
Camels' hair, Russian	4 cents per pound	3,358,490.00	367,318.00	.109	134,339.60	36.57
On the skin	6 cents per pound	80.00	12.00	.150	4.80	40.00
Not on the skin	7 cents per pound	9,541,859.65	1,780,106.00	.187	667,930.18	37.52
Scoured	21 cents per pound	108.90	21.00	.193	22.88	108.95
Camels' hair, Russian	7 cents per pound	782,103.00	155,727.00	.199	54,747.21	35.16
Total		209,216,326.13	34,757,909.15	.166	17,081,745.94	49.14

IMPORTS OF WOOL, YEAR ENDING JUNE 30, 1910.

Class No. 1.						
Unwashed wool:						
On the skin	10 cents per pound	4,038,112.90	$699,736.00	$0.173	$403,811.29	57.71
Not on the skin	11 cents per pound	107,996,167.00	25,147,142.26	.033	11,879,578.40	47.24
Washed wool:						
Not on the skin	22 cents per pound	19,127.60	3,027.50	.158	4,207.94	139.01
Scoured	33 cents per pound	6,373.00	963.00	.151	2,103.09	218.38
Class No. 2.						
Washed and unwashed:						
On the skin	11 cents per pound	88,298.00	21,595.86	.245	9,712.78	44.98
Not on the skin	12 cents per pound	24,720,594.67	6,242,065.38	.253	2,966,471.37	47.52
Sorted	24 cents per pound	315.50	257.00	.815	75.72	29.46
Scoured	36 cents per pound	54.00	15.00	.278	19.44	129.60
Camel's hair, scoured	36 cents per pound	111.50	88.00	.789	40.14	45.61
Hair of Angora goat:						
Washed and unwashed	12 cents per pound	1,966,918.50	682,014.00	.347	236,030.22	34.61
Scoured, sorted	72 cents per pound	88.00	19.00	.216	63.36	333.47
Class No. 3.						
Washed and unwashed:						
On the skin	3 cents per pound	1,391,180.50	129,863.00	.093	41,735.42	32.14
Not on the skin	4 cents per pound	83,301,094.50	9,179,460.20	.110	3,332,043.78	36.30
Camel's hair, Russian	4 cents per pound	2,087,866.00	243,890.00	.117	83,514.64	34.24
On the skin	6 cents per pound	244.07	38.00	.156	14.64	38.53
Not on the skin	7 cents per pound	30,408,348.00	5,251,621.00	.173	2,128,584.36	40.53
Camel's hair, Russian	7 cents per pound	581,745.00	85,498.00	.147	40,722.15	47.63
Total		256,606,638.14	47,687,293.20	.186	21,128,728.74	44.31
Increase		47,390,312.01	12,929,384.05		4,046,982.80	

IMPORTS OF WOOLEN OR WORSTED CLOTHS, YEAR ENDING JUNE 30, 1909.

Rate.	Pounds.	Value.	Unit value.	Duty.	Ad valorem.
33 cents and 50 per cent	10,099.25	$3,733.25	$0.370	$5,199.39	139.27
44 cents and 50 per cent	266,510.73	167,143.91	.627	200,836.68	120.16
44 cents and 55 per cent	4,196,019.18	4,606,561.10	1.10	4,379,857.57	95.08
Total	4,472,629.16	4,777,440.26	1.07	4,585,893.64	95.99

IMPORTS OF WOOLEN OR WORSTED CLOTHS, YEAR ENDING JUNE 30, 1910.

33 cents and 50 per cent	6,016.20	$2,111.00	$0.351	$3,040.88	144.05
44 cents and 50 per cent	458,427.50	274,246.50	.598	338,831.44	123.55
44 cents and 55 per cent	5,433,181.78	5,827,776.89	1.07	5,595,877.18	96.02
Total	5,897,625.48	6,104,134.39	1.03	5,937,749.50	97.27
Increase	1,424,996.32	1,326,694.13		1,351,855.86	

IMPORTS OF DRESS GOODS, YEAR ENDING JUNE 30, 1909.

	Square yards.				
7 cents and 50 per cent	9,326,173.25	$1,140,572.00	$0.122	$1,223,118.14	107.24
7 cents and 55 per cent	995,129.00	143,384.00	.144	148,520.21	103.58
8 cents and 50 per cent	176,134.00	29,735.00	.169	28,958.22	97.39
8 cents and 55 per cent	4,630,642.50	945,119.00	.204	890,266.84	94.20
	Pounds.				
33 cents and 50 per cent	91.00	34.00	.374	47.03	138.32
44 cents and 50 per cent	218,823.00	140,666.00	.642	166,615.12	118.45
44 cents and 55 per cent	1,856,690.25	1,743,101.00	.939	1,775,649.15	101.87

IMPORTS OF DRESS GOODS, YEAR ENDING JUNE 30, 1909—continued.

Rate.	Pounds.	Value.	Unit value.	Duty.	Ad valorem.
	Square yards.				
11 cents and 50 per cent	44,397.00	$7,207.40	$0.162	$8,487.37	117.76
11 cents and 55 per cent	13,061,475.26	2,802,906.61	.215	2,978,360.89	106.26
	Pounds.				
33 cents and 50 per cent	134.50	51.00	.379	69.89	137.04
44 cents and 50 per cent	2,420.00	1,541.00	.637	1,835.30	119.10
44 cents and 55 per cent	54,183.66	64,965.00	1.20	59,571.56	91.70
Total		7,019,282.01		7,281,499.72	103.74

IMPORTS OF DRESS GOODS, YEAR ENDING JUNE 30, 1910.

	Square yards.				
7 cents and 50 per cent	13,634,478.00	$1,776,209.00	$0.130	$1,842,517.96	103.73
7 cents and 55 per cent	1,216,905.00	174,125.00	.143	180,952.10	103.92
8 cents and 50 per cent	302,381.65	50,689.00	.167	49,535.03	97.72
8 cents and 55 per cent	5,454,139.07	1,104,998.00	.203	1,044,080.02	94.49
	Pounds.				
44 cents and 50 per cent [1]	26,389.50	16,553.00	.627	18,893.49	[3] 114.14
44 cents and 55 per cent [2]	1,711.50	1,945.00	1.14	1,822.81	93.72
44 cents and 55 per cent [1]	178,249.60	162,841.00	.914	159,592.93	[2] 98.01
	Square yards.				
11 cents and 50 per cent	52,293.50	9,480.00	.181	10,492.29	110.68
11 cents and 55 per cent	14,550,396.31	3,220,828.10	.221	3,371,999.09	104.69
	Pounds.				
33 cents and 50 per cent	234.00	74.00	.316	114.22	154.35
44 cents and 50 per cent	429,232.62	268,021.00	.624	322,872.85	120.47
44 cents and 55 per cent	2,591,816.14	2,432,597.00	.938	2,478,327.45	101.88
Total		9,218,360.10		9,481,200.24	102.85
Increase		2,199,078.09		2,199,700.52	

[1] Aug. 6, 1909, to June 30, 1910. [2] July 1 to Aug. 5, 1909. [3] Less 5 per cent.

IMPORTS OF RAGS, MUNGO, FLOCKS, NOILS, SHODDY, WASTES, TOPS, YARNS, BLANKETS, AND CARPETS FOR YEARS ENDING JUNE 30, 1909 AND 1910.

	Rate.	Pounds.	Value.	Unit value.	Duty.	Ad valorem.
1909.						
Noils	20 cents per pound	127,965.00	$49,754.00	$0.388	$25,593.00	51.44
Rags and flocks	10 cents per pound	32,773.00	9,232.00	.282	3,277.30	35.50
Slubbing ring, etc	30 cents per pound	10.00	2.00	.200	3.00	150.00
Top and roving	30 cents per pound	244.00	74.00	.303	73.20	98.93
Wool extract and wastes	20 cents per pound	89,601.00	35,737.00	.399	17,920.20	50.14
Total		250,593.00	94,799.00	.378	46,866.70	49.44
1910.						
Noils	20 cents per pound	122,227.00	76,253.00	.624	24,445.40	32.06
Rags and flocks	10 cents per pound	362,525.00	95,191.25	.263	36,252.50	38.08
Shoddy	25 cents per pound	30.00	2.00	.067	7.50	375.00
Wool extract and wastes	20 cents per pound	92,938.00	32,063.00	.345	18,587.60	57.97
Total		577,720.00	203,509.25	.352	79,293.00	38.96
Increase		327,127.00	108,710.25		32,426.30	

YARNS.

1909.						
Yarns	27½ cents and 40 per cent	29.50	$7.80	$0.264	$11.23	143.97
Yarns	38½ cents and 40 per cent	299,224.35	246,331.56	.823	213,734.18	86.77
Total		299,253.85	246,339.36	.823	213,745.41	86.77
1910.						
Yarns [1]	27½ cents and 35 per cent	127.00	28.00	.220	44.73	159.75
Yarns	38½ cents and 40 per cent	359,761.30	326,858.02	.908	269,251.43	82.38
Total		359,888.30	326,886.02	.908	269,296.16	82.38
Increase		60,634.45	80,546.66		55,550.75	

MANUFACTURES OF WOOL.

1909.						
Blankets		28,863.95	$25,927.72	$0.898	$20,883.67	80.55
1910.						73.42
Blankets		43,112.84	45,995.47	1.07	33,767.77	
Increase		14,248.89	20,067.75		12,884.10	

CARPETS.

1909.		*Square yards.*				
Carpets		987,999.67	$3,748,556.05	$3.79	$2,312,796.96	61.70
1910.						
Carpets		1,143,163.49	4,619,169.68	4.04	2,802,211.52	60.66
Increase		155,163.82	870,613.63		489,414.56	
		Pounds.				
Combed wool or tops [1]	36⅜ cents and 30 per cent	1,868.00	838.00	.449	936.33	111.73

[1] Aug. 6, 1909, to June 30, 1910.

Imports of wool wearing apparel years ending June 30, 1909–10.

Clothing, ready-made, and articles of wearing apparel, made up or manufactured, wholly or in part, not especially provided for; cloaks, dolmans, jackets, talmas, ulsters or other outside garments for ladies' and children's apparel, and articles of similar description, or used for like purposes; hats of wool, knitted articles, shawls, knitted or woven; other clothing, ready made, and articles of wearing apparel, made up or manufactured, wholly or in part.

	Pounds.	Value.	Unit value.	Duty.	Ad valorem.
1910	860,412.87	$1,776,236.34	$2.06	$1,444,296.87	81.31
1909	733,253.06	1,463,300.59	2.00	1,200,524.09	82.04
Increase	127,159.81	312,935.75	.....	243,772.78	.....

Totals showing imports of wool and manufactures of wool from August 1, 1909, to January 1, 1911, under the Payne law, compared with the same months in 1908–9 under the Dingley and Payne laws.

	Payne law, 1909–10.		Dingley and Payne laws, 1908–9.	
	Pounds.	Value.	Pounds.	Value.
Clothing wool	110,707,523	$27,144,008	169,313,499	$35,997,887
Combing wool	34,831,783	9,025,452	41,260,114	9,486,061
Carpet wool	144,853,941	19,655,203	170,841,881	20,330,899
Decrease	290,393,247	55,824,663	381,415,494	65,814,847
	91,022,247	9,990,184	(1)	.....
FOREIGN VALUE PER POUND.				
Clothing wool	.....	$0.245	.....	$0.212
Combing wool	.....	.259	.....	.229
Carpet wool	.....	.135	.....	.119
MANUFACTURES OF WOOL.				
Woolen cloths	8,175,109	$8,460,417	7,532,218	$7,806,568
Increase	642,891	653,849	(1)	.....
Unit value	.....	1.034	.....	1.036
	Square yards.		*Square yards.*	
Woolen dress goods	61,863,705	12,165,050	57,267,540	11,122,619
Increase	4,596,165	1,042,431	(1)	.....
Unit value	.....	0.197	.....	0.194
Total cloth and dress goods	.....	20,625,467	.....	18,929,187
Increase	.....	1,696,280	.....	.....

[1] No change in duty.

Labor's share in the production of merchandise valued at $1,696,280 lost by American workingmen.

The SPEAKER. The gentleman's time has expired.

Mr. STANLEY. I ask that the gentleman's time be extended five minutes, so that I may ask him a question.

The SPEAKER. What is the request of the gentleman?

Mr. STANLEY. That the Chair extend the gentleman's time five minutes.

Mr. SOUTHWICK. I object, Mr. Speaker.

Mr. STANLEY. I want to ask a question of the gentleman from West Virginia.

The SPEAKER. The gentleman from New York objects.

Mr. STANLEY. Then I ask unanimous consent to ask him a question, and answer it myself. [Laughter.]

The SPEAKER. The gentleman from Kentucky asks for unanimous consent to ask the gentleman a question, and to answer the question himself.

Mr. SOUTHWICK. I have no objection, Mr. Speaker.

The SPEAKER. How much time does the gentleman desire?

Mr. STANLEY. About two minutes.

The SPEAKER. Two minutes. Is there objection?

There was no objection.

Mr. STANLEY. Now, Mr. Speaker, I exceedingly regret that the gentleman from Illinois should be so fearful of the destination of the gentleman from West Virginia. My experience in this House for eight years has led me to believe that the gallant fighter from West Virginia, while sometimes wrong on the tariff, is able to take care of himself, and the gentleman from Illinois, too.

Now, Mr. Speaker, it is a known fact, as far as the poor, much-abused tailors are concerned, that there is not a tailor shop in Washington where you can not take your cloth and have it made into a suit for one-half the price that you ordinarily pay. There is not a tailor in Washington that will charge you over $35 for making a suit out of any kind of cloth, if it is an ordinary suit of clothes.

Mr. MANN. I believe it.

Mr. STANLEY. There is not a man that has taken cloth to a tailor to have a suit of clothes made but that knows it. I asked Mr. Keen, one of the best tailors in Washington, and one of the most expensive, what he would charge for making a suit if I furnished the cloth, and he said he never charged over $35 or $40 under any circumstances [laughter], and ordinarily—you gentlemen laughed too soon—for $25 or $30. Now, some suits of clothes of imported goods would cost from $60 to $70 each.

SEVERAL MEMBERS. Why do you not ask the question?

Mr. STANLEY. The question I intended to ask the gentleman from West Virginia was how much it would cost him to have a suit made by any reputable tailor if the cloth was worth $10. It would not cost him over $35, goods and all.

Mr. GAINES. I want to say that I remember that a friend of the Speaker of this House, about a year ago, presented him with a suit pattern, and the Speaker of the House took it to a tailor in Washington, and the tailor charged him $39.50 for making that suit of clothes.

Mr. BARTLETT of Georgia. But that was a suit for the Speaker. [Laughter.]

Mr. STANLEY. That was during the single gold standard, and I remember it perfectly well; that suit of clothes was lined with gold foil.

The SPEAKER. The gentleman's time has expired.

POST OFFICE APPROPRIATION BILL.

Mr. WEEKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 31539) providing for the postal service, with Senate amendments, and disagree to the Senate amendments and ask for a conference.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent to take from the Speaker's table the Post Office appropriation bill, disagree to the Senate amendments, and asks for a conference.

Mr. COX of Indiana. Mr. Speaker, reserving the right to object, I want to ask one question. What was done with the provision in the House bill relative to steel railway post-office cars?

Mr. WEEKS. There has been a change made in it.

Mr. COX of Indiana. A very material change?

Mr. WEEKS. Not a very material change, but a change which is such that it changes the form of the provision inserted in the House bill; also the class of cars under certain conditions.

Mr. COX of Indiana. Some one said that the provision left it in the alternative, so far as the post office and the railways were concerned, to furnish all cars with a steel underframe. It does not leave it in the alternative, but it provides under certain conditions that for steel or steel-underframe cars.

Mr. Speaker, I do not feel disposed to object to this, but I am intensely interested in that, and I am sure every Member of the House is interested in it.

Mr. BARTLETT of Georgia. Mr. Speaker, I notice from the amendments offered by the committee in the Senate that they have made a very material change in reference to the salaries for rural carriers. Does the gentleman know what has been the result of that? Have they changed the provision put upon the House bill?

Mr. WEEKS. That has gone out.

Mr. BARTLETT of Georgia. All of it?

Mr. WEEKS. The report of the Senate committee was not agreed to by the Senate.

Mr. BARTLETT of Georgia. And the provision of the House stands?

Mr. WEEKS. Yes.

Mr. MANN. Was the same action taken in the Senate to increase the postal rate on second-class matter?

Mr. WEEKS. That is out. A proposition has been inserted to provide a commission to examine into that.

Mr. ANDERSON. I want to inquire if the increase in the salaries of rural carriers is the same as in the House bill?

Mr. WEEKS. It is.

Mr. SULZER. Has the Senate put any amendment on the bill in relation to parcels post?

Mr. WEEKS. The Senate committee put a proposition on the bill providing for an experimental parcels post for rural routes, and a point of order was made by a Democrat in the Senate and it went out.

Mr. SULZER. Then there is nothing in that bill regarding the parcels post at all?

Mr. WEEKS. No; there is not.

Mr. COX of Indiana. Mr. Speaker, I do not want to tie the gentleman's hands——

Mr. MANN. Oh, the gentleman surely can not do that at this time of the session.

Mr. COX of Indiana. I do not know whether he can or not. In fighting for this provision here we are fighting for 17,000 men engaged in this line of work, and it was the overwhelming sentiment of the House that there should be a time fixed when these cars should be all of steel. I would like to know whether or not the gentleman would foreclose the House on the right to vote for that?

Mr. WEEKS. Oh, Mr. Speaker, I can not make any declaration about what I am going to finally do in conference. I take it that if the conference report is not satisfactory to the House, instructions will be given to the conferees.

Mr. ESCH. Was any change made in the classification, pay, and per diem of inspectors?

Mr. WEEKS. Yes; the per diem is increased.

Mr. SULZER. Mr. Speaker, will the gentleman yield for another question?

Mr. WEEKS. I yield to the gentleman from New York.

Mr. SULZER. Mr. Speaker, I understand that the provision placed on the bill in the Senate by the committee to increase the rates on second-class matter has been eliminated?

Mr. WEEKS. In the form as inserted by the Senate committee it has.

Mr. SULZER. What is the provision now?

Mr. WEEKS. There is a provision providing for an investigation.

Mr. SULZER. By a commission?

Mr. WEEKS. By a commission.

Mr. SULZER. Appointed by whom?

Mr. WEEKS. By the President.

Mr. SHERLEY. What was done with the House amendment with reference to the rural carriers' salaries?

Mr. WEEKS. I said a moment ago that the Senate committee made a recommendation changing them, but the Senate did not agree to the change recommended by the Senate committee, and the provision stands as in the House bill.

Mr. WILSON of Illinois. What was done with the 48-hour-a-week proposition about the clerks?

Mr. WEEKS. That is changed somewhat.

Mr. WILSON of Illinois. Very much?

Mr. WEEKS. That is quite a material change.

Mr. SIMS. What did the Senate do, if anything, with reference to merging the rural service with the star-route service, leaving it optional to establish the one or the other?

Mr. WEEKS. They merged the appropriations and then adopted an amendment limiting the expenditure for star routes to $7,000,000.

Mr. SIMS. Did that authorize the department to convert rural services into star routes?

Mr. WEEKS. It could not convert rural into star routes under that condition because the appropriation as it went from the House for star-route service was something more than $7,000,000.

Mr. COX of Indiana. How much appropriation was to be made for the commission to investigate second-class matter?

Mr. WEEKS. Fifty thousand dollars.

Mr. COX of Indiana. How many men are to be paid?

Mr. WEEKS. Three.

Mr. FOSTER of Illinois. I desire to inquire of the gentleman in regard to the provision fixing a time limit for which wooden cars should be used.

Mr. WEEKS. The same time limit exists as in the House bill, 1916, but there is an additional provision which would leave in the hands of the Postmaster General, under certain conditions an extension of that time.

Mr. FOSTER of Illinois. That is under the Postmaster General?

Mr. WEEKS. Yes.

Mr. KEIFER. If the gentleman will permit me, I would ask if the commission you speak of has any power beyond that of mere recommendation?

Mr. WEEKS. None whatever.

Mr. KEIFER. When is it to make its report?

Mr. WEEKS. To the next Congress, as I recall.

Mr. KEIFER. Without any definite time as to what time in that Congress?

Mr. WEEKS. I do not remember.

Mr. HARDWICK. I would like to ask the gentleman if the Senate has made any provision in regard to the experiment in rural parcels post?

Mr. WEEKS. The Senate, I have stated twice before——

Mr. HARDWICK. I did not hear the gentleman.

Mr. WEEKS. The Senate committee made a recommendation to that effect, but it went out on the point of order.

Mr. HARDWICK. One more question, if the gentleman pleases: How much increase in the field inspector's office does the Senate bill carry?

Mr. WEEKS. An increase of 10 inspectors.

Mr. HARDWICK. Ten additional inspectors.

Mr. WEEKS. I now yield to the gentleman from New York [Mr. PARSONS].

Mr. PARSONS. Did the Senate insert any provision in regard to the delivery of mail at residences and offices in first-class cities?

Mr. WEEKS. The Senate committee recommended such a proposition, but the Senate failed to adopt it.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and the Chair announces the following conferees.

The Clerk read as follows:

Mr. WEEKS, Mr. GARDNER of New Jersey, and Mr. MOON of Tennessee.

PENSIONS.

The SPEAKER laid before the House the bill (H. R. 31724) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, with Senate amendments.

The Senate amendments were read.

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

The SPEAKER. The gentleman from New Hampshire moves that the House concur in the Senate amendments.

Mr. GARRETT. Mr. Speaker, can we not have a little explanation of the bill and what the amendments mean?

The SPEAKER. They have just been read. Will the gentleman from New Hampshire [Mr. SULLOWAY] yield to the gentleman from Tennessee?

Mr. SULLOWAY. I yield.

Mr. GARRETT. Is this the "Sulloway bill?"

Mr. SULLOWAY. Oh, no. It is a special private act. I am sorry to say it is not the "Sulloway bill."

The Senate amendments were agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed with amendment the bill (H. R. 31724) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, in which the concurrence of the House of Representatives was requested.

The message also announced that the Senate had passed with amendment bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 31539. An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1912, and for other purposes.

POPULAR GOVERNMENT.

Mr. MANN. Mr. Speaker, I ask unanimous consent that the gentleman from Minnesota may have leave to address the House for 20 minutes.

The SPEAKER. Is there objection?

Mr. HEFLIN. Mr. Speaker, I do not desire to object; I want to ask if there will be any objection if some one on this side asks unanimous consent to address the House? [Cries of "Oh, no!"]

A moment ago some one objected when the gentleman from Kentucky asked for time. [Cries of "Oh, no!"] Yes.

Mr. MANN. The gentleman is mistaken. The objection was to the extending of the time of the gentleman from West Virginia.

Mr. HEFLIN. I understood the gentleman from Kentucky to ask for five minutes for himself.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. The gentleman from Minnesota [Mr. NYE] is recognized. [Applause.]

Mr. NYE. Mr. Speaker, I will say that I felt a little more like talking when I spoke to my friend from Illinois [Mr. MANN] than I do this evening; but as business lags by spells here, I may, perhaps, employ a very few moments in the discussion of public questions, the condition of the country, popular government, and so forth.

It is unquestionably true that more thought is given to-day to popular government than has been given in the past, at least within my recollection. The country is undergoing great political changes. The people are in a condition of unrest; conditions are such as to hardly be conducive to clear thought upon the great questions of government which concern us all and in which we all, in our better moods, feel a deep and honest concern. We all agree without regard to our party affiliations that the great object of government should be to minister to the general welfare of the people.

In so far as legislation springs from selfish interests, it is not progressive; it is not wholesome. There is a great deal of dicussion now in the country concerning the improved methods or instrumentalities by which the popular will shall be communicated to the legislative branches of the Government. I have no doubt that in the future, and I believe it is best, such instrumentalities will be employed as will most readily and most perfectly communicate the will of the American people. I am a great believer in the power of public opinion. I distinguish, however, between public opinion and what we often call public sentiment. Public opinion is reached after deliberation and reflection. It comes finally from the wholesome heart of the public, and we can always distinguish it from momentary popular sentiment, or popular excitement and passion, which is often mistaken for it.

There is much talk of new instrumentalities, such as the initiative and referendum. I am quite strongly of the opinion that this will come; that the country will demand it before very long. [Applause.] I believe that a republic can only exist when it is possible for the public opinion to be readily communicated to legislative bodies.

