24737, authorizing an investigation of the waters of the hot springs of Arkansas; to the Committee on Printing.

By Mr. ROBERTS of Massachusetts: Resolution (H. Res. 640) authorizing the Interstate Commerce Commission to investigate freight charges on articles classed as luxuries; to the Committee on Interstate and Foreign Commerce.

By Mr. LEE of Pennsylvania: Resolution (H. Res. 641) appropriating money for the payment of Richard C. Collins for services in computing the mileage of Members and Delegates; to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of Ohio: A bill (H. R. 25976) granting a pension to Frank M. Freeman; to the Committee on Pensions.

By Mr. CONRY: A bill (H. R. 25977) for the relief of Michael Foley, alias John Griffin; to the Committee on Military Affairs.

By Mr. DOREMUS: A bill (H. R. 25978) granting an increase of pension to Riley Denman; to the Committee on Invalid Pensions.

By Mr. FOWLER: A bill (H. R. 25979) granting an increase of pension to William H. H. Cooper; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25980) granting a pension to George Brooks; to the Committee on Invalid Pensions.

By Mr. GRAY: A bill (H. R. 25981) granting a pension to Nora A. Kitchen; to the Committee on Invalid Pensions.

By Mr. GUERNSEY: A bill (H. R. 25982) granting a pension to Anna J. Sampson; to the Committee on Invalid Pensions.

By Mr. HANNA: A bill (H. R. 25983) granting an increase of pension to Thomas Conroy; to the Committee on Invalid Pensions.

By Mr. NEEDHAM: A bill (H. R. 25984) for the relief of the heirs of Ellery B. Wilmar; to the Committee on the Public Lands.

By Mr. PEPPER: A bill (H. R. 25985) granting a pension to Sophia W. Sterrett; to the Committee on Invalid Pensions.

By Mr. SAMUEL W. SMITH: A bill (H. R. 25986) granting an increase of pension to James Ripley; to the Committee on Invalid Pensions.

By Mr. SULLOWAY: A bill (H. R. 25987) to grant an annuity to Annie Neate; to the Committee on Pensions.

PETITIONS, ETC.

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

By Mr. ASHBROOK: Petition of the International Dredge Workers' Protective Association, Local No. 3, of Toledo, Ohio, favoring passage of House bill 1373, relative to men building, etc., Government rivers and harbors; to the Committee on War Claims.

By Mr. BARTLETT: Petitions of H. C. Turner, W. L. Adams, and others, of Riverdale, Ga., protesting against the passage of any parcel-post system; to the Committee on the Post Office and Post Roads.

By Mr. CALDER: Petition of two members of the Daughters of Liberty, of Brooklyn, N. Y., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Simpson-Crawford Co., of New York City, against passage of the Bourne parcel-post bill; to the Committee on the Post Office and Post Roads.

Also, petition of New York Typographical Union, No. 6, against passage of the Bourne parcel-post bill; to the Committee on the Post Office and Post Roads.

By Mr. FORNES: Papers with reference to fixed prices on patented articles; to the Committee on Patents.

Also, petition of Photo-Engravers' Union No. 1, New York, protesting against the passage of the Bourne parcel-post bill; to the Committee on the Post Office and Post Roads.

By Mr. FULLER: Petition of Oliver Bros., of Rockford, Ill., protesting against the passage of the Bourne parcel-post bill (S. 6850); to the Committee on the Post Office and Post Roads.

By Mr. LEE of Pennsylvania: Petition of Washington Camp, No. 247, Patriotic Order Sons of America, Landingville, Pa., favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. LINDSAY: Petition of the Central Labor Union of Brooklyn, against passage of the Bourne parcel-post bill; to the Committee on the Post Office and Post Roads.

By Mr. STEPHENS of California: Petition of the Southern California Wholesale Grocers' Association, of Los Angeles, Cal., protesting against the coinage of a one-half cent piece; to the Committee on Coinage, Weights, and Measures.

By Mr. TALBOTT of Maryland: Petition of citizens of Baltimore, Md., against passage of the Bourne parcel-post bill; to the Committee on the Post Office and Post Roads.

By Mr. WILSON of New York: Petition of the Central Labor Union of Brooklyn, N. Y., against passage of the Bourne parcel-post bill; to the Committee on the Post Office and Post Roads.

SENATE.

FRIDAY, *July 26, 1912.*

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

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request by Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the bill (S. 4930) to harmonize the national law of salvage with the provisions of the international convention for the unification of certain rules with respect to assistance and salvage at sea, and for other purposes.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. 22111) for the relief of the Delaware Transportation Co., owner of the American steamer *Dorothy*.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 20347) to authorize the Dixie Power Co. to construct a dam across White River at or near Cotter, Ark.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 22043) to authorize additional aids to navigation in the Lighthouse Service, and for other purposes.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R 24450) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1913, and for other purposes, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. HAY, Mr. SLAYDEN, and Mr. PRINCE managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the President pro tempore:

S. 5623. 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 certain widows and dependent relatives of such soldiers and sailors;

S. 6340. 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 certain widows and dependent relatives of such soldiers and sailors;

S. 6978. 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 of such soldiers and sailors;

H. R. 644. An act for the relief of Mary E. Quinn;

H. R. 1739. An act to amend section 4875 of the Revised Statutes to provide a compensation for superintendents of national cemeteries;

H. R. 12375. An act authorizing Daniel W. Abbot to make homestead entry;

H. R. 13938. An act for the relief of Theodore Salus;

H. R. 18033. An act to modify and amend the mining laws in their application to the Territory of Alaska, and for other purposes;

H. R. 20347. An act to authorize the Dixie Power Co. to construct a dam across White River, at or near Cotter, Ark.;

H. R. 20873. An act for the relief of J. M. H. Mellon, administrator, et al., all of Allegheny County, Pa.;

H. R. 22043. An act to authorize additional aids to navigation in the Lighthouse Service, and for other purposes;

H. R. 22111. An act for the relief of the Delaware Transportation Co., owner of the American steamer *Dorothy;*

H. R. 24598. An act for the relief of Jesus Silva, jr.; and

H. R. 24699. An act extending the time for the repayment of certain war-revenue taxes erroneously collected.

PETITIONS AND MEMORIALS.

Mr. CULLOM presented a petition of sundry citizens of Dahlgren, Ill., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was ordered to lie on the table.

Mr. WORKS presented a petition of sundry citizens of California, praying for the enactment of legislation providing for the acquisition of a national redwood park from out the groves of Humboldt County, in that State, which was referred to the Committee on Forest Reservations and the Protection of Game.

Mr. WATSON presented a petition of the Woman's Auxiliary to the Board of Missions of the Protestant Episcopal Church, of Parkersburg, W. Va., praying for the enactment of legislation providing medical and sanitary relief for the natives of Alaska, which was referred to the Committee on Territories.

REPORTS OF COMMITTEES.

Mr. BRIGGS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 362 for an investigation into the expenditures of the Forest Service and the appointment of a committee for that purpose, reported it without amendment.

He also, from the same committee, to which was referred Senate resolution 365 authorizing the Committee on the Library to employ a stenographer to report hearings on bills or other matters pending before the committee, reported it without amendment.

Mr. MARTINE of New Jersey, from the Committee on Claims, to which was referred the bill (S. 324) for the relief of Allen Edward O'Toole and others, who sustained damage by reason of accident at Rock Island Arsenal, reported it with amendments and submitted a report (No. 971) thereon.

Mr. MARTIN of Virginia, from the Committee on Commerce, to which was referred the bill (S. 7315) to authorize the construction of a bridge across the Clearwater River at any point within the corporate limits of the city of Lewiston, Idaho, reported it without amendment and submitted a report (No. 972) thereon.

Mr. BORAH, from the Committee on Education and Labor, to which were referred the following bills, reported them each with amendments, and submitted reports thereon:

H. R. 21094. An act to create a Commission on Industrial Relations; and

H. R. 22913. An act to create a department of labor (Rept. No. 973).

Mr. HITCHCOCK, from the Committee on Military Affairs, to which was referred the bill (S. 7089) to remove the charge of desertion against Charlie Meyers, reported it with amendments and submitted a report (No. 974) thereon.

He also, from the same committee, to which was referred the bill (S. 2058) for the relief of William Wentworth, reported it with an amendment and submitted a report (No. 975) thereon.

Mr. SMOOT, from the Committee on Pensions, to which were referred the following bills, reported them each without amendment, and submitted reports thereon:

H. R. 25304. 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 (Rept. No. 976); and

H. R. 24796. 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 (Rept. No. 979).

Mr. SMOOT, from the Committee on Pensions, to which were referred the following bills, reported them severally, with amendments, and submitted reports thereon:

H. R. 24602. 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 of such soldiers and sailors (Rept. No. 977);

H. R. 24996. 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 (Rept. No. 978);

H. R. 24322. 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 of such soldiers and sailors (Rept. No. 980);

H. R. 25166. An act granting pensions and increase of pensions to certan 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 (Rept. No. 981); and

H. R. 24626. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War, and certain widows and dependent children of soldiers and sailors of said war (Rept. No. 982).