But a point which strikes me of most importance to us who are concerned in legislation—and many of us are coming back here to engage another term in the work—the most important thing, it seems to me, for us as public men is to emphasize and to repeat the great fundamental truth that the future of this Republic rests upon the soundness and the honesty and the patriotism of the people and of every man who is concerned in the administration of the law. It is more important that the will of the public when communicated shall be wise, intelligent, and wholesome than that the mere instrumentality by which it is communicated be improved. The instruments will be improved as rapidly as we are able to wisely employ them. We are prone in this country and in this day to lean upon institutions and systems. We seem to confuse the instrumentality with the real power behind it. Forms and methods are of little consequence unless this be a soundly patriotic and honest people. The great problem of to-day is changing from that of enormous production to the question of honest, just, and righteous distribution. [Applause.] We to-day are attempting to establish laws against the cupidity and selfishness of men, just as people have been in past centuries endeavoring to legislate against the brutality of men. If I were to take a text to speak from to-night it would be this: "Let him who is without sin cast the first stone." It is an easy matter for us to look for the wrongs and evils somewhere else when they are within the body politic and within ourselves. Human nature predominates in us all and the searchlight should first be turned within. It is idle to say the people are more honest than their representatives. We are all of one stuff and must advance or retrograde as a whole.

The gentleman from West Virginia [Mr. GAINES] struck a great truth here when he showed you that the material that goes into a suit of clothes costs but a little over $4, while the man who buys it pays for the suit from $40 to $60. That runs through all the commercial and industrial life of the Nation, and people are thinking about it and wondering where all the trouble is. We make a great deal of fuss about the tariff and about other things which are really of little concern when we deal with the great question of man's duty to man.

It is a great problem for every man to think about, whether this country is becoming corroded by daily dishonesty and unfair dealing. The thing for us to preach at home is the soundness of the business world as well as of the political world. Business and politics are closely allied. We can not deal with the one without dealing with the other. I think it was a statement of one of the wise men of old, that wealth gotten by dishonesty shall vanish or decrease, but wealth gotten by labor shall increase. There is a natural, normal, healthful law of accumulation, and a law of trade, wholesome and profitable between man and man; and to secure such conditions and to secure them by wise and just laws, it seems to me, should be our aim.

We are leaning upon the mere forms of government. Men are organizing in all the avenues of life, it seems to me, to reach out for the Public Treasury. Men seem to be almost reckless and wild in their pursuit of money from the Treasury of the Government. There are organizations—I might mention them; patriotic organizations, industrial organizations; you all know what they are—and the Representative to-day is pressed and pushed by every kind of an organization to do something which is essentially selfish, and not for the general welfare.

I think that our problem should not be to hold office. Let us go back when the people say so, and do it willingly and gladly. I think I will. The duty which devolves upon us is to aid our own people and our own constituency to take a firmer, stronger, and more independent stand upon these questions. [Applause.]

No matter what the instrumentalities may be, you may have the referendum and the initiative and the recall, and all the new ideas of the world, but until men of courage and of nerve stand forth for that which is right and preach it, regardless of whether they hold their seats here or not, until that is done we will have public men who are weak [applause] and who will fail to rise to the emergencies of the times in which they live. [Applause.] The country needs men of courage, men who will go before the people and speak heart to heart on these great questions and deal with them as they see them. I have great faith that the people will see the right and will trust the men who are right at heart. Apart from parties and organizations and forms, even if they are forms of government, men who are right can stand alone. [Applause.]

We are unsympathetic. The cause of the poor and the outcast seldom reaches our ears. We are all one great people, bound by common ties to a common destiny, and I say to-day what I said, I believe, once before on this floor, that a government of the people is founded upon the debt which strength owes to weakness, which intelligence owes to ignorance, which light owes to darkness, and which wealth and prosperity owe to poverty and pain and sorrow. [Applause.]

We boast of our institutions and our liberty, but the older nations, original in art and philosophy and learning, had the idea of the inalienable rights of the citizen as thoroughly as we have it. Plato preached it as clearly as Jefferson. And yet Greece, with all her glory and with all her splendor, went down because she was unfraternal and man felt little concern for his fellow man.

I believe in this country. I believe in the great useful masses of the American people. I believe usefulness is education. I often think of that wonderful day in our history when Lincoln appealed to the great, plain, rugged, pioneer manhood of the western prairies. He went, not before the polished and the learned, but the men who ran the rivers and broke the prairies and subdued the forests and built highways; those plain, rugged, outdoor men, and he presented to them the greatest cause that ever concerned this Republic, and announced, even against his own party, the doctrine that this Nation could not exist half slave and half free.

It was a marvelous period in history when he debated with Douglas in the days when it was unpopular, and gave to the world his clear vision of the duty, the high mission of this Republic. And I call attention to the fact that although Douglas went to the Senate, that same great, plain jury of the West gave Lincoln the verdict finally and sent him to the White House and to immortal fame. [Applause.] It demonstrated that there is a balance of good sense and sound judgment with the plain people, at least when it is appealed to by men who have faith in the right. The world wants men of faith. His rugged and colossal faith, after all, was that around which rallied and centered the power and patriotism of this Republic, North and South, and finally united us. He spoke to the land, and an army marched to the defense of the Union. He spoke to the sea, and a navy crowned its waves. He spoke to the credit of the country, and even Wall Street yielded to it. The American people always have and always will follow a man who believes in the right and is willing to die for it, if need be. [Applause.] And I want to remind the House once more that the greatest men who have lived since the dawn of history were unpopular men while they lived. We have got to endure unpopularity for the sake of right.

I congratulate our genial friends upon the other side of the House in their accession to authority in this House. I wish them well, for we all have an interest in this country that is beyond personal and party ambition. [Applause.] It is to be hoped that you on the other side may be able to bring home to the people of this country the fruits of a wise, honest, and efficient administration. I can not help but feel that the public man has come to see that mere organizations are not the life and strength of this Republic. They are beginning to read through party platforms and party professions and the clamor of politicians and demagogues that profession amounts to nothing, that "by their fruits ye shall know them," and in no other way. [Applause.]

I still feel the loyalty I have always felt to the great organization to which I belong. I came from abolition stock. I believe that great characters, like Lincoln, project themselves into the spirit and future of a nation and of the world. But I am not willing to live upon past achievements. In so far as our great party has been progressive, as it has been truly loyal to moral and righteous principles, it has advanced and been invincible, but when it yields or shrinks from that in the slightest degree it fails as a party. It can not succeed except as a truly progressive party, and by that I mean growth. I do not mean mere fitful progress; I do not mean the mere name of progress; I mean an onward march that deals with all the great problems, and deals with the interests of the common welfare of men and the high and essential freedom of all men. I believe it is progressing. I have regretted the dissensions in the party. I have differed from some good friends as to what should have been done in the past. I attribute the same honesty of motives to others that I claim for myself. I believe we have differed more in our means of attaining results than we have in motives and purposes. I had a bitter and terrible campaign last fall because I stood with the organization. It was not any particular or profound affection for the organization; it was because I believed we could accomplish through that instrumentality better and more wholesome legislation.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Coggeshall, one of its clerks, announced that the Senate had insisted upon its amendments to the bill (H. R. 31539) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1912, and for other purposes, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. PENROSE, Mr. CARTER, and Mr. BANKHEAD as the conferees on the part of the Senate.

The message also announced that the Senate had passed with amendments bills of the following titles, in which the concurrence of the House of Representatives was requested:

H. R. 32675. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors;

H. R. 32435. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; and

H. R. 32078. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

PENSIONS.

The SPEAKER laid before the House the bill H. R. 32675, an act granting pensions and increase of pensions, with Senate amendments.

The Senate amendments were read.

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

The motion was agreed to.

The SPEAKER also laid before the House the bill H. R. 32435, an act granting pensions and increase of pensions, with Senate amendments.

The Senate amendments were read.

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

The motion was agreed to.

The SPEAKER also laid before the House the bill H. R. 32078, an act granting pensions and increase of pensions, with Senate amendments.

The Senate amendments were read.

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

The motion was agreed to.

JOHN B. LORD.

Mr. CAMPBELL. Mr. Speaker, I call up conference report on the bill S. 2045, an act for the relief of John B. Lord, owner of lot 86, square 723, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to construction of the Union Station, District of Columbia.

The Clerk read the conference report, as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 2045, an act for the relief of John B. Lord, owner of lot 86, square 723, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to construction of the Union Station, District of Columbia, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments.

P. P. CAMPBELL,
FRANK M. NYE,
WILLIAM P. BORLAND,
Managers on the part of the House.

J. H. GALLINGER,
W. P. DILLINGHAM,
THOMAS S. MARTIN,
Managers on the part of the Senate.

STATEMENT.

The amendments of the House provided that the damages awarded by the commission or the jury should not be, in either case, in excess of $1,500 in respect to all the properties concerned. As passed by the Senate, the commission or jury was authorized to determine the amount of damages to which the owners of said property would be entitled.

The House recedes.

P. P. CAMPBELL,
FRANK M. NYE,
WM. P. BORLAND,
Managers on the part of the House.

Mr. CAMPBELL. Mr. Speaker, I move that the House agree to the conference report.

The conference report was agreed to.

POPULAR GOVERNMENT.

Mr. NYE. Mr. Speaker, I am glad to see in the closing hours of this Sixty-first Congress a good feeling among Members and an increasing fidelity to country's permanent welfare rather than the selfish interests of individuals or parties. I hope that I am able to see good in most everybody in this world. I think Shakespeare struck it pretty well when he spoke of seeing tongues in trees, books in running brooks, sermons in stone, and good in everything. If we can see all things in their relation, if we can look over the whole landscape instead of little patches of it, we shall see that this is a marvelous and blessed country and a great and noble people.

When emergencies come we always rise to meet them. But we yield to petty jealousies and bickerings instead of going forward with good will to everybody and with faith in the good rather than the evil which is in men.

When I speak of faith I mean not only faith in the power that creates us, but faith in the good that is in man himself.

There is a chord which can be touched in every heart, and I believe that it is our duty to look for the good rather than for the evil in mankind. I know that enough evil exists. I know that wrongs and injustice and selfishness pervade our country in all the walks of life, but I do not believe it can be reformed or made better except as we make ourselves better. We must be before we can do. [Applause.] We must be reformed before we can reform or renovate others or renovate society. Much depends under our form of government upon political organization. The ability to unite around great and righteous and progressive principles—this is what will settle the future state of parties and the future state of the country.

Mr. Speaker and gentlemen, I am very thankful for this patient attention you have given me. I think this matter of party ambition for power is one that needs to be curbed in this country. I think that on both sides of the House time and again we vote with our organization when, if we stood upon the naked principle of right unhampered by party edicts, we should better serve the country. We are moving toward greater independence of parties, but I trust we are moving toward a higher liberty, a purer patriotism, and better country. I know that down in the heart of the American people there is one sentiment, in the mind one thought, and on our lips one song—"My country 'tis of thee, sweet land of liberty!" [Applause.]

Mr. HENRY of Texas. Mr. Speaker, I ask unanimous consent that 15 minutes be granted to the honorable gentleman from Alabama [Mr. HEFLIN] for the purpose of addressing the House. [Applause.]

The SPEAKER. Is there objection?

There was no objection.

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

Mr. COX of Ohio rose.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. Cox] is recognized.

Mr. COX of Ohio. Mr. Speaker, there is living in this Republic to-day only one ex-Speaker of the House of Representatives. To-morrow he leaves the Capital for the State of Ohio, gives up the burdens of public life, and retires distinguished as a soldier, a student, and a statesman. He is a Member of the Sixty-first Congress, and I want to suggest the propriety and fitness of having a few words of farewell from this distinguished son of our State. [Applause.]

When the war between the States was precipitated, J. WARREN KEIFER entered the struggle as a private. When the war was over he was a brevet major general. Later he came into the Halls of Congress, and was subsequently elected Speaker of the Forty-seventh Congress. When war was declared with Spain, he was appointed a major general, and it is worthy of note that the major part of his staff officers was made up of the sons of Confederate generals [applause], the most notable being the son of Gen. John B. Gordon, of Georgia, the idol of the South and the pride of the North. [Applause.]

With peace declared, Gen. KEIFER came back to Congress, and I think we can all testify to the vigor, the intelligence, and the patriotism of his public service. I take great pleasure in the suggestion, coming from the Democratic side of this Chamber, that unanimous consent be given Gen. KEIFER to say a few words in farewell to his colleagues. [Prolonged applause.]

Mr. KEIFER. Mr. Speaker, this reception is very embarrassing to me. I have tried to live with and get along with the Members on both sides of the House, to command their respect, and this reception gives me an assurance that I have met with success. I am thankful to my friend from Ohio [Mr. Cox] for his complimentary remarks. I have no speech to deliver. Although I have lived a little more than three-quarters of a century, I am not going to bid farewell to anybody. [Laughter and applause.] I have no disposition, however, to feel any disappointment at not being in the next Congress, except the disappointment that comes from parting with good friends who have always treated me, without exception, as well, at least, as I deserved. [Applause.]

I have been honored in many ways throughout my life. I have had, however, to work for whatever credit I have received. If there is anybody here who thinks I am possessed of genius for anything, he is mistaken. All of genius or anything akin to it that I have ever displayed has been through hard work. My genius has been displayed, if at all, to do hard work rather than that thing that is supposed to come naturally to certain people. The old saying of the Greeks, when speaking of that thing which was called genius then, was that genius never had capacity enough, without experience, to milk a goat. [Laughter.]

I want to state one thing that has worked out to a demonstration in my life and has been proved in every stage of it, which is, that it is a very easy matter for a person who honestly tries to do his duty, to get along and have full credit for what he is worth when he is dealing with great men. The danger in life is with small, envious, jealous men.

Now, my friend from Minnesota [Mr. NYE] in his most elegant address here this evening talked about education, and he referred to a higher education. But it is a singular fact that with all our boasted education, with our many universities and colleges, less than 5 per cent of the mature people of this country, men and women, are college-educated people in the sense of having gone through a university or a college.

That brings us to the question of what education is. The common-school education is good, of course.

But there is something more than mere scholastic education. The people who went from the East to the West, to my country 100 years ago, many of them from Virginia, Maryland, Pennsylvania, and other places, went into the forests of the West unable to read and write, but they were the most heroic type of men and women that ever lived on earth. They were imbued with that thing that makes our country great. We talk about liberty of the citizen. Those people were imbued with the idea that they had individual rights, personal and property rights, and they did not stop there. They had the feeling that their neighbor was entitled to the same rights they possessed, and they were ready to fight for their own and their neighbors' rights, and that made up the great pioneer communities of the West. I do not speak for illiteracy, but there was an education that came from earnest effort that laid the great foundations of the Republic in this country. [Applause.] I have a notion that some of the education that comes through the public press, through the magazines, and otherwise, and some of it comes through the common schools of this country, teaches that there is a scholastic learning that is better than a practical business learning, and there is not enough of the education that makes strong men and women, and that blends the two kinds of education together. The learned man who does not know anything about business is a helpless man in this country. So we have seen, all of us, in our experience. We have seen the humble, plain, plodding man walk by the scholar and the educated man in a business way, and achieve success in business and in every other way over the learned, educated, scholastically trained man.

But enough for that. I am not going to make myself tedious. I have no preparation to speak here. I know my own failings as well as anybody. I have had to fight a disposition that was once complimented by a distinguished gentleman when I was Speaker of this House. Whether it was meant to be a high compliment or a reproof does not make any difference. It was said that the then Speaker of the House had the merit of obstinancy. [Laughter.] I have felt that I have too often been obstinate, and I have suffered under it often. But let me say that a very strong vein of independent, honest obstinancy might help some people in this world to get along. [Applause.]

I have no lecture to deliver. I leave you to-morrow. I have no reason to believe I will ever join this great Congress again. What the future may be to a man of my years is something that I do not undertake to prophesy about, but I feel toward you as I have always felt toward those with whom I have lived and served in peace and war. I have not now and I have never had any feeling of rankling or ill will to a single one of you. [Applause.] I have never soured at the world, and I have been abused as much as some of the rest of you and perhaps a little more than some of you, in the public prints and otherwise, but that is no excuse for a man, especially as he grows old, to get ugly and morose and cross and melancholy, for that is the common fate of persons, I think, who try to do their duty in an independent way. I have had enough of popularity, much more than I deserve, and I have had a checkered life—farm boy, lawyer for a short time, then four years of experience in the great Civil War, then at the bar again, and more recently a year's experience in the Spanish War, and I have spent 14 years of my life as a Member of this House of Representatives, and I have enjoyed my connection with it and my association with its Members of all parties. You must bear testimony as to whether I have been faithful, at least in my presence, during the last six years. [Applause.]

Now, I thank you, one and all, and I hope to meet you anywhere and everywhere along the pathway of life until the end comes. [Applause.]

[Mr. MORGAN of Oklahoma addressed the House. See Appendix.]

[Mr. MILLER of Kansas addressed the House. See Appendix.]

Mr. COCKS of New York. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. FASSETT] address the House.

The SPEAKER. Is there objection.

There was no objection.

Mr. FASSETT. Mr. Speaker and gentlemen of the House, perhaps it was prudent for my colleague to set a limit to the time which he was willing I should occupy the floor.

The SPEAKER. The gentleman has no time limit. [Laughter.]

Mr. FASSETT. That may be very pleasant now; and if you will be patient and not be as glad to have me finish as you were apparently willing I should begin, I shall find no fault with the indefinite leave to speak which you have extended to me. My people at home have arranged after to-morrow at high noon to give me an indefinite leave of absence. [Laughter.] I had no thought of singing a swan song. I had no thought of putting into words any of the feelings which move me as I sit here to-night listening to the words of eloquence, of wisdom, of wit, and of satire which have fallen from the lips of my more gifted colleagues.

I had thought many things with reference to the six years which I have been allowed to spend in your midst. I have learned to know many things which before I had not believed. I have come to have a higher respect for the men, for the dignity, for the worth, for the value of the Congress of the United States as represented in the House of Representatives. [Applause.] I have come to feel that if all our people could sit constantly in these galleries and visit the committee rooms and know by personal contact all of the loyalty, of the zeal, of the personal self-sacrifice, of the consecration, of the learning, of the ability, of the patriotic devotion of the 396 Members of this House in their efforts to see to it that the Commonwealth suffer no wrong, come to no evil, there would be a wholesome, a new, a saving knowledge to all the people of our 90,000,000 of population. [Applause.]

If there is one thing I would deprecate in the kind of education which our political press makes available for the many millions, it is the too flippant handling of the personal character and professional motives and actual work of Representatives in Congress. [Applause.]

My friends, each one of you in your own district is known and loved and trusted and respected. But I apprehend that when your constituents discuss you in those quiet and unorganized meetings at the country store they frequently admit to each other that the 395 other Members of Congress, judging from the newspapers, must be a queer lot. [Laughter and applause.]

Gentlemen, I shall always be glad that I have had the privilege of a six years' university course in your midst. I have known and studied you, while I have known and studied the general comments throughout the country with reference to us all. I have not become a pessimist. I believe that the best day in our history has been to-day. [Applause.] I believe that never were public morals on a higher plane; I believe that never was business morality on a higher plane; I believe that kindness, and love, and charity, and honesty, and integrity, and loyalty, and self-sacrifice were never more universal or more brilliant or more effective than in this day which is now passing rapidly away. [Applause.] The pessimist is a man who of two evils chooses them both. [Laughter.] An optimist is a man who of two evils chooses neither.

He sometimes looks to the stars, and a man can look to worse places for inspiration and guidance, but with a sane and happy mind and heart pursues his way through life, guided by an illumined conscience.

Those who read history or read the newspapers or periodical literature day by day have hard work not to become melancholy and pessimistic, but the very nature of the periodical press makes it an unfair, imperfect, and distorted reflection of the real life of this Republic. It is of necessity the unusual, it is of necessity the exceptional, it is of necessity the sensational and abnormal that is recorded in its daily columns. Lack of fidelity of husband or wife, brutality from parent or child, or disloyalty to trust, defalcation in high office, and abuse of power—these things find a constant chronicle in the papers, but for every oath or crime recorded 10,000,000 prayers ascend from 10,000,000 homes to God; for every act of disloyalty in business or in the family or in public life there are 10,000 unrecorded acts of love and loyalty and fidelity. [Applause.] We must look through the nebulous atmosphere of the daily chronicle, we must pierce it with the eye of faith, helped and inspired by an acquaintance with the recorded history of 10,000 years, and as we look backward decade by decade, century by century, we see the majestic form of human liberty growing higher and nobler and brighter, we see the shackles fall away, we see slavery disappearing, we see ignorance disappearing, we see new blessings rising up out of the ground, we see new conquests of nature and of man, and of manhood and human nature by God—inspired humanity moving on from time to time to ever higher and better things. [Applause.] The great stream of human life is pure and sweet and growing purer and sweeter from day to day.

We have been greatly blessed. Our fathers fought and suffered and died that we might have a heritage exceeding that of any other nation in history, and their fathers before them fought the troubles of their time in the same heroic way. There is upon us an obligation accumulating through the centuries of time to see to it that the heritage we have thus received, thus unselfishly given, thus heroically achieved, shall be passed on down to our children and our grandchildren not only not impaired, but increased and multiplied and glorified, and this conservation for the future can never be brought about by men too jealous to be just or too narrow to be brave. It can not be accomplished by cowards or shirkers or false witnesses or slanderers. There never was a time since our national history commenced when there were such great opportunities as now for men who are in earnest. The past teaches us that we can not conquer this world for good by hate, by malice, by misrepresentation, by scolding opposition. It must be conquered by love springing from the heart, by charity that knows no limit, by faith divinely inspired.

There is a great call to us. The future beckons us and is full of promise. The wheels of life ever revolve. This great party of which I am a humble member and of whose glorious history for 50 years I am proud, has in the inscrutable wisdom of events been retired. There its record is. Match it, if you can. New responsibilities have been given to the leaders on the other side. I join with Gen. KEIFER and with Mr. NYE in saying I wish you godspeed. You are Americans first and Democrats afterwards. [Applause.] If that order of affection can be maintained, no one will be more proud of your honest victories than I, and I bespeak the loyalty of my children and my grandchildren as well. You dare not abuse the power that is given to you. With the power comes responsibility. You are now the center for assault, you are now the target for criticism, you are now the suppliants for toleration and reservation of judgment, and your acts will now be searched as ours have been by those who wish you well and by those who wish you ill.

As a Republican I shall be glad to see the day when the wheel turns again, as I confidently believe, recalling the lessons of history, it will turn again. It depends upon you gentlemen very largely how soon it turns, and wishing you all well and thanking you for your many courtesies and kindnesses to me and prophesying a brighter and ever-increasingly beautiful future for our country—for I can not believe the dismal croakings of the Cassandras who are ever at our gates prophesying evil, I say good-night and farewell, and may health, strength, happiness, and the fulfillment of your hearts' desires be yours. [Prolonged applause.]

Mr. SISSON. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. SHEPPARD] address the House. [Applause.]

Mr. SHEPPARD. Mr. Speaker and gentlemen of the House, I am called so suddenly to address you at so late an hour that I fear I may be in the position of an orator of local fame who was summoned unexpectedly to introduce me last summer. Coming hurriedly to the stage, he whispered to me as he passed: "What's the number of the district you represent in Congress?" "District No. 1," I replied. "That's entirely too small for this section," he replied. "Just leave it to me." [Laughter.] Then, with a grandiloquent gesture, he began: "Ladies and fellow citizens, I want to introduce to you a man who represents the eighty-sixth congregational deestrict of Texas. [Laughter.] We won't make him speak here in the sun. We will soon retire to the shade of yander oak. To make him speak in this blazin' heat would be not only inhuman; it would be absolutely unbrutish. [Laughter.] I have known this man for 15 years. I have known him in his daily walks and his nightly wanderings [laughter], and I want to say to you, from an intimate personal knowledge for 15 years that he is superior to no man in this entire section." [Laughter and applause.] And with that inspiring introduction I proceeded. [Laughter.]

I am almost at a loss to select a topic of interest. You have already been more than sufficiently entertained. As "midnight's holy hour" steals upon us, I am reminded of the man who got into the habit of staying at the lodge too late at night. His wife determined to break him of the habit for all time. So she clothed herself in sepulchral white, and one morning about 3 o'clock, as he rolled up the stairs in three sheets, she met him

at the head of the stairs in one. [Laughter.] "I am the devil," she exclaimed as she held out her sheeted arms. He immediately held out his hand. "Why, how do you do," he said; "I'm glad to meet you." [Laughter.] "I'm your brother-in-law; I married your sister." [Laughter and applause.] I trust that no similar experience awaits us to-night. [Laughter.]