Mr. JONES, from the Committee on the District of Columbia, to which was referred the bill (S. 7165) to authorize the elimination of part of North Dakota Avenue from the permanent system of highways plan, reported it without amendment and submitted a report (No. 983) thereon.

Mr. GALLINGER, from the Committee on the District of Columbia, to which was referred the bill (H. R. 24026) to incorporate the Naval History Society, reported it without amendment and submitted a report (No. 984) thereon.

NAVAL APPROPRIATION BILL.

Mr. PERKINS submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 24565) making appropriations for the naval service for the fiscal year ending June 30, 1913, 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 2, 3, 4, 6, 25, 27, 36, 37, 38, 39, 40, 41, 42, 43, 47, 48, 58, 61, 62, 70, 71, 72, 75, 76, 78, 80, 83, 86, 91, 110.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, 8, 9, 10, 11, 16, 18, 19, 20, 21, 22, 23, 26, 28, 29, 30, 31, 32, 33, 44, 45, 46, 49, 50, 51, 52, 54, 55, 59, 60, 65, 66, 67, 68, 69, 73, 74, 77, 81, 82, 84, 88, 89, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 103, 108, 109, 115, 117, and agree to the same.

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 said amendment, in line 1, strike out the word "naval" and after the word "officer" insert the words "of the Navy or Marine Corps," and after the word "may" insert the words "with his consent"; in lines 5 and 6 strike out the words "grade from which he was retired" and in lieu thereof insert the words "same rank"; in lines 10 and 13 strike out the word "commander" and in lieu thereof insert the words "senior grade"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows: In said amendment, in line 2, after the words "United States" insert the following: "as amended by section 16 of an act entitled 'An act to reorganize and increase the efficiency of the personnel of the Navy and Marine Corps of the United States,' approved March 3, 1899"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment as follows: In said amendment, in line 6, after the word "received," insert the words "except pay and allowances for the unexpired period not served"; and the Senate agree to the same.

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 said amendment strike out the following words: "Such island possession of the United States as in his judgment may be best adapted to the permanent care and segregation of such sufferers," and in lieu thereof insert the words "the island of Culion, in the Philippines"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows: In said amendment strike out the words "and forty-three" and "two hundred and fifty"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment as follows: In said amendment strike out the following words: "and sixty-seven" and "seven hundred and seventeen"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an

amendment as follows: Strike out all of said amendment except the following, which is retained as a separate paragraph:

"The Secretary of the Navy is hereby authorized to exchange such quantities of potassium nitrate now in store as may not be needed in the manufacture of black powder for sodium nitrate of equal value for use in the manufacture of smokeless powder."

And the Senate agree to the same.

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: In said amendment strike out the following: "That $75,000 of said sum, or so much thereof as may be necessary, may be used for the survey, investigation, and report upon coal and coal fields available for the production of coal for the use of the United States Navy or any vessel of the United States," and in lieu thereof insert the following: "That $75,000, or so much thereof as may be necessary, may be used for the mining of coal and development work of public lands in Alaska for the purpose of supplying coal for the United States Navy, and the sum of $345,500, or so much thereof as may be necessary, shall be used for the coaling station and fuel station at Pearl Harbor, Hawaii"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment as follows: In said amendment strike out the words "one on the Washington or Alaska coast"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment as follows: In said amendment, in line 7, after the word "Hawaii," insert the following: "at a cost not exceeding $1,500"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment as follows: In said amendment strike out the word "eighteen" and insert in lieu thereof the word "twelve"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment as follows: In said amendment strike out the word "thirty-seven" and in lieu thereof insert the word "thirty-one"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment as follows: In said amendment strike out the following: "one shell house, $20,000"; strike out the word "seventy-three" and in lieu thereof insert the word "fifty-three"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment as follows: In said amendment strike out the words "five million one hundred eighty-six thousand three" and in lieu thereof insert the following: "four million six hundred twenty-three thousand three hundred"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment as follows: On page 40 of the bill, line 20, after the word "officers," insert the words "of the Dental Corps"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows: In said amendment restore the matter stricken out, with the following amendments in lines 6 and 9, strike out the word "section" and in lieu thereof insert the word "act"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment as follows: Strike out all of said amendment and in lieu thereof insert the following:

"*Provided further*, That a reserve corps of dental surgeons is hereby authorized to be organized and operated under the provisions hereinbefore provided for the organization of a medical reserve corps and differing therefrom in no respect other than that the appointees thereto shall be graduates of reputable schools of dentistry instead of graduates of reputable schools of medicine, and so many of said appointees may be ordered to temporary active service as the Secretary of the Navy may deem necessary to the health and efficiency of the personnel of the Navy and Marine Corps, provided that the total number of dental officers in active service shall not exceed the proportion of one dental officer to each one thousand of said personnel."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment as follows: In said amendment restore the matter stricken out with the following amendment: Strike out the word "ten" and in lieu thereof insert the word "thirty-five"; and the Senate agree to the same.

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: In said amendment in lieu of the matter stricken out insert the following: "No enlisted men or seamen, not including commissioned and warrant officers, on battleships of the Navy, when such battleships are docked or laid up at any navy yard for repairs, shall be ordered or required to perform any duties except such as are or may be performed by the crew while at sea or in a foreign port"; and the Senate agree to the same.

On the amendments of the Senate numbered 102, 104, 105, 106, 107, 111, 112, 113, and 114 the committee of conference have been unable to agree.

GEORGE C. PERKINS,
H. C. LODGE,
B. R. TILLMAN,
Managers on the part of the Senate.
L. P. PADGETT,
A. W. GREGG,
GEORGE EDMUND FOSS,
Managers on the part of the House.

The PRESIDENT pro tempore. The question is on agreeing to the conference report.

The report was agreed to.

Mr. PERKINS. I move that the Senate further insist upon its amendments still in disagreement and ask for a further conference, and that the Chair appoint the conferees on the part of the Senate.

Mr. JONES. I wish to ask the Senator from California in reference to the amendment in regard to submarines.

Mr. LODGE. That is in disagreement. It is all that is in disagreement; but the conferees on the part of the Senate can not state what is likely to be the outcome.

Mr. JONES. While I know the conferees can not state what is likely to be the outcome in regard to submarines, I have some data in reference to that matter which I wished to submit to the Senate before it went to conference again, showing the importance of insisting upon the submarine amendment.

Mr. LODGE. I can assure the Senator, so far as the two conferees on this side of the Chamber are concerned, that they are determined to insist on the submarines.

Mr. JONES. With that assurance, I will not detain the Senate in order to get the data in the RECORD.

Mr. LODGE. We are thoroughly in favor of it.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from California.

The motion was agreed to; and the President pro tempore appointed Mr. PERKINS, Mr. LODGE, and Mr. TILLMAN conferees on the part of the Senate.

MINING AND GRAZING ON INDIAN RESERVATIONS.

Mr. ASHURST. From the Committee on Indian Affairs I report back favorably with amendments the bill (S. 6812) to amend section 3 of an act entitled "An act to provide for the allotment of lands in severalty," and so forth, approved February 28, 1891. I ask that the bill may be read and put on its final passage.

The PRESIDENT pro tempore. The bill will be read for the information of the Senate.

Mr. SMOOT. Before giving unanimous consent, would the Senator object to explaining in a few words what the bill is?

Mr. ASHURST. I feel it my duty to do so, and I will do so very cheerfully.

Under the present situation unallotted lands in Indian reservations may not be used for mining purposes or for grazing. This bill was prepared by gentlemen representing the Interior Department. It provides that the Secretary of the Interior may, in his discretion, lease for a period of not less than five years lands within Indian reservations for grazing purposes and lands within Indian reservations for not less than 10 years for mining purposes. The Secretary of the Interior has made a report to that effect upon the bill, which accompanies it.

Mr. HEYBURN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Arizona yield to the Senator from Idaho?

Mr. ASHURST. Certainly.

Mr. HEYBURN. Do I correctly understand the Senator to say the bill provides that the Secretary of the Interior may lease mineral lands on an Indian reservation for mining purposes?

Mr. ASHURST. It does, sir.

Mr. HEYBURN. I object to the consideration of the bill.

Mr. SUTHERLAND. The bill simply extends the provisions of existing law with reference to reservations created by legislation to reservations which are created by Executive order. It does not alter the existing law, I understand, at all.

Mr. ASHURST. The Senator is correct.

Mr. SUTHERLAND. But it simply extends the provisions of law to additional subjects matter.

Mr. ASHURST. The Senator is correct.

Mr. HEYBURN. Mr. President, I am not in accord with any plan that places it within the discretion of an administrative officer to say whether or not the mines of the country shall be opened. We have the best mining law that could be devised in the old act of 1872, which says that all mineral deposits on public lands shall be open to exploration and purchase under a law, not under a discretion; and it is not my intention, so long as I can interpose an objection and support it, to see a right converted into a privilege at the discretion of any person.