This is hardly a time for political discussion. It would hardly be proper to refer to the increased cost of living. [Laughter.] If it keeps up, bologna sausages will be used chiefly for necklaces, bacon strips for bracelets; while porterhouse steaks will be guarded more jealously than the crown jewels of an empire. [Laughter and applause.]

I shall touch briefly upon a subject enshrined in every heart here to-night. We are soon to return to our homes and it is of the home that I would speak. The object of all righteous legislation is the preservation of the fireside, the glory of the home. The future of the American Republic rests on the American home. [Applause.] And what grander task could occupy humanity than the consecration of the home? We who are to return to the South to-morrow feel this sentiment with especial emphasis, devoted as we are to the land where beauty is enthroned upon the brow of woman and honor templed in the soul of man. [Applause.] A wanderer in a distant land who felt the loneliness and pain which only those without a home can know, embalmed in deathless melody the truest sentiment that ever dwelt in human heart or rose on mortal lip; "Home, sweet home," he cried, and immortality echoed the refrain.

I know that Apollo swept such harmony from the lyre that the listening gods were charmed and the world acclaimed him deity of song. I know that Orpheus, with magic strain, led rocks and trees and beasts to follow him and so enthralled the underworld that angels gazed thereon with envy. I know that Timotheus, with wondrous melody, subdued the riotous Alexander, awoke within his haughty soul emotions high as heaven and instincts low as hell, and with a skillful change of chord displaced upon the monarch's lips a sigh of pity with a curse of hate. I know that David drew from his entrancing harp a concord that dispelled the gloom about the brow of Saul and flooded Israel's palaces with the laughter of music and the joy of song. I know that when Cecelia sang angels were fascinated and men enraptured. I know that Eleanor's troubadours at Antioch bewitched the Syrian air with the ballads of the south and lightened the horrors of the second crusade. I know that Palestrina, Handel, Mozart, Beethoven, and the rest have vastly elevated man with symphonies sublime. But I know that all of these, combined by a master greater than those who as yet have lived into one gorgeous rhapsody, can equal not the touching cadence and the simple majesty of "Home, sweet home." [Prolonged applause.]

AARON WAKEFIELD.

The SPEAKER laid before the House the bill (H. R. 10605) for the relief of Aaron Wakefield, with a Senate amendment.

The Senate amendment was read.

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

The amendment was agreed to.

VETERANS IN CONGRESS.

Mr. LAMB. Mr. Speaker, when I came to this House in the Fifty-fifth Congress there were on this side of the Chamber 32 ex-Confederate soldiers. On the opposite side there were, I think, 67 members of that Grand Army of the Republic by whose deeds of valor we of the sunny South, portrayed by the eloquent young Texan [Mr. SHEPPARD], might well measure our manhood and our chivalry. To-day on this side we have 7 ex-Confederates, and on that side perhaps 17 members of the Grand Army of the Republic.

As I listened to the closing words and the fine philosophy of my friend from Ohio, Gen. KEIFER, I congratulated myself that I had not killed him at the second Manassas, when we were on opposite sides of Bull Run. [Applause.]

But, Mr. Speaker, I did not rise to make any speech. After the eloquent utterances that have fallen from the lips of the cultured Texan who has just delighted us I would not attempt it, but I rise to ask one of those Confederate soldiers, who is now retiring from Congress, who has been here, I think, 20 years, to give us some of his recollections, or whatever he may think best. I refer to the gentleman from Georgia [Mr. LIVINGSTON]. [Applause.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Coggeshall, one of its clerks, announced that the Senate had passed with amendment bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 10605. An act for the relief of Aaron Wakefield.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 8185. An act for the relief of Valentine Fraker;

H. R. 9137. An act to authorize the expenditure of the sum of $25,000 as a part contribution toward the erection of a monument at Germantown, Pa., in commemoration of the founding of the first permanent German settlement in America;

H. R. 24885. An act to amend section 3536 of the Revised Statutes of the United States, relating to the weighing of silver coins;

H. R. 21225. An act for the relief of certain persons having supplied labor and materials for the prosecution of the work of making the main canal of the Belle Fourche irrigation project;

H. R. 22270. An act for the relief of Amos M. Barber;

H. R. 19685. An act to compensate William P. Williams for losses sustained by him while assistant treasurer of the United States at Chicago, Ill.;

H. R. 19010. An act authorizing proper accounting officers of the Treasury Department to reopen pay accounts of certain officers of the Navy; and

H. R. 26121. An act for the relief of Edward F. Kearns.

PROHIBITION OF SALE OF INTOXICATING DRINKS TO INDIANS.

The SPEAKER laid before the House the bill (S. 1981) to amend section 1 of the act approved January 30, 1897, entitled "An act to prohibit the sale of intoxicating drinks to Indians, providing penalties therefor, and for other purposes," with a House amendment disagreed to by the Senate.

Mr. BURKE of South Dakota. Mr. Speaker, when this bill passed the House late last night, it was with the understanding that if it came back amended no motion would be made to concur, and if conference was asked by the Senate we would not consent. On account of that agreement, I move that the bill be referred to the Committee on Indian Affairs.

The motion was agreed to.

TWENTY YEARS IN CONGRESS.

Mr. LIVINGSTON. Mr. Speaker and gentlemen of the House of Representatives, I either had the misfortune of the fortune to have been born in the old South, and I am one of the very few men of the South that knows well the contrast between the conditions then and the conditions after the Civil War was over.

My father was a planter, and therefore I was a farmer's boy. Soon after I began life for myself the Civil War came, and I volunteered early in that war, and was paroled on May 24, 1865, having served in 1861, 1862, 1863, 1864, and a part of 1865.

My friend from Ohio [Gen. KEIFER] spoke of his checkered life. Mine has been a wonderful one in that respect. I thought when I was young that everything in this world was bright and sunshine, and the way to fortune and fame was a smooth path. When I came out of the war in 1865 I had learned an important lesson, and I concluded that the poet was right when he said:

> Human strength and human greatness
> Flow not from life's sunny side;
> But heroes to be great must be more than driftwood
> Floating on a waveless tide.

Idleness breeds extravagance, recklessness, insubordination, and, indeed, as truthfully said, idle minds are the devil's workshops. After witnessing the destruction of human life, human prosperity—the South was the most prosperous spot on earth before the Civil War—and human opportunity for more than four years, I was convinced that while it was well to live in a goodly land with happy and favorable environments, as individuals we are dependent upon our own exertions, our own ability, and our perseverance.

After the end of the Civil War I went home and found my father all at sea, depressed, heartbroken, and with no heart to engage in farming, with an order from military headquarters requiring him to keep his former slaves and share the crops with them for that year, 1865. This was a trying ordeal that he did not wish to undertake. So I said "I will enter this new field," and did so with fairly good success. No man on the Republican side of this House knows the conditions in the South at that time and but few on this side of the House. When I came here, I suppose there was a third of the Members on this side and over a third on that side that had gone through that war, and gone through with all that experience. Where are they to-night? I have seen them come and go. I entered the Fifty-second Congress, and there are but three men on this floor to-night who entered that Congress with me. Two of them go out, the gentleman from Iowa [Mr. HULL] and myself, and the other gentleman that remains is Mr. JONES, of Virginia. I am glad I came to Congress.

Mr. MANN. So are we. [Applause.]

Mr. LIVINGSTON. And I wish to say that I shall carry down to my grave the kindest of feelings for all the men that I have served with on both sides of this aisle. Never did I have a spat with but one man in these 20 years' service, and that was a gentleman from Maine. He thought I was a sucker. [Laughter.] I was making a speech on this side. I knew no better in my early days in Congress than to talk whenever I got an opportunity. I learned better than that in later years. [Laughter.] My father's advice I remember well—"Boy, when you go from home keep your mouth shut; don't believe anything you hear and only half you see," and I have been trying to practice that lately. [Laughter and applause.] Well, this gentleman from Maine lit into me pretty roughly. I looked him over. He sat just over there, pretty far back, and I was sitting on that third seat here for four years, and William Jennings Bryan behind me for the same length of time—he and I came into the House together. I said to this gentleman, "My dear man, you are mistaken," but he got worse instead of better, and I Brownlowed him—that is an expression the meaning of which I guess you do not know—well, I skinned him, and I skinned him good, and when the session was over he came around and said to me, "I want to shake hands with you." I took his hand, and we were friends as long as he remained in this House; he was a prominent Member from Maine and a member of the Naval Committee, so you may guess who he was.

But in all these 20 years I have nothing to regret for indecorous or unmanly conduct to my colleagues on either side of the House. In all these 20 years I have never had my vote criticized except once, and I think the men that did it then have learned better. I hope they have. Had the criticism been just, it would still be remarkable that one could have served so long with so little criticism. Had that vote been a bad one, I could have said, with Bob Toombs, of Georgia, once when candidate for the State senate. There was a man running against him, and Bob had made an awfully bad vote in the State senate. This man met him on the platform in joint debate and pulled the record on him and read it and said, "Fellow citizens, what do you think of that vote?" and he turned to Toombs and said, "And what do you think of it?" Toombs said, "I think it was a damned bad vote." [Laughter.] And when he came to reply he said, "I have cast 498 votes in the senate since I have been your representative and I am criticized for one. You send this young man there in my place and it will be reversed; it will be 497 bad votes and 1 good one." [Laughter.]

My life here for 20 years has been a pleasant one. It has been a busy one. I have not had the opportunity that most of you Democrats here have had in these 20 years. I have had no time to go into that cloakroom and meet with you socially and cultivate your acquaintance and friendship.

A member of the Committee on Appropriations if he does his duty is confined almost all the time to that committee room. There are many of you who have come here in the last 10 years that do not know me and I do not know you. It was not because my nature is unsociable; it was not because I did not wish to mix with you; but I have been too busy.

When I came here in the Fifty-second Congress Crisp was a candidate from his State for Speaker.

There was a Texas candidate, an Illinois candidate, and two or three others. He asked me to come ahead of the meeting of Congress a week or two and help him. I did it, and when the fight was over he won. He asked me my preference as to committee work. I said, "Mr. Speaker, I want to go where there is hard work; I have not time to spend for naught"—for I did not enter Congress like some of you boys have done; I was grown and ripe when I came here, 59 years old.

Mr. ANDERSON. May I ask the gentleman a question? As a young man would you advise me and other young men of the House to stay here the next term and as many other succeeding terms as possible?

Mr. LIVINGSTON. Mr. Speaker, the gentleman on my right asks me this question: Would I advise him and other young men to remain in Congress as long as possible. I will tell you now I have got the best authority that a man is not well fitted to serve the people until he has been here 20 years.

A large delegation from my State was here on business and asked me if I would introduce them to Speaker Reed. I said, "Certainly." He had that little room over there. We went in and Dr. Spaulding, of Atlanta, was spokesman for the committee, and when we got through he turned to Mr. Reed and said, "Mr. Speaker, will you allow me to ask you how long a man ought to be in Congress before he is useful?" Mr. Reed said, "Not less than 20 years." That was Speaker Tom Reed, and he knew as much about Congress and about the length of time and the thought, study, and consideration to be given to the subject matters in Congress perhaps as much or more than any man who ever served in Congress. I want to say through you to your people at home if they have a good Congressman on this floor they are certainly foolish to turn him down. [Applause.] Our policy down South had been before I came here to give a man four or six years and then turn him out, and it was considered a favor. A favor to whom—to the man himself to send him to Congress? They did not expect him to go there as a servant; they did not expect him to go and remain there and become conversant with and thoroughly understand the duties of a Congressman; they thought it was just an honor they could give him and then pass it along to somebody else.

I came in just as the McKinley tariff was completed. I was here when the Dingley tariff bill was made. I was here when the Aldrich-Payne tariff bill was made, and I want to say to you gentlemen now, as I am leaving you, especially on this side of the House, you will have the hardest job that mortal man ever had in the next session to make and frame a tariff bill that the people of this country will accept; and do not forget it. [Applause on the Republican side.]

It is so local, it is so applicable to sections and neighborhoods, it is really what Gen. Hancock said of it; it is a local question; and when you undertake to please the wheat grower, the stock grower, the manufacturer, the mining interests, the transportation interest, the farming interest, the cotton-planting interest; when you undertake to please all those engaged in these different and diversified industries in the country, you will find that you need to go slow and study, not for a month or a year, but for 20 years, and perhaps you can make a tariff bill. I saw the party that was in power when the McKinley bill was passed vanish like fog on the ocean when the sun broke out and began to scatter it heavenward. I saw the party when the Dingley tariff was made go to wreck; I saw the party when the Payne bill was made a year ago go to pieces. And let me put you on notice that it is the last thing you ought to covet, it is the last thing you ought to try, without thorough study and investigation. If you intend a tariff for revenue, you should know how much revenue will be needed, then how the tax shall be levied so as to have that burden fall equally upon taxpayers. A tariff for revenue should know no free list or free raw material. You must say, "We are going to give the country a safe, sane, and sound tariff bill that all taxpayers will approve from every section of this country."

I have a great many pleasant recollections of friends in the House on both sides, and I do believe that I can say that I am leaving Congress with as many friends in Washington and as many friends outside of Washington as any poor farmer boy ever had when leaving Congress. [Applause.]

I did not expect to speak. I would like to talk on some lines that have been hinted at here to-night, but it is not the time. I am reminded that the next bill that will come in is the deficiency bill and that I have to work from now until daylight to get it ready for the House and Senate to pass. Therefore I am not going to consume more time. But I do want to say this: I am not going to join Brother KEIFER; I am not bidding farewell. [Applause.] If I can come back, I am not going to swear that I will not do it. [Applause.] If I can serve my people anywhere else, I am not going to make any promises, for I do think we make a great many foolish promises in this world, and that if we would only leave our mouths at home we would be better off.

I am making no concessions, I am making no promises, but there is one thing I shall never forget. Wherever I go, wherever I may be, and under whatsoever circumstances, I am going to remember one thing, and that is to thank God and my father that I was a farmer's boy and that I learned to work and learned to love it, for I have seen hundreds of boys since I came into the world come out of college with both a sheep's head as well as a sheepskin. [Laughter.] I have seen the boys of the rich, since I have been in Washington, boys raised in affluence, with a silver spoon in their mouth and a servant at their heels and an automobile waiting, dashed to pieces before they reached their majority. I have seen others in the saloons and in the poolrooms and at the card tables before they were grown. I have watched some of them here as well as at home. They soon play out. The property that their fathers left them is gone. Somebody who learned to work and learned to save has gathered it up, and perhaps is making good use of it. Teach your boy business and business methods and to care less for the frivolities of life. I do not care how humble the business is; let him learn it well and stick to it.

And to you gentlemen of the House, I admonish you to remember that you are the Representatives of a great people and that your duty is to serve them, not yourselves.

I thank you.

MESSAGE FROM THE SENATE.

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

H. R. 6043. An act for the relief of registers and former registers of the United States land offices;

H. R. 11421. An act for the relief of R. J. Warren;

H. R. 12814. An act for the relief of John J. Adams;

H. R. 25925. An act authorizing the Postmaster General to advertise for the construction of pneumatic tubes in the city of Cincinnati, State of Ohio;

H. R. 27298. An act relating to homestead entries in the former Siletz Indian Reservation in the State of Oregon;

H. R. 31728. An act to authorize the Manhattan City & Interurban Railway Co. to construct and operate an electric railway line on the Fort Riley Military Reservation, and for other purposes;

H. R. 32047. An act for the relief of Eli Helton;

H. R. 32842. An act to authorize the Controller Railway & Navigation Co. to construct two bridges across the Bering River, in the District of Alaska, and for other purposes; and

H. R. 30281. An act to provide for the entry under bond of exhibits of arts, sciences, and industries.

CONTROL OF TYPHOID IN THE ARMY.

Mr. HUMPHREYS of Mississippi rose.

The SPEAKER pro tempore. For what purpose does the gentleman from Mississippi rise?

Mr. HUMPHREYS of Mississippi. I rise, Mr. Speaker, to ask unanimous consent to reconsider the vote by which House resolution 947 was adopted a few days ago.

The SPEAKER pro tempore. The gentleman from Mississippi asks unanimous consent to reconsider the vote on House resolution 947.

Mr. MANN. It will have to be reported before we can find out whether we object or not.

Mr. HUMPHREYS of Mississippi. House resolution 947, as I will explain to the House, is a resolution providing for the printing of 100,000 copies of an article by Maj. F. F. Russell, Medical Department, United States Army, entitled "The control of typhoid in the Army by vaccination," for the use of the House, and to be distributed through the folding room. This resolution was adopted several days ago, and afterwards it developed that the appropriation necessary to carry the resolution into effect would be more than $500, and for that reason, under the rules, the resolution should have been a joint resolution instead of a House resolution. Now, I want to ask unanimous consent that the vote by which this resolution was adopted may be reconsidered, and then offer a resolution with an amendment providing for the printing of 37,000 instead of 100,000 copies, which brings it within the limit of cost, so that a House resolution can carry it.

The SPEAKER pro tempore. The gentleman from Mississippi asks unanimous consent to reconsider the vote by which House resolution 947 was passed. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the resolution. The gentleman from Mississippi now offers an amendment, which the Clerk will report.

The Clerk read the amendment, as follows:

On lines 1 and 2, strike out "one hundred thousand" and insert "thirty-seven thousand."

The amendment was agreed to.

The SPEAKER pro tempore. The question is on agreeing to the resolution as amended.

The resolution as amended was agreed to.

Mr. CAMPBELL rose.

The SPEAKER pro tempore. For what purpose does the gentleman rise?

POLITICAL SUBJECTS.

Mr. CAMPBELL. I rise, Mr. Speaker, for the purpose of asking unanimous consent that Representative COLE, of Ohio, address the House for a few moments. [Applause.]

The SPEAKER pro tempore. The gentleman from Kansas [Mr. CAMPBELL] asks unanimous consent that Representative COLE, of Ohio, address the House for a few moments. Is there objection? [After a pause.] The Chair hears none.

Mr. COLE. Mr. Speaker, this may be an adieu, but not a good-by. Ohio has the habit of "coming back." [Applause.] I see before me to-night a distinguished example of the power of Ohio to come back. In 1885 Gen. KEIFER left these halls, and in 1904, just 20 years afterwards, he returned. It took a war to bring him back into public life, and if it is necessary we will have another war in order to restore him to this House. [Applause.] Therefore I am in favor of war. [Laughter.] I am in sympathy with my magnetic friend from Alabama, and if it is necessary for us to overcome some kingdom in order to restore the supremacy of Ohio in the councils of the Nation, I, as a major in the National Guard, am willing to enlist at any time. [Laughter.]

Mr. Speaker, I regret more than I can tell to leave this House. I would sooner occupy a seat in this Chamber than hold any other position on earth.

I would sooner sit in this House than occupy a seat in the Senate; or, paraphrasing something that was uttered on a great occasion by the distinguished ancestor of the Democratic Party, I would sooner serve in this House than reign—in the Senate.

Now, my friends, I am not old and gray in the service of my country like some of these men who are retiring to private life to-morrow, but for my age I have been a great many years in public life. For 15 years I have been on the pay roll, and I can not understand how I am going to survive without the monthly installments either from the State or the National Government. [Laughter.] That is one of the most serious objections I have to retiring to private life. While some of my friends here to-night have not been so frank in the expression of their feelings, yet in private conversation I hear them confessing to the same delicate emotion. [Laughter.]

The first campaign in which I ever engaged was in 1884. I was a young boy at that time. James G. Blaine was the candidate of the Republican Party for the Presidency, and I have never yet been able to harmonize the defeat of that distinguished American with the highest weal of the American people. I am confident that many Members on the Democratic side of this aisle have been afflicted with the impossibility of solving this problem.

James G. Blaine was defeated for the Presidency in 1884. You remember it was about one week's time before we knew whether Blaine or Cleveland had been elected. My distinguished friend who just spoke before me, from the Southland [Mr. LIVINGSTON], that gallant old soldier of the Confederacy, said he was born and raised in the country. So was I, up in the pioneer section of Ohio. In my father's house were many children. [Laughter.] I was the thirteenth member of a family of 17 children. I remember distinctly that during that week my father would come home at night, and if the indications were that Blaine had been elected, there was a smile upon his noble brow.

If the indications were to the contrary, there was a cloud upon his countenance. My father's face for that week was a sort of political barometer. Finally, he came home and said that Cleveland was elected. We prepared for war, because we knew it would occur the next morning when school opened. We held a council of war. Lem was to take one, Ben another, Bill another, Charlie another, Ralph another, and Irving was to bring up the rear. We went down to the school, and one little Democrat came out and crowed like a rooster. That was the signal to arms. Rebellion had sounded to the bugle blast of war, and every young Cole rushed to the rescue. There were black eyes, scratching of faces, and weeping and wailing and gnashing of teeth, and many voices mingled in one valorous outcry of lamentation; the sun of political serenity never dawned until the master appeared on the scene, took us by the nape of the neck, and sent us to the room for the remainder of the day. That was my first great political fight, fought in the interests of James G. Blaine of the State of Maine; and from that time down to the present I have been a somewhat militant figure in the camp and on the field of Republican politics in the State of Ohio.

But, my friends, I always had one ambition. That was to come to this Congress, and that is the trouble with the people of Ohio. Every boy that is raised on a farm wants to come to Congress, and that is the reason I am going out. [Laughter.] Every 15-year-old boy has an uncontrollable ambition to hold a seat in this House, and, as I said, that is the reason that up in the pioneer section of Ohio they never retain a man in public service for more than two or three terms. I am proud of the people of the South. I take my hat off to the people of grand old New England, for there is no one sentiment, no one spirit, that is more worthy of commendation on the part of the people of the entire Nation than the loyalty of the people of the South and of those of New England to their men in public life. [Applause.] If that same spirit pervaded this Nation we would have a higher standard of service in all our public positions.

I say that I hate to leave this House. I would sooner remain here than occupy any other position; but while I am going out I still feel my liking for a fair conflict. I am going out, not to slander the Democratic Party. And I say to you that I will not condemn you if you redeem the pledges embodied in your platform; but I will go out and I will meet you in the forum of public

debate. You gentlemen from the Southland who have been invading the State of Ohio and other sections of the North during the last few years, I will meet you when you come into Ohio, and if you do not redeem the pledges you made to the American people it will only be a few years until the wheel of fortune will revolve again and we will be on the summit and you will be beneath. As the sentiment was uttered by my distinguished colleague from the State of New York to-night, I wish you well, and you know I have some confidence in the integrity, in the wisdom, in the ability of the Democratic Party as now constituted. I make that qualification. A few years ago I doubted your wisdom. I did not doubt so much your sincerity as I doubted your wisdom. But the old Democratic Party that has survived and preached principles from the foundation of the Government is in control—the same Democratic Party that was in control in 1896. What kind of a Democratic Party was it that was then in power? Why, it was the old brand of rock-ribbed Democracy. My friends over on this side, I have no qualifying adjective for my Republicanism. When I came to this Congress six years ago we could go into a caucus and we would fight for what we thought was right, but when we went out we stood by the decrees of our caucus. We were a solid phalanx in favor of what we thought was right. But that time has gone by, and now we are rent and torn with internal strife, and as a result we have gone down to defeat. And you gentlemen over here, when you go into a caucus now you come out of it a united party. A divided party never won a great battle. So, my friends, I adjure you to get together. Let us agree on a platform of principles. Let us meet all the demands of the time, let us solve problems as they arise, and in a few years we will come back. We will meet you again in the forum of public discussion and assume command in the halls of the National Congress. [Applause.]

Mr. FOSTER of Illinois. Mr. Speaker, I ask unanimous consent that my colleague [Mr. RAINEY] may address the House for a few minutes. [Applause.]

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. RAINEY rose (at 1.30 a. m., March 4).

Mr. FOSTER of Illinois. Mr. Speaker, this is the birthday of Robert Emmet. I ask unanimous consent that my colleague [Mr. RAINEY] may address the House on that subject. [Applause.]

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. RAINEY. Mr. Speaker, I am reminded as I look at the clock over the Speaker's desk that the 3d day of March has gone and the 4th day of March is here. To-day in a thousand cities and villages in the Emerald Isle patriotic Irishmen assemble to celebrate the natal day of Robert Emmett. [Applause.] Here in our own land, across parallels of latitude, to-day and to-morrow a million Irish-American citizens will turn back the pages of history and review the life of this great Irish patriot. [Applause.]