I object to the consideration of the bill.

The PRESIDENT pro tempore. Objection is made, and the bill will go to the calendar.

NELLIE ORTON NICHOLS.

Mr. BRIGGS. I am directed by the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 363, submitted by the Senator from Michigan [Mr. TOWNSEND] on the 20th instant, to report it favorably without amendment, and I ask for its present consideration.

The resolution was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay, out of the contingent fund of the Senate, to Nellie Orton Nichols, widow of David Robinson Nichols, late a private in the Capitol police, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

INCITEMENT OF INSURRECTION IN MEXICO.

Mr. BRIGGS. I am directed by the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 335, submitted by the Senator from Minnesota [Mr. NELSON], and reported from the Committee on Foreign Relations by the Senator from Michigan [Mr. SMITH], to report it favorably without amendment.

Mr. CULLOM. I hope that resolution will be taken up and passed.

Mr. BRIGGS. I call the attention of the Senator from Michigan to the report.

Mr. CULLOM. I ask that it may be considered now.

The PRESIDENT pro tempore. The Senator from Illinois ask unanimous consent for the present consideration of the resolution.

The resolution was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the Committee on Foreign Relations or a subcommittee thereof is hereby authorized and directed to inquire, investigate, ascertain, and report whether any persons, associations, or corporations, domiciled in or owing allegiance to the United States, have heretofore been or are now engaged in fomenting, inciting, encouraging, or financing rebellion, insurrection, or other flagrant disorder in Cuba or Mexico against the lawful, organized Governments of those countries.

Resolved further, That said committee or a subcommittee thereof is hereby empowered to summon witnesses, to send for persons and papers, to administer oaths, and to take and secure whatever testimony and evidence may be required to ascertain and report upon the matters aforesaid; and said committee or a subcommittee thereof is hereby authorized for the purposes aforesaid to sit wherever necessary and act as well when Congress is not in session as when in session.

Resolved further, That the said committee is hereby directed to report the result of its said investigation and inquiry to the Senate during the first month of the next session of Congress; and the expenses incurred by such investigation and inquiry shall be paid from the contingent fund of the Senate upon vouchers to be approved by the chairman of the committee.

RAVAGES OF THE ARMY WORM.

Mr. SMITH of South Carolina. From the Committee on Agriculture and Forestry I report back favorably without amendment the joint resolution (S. J. Res. 125) making appropriation for checking the ravages of the army worm, and I ask for its present consideration.

The PRESIDENT pro tempore. The joint resolution will be read for the information of the Senate.

The Secretary read the joint resolution, as follows:

Resolved, etc., That the sum of $20,000, or so much thereof as may be necessary, is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be used by the Secretary of Agriculture in employing experts to aid in checking the ravages of the army worm in those sections of the country where its presence is now threatening the crops: *Provided*, That the amount herein appropriated shall be deemed a part of the fund now provided for like purposes in the agricultural appropriation bill and shall be subtracted from said fund upon the passage of the said agricultural appropriation bill.

Mr. SMOOT. I should like to ask the Senator from South Carolina if a joint resolution similar to this was not passed last evening?

Mr. SMITH of South Carolina. The joint resolution from the House was passed, but the Secretary of Agriculture has claimed that it will take at least $25,000 at once to meet the spread of this pest and has asked that that joint resolution be supplemented by this measure. I have a telegram here to the effect that unless they can get these experts on the ground immediately the entire cotton crop of the South is threatened.

Mr. SMOOT. Does the Senator mean to say that it will take $25,000 next week to do that?

Mr. SMITH of South Carolina. Next week, just as early as it will be possible to get the experts into the infected region.

Mr. SMOOT. How much does the agricultural appropriation bill provide?

Mr. SMITH of South Carolina. Something like $100,000 or $125,000. The Secretary of Agriculture wants to have this appropriation immediately.

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

Mr. HEYBURN. What is the purpose of this appropriation?

Mr. SMITH of South Carolina. It is for the purpose of sending men into the infected region who understand the preparation of the poison and the method of meeting the pest in different kinds of vegetation. For instance, in a hayfield unless there is a very careful process employed in the hay it would poison the stock.

Mr. HEYBURN. How do they do it?

Mr. SMITH of South Carolina. The department has the process, and therefore——

Mr. HEYBURN. Is it a secret process?

Mr. SMITH of South Carolina. It depends upon the knowledge of experts to find the point of incubation. Their expert knowledge enables them to find the worm before it starts its ravages. Only entomologists can differentiate between the appearance of the ordinary insect and this worm until he is large enough to begin his ravages.