I know of no better way to commence this new day, the last day of the life of the Sixty-first Congress, than to spread upon the record some tribute to the memory of this hero and patriot, who gave to the service of his country the few years of his life on earth and who, when the hour came for the sacrifice, without hesitation, without murmuring, mounted the scaffold on a bright September morning 107 years ago and with a smile stepped out from this life into eternity.

Robert Emmet was born 133 years ago in the ancient city of Dublin, almost under the guns of Dublin Castle. He came into the world at a most auspicious time. Already on this side of the sea embattled farmers had stood on the summit of Bunker Hill and repulsed long lines of the enemy. In a quaint eastern city already the bells had rung out gladly proclaiming the adoption of the declaration which marked forever the severance of these Colonies from the tyranny of the kings of England. Just across the British Channel and almost within sight of the white cliffs of England sentiments of opposition to tyranny were being fearlessly uttered. He came from a family of patriots, willing to make sacrifices at all times for their country, proud of the history and the traditions of the beautiful island in which they lived. [Applause.] As he grew older and learned to walk about the streets of Dublin there was always presented to his vision the frowning walls of the old castle above which floated the flag of the oppressor and from which grim cannon pointed always out over the old city, emblems of the tyrant's power.

As he grew to manhood the impulse to serve his country while he lived and to contribute something toward her ultimate freedom grew stronger and ever stronger. Before he had finished his college course he was expelled from his university on account of his connection with the United Irishmen, a patriotic organization of his native land. He crossed the sea to France and there met his brother, already in exile, and after conferring with men high in rank he concluded to return to his native land and to organize a rebellion in order that when the great Napoleon should strike a blow at England Ireland might in her own behalf strike an effective blow for liberty. His plans were splendidly arranged, but an unfortunate accident made it necessary to strike before the appointed time. As was to be expected, he first of all planned the capture of the castle upon which he had gazed since infancy. On account of the failure of his men to rally at the proper time, his attack on the castle failed. The story of his capture and his trial and execution are familiar to all of us.

To-night we can see him again standing up all day long, heavily manacled, in the prisoner's dock, facing an unfriendly jury, tried by judges who had already determined upon his death. The wonder is that he was able in such heroic, patriotic terms to address his judges immediately before sentence was pronounced. The address he delivered on that occasion will live through all time, a matchless oration inspiring men through all the centuries with patriotic thoughts, spurring men on to deeds of heroism and to sacrifices for liberty. [Applause.]

Robert Emmet died a martyr to the cause of Irish liberty. To-night there comes to us again through all the decades of the past the voice of the young patriot as he concluded his address:

> I have but a few words more to say. I am going to my cold and silent grave; my lamp of life is nearly extinguished * * *; my race is run; the grave opens to receive me, and I sink into its bosom. I have but one request to ask at my departure from this world—it is the charity of its silence. Let no man write my epitaph; for as no man who knows my motives dare now vindicate them, let not prejudice nor ignorance asperse them. * * * When my country takes her place among the nations of the earth, then, and not till then, let my epitaph be written.

[Loud applause.]

There immediately followed the order from his judge directing that on the following day Robert Emmet be executed according to English law.

In the bright sunshine, heavily manacled, he was led from his prison cell, surrounded by the armed soldiery of England.

We can see him again as he stood on the scaffold, the cap drawn over his eyes, holding in his hand a handkerchief, the fall of which was to be the signal for his death. As he stood there silently, the executioner said, "Are you ready, sir?" Emmet replied, "Not yet." Again, after a short pause, the question was repeated, and again Emmet replied, "Not yet." A third time the executioner said, "Are you ready, sir?" and Emmet replied, "Not yet." Almost before he had time to complete his reply the executioner pushed the plank off the ledge and a patriot, young and generous, and through the 25 years of his short life, self-sacrificing and brave, loving his country to the very last, passed from this life into the eternity beyond the grave.

It would be interesting to know after this length of time what thoughts surged through the brain of this young man as he stood on the scaffold answering "Not yet" to the questioning of his executioner. We can imagine what they were. During that brief interval of time surging through his brain there swept the story of his native land. He remembered that when his country's oppressors were living in ignorance, devoting their time to pagan worship, Ireland was already a Christian nation, with schools and colleges, and her cultured sons were the dispensers of the knowledge that yet remained in Europe, and her kings reigned in splendor; and then there came surging through his memory the story of the first English invasion of Ireland, 700 years before, and 500 years later the cruel march of Cromwell and his armies through his native land, which was made peaceful and subservient to England only after her soil had been drenched in the blood of patriots and when none were left to complain.

And then, as he answered "Not yet," there rushed through his memory the story of the struggles of his countrymen and their sacrifices through all of the centuries which followed the first English invasion. And as he answered again "Not yet" to the demand of his executioner repeated for the third time, and as he felt the warm sun on his face and listened to the soft music of the wind as it blew across the green fields of his native land, there came to him a vision of the future, of decade after decade of humiliation and suffering in the island he loved and then an era of better feeling—the era of the present—when in England a great political party is already advocating a measure of self-government for Ireland; and then came the end.

In the days of his youth when for him the sun shone bright in the heavens, when the air was filled with the singing of

birds, he gave up his life for his country. When the hangman's work was over his body was extended on the scaffold and his head was stricken off—holding it up before the multitude, his executioner repeated the words so often heard in Ireland in those days—executions were common at that time—"This is the head of a traitor;" but from the battlefields of high heaven angel hands reached down and took the soul of Robert Emmet back beyond the stars to God who gave it. [Applause.] There are bitter memories extending over many centuries, but to-day there is a new England and a new Ireland, and the period of home rule in Ireland can not much longer be delayed. [Applause.]

Lift up the Green Flag; oh, it wants to go home;
Full long has its lot been to wander and roam;
It has followed the fate of its sons o'er the world;
But its folds, like their hopes, are not faded or furled;
Like a weary-winged bird to the East and the West,
It has flitted and fled, but it never shall rest,
Till, pluming its pinions, it sweeps o'er the main,
And speeds to the shores of its old home again,
Where its fetterless folds, o'er each mountain and plain,
Shall wave with a glory that never shall wane.

The time has almost come to write his epitaph—the time he dreamed of so long ago as he stood before his judges. His motives are known now and his patriotism is understood in all the nations. When that time comes I would erect above his modest grave a monument of whitest marble piercing the skies, catching and reflecting back the first rays of the morning sun, gilded by the last rays of the setting sun, and on each of its four sides, high up above the habitations of men, up toward the stars, I would emblazon in letters of fire, so that all might read, this simple epitaph:

Here lies Robert Emmet, who died for liberty.

[Loud applause.]

Mr. McLAUGHLIN of Michigan rose.

The SPEAKER pro tempore. For what purpose does the gentleman rise?

Mr. McLAUGHLIN of Michigan. Mr. Speaker, I rise for the purpose of asking unanimous consent that the gentleman from Michigan [Mr. DIEKEMA] be recognized to address the House.

The SPEAKER pro tempore. The gentleman from Michigan asks unanimous consent that his colleague from Michigan [Mr. DIEKEMA] be permitted to address the House. Is there objection? [After a pause.] The Chair hears none.

Mr. DIEKEMA. Mr. Speaker, the eloquent gentleman from the State of Illinois, whose ancestors wore the green, has just paid a fitting tribute to one of the great sons of the Emerald Isle, and I could not help thinking as he was speaking how the great men of all times have essentially stood for the same principles. My ancestors wore the orange instead of the green, and it was the great Prince of Orange, William the Silent, who was the forerunner of George Washington, and who in those faraway days became the embodiment of human liberty and of an emancipated manhood when he spoke to those who desired to persecute the Anabaptist in the following words:

I say to you that you have no right to interfere with any man's conscience as long as he does nothing to create private harm or public scandal.

In this utterance we find the Magna Charta of freedom. So across this aisle I shake hands to-night with the son of Erin and behold in the great historic hall of fame the blending of the orange and the green. [Applause.]

Mr. Speaker, I came here to the city of Washington a decade ago, and as I have been reviewing in my mind the history that has been made in that decade I have come to the conclusion that it is the greatest decade in the history of the world, and for real advancement and progress in reform, civic righteousness, and human liberty the greatest decade even in the history of this great Republic of the West, this majestic temple of human liberty. When I became a Member of this House, four years ago, I soon learned the lesson that industry is the key to opportunity. The story is told how Mark Hanna at one time went to see Mr. Armour in the city of Chicago. He had an engagement to meet him at 12 o'clock, and there he found him eating a sandwich and getting a shave and dictating to a stenographer, all at the same time. This was the price which Armour paid for writing his name under every sky and in every language, and I have observed here upon the floor of the House that it is, as Gen. Grosvenor told me when I first came here, that the man who makes a success in the House must be here when the Chaplain opens with prayer and must still occupy his seat when the Speaker's gavel falls.

Industry in the House of Representatives is the key to opportunity. I have learned a second lesson, Mr. Speaker, and it is, that association with the great men of the House, that come from all parts of the country, from the Southland and the Northland—for the Southland has its great men as the Northland has, and this little aisle does not divide intelligence or patriotism—I have observed this, that association with these men broadens one's sympathies and enlightens one's intellect. It has been a source of greatest inspiration to me to see men who have never spent a day in our public schools, men who have not visited the colleges, men who have had no opportunities in early life, men who have carried the pack through the forests, have in early life peddled newspapers and blacked boots, men who have had, I say, no opportunities of scholarship or of education, through association with the great men of this House, through the atmosphere which pervades here in Washington, become foremost in debate upon the floor of this House. It is a lesson to us all that the best of associations makes the best of men, and that the gates of opportunity are open wide to the humblest citizen of the Republic.

Then, Mr. Speaker, I can not refuse adding that I have seen absolute fairness impersonated in the presiding officer of this House. [Applause.] Often when the stream of political passion ran high, and when the position occupied by him was such that he was tempted to avail himself of party and personal advantage, in the midst of it all it was an inspiring sight to see absolute fairness and impartiality rule supreme in the chair.

I have seen another thing which has inspired me for better work in the future, and that is that not only upon the field of battle can there be exhibited the greatest courage, but that in the halls of legislation we meet that same heroic element in the members. It is courage and unselfish patriotism that are most needed in the House of Representatives now. I wish that more people of the country could visit Washington, that they might see great heroic men stand up here and take their own political futures in their hands, sacrificing all, if need be, in order that the principles in which they believe may triumph.

While I now retire from these Halls, I must say that when I came, Mr. Speaker, I had intended to make this a career, but instead it has become simply an incident in my life. I have, however, long since learned the lesson that individuals amount to but little in the great onward march of human progress, that men come and go, but principles live on forever to bless humanity, and that neither selfishness nor even personal interest must be considered by the patriot who rejoices in the glory of this great Republic to which we belong. I have the greatest and most optimistic vision for the future of my country. I believe that as every human being has his own mission in life, and a mission which no other man can perform for him, so this great Republic among the nations of the world has a divine mission, and its first great mission is to give to all the world that which we possess—liberty and freedom. [Applause.]

Liberty enlightening the world is the great ideal which we must ever keep before our minds, and in the wake of Old Glory, whether we raise it in the Orient or the Occident, there must follow the Bible, freedom, morality, and education.

I believe that in the wisdom of the Creator we have another world mission, not teaching men material things, not teaching men only the value of liberty, but another great world mission which this Republic has is ultimately to give to all the world peace. [Applause.] We are still appropriating millions upon millions for war vessels, Dreadnoughts and great sea monsters; we are still appropriating millions for fortifications and for our Army and Navy, but the time is coming, Mr. Speaker, as sure as the Prince of Peace was born over nineteen hundred years ago, when the sword will be sheathed, when every cannon and every gun will be spiked, and when peace shall spread her white wings over all this earth. And when that day comes it will be this great Republic of the West that will lead the van in the march of nations toward universal liberty and universal peace on earth. [Loud applause.]

I have full faith that these ideals will be the inspiration of the men who succeed us, as they have been ours, and realize, as I never did before, that within this historic Chamber must probably be worked out for weal or woe the future destiny of the race. [Loud applause.]

MANUFACTURE OF WHITE PHOSPHORUS MATCHES.

Mr. DALZELL. Mr. Speaker, I call up House joint resolution 290, authorizing the President to appoint a competent person to investigate the manufacture of white phosphorus matches and report to the next session of Congress, and move to disagree to the amendments of the Senate and ask for a conference.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. DALZELL] moves to disagree to the Senate amendments to the House joint resolution 290 and asks for a conference. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Chair will name the following conferees: Mr. DALZELL, Mr. HILL, and Mr. BRANTLEY.

STATUS OF CERTAIN BILLS.

The SPEAKER pro tempore. The Chair is informed that there is an agreement on the Post Office appropriation bill and that the report is now being written up. It will not be a very great while, the Chair apprehends, until it is ready. The report will have to be made first to the Senate.

The Chair is also informed that an agreement, partial or complete, is hoped for on the naval appropriation bill before a great while. It may be an hour; possibly an hour and a half.

The Chair is also informed that the Senate has passed the general deficiency bill, and that the bill is now at the Government Printing Office, where the Senate amendments are being printed. It will probably reach the House with the Senate amendments at not far from 3 o'clock. The Chair has no information touching the progress made upon the sundry civil appropriation bill. It is an exceedingly long bill and a very important bill. Possibly there may be on one or more bills a partial report, involving another conference.

I make this statement to the House in the last night of the session to show the necessity of being as patient as we can in continuing in session, with short recesses, ready to receive reports touching many of the smaller bills that have been passed, and probably some of the conference reports, so that there does not seem to be much prospect of our being able to get away to-night.

Mr. OLMSTED took the Chair as Speaker pro tempore.

MESSAGE FROM THE SENATE.

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

H. R. 25192. An act to amend section 11, act of May 28, 1896;

H. R. 15566. An act for the relief of H. M. Dickson, William I. Mason, the Dickson-Mason Lumber Co., and D. L. Boyd;

H. R. 17493. An act for the relief of the Baltimore & Ohio R. R. Co.;

H. R. 22747. An act for the relief of Edward Swainor;

H. R. 24886. An act to amend sections 3548 and 3549 of the Revised Statutes of the United States, relative of the standards for coinage;

H. R. 31652. An act to authorize the Central Vermont Railway Co. to construct a bridge across the arm of Lake Champlain between the towns of Alburg and Swanton, Vt.;

H. R. 32264. An act for the relief of Frances Coburn, Charles Coburn, and the heirs of Mary Morrisette, deceased; and

H. R. 32531. An act authorizing the Secretary of the Interior to permit the Missouri, Kansas & Texas Coal Co. and the Eastern Coal & Mining Co. to exchange certain lands embraced within their existing coal leases in the Choctaw and Chickasaw Nation for other lands within said nation.

The message also announced that the Senate had passed, with an amendment, the following House joint resolution:

Resolved, That the joint resolution from the House of Representatives (H. J. Res. 290) authorizing the President to appoint a competent person to investigate the manufacture of white phosphorus matches and report to the next Congress.

POST OFFICE APPROPRIATION BILL.

Mr. WEEKS. Mr. Speaker, I call up the conference report on the bill (H. R. 31539) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1912, and for other purposes, and ask unanimous consent to make an oral statement regarding the result of the conference.

The SPEAKER pro tempore. The gentleman from Massachusetts calls up the conference report on the Post Office appropriation bill, and asks unanimous consent to make an oral statement thereon.

Mr. MANN. Mr. Speaker, there is no objection to the gentleman's making a statement, but he can not call up the report yet. He can make a statement so that the House can be informed until the report can be acted upon.

The SPEAKER pro tempore. The Chair will ask the gentleman from Massachusetts where the papers are?

Mr. WEEKS. Mr. Speaker, the papers are not here yet, but I think they will be here by the time I have completed my statement, and it seems to me we might save some time by my making the statement. The report is in the hands of the Clerk, signed by the conferees on both sides.

Mr. COX of Indiana. Mr. Speaker, this is an unusual proceeding to me.

Mr. MANN. All the gentleman from Massachusetts wants to do is to make an oral explanation.

Mr. COX of Indiana. Is that oral explanation intended to take the place of the conference report?

Mr. MANN. Oh, no.

Mr. WEEKS. The conference report can be read. It is now here.

Mr. COX of Indiana. Mr. Speaker, I demand the reading of the report.

Mr. MANN. Let it be done in the gentleman's time, for information.

The SPEAKER pro tempore. The suggestion is that the gentleman from Massachusetts make a statement. Is there objection? [After a pause.] The Chair hears none.

Mr. WEEKS. Mr. Speaker, I suggest that the report be read in my time.

The SPEAKER pro tempore. The report will be read in the time of the gentleman from Massachusetts for information.

The Clerk read the conference report, as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 31539) making appropriation for the service of the Post Office Department for the fiscal year ending June 30, 1912, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, 16, 20, 24, 27, 29, 30, 31, 32, 43, 49, 51, 52, 53.

That the House recede from its disagreement to the amendments of the Senate numbered 7, 8, 17, 18, 19, 21, 25, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 44, 45, 46, 47, 48, 50, 54, 55, 56, 57, 58, 59, 60, 61; and agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment as follows: Page 16, in second line of said amendment, strike out "five" and insert "four"; and the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment as follows: "*Provided*, That out of the appropriation for inland-mail transportation the Postmaster General is authorized hereafter to pay rental if necessary in Washington, D. C., and compensation to tabulators and clerks employed in connection with the weighings for assistance in completing computations, in connection with the expense of taking the weights of mails on railroad routes, as provided by law"; and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement of the Senate numbered 26, and agree to the same with an amendment as follows: Page 20, lines 22, 23, and 24 of said amendment, strike out all after "construction"; in lines 1, 2, and 3, page 7 of said amendment, strike out all the language; and the Senate agree to the same.

Amendment numbered 28: That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment as follows: Page 21, in line 6 of said amendment, strike out "eight" and insert "ten"; and the Senate agree to the same.

JOHN W. WEEKS,
JOHN J. GARDNER,
Managers on the part of the House.
BOIES PENROSE,
THOS. H. CARTER,
J. H. BANKHEAD,
Managers on the part of the Senate.

I agree except as to postal amendment—No. 23.

JOHN A. MOON.

Amendment No. 23 having been amended, Judge MOON's objection is removed.

JOHN J. GARDNER.

During the reading of the conference report,

Mr. SMALL. Mr. Speaker, I ask unanimous consent that the further reading of the conference report be dispensed with. There has been no reprint of the Senate bill and the conference report can not be understood.

The SPEAKER pro tempore. The conference report is being read at the suggestion of the gentleman from Massachusetts for information.

Mr. SMALL. It does not inform us. I think we can make better progress and get more information from the oral statement of the gentleman from Massachusetts.

Mr. WEEKS. Mr. Speaker, I suggest that the reading be finished.

The SPEAKER pro tempore. The reading has been nearly completed. The Clerk will proceed with the reading.

At the conclusion of the reading,

Mr. WEEKS. Now, Mr. Speaker, I wish to say that there were 61 amendments to the House bill as it came back from the Senate; that these amendments carried a total increase in appropriation of $3,200,000. Of that sum, $770,000 was to make up deficits in the service for the past year, and of the remainder, $1,848,000 has gone out in conference, and of the remaining $572,000, $500,000 provides for the extension of postal-savings banks, so that the only increases which stand, other than deficits, which ordinarily would have gone into the general deficiency bill, are those aggregating $572,000.

Now, I will take up the amendments and go over them rapidly, explaining what is done in each case. The first amendment was an increase of 10 inspectors over the House provision. As to that, the Senate receded.

The next amendment was for $15,000 increase in the appropriation for inspectors. The Senate receded.

The next amendment provided for $4 a day for inspectors' traveling allowances instead of $3, as carried in the House bill. The Senate receded in that case.

The fourth amendment carried an increased appropriation of $76,000 to pay the additional dollar a day. In that case the Senate receded.

The fifth amendment was an increase in the amount provided for traveling expenses for inspectors, and including the Alaskan service, of $9,000. The Senate receded in that case.

The next amendment was for an increase of $5,000 in the allowance for livery hire. The Senate receded.

The next was the provision which has been carried in previous bills and which went out in the House on a point of order, which reads as follows:

For expenses incident to the investigation and testing of mechanical and labor-saving devices, under the direction of the Postmaster General, for use in the postal service, $10,000.

The House in that case receded.

The next was a provision for increasing the compensation of the postmaster at St. Louis, Mo. The salary of the postmasters at New York, Philadelphia, Chicago, and Boston is $8,000. St. Louis is a city of the same class, and the postmaster's salary is increased to correspond with the salaries of the four cities mentioned.

Mr. SCOTT. What is the salary at present?

Mr. WEEKS. Six thousand dollars.

In that case the House receded.

The next amendment provides for an increase in certain classes among assistant postmasters, from the $1,200 class down to the $800 class, some of the lower classes being increased to the $1,100 and $1,200 classes, which required an increase in the appropriation of $80,000. In that case the Senate receded.

The next is a provision inserted to this effect:

That hereafter the Postmaster General may allow not exceeding 30 days' leave of absence with pay in each calendar year, under such conditions as he shall prescribe, to assistant postmasters, supervisory officers, clerks, city letter carriers, rural letter carriers, printers, mechanics, skilled laborers, watchmen, messengers, and laborers at first and second class post offices.

On that amendment the Senate receded.

GENERAL DEFICIENCY APPROPRIATION BILL.

Mr. TAWNEY. Mr. Speaker, I ask the gentleman from Massachusetts if he will kindly suspend for a moment.

The SPEAKER pro tempore. Will the gentleman from Massachusetts yield to the gentleman from Minnesota?

Mr. WEEKS. I yield.

Mr. TAWNEY. I ask unanimous consent to take the general deficiency appropriation bill (H. R. 32957) from the Speaker's table, with the Senate amendments, and disagree to the Senate amendments and ask for a conference.

The SPEAKER pro tempore. The gentleman from Minnesota asks unanimous consent to take from the Speaker's table the general deficiency appropriation bill, disagree to the Senate amendments, and asks for a conference. Is there objection?

Mr. FOSTER of Illinois. Reserving the right to object, I want to ask the chairman of the committee if these park propositions are in the general deficiency bill.

Mr. TAWNEY. If there are park propositions, they must be in the general deficiency bill, because I do not find any in the sundry civil bill.

Mr. FOSTER of Illinois. I hope they will not be agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection; and the Speaker pro tempore appointed as conferees on the part of the House Mr. TAWNEY, Mr. DAWSON, and Mr. LIVINGSTON.

POST OFFICE APPROPRIATION BILL.

Mr. WEEKS. The next amendment provides $100,000 for substitutes, clerks, and employees, which partially provided for the provision I have just read relative to the thirty days' leave. The Senate receded. The next amendment provided for rent, light, and fuel, and the Senate increased the appropriation from $4,350,000 to $4,400,000, of which not exceeding $50,000 shall be immediately available. That is for a deficit. The House receded.

The next amendment was a provision for the making of three-year contract for canceling machines. The House receded on that because a general contract provision covering canceling machines and other matters is treated later in the bill. I will read the substitute provision when I reach it.

The next is an increase of $500,000 in the provision for substitutes for letter carriers absent with pay. A total of $668,000 additional is provided for the thirty days' vacation. The Senate receded.

Mr. AUSTIN. I want to ask the gentleman about the amendment at the bottom of page 16.

Mr. WEEKS. That did not pass the Senate.

Mr. GREENE. What did the gentleman say the $500,000 increase was for?

Mr. WEEKS. That is a part of the $1,000,000 necessary compensation for carriers and others under the provisions of this bill.

The next is a provision authorizing the Postmaster General to make four-year contracts for the hire of horse and wagon service, on which the House receded. The provisions is as follows:

That hereafter the Postmaster General may, in his discretion, enter into contract for a period of not exceeding five years for the rental of canceling machines, for the hire of equipages for city delivery service, for the collection service by means of boxes attached to street cars, and for steamboat and other equipment necessary for the Detroit River postal service.

The next is a provision that reads as follows:

Provided, That out of the appropriation for inland mail transportation the Postmaster General is authorized hereafter to pay rental if necessary in Washington, D. C., and compensation to tabulators and clerks employed in connection with the weighings for assistance in completing computations, in connection with the expenses of taking the weights of mails on railroad routes, as provided by law.