Mr. HEYBURN. Is it handwork?

Mr. SMITH of South Carolina. The poisoning is handwork, and is carried on by the individual who owns the land, under the direction of these experts.

Mr. HEYBURN. Then it is the owner of the lands who applies the poison?

Mr. SMITH of South Carolina. Yes.

Mr. HEYBURN. Does he share in this appropriation?

Mr. SMITH of South Carolina. Oh, no.

Mr. HEYBURN. Who gets this appropriation?

Mr. SMITH of South Carolina. The appropriation is to defray the expenses of the different experts who are sent to do this work and who have been in the business for years—the entomologists.

Mr. HEYBURN. Who hunts out the nests from which these pests are propagated?

Mr. SMITH of South Carolina. The expert instructs the farmer how to locate the worm.

Mr. HEYBURN. And the expert gets this money?

Mr. SMITH of South Carolina. The Agricultural Department defrays the expenses of this work.

Mr. HEYBURN. How many experts are there?

Mr. SMITH of South Carolina. The Secretary of Agriculture has said that $25,000 would enable him to send men throughout the Southern States where the pest now is threatening the destruction of the corps.

Mr. HEYBURN. How much is the aggregate appropriation?

Mr. SMITH of South Carolina. Twenty-five thousand dollars.

Mr. HEYBURN. I mean in the regular appropriation bill.

Mr. SMITH of South Carolina. Oh, that is for various purposes, and is something like $150,000, I think. If the chairman of the Committee on Agriculture were here he could give the exact information.

Mr. HEYBURN. I suppose they pay the experts by the year?

Mr. SMITH of South Carolina. Oh, no; this is merely an emergency fund to enable the Department of Agriculture to employ men for this work. There has been no appropriation at all so far, but the Secretary has sent some experts out already, paying the money out of his own pocket. On account of the failure of the passage of the agricultural appropriation bill he has not a dollar for any purpose.

Mr. HEYBURN. Can the Senator advise us whence he obtains the experts?

Mr. SMITH of South Carolina. He has had them all along. Experts are being trained throughout the country. The Secretary has entomologists in every State, and this measure is

to concentrate them in this emergency that has now arisen in the South.

Mr. HEYBURN. And he will send experts over a section of the country to instruct the farmers how to find the pests?

Mr. SMITH of South Carolina. How to find the pests and the manner of mixing the poison to destroy them.

Mr. HEYBURN. How is it mixed?

Mr. SMITH of South Carolina. I really do not know, and that is the reason I want the experts employed, because my own farm is threatened as well as others.

Mr. HEYBURN. What is this pest?

Mr. SMITH of South Carolina. It is the army worm, which appears about once in every seven years. I will say to the Senator from Idaho that usually it comes about the latter part of September or the first of October, but for the first time in its history it appears now in the last week of July, and has therefore two months in which to work. Unless it is checked now, its ravages will be great.

Mr. HEYBURN. And, then, for seven years it will disappear?

Mr. SMITH of South Carolina. Yes.

Mr. HEYBURN. So that this is not an appropriation to recur each year?

Mr. SMITH of South Carolina. Oh, no.

Mr. HEYBURN. I merely wanted some information. I have noticed a vast amount of proposed legislation for the destruction of various pests, but the information in detail has been very meager, and I thought it a proper occasion to put in the RECORD something that would inform the people of the country why these appropriations are made, and not for the purpose of treating them lightly or opposing them.

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

Mr. McLEAN. Mr. President, I have no objection to the passage of the joint resolution. On the contrary, I heartily favor the destruction of all injurious insects and worms which are at the present time great pests throughout the country; but I should like to suggest to the Senator from South Carolina and his colleagues on the other side of the Chamber that if they will remove their opposition to the passage of Senate bill 6497 the insectivorous birds of the country will dispose of the insects and their destruction will not cost a penny.

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

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

BILLS AND JOINT RESOLUTION INTRODUCED.

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

By Mr. SUTHERLAND:

A bill (S. 7368) granting an increase of pension to Otto Weber; to the Committee on Pensions.

By Mr. CRAWFORD:

A bill (S. 7369) granting an increase of pension to Annie Shannon (with accompanying papers); to the Committee on Pensions.

By Mr. BRIGGS:

A bill (S. 7370) for the relief of Kate D. Augur, widow of Jacob A. Augur, and others; to the Committee on Claims.

Mr. BOURNE. I am instructed by the Committee on Post Offices and Post Roads to introduce the bill which I send to the desk. I ask that it be read twice by its title and referred to the Committee on Post Offices and Post Roads.