Heretofore compilations have developed in the 15 divisional headquarters, but there have been no systematic methods followed at these offices. In order to systematize the service it is to be brought to Washington and all this work in future is to be done under the supervision of one head.

Mr. AUSTIN. What became of the amendment, page 21.

Mr. WEEKS. The balance of that amendment, which provided for the increase in the rate on second-class matter, which was reported by the Senate Post Office Committee to the Senate was defeated in the Senate and was replaced by a substitute, a provision which I will read.

I would state once more that the proposition which was reported to the Senate by the Senate Post Office Committee, providing for the increase in second-class mail matter rates, was stricken out and replaced by a provision which I will now read, and which has been agreed to in conference, one conferee dissenting:

Provided, That the President shall appoint three competent and impartial persons, one of whom may be a judicial or other officer of the United States and the other two of whom shall hold no office, and no one of whom shall be connected with the Post Office Department or have any interest in any business directly or indirectly affected by the publishing of magazines or newspapers using the mails of the United States, to examine the reports of the Post Office Department and any of its officers, agents, or employees, and the existing evidence taken in respect to the cost to the Government of the transportation and handling of all classes of second-class mail matter which may be submitted to them, and such evidence as may be presented to them by persons having an interest in the rates to be fixed for second-class mail matter, to make a finding of what the cost of transporting and handling different classes of such second-class mail matter is to the Government and what in their judgment should be the rate for the different classes of second-class postal matter, in order to meet and reimburse the Government for the expense to which it is put in the transportation and handling of such matter, and on or before December 1, 1911, to make report of their proceedings and findings to the President for transmission to Congress: *Provided*, That the sum of $50,000 is hereby appropriated to pay the expenses of such commission, including compensation to the members thereof, to the necessary secretaries, stenographers, and other incidental expenses, and such compensation may be awarded to the Federal official member of the commission, anything in the existing law to the contrary notwithstanding.

Mr. BURKE of Pennsylvania. What is the qualification of the first member of the board?

Mr. WEEKS. The qualification of the first member of the board is that he may be a judicial or other officer of the United States.

Mr. GARRETT. The gentleman understands what that means. We would like to understand it.

Mr. WEEKS. My understanding is that he is to be a judicial officer of the United States, and that that is the intention.

Mr. GARRETT. The gentleman means a member of a court?

Mr. WEEKS. A member of a court.

Mr. GARRETT. And then it says of the other two they shall hold no office.

Mr. WEEKS. Yes.

Mr. GARRETT. What does that mean?

Mr. WEEKS. It means that they shall hold no office except this one.

Mr. GARRETT. Well, that is as clear as mud.

Mr. WEEKS. Well, they are not officeholders, the proposition being that they shall be men fitted to serve on a commission of this character.

Mr. GARRETT. Yes; but that does not say so.

Mr. WEEKS. Well, it certainly says three competent persons.

Mr. GARRETT. No; it says three impartial persons.

Mr. BURKE of Pennsylvania. It is simply a bar against officeholders, as I understand it.

Mr. MANN. It means that they will be outside of the Post Office Department.

Mr. WEEKS. No one shall be connected with the postal service or have any interest, directly or indirectly, in any business affected by the publishing of magazines or newspapers. That is another limitation.

Mr. SMALL. If I may call the attention of the chairman of the committee to what appears to be a difference between his reading of the amendment and what purports to be a print of the bill as it passed the Senate, I would suggest that with the word "transportation" in each instance there is coupled the words "and handling."

Mr. WEEKS. Those words were added in conference—"transportation and handling" of mails. Also the words "nineteen hundred and eleven"—to report December 1, 1911. Those were added.

Mr. SMALL. I may call attention to the fact that the words are not in this print of the bill which we have.

Mr. WEEKS. No.

Mr. GARRETT. I supposed I had the print in my hand. I note many discrepancies.

Mr. BENNET of New York. Will the gentleman yield?

Mr. WEEKS. Yes.

Mr. BENNET of New York. There is nothing in this bill which compels a man who lives in a city to have a box on his front door?

Mr. WEEKS. There is not.

Mr. SISSON. What salary shall these three commissioners get?

Mr. WEEKS. I assume that will be fixed by the President in making their appointment; $50,000 is provided.

Mr. SISSON. The discretion is vested in the President, is it?

Mr. WEEKS. The $50,000 is made as a lump sum and covers the expenses of the commission and all other purposes.

Mr. SISSON. And there is no limitation in the bill as to the amount that shall go to salary and clerical assistance?

Mr. WEEKS. No; there is not. There is a provision that the Federal official may receive compensation, notwithstanding the fact that there may be a limitation upon his receiving it under statute law. The next Senate amendment provided an increase of $23,000 in the appropriation for freight or expressage on postal cards, on which the Senate receded. The next is a new provision, and is as follows:

25. And the Postmaster General in cases of emergency, between November 15 and January 15 of any year, may hereafter return to the mails empty mail bags theretofore withdrawn therefrom as required by law, and for such times may pay for their railroad transportation out of the appropriation for inland transportation by railroad routes at not exceeding the rate per pound per mile as shown by the last adjustment for mail service on the route over which they may be carried, and pay for necessary cartage out of the appropriation for freight or expressage.

On that amendment the House receded. The purpose of that is to get to the large centers, where the largest volume of mail originates during the holiday period, sufficient mail bags to perform the service. Under present conditions they have to return them by freight, and the department has had great difficulty and considerable delay in sending by freight, and so as to get a stock of bags at the central point for this service, and in order to supply that, in case of necessity, this provision is inserted in the bill. The next amendment is the provision relating to the railway mail postal cars. The Senate substitute reads as follows:

For railway post-office car service, $5,010,000: *Provided*, That no part of this amount shall be paid for the use of any car which is not sound in material and construction, and which is not equipped with sanitary drinking-water containers and toilet facilities, nor unless such car is regularly and thoroughly cleaned: *Provided further*, That after the 1st of July, 1911, no pay shall be allowed for the use of any wooden full railway post-office car unless constructed substantially in accordance with the most approved plans and specifications of the Post Office Department for such type of cars, nor for any wooden full railway post-office car run in any train between adjoining steel cars or between the engine and a steel car adjoining, and that hereafter additional cars accepted for this service shall be of steel, or with steel underframe, if used in a train in which a majority of the cars are of like construction: *Provided further*, That after the 1st of July, 1916, the Postmaster General shall not approve or allow to be used or pay for any full railway post-office car not constructed of steel or with steel underframe, if such post-office car is used in a train in which a majority of the cars are of steel or of steel underframe construction: *And provided further*, That the Postmaster General may, upon the application of any railroad company and for good cause shown, extend the time for compliance by such company with the foregoing provisions, the order for such extension of time to prescribe the period within which compliance shall be made.

The Senate recedes from the additional proviso. This last proviso was stricken from the conference report.

Mr. GARRETT. The Senate recedes from that.

Mr. WEEKS. To that extent the Senate receded; otherwise the House receded.

Mr. LENROOT. I understand the last proviso was stricken out.

Mr. WEEKS. Yes; the last proviso.

Mr. GREENE. On page 17 there was an amendment put in in the Senate. I have not heard it referred to.

Mr. WEEKS. What amendment does the gentleman refer to?

Mr. GREENE. Striking out in line 2——

Mr. WEEKS. That did not pass the Senate.

Mr. AUSTIN. Will the gentleman please explain this steel underframe?

Mr. WEEKS. We build a great many post-office cars, or have them built, with steel underframes. The frame of the car is of steel and there are steel uprights at the end of the car, which practically makes the frame of the car a steel frame, and the sides of the car are all wood and the roof is wood.

The next amendment increases the number of railway post-office clerks who are in the $1,000 grade from 2,602 to 2,702. In that case the Senate receded.

The next amendment is as follows:

That hereafter, in addition to the salaries by law provided, the Postmaster General is hereby authorized to make travel allowances, not exceeding in the aggregate the sum annually appropriated, to railway postal clerks assigned to duty in railway post-office cars for actual expenses incurred by them while on duty, after eight hours from the time of beginning their initial run, under such regulations as he may prescribe, and in no case shall such an allowance exceed $1 per day.

Mr. GARRETT. I would like to hear the gentleman from Illinois [Mr. MANN] on that.

Mr. WEEKS. That was a House provision as it was reported to the House, and it went out on a point of order, with this exception, that the time of beginning this pay was 12 hours after leaving home. The Senate changed that to 8 hours, and the conferees decided on 10 hours. As it stands now, it is 10 hours from the time of leaving home, and the rate is increased from 75 cents to $1 a day.

Mr. GARRETT. Is that satisfactory to the gentleman from Illinois [Mr. MANN]?

Mr. MANN. It is entirely satisfactory, if the gentleman refers to me.

Mr. KELIHER. That modifies it from 12 to 10 hours?

Mr. WEEKS. It modifies it from 12 to 10 hours, and it increases the rate from 75 cents to $1 a day.

The next was an increased appropriation for this purpose of $981,000, in which case the Senate receded.

The next amendment is:

That the Postmaster General may allow railway postal clerks whose duties require them to work six days or more a week throughout the year and the employees of the mail-lock and mail-bag repair shops an annual vacation of 30 days with pay.

The Senate receded in that case.

Mr. AUSTIN. If the gentleman will pardon me, the amendment No. 28 increases the daily allowance from 75 cents to $1 a day, and then you say you left amendment No. 29 just as the House passed it?

Mr. WEEKS. Yes.

Mr. AUSTIN. Ought not that amount to be increased?

Mr. WEEKS. The Postmaster General thought it was sufficient and thought he could provide for them under the appropriation.

Mr. SMALL. I understood you to say you had to increase that.

Mr. WEEKS. The gentleman is mistaken. The Senate increased it to $981,000, but in that case the Senate receded, so that the appropriation is the exact amount as it was when it left the House, namely, $769,000.

The next amendment is an increase of appropriation of $68,000 to provide for the substitute clerks on vacations, in which the Senate receded.

The next is an increase in travel allowance for assistant superintendents from $3 to $4 a day. The Senate receded in that case.

The next is an increase in the appropriation for balances due foreign countries of $300,000, of which sum $247,400 shall be immediately available. That is for a deficit. The House receded in that case.

The next is an increase in the appropriation for the manufacture of adhesive stamps from $716,000 to $796,000. The difference of $80,000 is for a deficit for that service. The House receded.

The next is an increase in the appropriation for the manufacture of stamped envelopes from $1,500,000 to $1,800,000.

Mr. COX of Indiana. Why the necessity for that?

Mr. WEEKS. The necessity for that is that the additional appropriation of $304,000 is for a deficit.

Mr. COX of Indiana. That relates to the Dayton contract, does it not?

Mr. WEEKS. That relates to the Dayton contract.

The next is for the manufacture of postal cards, an increase of $100,000, which is made immediately available on account of a deficit, the House in each of these cases receding.

The next amendment is for the pay of agents and assistants to examine and distribute postal cards, and expenses of the agency, $9,000. In that case the Senate receded.

The next amendment is a valuable one, changing the payment of limited indemnity for loss of mail from first-class domestic mail to domestic registered matter.

The next amendment is as follows:

That the Postmaster General is hereby authorized to indemnify the senders or owners of third and fourth class domestic registered matter lost in the mails, the indemnity, which shall be paid out of the postal revenues, not to exceed $25 for a single piece of registered matter or the actual value thereof if less than $25: *Provided*, That no indemnity shall be paid if the loser has been otherwise reimbursed.

Heretofore we have paid indemnity for all classes of international mail, but only of first-class domestic mail, and this provides for paying indemnity for third and fourth class domestic mail.

The next is for changing the phraseology of limited indemnity for loss of registered articles, the word "limited" being removed and the words "in accordance with convention stipulation" being added. The House receded in that case.

The next is as follows:

48. *Provided*, That the appropriations for payment of limited indemnity for the loss of registered articles in the international mails for the fiscal years ending June 30, 1908, 1909, 1910, and 1911, be, and the same are hereby, made available for the payment of the amount of indemnity fixed by the Postal Union Convention concluded at Rome, Italy, May 26, 1906, effective October 1, 1907, for the loss in the international mails of any registered article regardless of its value.

The House receded in that instance.

Mr. AUSTIN. Let me ask the chairman this question: Why this distinction in favor of the loss of international mails, regardless of its value?

Mr. WEEKS. Because that is the condition under which the convention is made.

Mr. AUSTIN. You limit the cost to domestic or local users?

Mr. WEEKS. There is a maximum of 50 francs on the piece. That payment is made, whether the value of the lost article is 50 francs or 30 francs. That is in accordance with the agreements made in all of these postal conventions.

The next amendment is one which has been carried in the appropriation bills, and was added to the Senate bill and went out on a point of order in the House. It reads as follows:

50. For the employment of special counsel, to be appointed by the Attorney General when requested by the Postmaster General, and at compensation to be fixed by the Attorney General, not exceeding this temporary appropriation, to prosecute and defend, on behalf of the Post Office Department, all suits now pending or which may hereafter arise affecting the second-class mailing privilege, $10,000.

Mr. AUSTIN. What became of amendment No. 49?

Mr. GARRETT. Did the gentleman read No. 49?

Mr. WEEKS. I explained the purport of that amendment and the action taken thereon. The Senate receded in that case, on No. 49.

Mr. AUSTIN. It went out?

Mr. WEEKS. Yes; the amendment went out.

Mr. AUSTIN. Now we are on No. 50?

Mr. WEEKS. Yes. I have just made a statement in regard to that.

The next amendment provides for the consolidation of the star-route service and Rural Free Delivery Service. The Senate provision for that is as follows:

52. For pay of rural letter carriers, substitutes for rural letter carriers on annual leave, clerks in charge of rural stations and rural branch post offices, tolls and ferriage for rural letter carriers, and for inland transportation by star routes (excepting in Alaska), including temporary service to newly established offices, $49,907,000.

There was a proviso also in the Senate amendment that not more than $7,117,000 shall be used for star-route service. The Senate receded on that amendment, on the total amendment.

Mr. SMALL. Do I understand that the provision as passed by the House is retained?

Mr. WEEKS. It is as it passed the House.

Mr. FINLEY. And the Senate receded from No. 51.

Mr. SMALL. How about amendment 53?

Mr. WEEKS. The Senate receded on amendment 53, which increased the water-route service on Lake Winnepesaukee from $900 to $1,000.

The next amendment provided that—

The Postmaster General is hereby authorized, in cases where the mail service would be thereby improved, to extend service on a mail route under contract, at not exceeding pro rata additional pay: *Provided*, That the extensions beyond either terminus ordered during a contract term shall not, in the aggregate, exceed 25 miles.

Mr. BUTLER. Is that the Rural Free Delivery Service?

Mr. WEEKS. That is the star-route service. The star-route service may be extended at the same pro rata pay. The reason for that is to prevent the necessity for advertising for reletting the contracts.

The next amendment provides for the postal savings banks, including the appropriation:

That the sum of $500,000, or so much thereof as may be necessary, is hereby appropriated and made immediately available, out of any money in the Treasury not otherwise appropriated, to enable the Postmaster General to continue the establishment, maintenance, and extension of postal savings depositories, including the reimbursement of the Secretary of the Treasury for expenses incident to the preparation, issue, and registration of the bonds authorized by the act of June 25, 1910: *Provided*, That out of such sum an amount not to exceed $10,000 may be expended for the rental, if necessary, of quarters for the central office of the Postal Savings System in the District of Columbia: *And provided further*, That all expenditures under this appropriation shall be audited by the Auditor for the Post Office Department: *And provided further*, That the Postmaster General shall select and designate the post offices which are to be postal savings depository offices, and shall appoint and fix the compensation of such superintendents, inspectors, and other employees as may be necessary in conducting, supervising, and directing the business of such offices, including the employees of a central office at Washington, D. C., and shall prescribe the hours during which postal savings depository offices shall remain open. He shall also from time to time make rules and regulations with respect to the deposits in and withdrawal of moneys from postal savings depositories and the issue of pass books or such other devices as he may adopt as evidence of such deposits or withdrawals, and the provisions of the act approved June 25, 1910, are hereby modified accordingly.

Mr. BURKE of South Dakota. What happened in that case?

Mr. WEEKS. The House receded. The next is the amendment providing for postal notes.

Mr. HOBSON. Will the gentleman state how much that is increased over the current appropriation?

Mr. WEEKS. The appropriation for postal savings banks provided for in the original act, I think, was $100,000. This appropriation is $500,000.

Banks have been established, one bank in each State of the Union, and all of the necessary expenses to go on with the establishment of many banks have been undertaken. There is a considerable portion of the $100,000 originally appropriated that is still unexpended, but there is no certainty as to how much money will be required for this service. I think myself that the appropriation is liberal, but in order to make it sufficient to extend the service as desirable it is made liberal.

Mr. STAFFORD. Will the gentleman yield?

Mr. WEEKS. Yes.

Mr. STAFFORD. I notice that this amendment contemplates the appointment of superintendents, inspectors, and other employees that may be necessary in conducting, supervising, and directing the business of such offices. When the subject was under consideration last year in the committee, it was supposed that the existing postal employees connected with the service would perform the work that would be required in the establishment of postal savings depositories. Did the members of the Senate committee or the House conferees consider as to the need of additional officers for putting into effect this postal savings-bank system?

Mr. WEEKS. Mr. Speaker, I will say that that was not given consideration. I assume that the Postmaster General will work that out in the best manner practicable; that the inspectors now in the service will be used wherever possible, and that in small offices especially there will be no necessity for additional employees.

PENSIONS.

The SPEAKER pro tempore laid before the House the bill (H. R. 32674) granting pensions and increase of pensions, with Senate amendments.

The Senate amendments were read.

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

The motion was agreed to.

MONUMENTS TO DANIEL STEWART AND JAMES SCREVEN.

The SPEAKER pro tempore also laid before the House the bill (H. R. 7549) to provide for the erection of monuments, respectively, to Gens. Daniel Stewart and James Screven, two distinguished officers of the American Army, with Senate amendments.

The Senate amendments were read.

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

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Coggeshall, one of its clerks, announced that the Senate had passed with amendments bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 32057. An act making appropriations to supply deficiencies in appropriations for the fiscal year ending 1911 and for prior years, and for other purposes.

The message also announced that the Senate had passed bills and joint resolution of the following titles, in which the concurrence of the House of Representatives was requested:

S. 7632. An act to acquire a site for a public building at Glenwood Springs, Colo.;

S. 10864. An act granting an increase of pension to Minnie A. Curtis;

S. 10863. An act to give the consent of Congress to the building of a bridge by the city of Northport, Wash., over the Columbia River at Northport; and

S. J. Res. 142. Joint resolution to create a joint committee to continue the consideration of the revision and codification of the laws of the United States.

The message also announced that the Senate had insisted upon its amendments to the joint resolution (H. J. Res. 290) authorizing the President to appoint a competent person to investigate the manufacture of phosphorus matches and report to the next session of Congress, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. LODGE, Mr. FLINT, and Mr. BAILEY as the conferees on the part of the Senate.

The message also announced that the Senate had passed with amendments bills of the following titles, in which the concurrence of the House of Representatives was requested:

H. R. 32674. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

H. R. 3982. An act for the relief of David F. Wallace; and

H. R. 24145. An act for the establishment of marine schools, and for other purposes.

The message also announced that the Senate had passed without amendment joint resolutions of the following titles:

H. J. Res. 287. Joint resolution authorizing the printing of 100,000 copies of the Special Report on the Diseases of Cattle; and

H. J. Res. 286. Joint resolution authorizing the printing of 1,000 copies of the Special Report on the Diseases of the Horse.

The message also announced that the Senate had insisted upon its amendments to the bill (H. R. 32057) making appropriations to supply deficiencies in appropriations for the fiscal year 1911, and for prior years, and for other purposes, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. HALE, Mr. GALLINGER, and Mr. MARTIN as the conferees on the part of the Senate.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2045) for the relief of John B. Lord, owner of lot 86, square 723, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to construction of the Union Station, District of Columbia.

DAVID F. WALLACE.

The SPEAKER pro tempore also laid before the House the bill (H. R. 3982) for the relief of David F. Wallace, with the Senate amendments.

The Senate amendments were read.

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

The motion was agreed to.

MARINE SCHOOLS.

The SPEAKER pro tempore also laid before the House the bill (H. R. 24145) for the establishment of marine schools, and for other purposes, with Senate amendments.

The Senate amendments were read.

Mr. BENNET of New York. Mr. Speaker, I move that the House concur in the Senate amendments.

The motion was agreed to.

BRIDGE OVER COLUMBIA RIVER AT NORTHPORT, WASH.

Mr. MANN. Mr. Speaker, I ask unanimous consent to suspend the rules, take from the Speaker's table, and pass the bill (S. 10863) to give the consent of Congress to the building of a bridge by the city of Northport, Wash., over the Columbia River at Northport.

The Clerk read the bill, as follows:

Be it enacted, etc., That the consent of Congress be, and is hereby, given to the city of Northport, in the State of Washington, to construct and maintain a wagon bridge and approaches thereto over the Columbia River at a point suitable to the interests of navigation at Northport, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

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

The SPEAKER pro tempore. Is there objection?

There was no objection.

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

POST OFFICE APPROPRIATION BILL.

Mr. STAFFORD. I suppose there will be superintendents graded and the inspectors created similar to the former field agents connected with the Salary and Allowance Division and other necessary employees that are acquired by reason of the development and existence of this postal savings bank depository system?

Mr. WEEKS. I take it for granted that is correct, and each year Congress will have an opportunity to pass on the necessity for these officers and their salaries.

The next four amendments relate to postal notes.

SEC. 8. That the Postmaster General may authorize postmasters at such offices as he shall designate, under such regulations as he shall prescribe, to issue and pay money orders of fixed denominations, not exceeding $10, to be known as postal notes.

That postal notes shall be valid for six calendar months from the last day of the month of their issue, but thereafter may be paid under such regulations as the Postmaster General may prescribe.

That postal notes shall not be negotiable or transferable through indorsement.

That if a postal note has been once paid, to whomsoever paid, the United States shall not be liable for any further claim for the amount thereof.

In these amendments the House receded.

Mr. STAFFORD. The last provision that the gentleman has read embodies the idea for the establishment of the so-called postal-note system that is in vogue in Canada and other countries.

Mr. WEEKS. Yes.

Mr. STAFFORD. It is recommended by the postal commission?

Mr. WEEKS. Yes; and the Postmaster General.

Mr. KELIHER. Mr. Speaker, I would like to ask the gentleman if any change has been made in the provision as it left the House in regard to substitutes?

Mr. WEEKS. No change was made. Mr. Speaker, I yield to the gentleman from Tennessee [Mr. MOON].

Mr. MOON of Tennessee. Mr. Speaker, with the provisions of this bill in the main I agree, and as one of the conferees having agreed to this report, except as will be seen indicated in the conference report, I object to No. 23. This is a proposition made by the Senate to create a postal commission for the purpose of making inquiry into the cost of the transportation and handling of second-class mail matter.

The Senate committee reported to the Senate, as can be seen from the RECORD, a provision providing for the raising of the tax, if you may call it such, the cost of transportation of magazines from 1 cent a pound to 8 cents a pound. It seems in the discussion there that this theory was abandoned, and I think the Senate wisely abandoned it, but they have substituted in

its place a provision directing the President of the United States to appoint three commissioners to make this inquiry into the second-class matter, and to report at the next session of Congress.

Mr. COX of Indiana. No; the amendment does not direct them to report at the next session of Congress.

Mr. WEEKS. On the 1st of December, 1911.

Mr. MOON of Tennessee. That is the time the next session of Congress would ordinarily meet. I am speaking of the regular session.

Mr. COX of Indiana. I may not have the proper language.

Mr. MOON of Tennessee. It is immaterial as to when it was to report. The report is to be made some time in the future.

Mr. WEEKS. The 1st of December next.

Mr. MOON of Tennessee. This provision would be all right. It would be a proper compromise, perhaps, of that question which has been agitated in the country for some time, particularly by the press of the country. It would be all right, in view of the stand that has been taken by the administration upon this question, if there had not already been a hearing; but it is insisted now that a proper hearing has not been given the magazines of the country, and that the matter ought to go over under the administration of a commission for the purpose of making a report and determining the question.