The bill (S. 7371) to provide the manner of determining the compensation of railroads for the transportation of the mails was read twice by its title and referred to the Committee on Post Offices and Post Roads.

By Mr. McLEAN:

A bill (S. 7372) granting a pension to Edwin B. Wright (with accompanying papers); and

A bill (S. 7373) granting an increase of pension to Ellen M. Banning (with accompanying papers); to the Committee on Pensions.

By Mr. ROOT:

A bill (S. 7374) granting an increase of pension to C. W. Goff; to the Committee on Pensions.

By Mr. PENROSE:

A bill (S. 7375) for the relief of Owen S. Willey; to the Committee on Naval Affairs.

By Mr. PAYNTER:

A bill (S. 7376) granting an increase of pension to William H. Frederick; to the Committee on Pensions.

By Mr. GALLINGER:

Joint resolution (S. J. Res. 126) authorizing Federal bureaus doing hygienic and demographic work to participate in the exhibition to be held in connection with the Fifteenth International Congress on Hygiene and Demography; to the Committee on Appropriations.

THE SUGAR SCHEDULE.

Mr. WILLIAMS. I hold in my hand an amendment in the nature of a substitute to the bill (H. R. 21213) to amend an act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909. I want to present it now and have it printed, and I give notice that it will be offered to-morrow as a substitute for the House sugar schedule tariff bill. I wish to explain that it is the substitute agreed upon by the Democratic members of the Senate Finance Committee.

In this connection I ask consent of the Senate to file during the day or to-morrow morning a report expressing the views of the Democratic members of the Finance Committee in support of the substitute.

The PRESIDENT pro tempore. The substitute will lie on the table and be printed.

AMENDMENTS TO DEFICIENCY APPROPRIATION BILL (H. R. 25970).

Mr. SUTHERLAND submitted an amendment proposing to appropriate $360, being an additional amount to pay the assistant clerk to the Committee on Public Buildings and Grounds a salary of $1,800 per annum, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. CULBERSON submitted an amendment proposing to appropriate $217,693.39 to reimburse the State of Texas in full payment of all claims of any nature whatever on account of expenses incurred by that State prior to February 9, 1861, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. McCUMBER submitted an amendment proposing to appropriate $1,200 to pay Robert W. Farrar for indexing and extra services as clerk to the Committee on Pensions, and also $1,200 to pay Dennis M. Kerr for services as assistant clerk by detail to the Committee on Pensions, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Pensions and ordered to be printed.

He also submitted an amendment to enable the Secretary of the Senate to pay the officers and employees of the Senate borne on the annual and session rolls on the 1st day of July, 1912, a sum equal to one-twelfth the annual compensation then paid them by law, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. CLAPP submitted an amendment authorizing the Secretary of the Treasury to pay to each employee on the rolls of the Senate and House of Representatives, including the Capitol police, at the end of each session of Congress an amount equivalent to 5 cents per mile each way in coming to Washington and returning to his home, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

STREET RAILWAY IN SOUTH HILO, HAWAII.

Mr. CLAPP. I enter a motion to reconsider the vote by which the bill (H. R. 18041) granting a franchise for the construction, maintenance, and operation of a street railway system in the district of South Hilo, county of Hawaii, Territory of Hawaii, was passed. I note that motion at this time. I now move that the House be requested to return the bill to the Senate.

Mr. FLETCHER. I ask the Senator what bill it is?

Mr. CLAPP. It is a bill to grant a franchise for a street railway in the Hawaiian Islands. The word "freight," in the draft that came from the House, was omitted. It is desired to recall it and insert the word "freight."

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Minnesota that the House be requested to return the bill.

The motion was agreed to.

The PRESIDENT pro tempore. The motion to reconsider will be entered.

EXCISE AND INCOME TAXES.

The PRESIDENT pro tempore. Morning business is closed. The unanimous-consent agreement will be stated.

The Secretary read as follows:

It is agreed by unanimous consent that on Friday, July 26, 1912, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of the bill (H. R. 21214) to extend the special excise tax now levied with respect to doing business by corporations, to persons, and to provide revenue for the Government by levying a special excise tax with respect to doing business by indi-

viduals and copartnerships, and before adjournment on that calendar day will vote upon any amendment that may be pending, any amendments that may be offered, and upon the bill—through the regular parliamentary stages—to its final disposition.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 21214) to extend the special excise tax now levied with respect to doing business by corporations, to persons, and to provide revenue for the Government by levying a special excise tax with respect to doing business by individuals and copartnerships.

The PRESIDENT pro tempore. The bill will be read in full.