Now, as I remarked at the outset, primarily this would be a proper course, but I think that it would be unwise for us to expend $50,000 in the payment of salaries to this commission and to stenographers and expert accountants at this time. Why? Because the Congress of the United States appointed a commission that spent a year or more and hundreds of thousands of dollars in making a report upon this identical question. Again, a second commission was appointed, clothed with the same plenary power over this question. For six or eight months it was at work. It expended more than $100,000 to obtain this information. Again, the life of this commission was extended and another report was made covering this whole field of investigation, and as a result of it there is now pending in this House a bill covering this and other postal questions. It is not necessary to expend this money in view of the ascertainment of these facts heretofore made under three commissions. I can not see the possible necessity of a fourth commission clothed with the same powers that the others have had and directed to make the same inquiry the others made when the result must inevitably be the same.

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

Mr. MOON of Tennessee. Yes.

Mr. HOBSON. Has the committee itself held hearings on this subject?

Mr. MOON of Tennessee. The Postal Commission created by the act of Congress sat for several months in the cities of New York and Philadelphia and in Washington, and we heard almost every magazine publisher in the whole United States. We heard every editor of every great paper in this country. We had arguments by learned counsel representing all the parties, and a report was made upon that class of information. We had statisticians and expert accountants that cost the Government $50 a day, the best said to be in the world upon questions of that sort, men who had investigated the War Department of Germany and Great Britain and all the insurance departments of the country, who made the reports to the commission, and by a very thorough study on the part of that commission a report was made to Congress. That work was done by a commission of Congress without compensation so far as the commission is concerned. Proof has been heard time and again before the Committee on the Post Offices and Post Roads. This matter has been gone into fully, been fully investigated in the department of the post office and post roads freely and under all circumstances and conditions, and I think that it is rather a foolish thing for us, in order to tide over a controversy of this sort, to expend the $50,000 proposed in this bill. We had better meet the question fairly now.

Mr. KELIHER. Will the gentleman yield?

Mr. MOON of Tennessee. If we have these magazines being carried at a loss to the Government, let us adjust that question here in the light that we have and determine it, or if we have not the time now, and I suppose we have not, let us pass it over to the next Congress. There is no necessity, in my opinion, for this expenditure of the public money, and therefore I dissented from the conference report on that question.

Mr. HOBSON. I want to ask the gentleman, to complete my information, whether that commission has reported to Congress its recommendations?

Mr. MOON of Tennessee. It certainly has. There are three large volumes of reports upon this question made by the first commission and two by the last commission.

Mr. HOBSON. Have they made recommendation to the Congress for action by the Congress?

Mr. MOON of Tennessee. They have made recommendations upon the question in a bill now pending in this House in which there are 580 sections, one chapter covering this very question.

Mr. HOBSON. And has that bill been acted upon by the committee?

Mr. MOON of Tennessee. That bill has not been reported out of the committee at this session, because at this short session it is impossible to do it.

Mr. UNDERWOOD. I would like to ask the gentleman from Tennessee what is the parliamentary status between the Houses on this proposition which the gentleman is discussing?

Mr. MOON of Tennessee. The conference committee has agreed to this proposition. I alone have dissented as a member of the conference committee from it, and I wanted that question brought before the House and the House to determine the propriety of this action.

Mr. UNDERWOOD. Is it in the conference report?

Mr. MOON of Tennessee. It is in the conference report. The Senate amended the bill and sent to conference the disagreeing votes between the House and the Senate on that question, and the conferees did agree to this proposition—unwisely, I think—and therefore I am presenting these views to the House.

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

Mr. MOON of Tennessee. Certainly.

Mr. KELIHER. Was the proposed amendment of the Senate to increase the rate, which has excited so much excitement, based upon the report of this commission which the gentleman has just described?

Mr. MOON of Tennessee. I think that it may be attributed partly to that report, but I think, as a matter of fact, if the gentleman wants to know my views about the question, that we are paying too little for the transportation of these magazines and that the amount ought to be raised. I think the magazines, if they are not doing so, ought to compensate for the cost of the carrying; at least, they ought to give as much as it costs the Government to carry them; but I do not approve discriminating against them.

Mr. KELIHER. Was the amount fixed?

Mr. MOON of Tennessee. Fixed how?

Mr. KELIHER. Was the amount reported in that proposed amendment the amount fixed upon in the findings of these different commissions that have investigated this subject?

Mr. MOON of Tennessee. No; the commissions did not undertake to fix any definite figures, but only estimates gathered from the facts which were reported. On that question I do not believe it is proper now to separate these magazines from the other second-class matter and increase the postage upon them. I do believe that the time must come when the whole second-class matter must be considered by Congress and the rates possibly raised, or if not raised the Congress ought to be satisfied in retaining the present rate.

Mr. GARRETT. Will the gentleman yield to me?

Mr. MOON of Tennessee. Yes, sir.

Mr. GARRETT. I received a letter protesting against the increase of the postage rate on magazines and also asking me to support the parcels post. I wish to ask my colleague if those two propositions are harmonious?

Mr. MOON of Tennessee. Supporting the parcels post, and what?

Mr. GARRETT. I said the increase of postage on magazines.

Mr. MOON of Tennessee. I think we can harmonize them, and can get at it very easily.

Mr. AUSTIN. I would like to ask the gentleman a question.

Mr. MOON of Tennessee. Very well. I will yield to my colleague.

Mr. AUSTIN. My question is whether your amendment that you are now discussing was placed in the Senate amendment as a result of a conference between the President of the United States and certain publishers of magazines.

Mr. MOON of Tennessee. I do not know that I am authorized to state on the floor of the House anything that has occurred between the President and the magazine people. I can only say that I have been informed that the President favored this proposition, and that the magazine people were not averse to it. However that may be, I think it ought not to affect the judgment of this House in the expenditure of public money. If the information is now available, as far as possible it ought to be used for the purpose for which it was obtained, and no further money should be expended for the purpose of undertaking to get information which we now have. Really, it is only a proposition to bridge over this controversy until a future time and possibly let it drop in the end.

Mr. COX of Indiana. Will the gentleman yield?

Mr. MOON of Tennessee. If the gentleman will excuse me a minute, I am trying to get to another reason which I want to present to the House as to why I deem it inappropriate and unwise to pass this legislation. Now, when the experts undertake to determine just exactly what ought to be paid for the carrying of the magazines, how the Government ought to be remunerated for the carrying and handling of these magazines, or other second-class matter, they are bound to take as the basis of the investigation the manner in which the second-class matter is now handled and the manner in which it is paid for. In other words, the basis of weighing and the computation of paying are the basic facts upon which they must rely in order to determine this question. I undertake to say to this House deliberately, that in view of our method of weighing and of the computation of railway mail pay, that no expert on the face of this earth can to-day come within fifteen or twenty millions of dollars of what the compensation ought to be for the transportation of second-class mail.

That question, heretofore disputed in this House, was conceded after examination by the Postmaster General of the United States, Mr. Cortelyou, when in charge of that department.

If there be such an uncertain basis of calculation and computation along these lines, if every fact has been adduced that would lead to a proper conclusion as to what the pay ought to be, if we are to go again over the same field of investigation with no possibility of any more light, tell me what sense there is in expending the public money for that purpose. And, then, the very minute you undertake to reach the correct result you are confronted with a proposition that you can not justly charge the cost of transportation and handling to a class of matter flatly that in itself produces a return to the Government in another class of matter, probably in excess of the charges of transportation and handling of that matter itself—the second class. How are you to draw the lines for the determination of these questions? You are in the dark; it is a chaotic proposition, considering the method by which it must be determined to-day. Nothing more can be determined than has been. This Congress, at best, when it settles the second-class matter, will have to make a shrewd guess. That is about all it can do.

The law once provided for twice the compensation that is now paid. It was reduced. It may have to be reenacted. But, I assume that if it is ever to be determined with any measure of accurracy and judgment it will have to be done not as the result of another commission merely collating facts already ascertained, but from the sound, deliberate judgment of the committee taking these facts, viewing them in connection with all other facts, direct and collateral, and reaching as near as possible a condition of justice between the publications and the Government of the United States.

Mr. AUSTIN. I would like to ask the gentleman if these publishers claim that they were not fairly treated, and were not given every opportunity to present their side of the case to the Committee on Post Offices and Post Roads.

Mr. MOON of Tennessee. It would be impossible, in view of the fact that all of these publishers have been before three commissions and the fact that every one has been heard by counsel or individually or otherwise, for any such claim to be made.

Mr. AUSTIN. What excuse whatever do they give for their request for further investigation and examination on this subject?

Mr. MOON of Tennessee. I take it that they would rather have another examination than an act of Congress on that matter, if that act of Congress is adverse.

Mr. BURKE of Pennsylvania. This matter is now before Congress in the form of a conference report, on which the conferees have agreed?

Mr. MOON of Tennessee. Yes; including that item.

Mr. BURKE of Pennsylvania. May I ask the gentleman if the conferees are going to ask for a separate vote on that?

Mr. MOON of Tennessee. Yes; on that provision.

Mr. BURKE of Pennsylvania. What would be the parliamentary status if the House would reject your motion? Would it not be equivalent to rejecting the entire conference report?

Mr. MOON of Tennessee. Yes; the House, however, could take a vote on all the other questions.

Mr. RUCKER of Colorado. That would leave the rate as it is at the present time?

Mr. MOON of Tennessee. I do not think that ought to be disturbed now, particularly when you separate the rate of second-class matter from other-class matter.

Mr. COX of Indiana. If this amendment No. 23 remains and becomes a part of the law, it would be permanent law, would it not?

Mr. MOON of Tennessee. Yes; it would be permanent until the expiration of that commission.

Mr. COX of Indiana. There is no time fixed for the commission to expire, is there?

Mr. MOON of Tennessee. I do not recall the exact language of the section. The gentleman has it before him.

Mr. COX of Indiana. There will be no limit to it whatever?

Mr. MANN. It is fixed at December 1, 1911.

Mr. WEEKS. If the gentleman from Tennessee will yield for a moment, I will say that the time for making this report, as agreed to in conference, was December 1, 1911.

Mr. MOON of Tennessee. As I recall, it was the meeting of Congress; at that time, I mean.

Mr. Speaker, this measure, this Post Office appropriation bill, of course is not entirely satisfactory to all of us, and no legislation is entirely satisfactory, generally. But in the main I believe that the items of the bill have been carefully gone over and fully discussed, and I believe they ought to receive the approval of this House, except the item I have referred to, and possibly one other item, to which my assent, however, was given, under the circumstances, in the report.

The House will remember that it passed the postal savings-bank law. The House will also remember that there were strong protests against its passage as an unwise part of the Government's fiscal policy. It was said then, and it is verified now, that it will be of little or no use or value to the people of the United States. We have appropriated about $100,000 to carry on and inaugurate that system of postal savings banks. We said to the country, or, rather, the gentlemen who proposed to pass that bill and did pass it said, that it would be of little cost to the Government of the United States because the postal officers of the Government would manage and control the banks under the management and direction of the board of trustees.

It was said by us then that the duties of those officers were such that they could not perform the functions of banking officers properly, and that there could not be a proper administration of this bank through that source. The confession comes in this bill that our prophecy was true. You are now asking for a full set of officers outside and exclusive of these. It is no longer a strictly postal bank, but a bank of the Government of the United States, to be run by presidents, cashiers, clerks, inspectors, and other officials.

I am not aware, because I have no report on the subject from the department, but I am advised that in the banks now established in the United States there have been deposited only a few hundred thousand dollars; and yet we are placing in this very bill $500,000 to administer a fund of that character and size. I want to suggest to the House that it would be well to hesitate some, to consider a little, before voting out of the Public Treasury too much money for the conduct of a business of this character, not necessarily connected with, but, in fact, foreign to the functions of government.

Mr. LLOYD. Were there any estimates submitted to show how much money would be needed to carry on this business?

Mr. MOON of Tennessee. I presume there were. I have not seen the Senate proceedings. So far as I have knowledge, there were none.

Mr. LLOYD. It was an arbitrary fixing?

Mr. MOON of Tennessee. An arbitrary fixing.

Mr. GARRETT. On page 38 this language is used:

Including the reimbursement of the Secretary of the Treasury for expenses—

And so on. Does that carry a deficiency?

Mr. MOON of Tennessee. It sounds very much like a deficiency on its face.

Mr. GARRETT. That is on the postal savings-bank proposition?

Mr. MOON of Tennessee. So I understand.

Mr. FINLEY. In reference to this item of appropriation for the postal savings banks, does the gentleman from Tennessee know how many banks have been established and how much money has been expended in that behalf?

Mr. MOON of Tennessee. We have no facts before us on the subject. This is a Senate proposition, and there have been no hearings before our committee on the proposition.

Mr. FINLEY. I understand that.

Mr. MOON of Tennessee. There has been an effort to establish one bank in each of the States.

Mr. FINLEY. This $500,000 is evidently intended to establish postal savings banks all over the country.

Mr. MOON of Tennessee. It is for the purpose of extending the system. The point I make is that the system is not worthy of extension at such a cost, when the deposits so far made in the banks that have been inaugurated are unworthy of consideration, are inconsiderable.

Mr. FINLEY. This $500,000 was to establish something like 500 or 1,000 banks, or probably more.

Mr. MOON of Tennessee. I do not know whether it is to establish 100 or 500. The bill does not disclose that.

Mr. FINLEY. I agree with the gentleman that I do not approve of the appropriation. Neither do I approve of the appropriation of $50,000 for the postal commission. I think it is a sheer waste of money. So as to this one item, it strikes me that we ought to have some information from the gentleman in charge of the bill as to how much is needed and how much it costs to establish the average postal-savings bank, and so on. I do not like to vote for this $500,000.

Mr. HOUSTON. Can the gentleman state how much money has been deposited in these banks?

Mr. MOON of Tennessee. I have no accurate information upon that. The best information I have is that the total amount of deposits so far is less than the amount we are proposing to appropriate to carry it on.

Mr. HOUSTON. Less than $500,000?

Mr. MOON of Tennessee. Yes. I call attention to that not for the purpose of urging any action against the conference report upon this question in reference to the postal savings banks, but that the facts so far as known, meager as they are and uncertain as they are and indefinite as they are, should come before this body, in order that it may take such action as it sees fit on this question.

Reverting to the other question, I am certain that it is an unjust thing to the people and an unwise thing for us and an injustice to ourselves to appropriate $50,000 for a further examination into the second-class mail matter.

The proof is in, the argument must be heard, and the verdict rendered by Congress on this question. It can not at this late day be done, but it is a question that ought to be reserved and settled at another Congress, without the intervening expenditure of $50,000 of the people's money uselessly.

Mr. HOBSON. Will the gentleman yield?

Mr. MOON of Tennessee. I will.

Mr. HOBSON. Before the gentleman leaves the postal savings-bank proposition, I would like to ask him, assuming that Congress has decided the system of the postal savings bank and its extension, whether on that assumption this appropriation of $500,000 would be regarded as excessive. The gentleman says it was begun in a modest form.

Mr. MOON of Tennessee. I say to the gentleman from Alabama in all candor that I would not undertake to say it was, because the extension has not been very great yet of this system of banks. I only throw out the suggestion to him and others, that you may see where the policy is leading to, that you may see the result of the Government of the United States departing from its constitutional function and entering into the private business concerns of the world. If it has taken a hundred thousand dollars to establish a few banks already, and if it be true that the deposits are less than the amount that we now propose to appropriate, it is a question for thoughful men in this House whether we ought to proceed in the extension of a policy of that sort. I am not prepared to say that if you desire to extend it, if you want to create quite a number of the new banks, this sum is not too great for that purpose, but it is dangerous ground on which you are treading, and you ought to know what the result will probably be.

Mr. HOBSON. I do not understand that the gentleman means that he ought at this stage of the session and this hour of the night to undertake to discuss again a change of policy that has been previously determined upon.

Mr. MOON of Tennessee. I had not thought about the hour of the night or the lateness of the session. If I had the power to change a thing that I thought was wrong, I would be willing to change it at any time under any circumstances. But I have not entered upon the discussion of this question for the purpose of preventing the House from concurring in that part of the report, but to call the attention of the House to the way we are proceeding along this line, that there may be no uncertainty of the returns from this money that it is proposed now to put into this system and determine whether it ought to go so far as to expend a half million dollars or whether it would be better to expend another hundred thousand dollars and feel our way along this business proposition we are now engaged in, contrary, I think, to the principles of true republican government, so that there will not be so much loss to us ultimately if we have to abandon this policy, which I believe to be utterly fallacious.

Mr. WEEKS. I yield to the gentleman from Wisconsin [Mr. STAFFORD].

Mr. STAFFORD. Mr. Speaker, the bill that is reported to the House contains more important legislation than has ever been carried in a Post Office bill during my eight years' service on the Post Office Committee. It may be worth the time to call attention to some of this legislation that has been agreed upon by the House and by the Senate conferees.

One provision relates to allowance to railway mail clerks while absent from home engaged in line of duty for expenses incurred. This provision provides that after 10 hours' service they shall be allowed at the rate of $1 per day.

Next in importance is the provision for the establishment of the so-called postal notes, so as to take currency out of the mails and provide a convenient means for exchanging small amounts through the mails.

The third is that taking away from the board of trustees, consisting of the Postmaster General, the Attorney General, and the Secretary of the Treasury, the establishment of postal savings banks and investing that power and authority in the Postmaster General, and also providing for an appropriation of $500,000 for expenses in establishing additional postal savings banks. It is well known to all who have given any consideration whatever to the postal savings-bank institution that it has been established at only one place in a State, and these are second-class or third-class offices.

I certainly approve of this appropriation of $500,000, and there can be no question but what the Government will be reimbursed for this expenditure, because under the original enactment the board of trustees has authority to increase the rate of interest that is charged to the banks for the use of the funds deposited therein above 2½ per cent if they see fit to do it, and I believe they will if the postal savings banks are not a paying institution on the basis of 2½ per cent.

Mr. GARRETT. That does not mean reimbursement at all.

Mr. STAFFORD. I will not be able to yield, because I wish to hurry in my remarks. The law now vests in the board of trustees authority to charge not less than 2½ per cent, and the idea was that if the system did not prove remunerative under that rate of charge the board of trustees could make a higher charge.

Now, we come to the important question to which objection has been raised by the gentleman from Tennessee [Mr. MOON]. I recall when I first entered upon the service on the Post Office Committee that the question of the second-class rate was then a live subject. The publishers of advertising sheets came before the committee six years ago and volunteered to increase the rate to 5 cents a pound if we would grant them unlimited privileges to send their publications through the mails without being limited to those on bona fide subscription lists. The subcommittee then having the matter in charge, headed by our much lamented predecessor in charge of this work, the Hon. Jesse Overstreet, decided that in the absence of any reliable data to determine what should be the rate on second-class mail, it would be well to create a postal commission and have investigations made by the Postal Department. The Post Office Committee and the Post Office Department were without any information whatsoever as to the cost for the carriage, not only of second-class mail, but of all other classes of mail; so Congress called on the Post Office Department to ascertain weights of the various characters of publications of second-class mail, and also the average distance of the haul. A postal commission was created, and after long hearings and consideration the commission made its report to Congress. That report has never been considered by the Post Office Committee, though the committee at the last session held further hearings on this subject. These hearings were not concluded, and the commission provided for in this amendment is intended to review all the testimony and have further hearings, if necessary, and report thereon to Congress by December 1 next. As nothing is likely to be done by Congress before that date, no objection should be raised to this proposition. It means a collating of all the disjointed evidence by an impartial commission, and I believe should be adopted.

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

Mr. WEEKS. Mr. Speaker, I would like unanimous consent for one minute to refer to amendment 23, which has been opposed by my colleague on the conference committee [Mr. MOON]. What he has said is true, that this subject has been investigated by committees and commissions and hearings have been given—I think sufficient hearings to all parties in interest; but it is true that there never has been a commission investigating the subject which has not been in some way connected with the Post Office Department or with Congress. Publishers claim that they have not had a satisfactory chance to state their views on this subject. It is believed that before this commission, if appointed, publishers will have an opportunity to state their views and at the same time such an opportunity that they can

not complain of failure to get a hearing if action is taken to change the rates in the future, and, therefore, I hope that the conference report on amendment 23 will be adopted. I now move, Mr. Speaker, that the conference report be agreed to.

Mr. MOON of Tennessee. Mr. Speaker, I ask unanimous consent that the conference report with amendment 23 be adopted, and that a separate vote be had upon that proposition.

Mr. MANN. I would suggest to the gentleman that that is not a possibility.

Mr. MOON of Tennessee. Why?

Mr. MANN. Because it is not possible to adopt a part of a conference report.

Mr. GARRETT. By unanimous consent it is.

Mr. MANN. It is not. The conference report is an entirety. The Senate has agreed to it as an entirety. We can reject it and send the matter back to the conference.

Mr. MOON of Tennessee. We do not have to reject it as an entirety.

Mr. MANN. Yes; it has to be rejected as an entirety and then go back to conference.

Mr. UNDERWOOD. I suggest to the gentleman that by unanimous consent we can agree to all of the other propositions.

Mr. MOON of Tennessee. That is the proposition I made to the gentleman from Illinois.

Mr. UNDERWOOD. It can be done by unanimous consent.

Mr. MANN. It could only be done by rejecting the conference report and sending the entire matter back to conference and having it go through the Senate and House again. I am very much afraid, then, there will be disputes. Gentlemen understand that in the Senate there was a long wrangle over this proposition, and that the post-office bill was hung up in the Senate for a day or two and a night or two with the controversy over this proposition. They finally reached this compromise, and it is not likely that they would yield in a minute.

Mr. GARRETT. They have four or five hours in which to yield.

Mr. MANN. But the gentleman must remember all of these bills have to be enrolled, and if the gentleman is familiar with the process he will understand that the bill has to be sent to the Printing Office and be printed, and then it has to go through the hands of the enrolling clerks and be compared, then it has to go through the hands of the enrolling committee and be compared, and then it comes with a certificate from the enrolling committee to the Speaker's desk, and has to be signed, and then is messaged over to the Senate and signed there and sent to the President, and it can not be done in a second or in a minute. I assume the other body understands that as well as this body.

Mr. SMALL. Mr. Speaker, I ask unanimous consent for two minutes simply upon this controverted amendment, amendment No. 23.

Mr. MANN. I would suggest that if this is going to take any time we had better dispose of the sundry civil bill that has got to go back to conference, and which is on the desk.

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

Mr. SMALL. Mr. Speaker, I wish to make a brief statement regarding this amendment as it appears to me. I am in favor of adopting the conference report as to this amendment. I have a very great respect for the judgment of the ranking minority member upon the committee, the gentleman from Tennessee [Mr. MOON], and while he has been talking I have listened carefully, and also to the chairman of the committee, and it does seem to me that this provision is a wise one. No Member of the House who has heard and read the different opinions upon this controverted question of second-class rates upon magazines can doubt that there is a divided sentiment. Evidence has been taken both by this committee and by the preceding commission.

Mr. MOON of Tennessee. Will the gentleman from North Carolina yield?

Mr. SMALL. Yes.

Mr. MOON of Tennessee. If every publisher in the country, every magazine publisher in the country, every newspaper publisher, in person or by counsel, have met and been heard on all of these questions, where are we going to get any more light?

Mr. SMALL. Oh, the point I make is that the public sentiment of the country is divided upon it, and certainly members of this committee, and I doubt not every Member of the House, have received communications, not alone from publishers but from others upon this controverted question, showing that there is a divided sentiment, and the very purpose of this commission is to digest the evidence, to present it in a concrete form, and to submit their conclusions from the evidence, and when it is presented I believe it will go a long way in helping not only Congress but the country in arriving at a just and fair conclusion of what is proper legislation. Now, Mr. Speaker, I think that the entire conference report, including this Senate amendment, should be adopted.

The SPEAKER pro tempore. The time of the gentleman has expired. The gentleman from Massachusetts moves that the conference report be adopted.

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

Mr. MOON of Tennessee. Mr. Speaker, I desire to make a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MOON of Tennessee. Can a separate vote be had by unanimous consent on an item in a conference report?

The SPEAKER pro tempore. The Chair thinks not. It has been ruled very often that a conference report can be agreed to or disagreed to as to its entirety.

Mr. MOON of Tennessee. Then a conference report will have to be voted down entirely in order to get consideration of that proposition?

The SPEAKER pro tempore. The Chair thinks that is the only way it can be done.

Mr. MOON of Tennessee. What is the announcement of the Chair on the vote?

The SPEAKER pro tempore. The Chair will call the attention of the gentleman from Tennessee to two rulings appearing in volume 5 of Hinds' Precedents, one by Speaker Boyd and one by Speaker Henderson.

Mr. HUGHES of New Jersey. A parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from New Jersey will state it.

Mr. HUGHES of New Jersey. Would it not be possible at this time for the gentleman from Tennessee, or some other gentleman, to move to concur in the Senate amendment?

The SPEAKER pro tempore. The motion to agree to the conference report is preferential.

Mr. UNDERWOOD. Mr. Speaker, I desire to state a proposition for unanimous consent.

Mr. LIVINGSTON. Mr. Speaker, I call for a decision on the vote.

Mr. MOON of Tennessee. Mr. Speaker, I demand a division on the question.

The SPEAKER pro tempore. The Chair had announced that the conference report had been agreed to. The gentleman from Tennessee [Mr. MOON] was on his feet, but the Chair did not understand for what purpose.

Mr. MOON of Tennessee. Mr. Speaker, I demand a division.

The House divided; and there were—ayes 56, noes 37.

Mr. MOON of Tennessee. Tellers, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Tennessee demands tellers.

Mr. MOON of Tennessee. Give us the yeas and nays on this proposition.

Mr. UNDERWOOD. Pending the demand for yeas and nays, I want to make a request for unanimous consent. I ask unanimous consent to disagree to the conference report and agree to all the items except the two in dispute, as stated by the gentleman from Tennessee [Mr. MOON], and disagree to those items, and send the bill back to conference. I ask unanimous consent that that be agreed to.

Mr. KEIFER. Is it not too late to make such request for unanimous consent when the vote is going on?

Mr. UNDERWOOD. It can be done by unanimous consent, if you desire to do it.

The SPEAKER pro tempore. The gentleman from Alabama [Mr. UNDERWOOD] asks unanimous consent that the report of the conference committee be disagreed to, to be followed by an agreement that all of the amendments be agreed to except the amendment No. 23.

Mr. UNDERWOOD. Mr. Speaker, I will ask unanimous consent, then, that we disagree to the conference report, and let the committee take it back to conference, where they can handle the other amendments to suit themselves, and then the gentleman can make a motion to adhere to the Senate amendments.

The SPEAKER pro tempore. The gentleman from Alabama asks unanimous consent that the House do disagree to the conference report. The proper way would be to vote down the motion to agree to the conference report.

Mr. MANN. The gentleman from Tennessee [Mr. MOON] asked for tellers, I believe.

Mr. BARTLETT of Georgia. He asked for the yeas and nays.

Mr. UNDERWOOD. Mr. Speaker, my purpose was to avoid the issue of the yeas and nays, which was pending. Of course, if the House wants to insist on having the yeas and nays——

Mr. MANN. We do not want the yeas and nays. Let us all be sensible for once in our lives, all around. On tellers we could vote down the conference report.

Mr. MOON of Tennessee. That is all right, if the House will agree to vote down the conference report.

Mr. HARDWICK. We do not know whether it will or not.

Mr. MOON of Tennessee. We can demand the yeas and nays.

The SPEAKER pro tempore. Does the gentleman from Tennessee demand tellers or the yeas and nays?

Mr. FITZGERALD. Tellers on the vote, Mr. Speaker.

Mr. MOON of Tennessee. I believe I will demand the yeas and nays.

The SPEAKER pro tempore. The gentleman demands the yeas and nays.

Mr. MOON of Tennessee. Mr. Speaker, I withdraw the demand for the yeas and nays and insist on having tellers.

Tellers were ordered.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. WEEKS] and the gentleman from Tennessee [Mr. MOON] will take their place as tellers.

The House proceeded to divide.

Pending the division,

SEVERAL MEMBERS. Regular order, Mr. Speaker.

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

Mr. GARRETT. Pending that, Mr. Speaker, I ask for a further conference.

Mr. PARKER. Mr. Speaker, why not let it lie over?

The SPEAKER pro tempore. All in favor of agreeing to the conference report will pass through the tellers and be counted.

Mr. PARKER. Mr. Speaker, I ask unanimous consent that this conference report be laid over until the naval conference report is disposed of.

Mr. COX of Indiana. I object, Mr. Speaker.

The House divided; and the tellers reported—ayes 1, noes 54.

So the conference report was rejected.

Mr. MOON of Tennessee. Mr. Speaker, I move a further disagreement.

Mr. WEEKS. Mr. Speaker, I move that we further disagree to the Senate amendments and ask for a conference.

The SPEAKER. The gentleman from Massachusetts [Mr. WEEKS] moves that the House do further disagree to the Senate amendments and ask for a conference. The question is on agreeing to the motion.

The motion was agreed to; and the Speaker named the following conferees: Mr. WEEKS, Mr. GARDNER of Massachusetts, and Mr. MOON of Tennessee.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Curtis, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 31539) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1912, and for other purposes.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 32909) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1912, and for other purposes, had further insisted upon its amendments Nos. 1, 2, 3, 6, 19, 20, 49, 69, 78, 92, and 109, disagreed to by the House of Representatives, had asked a further conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. HALE, Mr. PERKINS, and Mr. CULBERSON as the conferees on the part of the Senate.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses thereon, had further insisted upon its amendments to the bill (H. R. 32212) making appropriations for the naval service for the fiscal year ending June 30, 1912, and for other purposes, Nos. 58 and 61, disagreed to by the House of Representatives, had asked a further conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. HALE, Mr. PERKINS, and Mr. TILLMAN as the conferees on the part of the Senate.

The message also announced that the Senate had passed with amendments bills of the follow titles, in which the concurrence of the House of Representatives was requested:

H. R. 26367. An act to pay certain employees of the Government for injuries received in the discharge of duty; and

H. R. 25503. An act to provide punishment for the falsification of accounts and the making of false reports by persons in the employ of the United States.

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

S. 10744. An act to provide for the purchase of a site for the erection of a public building thereon at Sundance, in the State of Wyoming;

S. 70823. An act to extend the time for the completion of a bridge across the Missouri River at Yankton, S. Dak., by the Yankton, Norfolk & Southern Railway Co.;

S. 10342. An act providing for the appointment of an additional professor of mathematics in the Navy;

S. 10878. An act to authorize the Canyon Snake River Wagon Bridge Commission to construct a bridge across Snake River at or near the town of Payette, Idaho;

S. 9707. An act to authorize the extension of Lamont Street NW., in the District of Columbia; and

S. 6479. An act for the relief of Matthew Logan.

The message also announced that the Senate had passed without amendment a bill of the following title:

H. R. 32170. An act for the protection of game in the Territory of Alaska.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. TAWNEY. Mr. Speaker, I call up the conference report on the bill (H. R. 32909) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1912, and for other purposes, with accompanying written statement, and ask that the statement be read in lieu of the report.

The SPEAKER. Is there objection? The Chair hears none. The Clerk will read the written statement.

The Clerk read as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the sundry civil appropriation bill for the fiscal year 1912 submit the following written statement in explanation of the action agreed upon in the accompanying conference report as to the amendments of the Senate, namely:

On amendment No. 4: Makes the appropriation to enable the President to secure information relative to the tariff available for the tariff board if established by law.

On amendment No. 5: Appropriates $75,000, as proposed by the Senate, to enable the President to continue the work of business reform in the executive departments.

On amendment No. 7: Appropriates $3,000, instead of $9,000 as proposed by the Senate, for the international conference to promote uniform legislation concerning letters of exchange.

On amendment No. 8: Strikes out the appropriation of $2,500 for the interparliamentary union.

On amendments Nos. 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, and 31: Inserts the provisions relative to certain public buildings, proposed by the Senate, except that the amount for the Hanover, Pa., building is reduced to $40,000; the sum of $20,000 for the building at Hickory, N. C., is omitted; the proposed increase of $50,000 for the building at Hilo, Hawaii, is stricken out; the sum of $20,000 for the public building at Livingston, Mont., is omitted; and the provision, proposed by the House, relative to disbursements for public buildings is restored to the bill.

On amendment No. 32: Strikes out the provision inserted by the House with reference to the keeper of the life-saving station at Boston, Mass.

On amendments Nos. 33 and 34: Inserts the provision, proposed by the Senate, authorizing the burial of officers and men of the Revenue-Cutter Service in national cemeteries, and strikes out the provision, proposed by the House, authorizing the construction of two revenue cutters in navy yards.

On amendments Nos. 35, 36, 37, 38, and 39: Appropriates $157.72 to pay a claim, and inserts the provision, proposed by the Senate, fixing the compensation of special agents of the Treasury.

On amendment No. 40: Strikes out the provision increasing the compensation of officers of the Public Health and Marine-Hospital Service.

On amendments Nos. 41, 42, and 43: Inserts the provision, proposed by the Senate, granting leaves of absence to firemen of the District of Columbia, and the provision, limited to the fiscal year 1912, regulating the employment of substitutes for public-school teachers in the District of Columbia.

On amendments Nos. 44, 45, and 46: Makes verbal corrections in the text of the bill and authorizes the selection of

members of the Court of Commerce to serve under the act concerning carriers engaged in interstate commerce.

On amendments Nos. 47 and 48: Provides for paving at the Springfield (Mass.) Arsenal, and strikes out the provision, proposed by the Senate, regulating the employment, in private pursuits, of persons employed by the United States, the Army, and Navy.

On amendments Nos. 50, 51, and 52: Increases from $1,000 to $2,500 the amount that may be used for maintenance of certain roads in the Yellowstone Park and to extend a road to the new Canyon Hotel in the park, and strikes out the appropriation of $5,000 for a road to Mount Rainier Park.

On amendments Nos. 53 and 54: Makes a verbal correction in text of the bill and inserts a provision with reference to the survey of northern and northwestern lakes.

On amendments Nos. 55 and 56: Makes a verbal correction and strikes out the provision inserted by the Senate with reference to certain Government property in Porto Rico.

On amendments Nos. 57, 58, and 59: Strikes out the appropriations of $30,000 proposed by the Senate for an electric-light plant at the Battle Mountain Sanitarium, South Dakota.

On amendments Nos. 60, 61, and 62: Appropriates $3,500, as proposed by the House, instead of $5,000, as proposed by the Senate, for reproducing plats of surveys; makes available to the State of Nevada an additional 1,000,000 acres of arid lands; and appropriates $50,000 for surveys in Idaho.

On amendments Nos. 63, 64, and 65: Strikes out the increase proposed by the Senate in the appropriations for the Bureau of Mines.

On amendment No. 66: Appropriates $64,000 for books authorized to be furnished under section 229 of the act to codify the laws.

On amendments Nos. 67 and 68: Appropriates $15,000 for the protection of game in Alaska and $12,000 for suppressing liquor traffic among the natives of Alaska.

On amendments Nos. 70, 71, 72, and 73: Appropriates $5,000 instead of $8,400 for the protection and improvement of Mount Rainier Park; $2,500 for the Wind Cave National Park; and makes a verbal correction in the bill.

On amendments Nos. 74 and 75: Appropriates $7,000 for connecting the heating plant of the Freedmen's Hospital with Howard University.

On amendment No. 76: Strikes out the provision for the solicitor of the Government Printing Office.

On amendment No. 77: Strikes out the provision proposed by the Senate relating to the sum of $2,000,000 reserved from the Chinese indemnity.

On amendments Nos. 79, 80, 81, and 82: Appropriates $9,000 to pay amounts added to the salaries of the Justices of the Supreme Court; increases the salaries of the United States attorney for New Jersey to $5,000 and for Nevada to $4,000; and provides for a bust and a portrait of the late Chief Justice Fuller.

On amendments Nos. 83, 84, 85, 86, 87, 88, 89, 90, and 91: Relating to lighthouses, appropriates $10,000 for the Monhegan Island, Me., light station; $25,000 for the Lincoln Rock light station, Alaska; $60,000 for the Buffalo breakwater light station; $25,000 for the Superior Entry, Wis., light; $2,950 for the Eagle Point range light, N. J.; $36,000 for the San Pedro breakwater light station, Cal.; $21,000 for lights and signals in Cape Fear River; and $35,000 for lighting Norfolk harbor; and strikes out the appropriation of $130,000 for the relief light vessel *General Service*.

On amendments Nos. 93, 94, 95, and 96: Appropriates $25,000 each for fish-cultural stations in Kentucky, Wyoming, Florida, and South Carolina.

On amendments Nos. 97, 98, 99, 100, and 101: Inserts the appropriations proposed by the Senate for inimigrant stations at New Orleans, Boston, and Philadelphia.

On amendments Nos. 102, 103, 104, 105, 106, and 107: Provides for the Senate Office Building, as proposed by the Senate, and appropriates $72,200 for refrigerating apparatus for the Capitol and Senate and House Office Buildings.

On amendment No. 108: Provides for the inspector of paper at the Government Printing Office under the Joint Committee on Printing.

On amendment No. 110: Strikes out the appropriation of $10,000 for legislative reference bureau in the Congressional Library.

On amendments Nos. 111, 112, 113, 114, 115, 116, 117, 118, and 119: Relating to the Government Printing Office, increases the allotment for printing for the Interior Department by $10,000 and strikes out the proposed increase in the allotment for the Patent Office of $40,000.

The committee of conference have been unable to agree on amendments Nos. 1, 2, and 3: Relating to the appropriation to enable the President to secure information relating to the tariff.

On amendment No. 6: With reference to the joint commission on boundary waters between Canada and the United States.

On amendments Nos. 19 and 20: Relating to the public building at Lancaster, Ky.

On amendment No. 49: Provides for a walk from the national cemetery at Natchez, Miss.

On amendment No. 69: Appropriating $52,000 for the Platt National Park.

On amendment No. 78: Strikes out the appropriation of $50,000 for suits to set aside conveyances of the Five Civilized Tribes.

On amendment No. 92: Relating to the salaries of lighthouse inspectors.

On amendment No. 109: Providing for a joint committee with reference to Alaska.

JAMES A. TAWNEY,
WALTER I. SMITH,
JOHN FITZGERALD,
Managers on the part of the House.

The conference report (No. 2301) is as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 32909) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1912, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 8, 15, 16, 22, 31, 40, 48, 52, 56, 57, 58, 59, 60, 63, 64, 65, 76, 77, 85, 99, 110, 113, and 117.

That the House recede from its disagreement to the amendments of the Senate numbered 5, 9, 10, 11, 12, 13, 17, 18, 21, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 41, 42, 44, 45, 46, 47, 50, 51, 53, 55, 62, 67, 68, 71, 72, 73, 74, 75, 79, 80, 81, 82, 83, 84, 86, 87, 89, 90, 91, 94, 96, 97, 98, 100, 101, 102, 103, 104, 105, 106, 107, 108, 111, 112, 118, and 119; and agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment as follows: In line 2 of said amendment, after the word "Board," insert the words: "if established by law"; and the Senate agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"INTERNATIONAL CONFERENCE TO PROMOTE UNIFORM LEGISLATION CONCERNING LETTERS OF EXCHANGE.

"For the participation by the United States in the adjourned meeting at The Hague, in 1911, of the International Congress for the Purpose of Promoting Uniform Legislation Concerning Letters of Exchange, including compensation and actual necessary traveling and subsistence expenses of an expert delegate, $3,000, to be immediately available."

And the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$40,000"; and the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment as follows: In line 1 of said amendment, after the word "authorized," insert the words "until the close of the fiscal year 1912"; and the Senate agree to the same.

Amendment numbered 54: That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "*Provided*, That the survey of said northern and northwestern lakes be extended so as to include the lakes and other natural navigable waters embraced in the navigation system of the 'New York canals'"; and the Senate agree to the same.

Amendment numbered 61: That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment as follows: In line 1 of

said amendment strike out the word "two" and insert in lieu thereof the word "one"; and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment as follows: In lieu of the matter proposed by said amendment insert the following: "To pay for books authorized to be furnished under section 229 of the 'Act to codify, revise, and amend the laws relating to the judiciary,' $64,000: *Provided*, That not more than $2 shall be paid per volume for the Federal Reporter and not more than $5 shall be paid per volume for Digests of the Federal Reporter"; and the Senate agree to the same.

Amendment numbered 70: That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$5,000"; and the Senate agree to the same.

Amendment numbered 88: That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert "$2,950"; and the Senate agree to the same.

Amendment numbered 93: That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment as follows: In line 1 of said amendment, after the word "in," insert the words "Jefferson County"; and the Senate agree to the same.

Amendment numbered 95: That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "Toward the construction of a marine biological station on the Gulf of Mexico at a point on the coast of the State of Florida, $25,000"; and the Senate agree to the same.

Amendment numbered 114: That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$5,291,750"; and the Senate agree to the same.

Amendment numbered 115: That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$1,846,850"; and the Senate agree to the same.

Amendment numbered 116: That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment as follows: Omit the matter inserted by said amendment, and on page 217 of the bill, in line 2, strike out the word "eighty-five" and insert in lieu thereof the word "ninety-five"; and the Senate agree to the same.

The committee of conference have been unable to agree on the amendments of the Senate numbered 1, 2, 3, 6, 19, 20, 49, 69, 78, 92, and 109.

JAMES A. TAWNEY,
WALTER I. SMITH,
JOHN J. FITZGERALD,
Managers on the part of the House.
EUGENE HALE,
C. A. CULBERSON,
Managers on the part of the Senate.

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

The conference report was agreed to.

Mr. TAWNEY. Mr. Speaker, I now move that the House further insist on its disagreement to the amendments of the Senate, not covered by the conference report, which are as follows:

On amendments Nos. 1, 2, and 3, relating to the appropriation to enable the President to secure information with reference to the tariff.

On amendment No. 6, relating to the Canadian Water Boundary Commission.

On amendments Nos. 19 and 20, relating to the public building at Lancaster, Ky.

On amendment No. 49, appropriating for a walk from the national cemetery at Natchez, Miss.

On amendment No. 69, appropriating $52,000 for the Platt National Park.

On amendment No. 78, striking out the appropriation of $50,000 for expenses of suits to set aside conveyances of the Five Civilized Tribes.

On amendment No. 92, relating to the salaries of lighthouse inspectors.

On amendment No. 109, relating to the Alaskan investigation.

The amendment of the Senate No. 109 I would like to read to the House. It has reference to the Alaskan investigation. It has not been before the House and it has not been read, and the House conferees did not feel like agreeing to it without its presentation to the House. The proposition is that we defray the expenses of a joint committee, to consist of five Members of the Senate and five Members of the House of Representatives, to make an investigation into existing conditions in Alaska.

The amendment reads as follows:

Alaskan investigation: To defray the expenses of a joint committee, to consist of five Members of the Senate and five Members of the House of Representatives, who shall be appointed, five by the Presiding Officer of the Senate and five by the Speaker of the House of Representatives, $10,000, and said committee shall make an investigation into the existing conditions in the Territory of Alaska and report upon the same at the next regular session of Congress, with recommendations for such legislation as may be deemed necessary, the said sum to be disbursed by the Secretary of the Senate upon vouchers to be approved by the chairman of the committee.

It is thought by the Senate and by many Members of the House that the conditions in Alaska are such as to require legislation. The people of the District of Alaska are demanding legislation. A great many questions have arisen that have occasioned more or less agitation, and it is believed by the Senate and by Members of the House that there ought to be an investigation by a legislative committee such as proposed here.

I now call for a vote on my motion.

Mr. AUSTIN. I should like to ask the gentleman a question. I want to know about the two items inserted by the Senate increasing the amount for the Bureau of Mines and Mining for mine accidents and the testing of coal.

Mr. TAWNEY. They are included in the report which has been agreed to.

Mr. GARDNER of Massachusetts. Will the gentleman please explain the verbal change with regard to the fisheries in international waterways?

Mr. TAWNEY. There is nothing about fisheries.

Mr. GARDNER of Massachusetts. I think it includes the control of the fisheries.

Mr. TAWNEY. It is the international joint commission having jurisdiction over boundary questions and the use of boundary waters.

Mr. GARDNER of Massachusetts. It is the Jordan commission, is it not?

Mr. TAWNEY. It is the commission created under the treaty of June 10, 1910.

Mr. GARDNER of Massachusetts. That is the one.

Mr. TAWNEY. It has been agreed to; but in drawing the Senate amendments they provided specifically for the payment of the salaries of clerks and other employees, and then omitted to make any reference to the salaries of the commission. That was not discovered until the conference had practically adjourned, and it was simply kept open to make that correction.

Mr. AUSTIN. Do I understand the chairman of the Committee on Appropriations to state that the items I asked him about are retained in the bill?

Mr. TAWNEY. No; the Senate receded from their amendments, and those items are not in the bill.

Mr. AUSTIN. I am very sorry they did not stand up.

The SPEAKER. The gentleman from Minnesota [Mr. TAWNEY] moves that the House do further insist on its disagreement to the Senate amendments and ask for a conference.

The motion was agreed to; and the Speaker appointed as conferees on the part of the House Mr. TAWNEY, Mr. SMITH of Iowa, and Mr. FITZGERALD.

NAVAL APPROPRIATION BILL.

Mr. FOSS. Mr. Speaker, I call up the conference report on the naval appropriation bill (H. R. 32212) and ask that the statement may be read in lieu of the report.

The SPEAKER. The gentleman from Illinois calls up the conference report on the naval appropriation bill, and asks that the statement may be read in lieu of the report. Is there objection?

There was no objection.

The Clerk read the statement of the House conferees.

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 32212) making appropriations for the naval service for the fiscal year ending June 30, 1912, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 7, 10, 11, 20, 32, 33, 44, 45, 46, 48, 49.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 5, 6, 8, 9, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 35, 36, 37, 38, 40, 41, 42, 43, 47, 50, 51, 52, 53, 54, 55, 56, 57, 59, 60, 62, 63, 64, 65, 67, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows: Between the words "and" and "accounting" of said amendment, insert the following: "not exceeding 10 clerks to"; and the Senate agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows: At the end of said amendment add the following "not exceeding 10 clerks"; and the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment as follows: Strike out all after line 8 of said amendment and insert a period instead of a colon after the word "Congress"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment as follows: Strike out "seven million, fifty-two thousand nine hundred and seventy-seven," and insert in lieu thereof "seven million, four hundred thirty-one thousand, four hundred and seventy-seven"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment as follows: After the word "clerks" add the word "each"; and the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment as follows: At the beginning of said amendment strike out "Sec. 2"; and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment as follows: Restore the following language of said amendment: "But this limitation shall in no case apply to any existing contract"; and the Senate agree to the same.

On the amendments of the Senate numbered 58 and 61 the committee of conference have been unable to agree.

GEORGE EDMUND FOSS,
H. C. LOUDENSLAGER,
L. P. PADGETT,
Managers on the part of the House.

GEO. C. PERKINS,
EUGENE HALE,
Managers on the part of the Senate.

STATEMENT.

The managers on the part of the House at the conference on the disagreeing vote of the two Houses on the bill (H. R. 32212) making appropriations for the naval service for the fiscal year ending June 30, 1912, and for other purposes, submit the following written statement in explanation of the effect of the action agreed upon, and submitted in the accompanying conference report on the amendments of the Senate, namely:

Amendments Nos. 1 and 2 limit the number of clerks to accounting officers and general storekeepers ashore and afloat to 10 in each class.

Amendment No. 3 provides for the resettlement of accounts of officers of the Navy who served in the War with Spain in accordance with a decision of the United States Supreme Court in the case of United States against John M. Hite, and the House recedes.

Amendment No. 4 provides for the establishment of a cost-accounting system and provides for payments on contracts for public purposes, and the House recedes with an amendment by striking out all of the amendment relating to the payment on contracts.

Amendment No. 5 provides that officers on the active list who now, under authority of law, perform engineering duty on shore only, are made additional numbers, and the House recedes.

Amendment No. 6 provides the same privilege of retirement for officers of the Navy as accorded to the Army and Marine Corps in cases where such officers be found incapacitated in line of duty, and the House recedes.

Amendment No. 7 provides that clerks to general storekeepers at navy yards and naval stations shall be appointed under civil-service rules, yet to be given the privileges of paymaster's clerks in the Navy, and the Senate recedes.

Amendment No. 8 strikes out the provision which provides for experimenting at long-range fire for armor-piercing projectiles, and the House recedes.

Amendment No. 9 strikes out the provision which prohibits the transportation of coal from the Atlantic to the Pacific Ocean, and the House recedes.

Amendments Nos. 10 and 11 provide for a change of total and an appropriation of $50,000 for the purchase of necessary machinery, materials, supplies, and tools, etc., to enable the Hydrographic Office to produce metallic chart plates of the oceans and harbors of the world, and the Senate recedes.

Amendment No. 12 permits the Secretary of the Navy to furnish heat and light without charge to the Young Men's Christian Association buildings in navy yards and stations, and the House recedes.

Amendments 13, 14, and 15 provide for the transposition of items, but no change in the appropriation, and the House recedes.

Amendments 16, 17, and 18 provide for the purchase of a 150-ton floating crane at Boston Navy Yard and makes immediately available $15,000 for the enlargement of the dry dock at Boston, and a change of total, and the House recedes.

Amendment No. 19 provides for an appropriation of $378,500 for emergency repair installation at the naval station, Guantanamo, Cuba, and the House recedes.

Amendment No. 20 provides for authority to be given to the Attorney General to file suits against all persons claiming title to any part of certain land along the Anacostia River in the vicinity of Washington Navy Yard, and the Senate recedes.

Amendments Nos. 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30 provide for appropriations for public works in the several navy yards and stations, and the House recedes.

Amendment No. 31 is a change in total, and the House recedes.

Amendment No. 32 provides for the commissioning of pharmacists in the Navy, and the Senate recedes.

Amendment No. 33 provides for the repeal of two sections of the Revised Statutes relating to repairs on vessels, and the Senate recedes.

Amendments Nos. 34 and 35 provide for the increase in salary of one clerk at the Naval Academy from $1,200 to $1,500, and the House recedes.

Amendments Nos. 36 and 37 are changes of total.

Amendments Nos. 38 and 39 provide for the appropriation of $75,000 for the crypt at Annapolis, Md., as a permanent resting place for the body of John Paul Jones, and the House recedes.

Amendment No. 40 is a change of total.

Amendment No. 41 provides for the increase in salary of the chief clerk to the major general commandant of the Marine Corps, and the House recedes.

Amendments Nos. 42 and 43 are changes of total.

Amendments Nos. 44 and 45 provide for an appropriation of $17,000 for repairs to and fitting up buildings, etc., at Port Royal, S. C., and the Senate recedes.

Amendment No. 46 provides for an appropriation of $148,000 for barracks at Boston, Mass., and the Senate recedes.

Amendment No. 47 permits the accounting officers of the Treasury to remove suspensions in accounts of disbursing assistant quartermasters of the Marine Corps, and the House recedes.

Amendments Nos. 48 and 49 are changes in totals.

Amendments Nos. 50 and 51 strike out the provision on the increase of the Navy whereby each battleship should have the speed at least equal to that of any known battleship, and the House recedes.

Amendments Nos. 52, 53, 54, and 55 provide for one submarine tender, one gunboat, one river gunboat, and two seagoing tugs, and the House recedes.

Amendments Nos. 56 and 57 restrict the eight-hour law to the construction of battleships under the appropriation "Construction and machinery," and the House recedes.

Amendment No. 59 provides that the limitation regarding the eight-hour law shall not apply to torpedo boats authorized prior to the approval of this act, and the House recedes.

Amendment No. 60 strikes out the provision that no purchase of armor or armament shall be made at a price in excess of 100 per cent upon the actual cost of manufacture, and the House recedes.

Amendment No. 62 is a change of total.

Amendments Nos. 63, 64, and 65 are mere changes of phraseology and punctuation.

Amendment No. 66 strikes out the provision that no purchase of armor or armament shall be made at a price in excess of 100 per cent above the actual cost of manufacture, providing that the limitation should in no case apply to any existing contract, and the House recedes with an amendment which provides that the entire paragraph relating to firms or corporations who have combined or conspired to monopolize the interstate or foreign commerce shall not relate to any existing contract.

Amendment No. 67 provides that the President be authorized and requested to invite the foreign fleets to assemble in Hampton Roads, Va., to be formally welcomed by the President in pursuance of a joint resolution of Congress whereby the President was authorized to invite all foreign countries to attend and participate in an exposition at the city and county of San Francisco, Cal., on or about January 1, 1915, and the House recedes.

The increase in the bill by Senate amendments was $1,469,200, which was reduced by agreement in conference by $215,000, leaving the total of the bill as agreed to in conference $126,464,338.24.

GEORGE EDMUND FOSS,
H. C. LOUDENSLAGER,
L. P. PADGETT,
Managers on the part of the House.

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

The conference report was agreed to.

Mr. FOSS. Mr. Speaker, I wish to say to the Members of the House that this leaves in disagreement two propositions, one known as Senate amendment No. 58, which provides that—

The limit of cost of the collier authorized and directed by the naval appropriation act, approved May 13, 1908, to be built in such Government yard on the Pacific coast as the Secretary of the Navy shall direct, is hereby increased from the modified million dollar limit of cost imposed by the act of June 24, 1910, to $1,200,000, exclusive of indirect charges.

The other amendment is known as No. 61, and relates to the limit of cost of the *Florida* and the *New York*.

Upon this first amendment, Mr. Speaker, I move that the House further insist on its disagreement to Senate amendment No. 58.

Mr. KNOWLAND. Mr. Speaker, I move as a substitute that the House recede and concur.

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

Mr. HOBSON. The difference is $200,000?

Mr. FOSS. Yes. How much time does the gentleman desire?

Mr. KNOWLAND. There are two matters that are practically identical, the collier matter and the New York Navy Yard matter. It seems to me that these two matters could be considered together and a time limit fixed.

Mr. FOSS. They are two different amendments and they will have to be considered separately. The motion now is in reference to amendment No. 58. I yield five minutes to the gentleman from California [Mr. KNOWLAND].

Mr. KNOWLAND. Mr. Speaker, this matter was thoroughly thrashed out when the pending bill was before the House on February 21. After a thorough discussion of the whole subject an amendment aimed to carry out the same object as the one now in dispute—the elimination of overhead charges in determining the cost of the Mare Island collier—was adopted by a vote of 79 to 37. In view of the decisive vote of the House, at that time, it seems to me that in all fairness this amendment should be concurred in. I want to say in this connection—and if I make any misstatement I want the Chairman to call it to my attention, because I desire to be entirely fair to the House and to the committee—that the amendment which I proposed when the matter was before the House was aimed to eliminate the indirect charges, the practical effect of which, as I frankly stated on the floor, would be to raise the limit of cost to $400,000, this being the amount estimated as overhead or indirect charges. I have in my hand a letter from the Secretary of the Navy, in reply to a request for estimates he had received from the Mare Island Navy Yard, as to the cost of the collier, upon which letter I based the statement made to the House. I will insert a copy of the letter:

NAVY DEPARTMENT,
Washington, February 4, 1911.

MY DEAR CONGRESSMAN: Referring to your communication of the 1st instant, requesting to be furnished with the detailed estimates made by the Navy Yard, Mare Island, Cal., for the collier authorized to be constructed at a Pacific Coast yard, I take pleasure in forwarding, under separate cover, blueprint booklet giving the estimates for the construction of this collier, which were submitted by the navy yard, Mare Island, Cal., by letter dated July 29, 1909. In this letter the yard also submitted estimates developed on the basis of a new system of cost-keeping estimating 50 per cent for indirect labor, which gave the following results:

CONSTRUCTION AND REPAIR, STEAM ENGINEERING EQUIPMENT.

	Construction and repair.	Steam engineering.	Equipment.	Total.
Total labor	$510,000	$347,278	$5,236	$862,614
Total material	341,191	165,198	34,977	541,366
Grand total	851,191	512,476	40,313	1,403,980

These estimates were further modified by a telegram from the Navy Yard, Mare Island, dated September 27, 1910, which is quoted below: "Revised estimates cost *Jupiter:* Construction, $891,200; engineering, $535,500; equipment, $40,900."

Faithfully, yours,
G. v. L. MEYER.

Hon. J. R. KNOWLAND, *Member of Congress., House of Representatives, Washington, D. C.*

Mr. KNOWLAND. He gives the total labor as $862,614. A hurried reading of this letter led me to believe that if the indirect labor was eliminated we would reduce the total $400,000 in round numbers. After this amendment was adopted I called at the Navy Department and brought it to their attention, inquiring if the amendment would bring about the result I sought, that is, to bring the collier within the estimate of the department. It was admitted at the department that the letter was a little misleading, giving the impression that the indirect labor amounted to 50 per cent of the $862,614.

The indirect labor was much less, which necessitated increasing the limit of cost to bring the total appropriation within the amount which the yard estimated, and this is all the amendment does. The limit of cost by this amendment is but slightly raised, this being due, as I have stated, to the fact that the indirect charges were less than I had estimated. To the cost of the collier the gentleman from Tennessee [Mr. PADGETT] called the attention of the House when the matter was pending, plainly stating that the amendment added $400,000, making the total cost $1,400,000. As a matter of fact, the total cost of the collier at the yard in reality is not increased to any great extent, as I figure it. The House when it voted previously upon this matter did so with the full knowledge that it added in the neighborhood $400,000, and that is all this amendment does. It adds the difference between what I thought were the indirect charges and what the yard estimated them to be. In view of these facts, considering that the House has already expressed itself in favor of a similar amendment, by a vote of 79 to 37, I think it no more than fair that the House should concur.

Mr. FOSS. Mr. Speaker, the amendment which the House put in reads as follows:

Provided, That no part of the above appropriation shall be used for the payment or construction of any collier the total cost of which, exclusive of indirect labor, shall exceed $1,000,000.

Now, the Senate strikes out this provision and inserts the provision that the limit of cost shall be increased to $1,200,000, exclusive of indirect charges. That is to say, the Senate has increased the limit of cost $200,000, exclusive of indirect charges. Now, under our system in the navy yard, we have to charge up the indirect charges against the cost of the ship.

Mr. KNOWLAND. If the gentleman would yield I would like him to answer as to whether that makes the total any more than I stated on the floor of the House when my first amendment was pending?

Mr. FOSS. The total cost of the collier, if you include the indirect charges, will be the same anyway.

Mr. KNOWLAND. One million four hundred thousand dollars, in round numbers.

Mr. FOSS. It will be more than that.

Mr. KNOWLAND. I have here the letter of the Secretary of the Navy, with the blue-print estimates.

Mr. FOSS. It will be a good deal more than that. As I stated to the gentleman on the floor the other day, when he said this collier could be built for a million dollars, in my judgment it could not be done, and it has already been shown that the Senate has increased that limit of cost $200,000, and, in my judgment, it will be increased even higher than that if we build the collier in the navy yards. This is the same old question of building ships in the navy yards, and it means an increased cost. Now, we are building a collier down here at the Maryland Steel Co., by private contract, or rather that company is building a collier for the Government at less than $900,000—a collier similar in every respect to the collier which it is proposed to build in the Mare Island Navy Yard at $1,200,000, exclusive of indirect charges.

Mr. KNOWLAND. Will the gentleman yield for a moment?
Mr. FOSS. Yes.
Mr. KNOWLAND. Is it not a fact that this year the department was unable to secure any bids from private firms lower than $1,596,500?
Mr. FOSS. Well, that was on account of the eight-hour law.
Mr. KNOWLAND. And the limit of cost with the eight-hour law not applying, according to the estimate of the department on page 384 of the hearings—they state that the cost of the collier now will be $1,100,000.
Mr. FOSS. I want to say again we are building these colliers for less than $900,000.
Mr. KNOWLAND. Not building them now.
Mr. FOSS. The Maryland Steel Co. is building one to-day.
Mr. KNOWLAND. That is a two-year-old contract.
Mr. FOSS. We have built colliers in Government navy yards. We built one in New York a few years ago and that cost $1,625,000.
Mr. CALDER. Will the gentleman yield?
Mr. FOSS. Then we built one in the Mare Island Navy Yard a few years ago, the *Prometheus*, and that cost $1,400,000.
Mr. CALDER. And these are ships with mahogany trimmings and everything else almost like ocean liners.
Mr. FOSS. These colliers are like the colliers we are building to-day and which the Maryland Steel Co. is building at less than $900,000. Our experience goes to prove that if we build these colliers in the Government navy yards we have to expend at least $1,500,000. The provision was put in here that the collier should not cost over $1,200,000 exclusive of indirect charges.
Mr. MANN. Will the gentleman yield?
Mr. FOSS. The indirect charges are properly charged against the ship. They are charges of light and heat and power, and these things are properly charged against the ship. When you exclude the indirect charges, you do not make the ship cost any less. The Government in the end has to pay it. I yield to the gentleman from Illinois [Mr. MANN].
Mr. MANN. I simply wish to ascertain what the points in disagreement are.
Mr. FOSS. It is over building this collier, and the Senate increased the limit of cost $200,000. That is in disagreement.
Mr. MANN. Yes; but what does it mean? I have not been able to understand yet.
Mr. FOSS. It means the building of this collier in the Government navy yard on the Pacific coast.
Mr. MANN. What is the other item?
Mr. FOSS. The other item is building the battleship *New York* in the New York Navy Yard, and the provision here in the bill relates to increasing the limit of cost to $6,400,000, exclusive of indirect charges.
Mr. MANN. Suppose the amount is not increased, what becomes of the two ships?
Mr. FOSS. Oh, they will not be built.
Mr. MANN. That is some comfort.
Mr. FOSS. They will not be built this year.
Mr. ROBERTS. Will the gentleman yield?
Mr. FOSS. Yes.
Mr. ROBERTS. Am I right in assuming or in believing that on page 5 of this bill the House has accepted a provision inserted in the Senate, which, when the bill becomes a law, will compel the charge of the direct and indirect charges against all work of the Government in the yards hereafter, making it permanent law?
Mr. FOSS. Yes.
Mr. ROBERTS. That will be permanent law when this bill is signed?
Mr. LOUDENSLAGER. Except you have another provision.
Mr. FOSS. That is the same provision of last year.
Mr. ROBERTS. But it is made permanent law that these indirect charges shall be made against work in the yards, and yet the gentleman from California is asking this House to make an exception in the same bill which says that the indirect charges shall be made against vessels.
Mr. KNOWLAND. The House, by a vote of 76 to 30, made an exception, not the gentleman from California.
Mr. FOSS. The House on that vote made an exception when it fixed the limit of cost at $1,000,000.
Mr. KNOWLAND. That does not change the total.
Mr. FOSS. The Senate has increased the limit of cost to $1,200,000, and that is another proposition.
Mr. ROBERTS. What I am getting at is this, if the House accepts the proposition of the gentleman from California the bill creating a law will also carry an exception to that law.
Mr. FITZGERALD. That is nothing unusual or surprising to anybody.
Mr. HOBSON. Mr. Speaker, I would like to know if I understand the substance of the proposition. This House by a decided vote determined that that collier should be built at Mare Island at an estimated cost of about $1,400,000.
Mr. FOSS. The limit of cost was fixed in the amount of $1,000,000, exclusive of indirect labor.
Mr. HOBSON. Under the understanding, quoted from the Navy Department, that, exclusive of indirect charges, made an equivalent of about $400,000. Now, then, as I understand, Mr. Speaker, and see if I am correct, the House directed by that vote of over two to one that this collier should be built at that navy yard at a cost of $1,400,000, and the Senate has directed exactly the same thing—that is, $1,200,000 plus $200,000 overhead charges, making $400,000.
Mr. KNOWLAND. That is correct.
Mr. HOBSON. The House and the Senate have both ordered the same thing, and they are going to bring in here and cause us again to-night to fight out the question whether we are going to build a collier at a navy yard and keep the navy yard up.
Mr. FITZGERALD. And jeopardize an extra session. That is what it means.
Mr. HOBSON. I do not want to fight that question out again, but it is very plain to me that the wishes of this House and the wishes of the Senate are being disregarded.
Mr. FOSS. I will say to the gentleman that the increase in the limit of cost of $200,000, in my judgment, increases the total cost of the ship $200,000.
Mr. HOBSON. It does not change the purpose and the instructions of the House.
Mr. KNOWLAND. Not according to the letter of the Secretary of the Navy.
Mr. FOSS. That is my judgment in the matter. It is the same old question of building ships in a navy yard. If you do it, you may lay it down as a settled proposition that it is going to cost 50 per cent more in the case of colliers, and that has been our experience right along. The only two colliers we have ever built at navy yards have cost us 50 per cent more. Now, Mr. Speaker, I want to yield to the gentleman from Tennessee [Mr. PADGETT] for five minutes.
Mr. HOBSON. Then I should like to have the gentleman yield to me.
Mr. PADGETT. Mr. Speaker, I shall detain the House but a moment. The lowest estimate that has ever been submitted by the Mare Island Navy Yard authorities was one million five hundred thousand and some odd dollars, if I remember the figures.
Mr. KNOWLAND. Here we have the Secretary's letter and the detailed estimate.
Mr. PADGETT. Now, it is ordered in this bill that the navy yard shall keep the cost, both direct and indirect. This provision simply directs that in the construction of the battleships and in the construction of the collier a different system of bookkeeping shall be kept. The effect of it is to conceal the real cost of the ship in the navy yard.
Mr. LIVINGSTON. We do not care anything about that.
Mr. PADGETT. Well, if we do not care what they cost us, then we can vote just as we please.
Mr. FITZGERALD. Is the gentleman not mistaken? Will not the cost system be the same, but the difference in estimating the limit changed?
Mr. PADGETT. It will cost the same, but it will be reported that the cost is one thing, when it really costs more. But I will not detain the House. [Cries of "Vote!" "Vote!"]
Mr. HOBSON. A parliamentary inquiry, Mr. Speaker. What are we voting on?
The SPEAKER. The motion is to recede and concur in amendment No. 58.
Mr. FOSS. Mr. Speaker, I call for a division.
The House divided; and there were—ayes 64, noes 10.
So the motion was agreed to.
Mr. FOSS. Now, Mr. Speaker, there is one other amendment, amendment No. 61, and to that amendment I move that the House recede from its disagreement and agree to the same with an amendment striking out the words "and the limit of cost, exclusive of armor and armament, of the battleship authorized and directed by the naval appropriation act approved June 24, 1910, to be constructed in one of the navy yards, is hereby increased to $6,400,000, exclusive of indirect charges."
The SPEAKER. The Clerk will report the amendment.
The Clerk read as follows:

Recede and concur in amendment No. 61 with an amendment striking out the following language.
"And the limit of cost, exclusive of armor and armament, of the battleship authorized and directed by the naval appropriation act ap-

proved June 24, 1910, to be constructed in one of the navy yards, is hereby increased to $6,400,000, exclusive of indirect charges."

Mr. CALDER. Mr. Speaker, I move to recede and concur in the Senate amendment.

Mr. FITZGERALD. Mr. Speaker, my colleague [Mr. CALDER], has made a motion to recede and concur. As we are in a stage of disagreement, that motion takes precedence over the motion of the gentleman from Illinois [Mr. Foss]. The motion to recede and concur is the motion that brings the two Houses most quickly together at this stage of the proceedings.

The SPEAKER. There is no time made by calling for a vote until the question is settled as to which is the preferential motion. The question is on agreeing to the motion of the gentleman from New York [Mr. CALDER].

Mr. FOSS. Mr. Speaker, I would like to say a word on this, because I would like to have the House understand what they are voting on.

Mr. LIVINGSTON. We do. We know all about it.

The SPEAKER. The Chair desires to say that a motion to recede and concur in the Senate amendments takes precedence over a motion to recede and concur with amendments.

Mr. FOSS. I realize that, Mr. Speaker, but I wish to say that we have to-day two ships in process of construction, identical ships, one the *Utah* and the other the *Florida*. The *Florida* to-day is being built in the New York Navy Yard and it will cost this Government $6,400,000, and we are increasing the limit of cost on the *Florida* in this bill to $6,400,000. The sister ship, the *Utah*, is being built by private contract at the New York Ship Building Co. yards for less than $4,000,000. The building of the *Florida* in the New York Navy Yard will cost $2,500,000 more than the sister ship in a private yard.

I desire to have it distinctly understood that, in my judgment, this ship, by reason of the fact that it is to be built in a Government navy yard, will cost $7,500,000, whereas if it were built under contract by a private shipbuilding concern without any restrictions whatever it would cost $3,000,000 less. I desire that that statement shall go into the RECORD.

Now, Mr. Speaker, I have nothing further to say. [Cries of "Vote!" "Vote!"]

The SPEAKER. The question is on the motion that the House recede from its disagreement and concur in the Senate amendments.

The question was taken; and on a division (demanded by Mr. Foss) there were—ayes 59, noes 17.

So the motion was agreed to.

Mr. FOSS. Mr. Speaker, the House by concurring in these two amendments has passed the bill. [Applause.]

On motion of Mr. FITZGERALD, a motion to reconsider the vote whereby the Senate amendments were concurred in was laid on the table.

BRIDGE ACROSS THE SNAKE RIVER, IDAHO.

Mr. MANN. I ask unanimous consent to take from the Speaker's table two Senate bills, one the bill (S. 10878) to authorize the Commercial Club of Payette, Idaho, to construct a bridge across the Snake River, near the town of Payette, Idaho, and the other the bill (S. 10823) to extend the time for the completion of a bridge across the Missouri River at Yankton, S. Dak., by the Yankton, Norfolk & Southern Railway Co., and put them on their passage.

The SPEAKER. The gentleman from Illinois [Mr. MANN] moves to take from the Speaker's table two Senate bridge bills, S. 10878 and S. 10823, and put them upon their passage. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the bills.

The Clerk read the bill S. 10878.

The SPEAKER. Is there objection?

There was no objection.

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

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Coggeshall, one of its clerks, announced that the Senate had further insisted upon its amendments to the bill (H. R. 31539) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1912, and for other purposes, disagreed to by the House of Representatives, had agreed to the further conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. PENROSE, Mr. CARTER, and Mr. BANKHEAD as the conferees on the part of the Senate.

BRIDGE ACROSS THE MISSOURI RIVER, S. DAK.

The Clerk read the bill, S. 10823.

The SPEAKER. Is there objection?

There was no objection.

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

INJURIES TO GOVERNMENT EMPLOYEES.

The SPEAKER laid before the House the bill (H. R. 26367) to pay certain employees of the Government for injuries received while in the discharge of duty, with Senate amendments thereto.

The Senate amendments were read.

Mr. MANN. Mr. Speaker, unless there is some agreement about the matter in advance, that bill goes to the committee. It has a lot of Senate amendments that take it to the Committee of the Whole. We passed that bill here a short time ago, and when it got in the House certain gentlemen became very enthusiastic and proceeded to stick in the words "five thousand dollars" at 14 or 15 places. They may try to do the same thing again.

Mr. AUSTIN. I certainly will do all I can to prevent the passage of that bill as amended by the Senate. The Senate has reduced the amounts so that they are utterly inadequate. The bill shall never pass in its present form if I can prevent it. I object.

The SPEAKER. What is the point that the gentleman makes?

Mr. MANN. There are a lot of Senate amendments added that require consideration in Committee of the Whole, although I shall not make the point.

The SPEAKER. Yes; there are a lot of Senate amendments here. It is subject to the point that it should be considered in the Committee of the Whole House on the state of the Union.

Mr. AUSTIN. I have no objection to the reading of the bill, but I object to its consideration, unless the House wishes to disagree to the Senate amendments and let it go to conference.

The SPEAKER. Is the point of order made?

Mr. AUSTIN. I make the point of order. There is a proposition here to pay a widow $450 for the death of her husband, killed through no fault of his own. A Democratic House will do better by these widows than that.

The SPEAKER. The gentleman makes the point of order, and the bill is referred to the Committee on Claims.

FALSE REPORTS BY UNITED STATES EMPLOYEES.

The SPEAKER laid before the House the bill (H. R. 25503) to provide punishment for the falsification of accounts in the making of false reports by persons in the employ of the United States, with a Senate amendment thereto.

The Senate amendment was read.

Mr. OLMSTED. I move to concur in the Senate amendment.

The motion was agreed to.

RECESS.

Mr. PAYNE. Mr. Speaker, I move that the House take a recess until 7.15 o'clock.

The motion was agreed to.

Accordingly (at 5 o'clock and 40 minutes a. m. on Saturday, March 4, 1911) the House took a recess until 7.15 o'clock a. m., Saturday, March 4, 1911.

SENATE.

SATURDAY, *March 4, 1911.*

The Senate met at 8 o'clock a. m.

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

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

EXCISE BOARD OF THE DISTRICT OF COLUMBIA.

The VICE PRESIDENT laid before the Senate a communication from the Commissioners of the District of Columbia, transmitting a report of the operations of the excise board of the District of Columbia for the license year ended October 31, 1910, etc. (H. Doc. No. 1420), which, with the accompanying papers, was referred to the Committee on the District of Columbia and ordered to be printed.