The Secretary read the bill, as follows:

Be it enacted, etc., That every person, firm, or copartnership residing in the United States, any Territory thereof, or in Alaska or the District of Columbia, shall be subject to pay annually a special excise tax with respect to the carrying on or doing business by such person equivalent to 1 per cent upon the entire net income over and above $5,000 received by such person from all sources during each year; or, if a nonresident, such nonresident person shall likewise be subject to pay annually a special excise tax with respect to the carrying on or doing business by such person equivalent to 1 per cent upon the amount of net income over and above $5,000 received by such person from business transacted and capital invested within the United States and its Territories, Alaska, and the District of Columbia during each year. The term "business," as herein used, is and shall be held to embrace everything about which a person can be employed, and all activities which occupy the time, attention, and labor of persons for the purpose of a livelihood or profit. The word "person" wherever used in this act shall be held to include natural persons or individuals and firms or copartnerships.

SEC. 2. That in computing incomes the necessary expenses actually incurred in carrying on any business, not including personal, living, or family expenses, shall be deducted, and also all interest paid within the year by such person on existing indebtedness; and all national, State, county, school, and municipal taxes, not including those assessed against local benefits, paid within the year shall be deducted from the gains, profits, or income of the person who has actually paid the same, whether such person be owner, tenant, or mortgagor; also losses actually sustained during the year, incurred in trade or arising from fires, storms, or shipwreck, and not compensated for by insurance or otherwise, and debts ascertained to be worthless: *Provided*, That no deduction shall be made for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate: *Provided further*, That only one deduction of $5,000 shall be made from the aggregate income of all the members of any family composed of one or both parents and one or more minor children, or husband and wife; that guardians shall be allowed to make a deduction in favor of each and every ward, except that in case where two or more wards are comprised in one family and have joint property interests the aggregate deduction in their favor shall not exceed $5,000: *And provided further*, That in cases where the salary or other compensation paid to any person in the employment or service of the United States shall not exceed the rate of $5,000 per annum, or shall be by fees, or uncertain or irregular in the amount or in the time during which the same shall have accrued or been earned, such salary or other compensation shall be included in estimating the annual gains, profits, or income of the person to whom the same shall have been paid, and shall include that portion of any income or salary upon which a tax has not been paid by the employer, fiduciary, or other person, where the employer, fiduciary, or other person is required by law to pay on the excess over $5,000: *And provided further*, That in computing the income of any person there shall not be included the amount received from any corporation, joint-stock company or association, or insurance company as dividends upon the stock of such corporation, joint-stock company or association, or insurance company, if the special excise tax of 1 per cent now imposed by law has been paid by such corporation: *And provided further*, That in computing the income of any person there shall not be included the amount received from any firm or copartnership, if the special excise tax of 1 per cent imposed by this act has been paid by such firm or copartnership.

SEC. 3. That there shall be deducted from the amount of the net income of each of such persons, ascertained as provided herein, the sum of $5,000, and said tax shall be computed upon the remainder of said net income of such person for the year ending December 31, 1912, and for each calendar year thereafter; and on or before the 1st day of March, 1913, and the 1st day of March in each year thereafter, a true and accurate return, under oath or affirmation, shall be made by each person of lawful age, subject to the tax imposed by this act, to the collector of internal revenue for the district in which such person resides or has his principal place of business, or, in the case of a person residing in a foreign country, in the place where his principal business is carried on within the United States, in such form as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, setting forth specifically the gross amount of income from all separate sources and from the total thereof, deducting the aggregate items or expenses and allowance herein authorized, and likewise returning the amount of income, gains, and profits of any minor or person for whom they act, but persons having less than $4,500 net income are not required to make such report; and the collector or deputy collector shall require every list or return to be verified by the oath or affirmation of the party rendering it, and may increase the amount of any list or return if he has reason to believe that the same is understated: *Provided*, That no such increase shall be made except after due notice to such party and upon proof of the amount understated; and in case any such person having a taxable income shall neglect or refuse to make and render such list and return, or shall render a willfully false or fraudulent list or return, it shall be the duty of the collector or deputy collector to make such list according to the best information he can obtain, by the examination of such person or any other evidence, and to add 50 per cent as a penalty to the amount of the tax due on such list in all cases of willful neglect or refusal to make and render a list or return; and in all cases of a willfully false or fraudulent list or return having been rendered to add 100 per cent as a penalty to the amount of tax ascertained to be due, the tax and the additions thereto as a penalty to be assessed and collected in the manner provided for in other cases of willful neglect or refusal to render a list or return, or of rendering a false or fraudulent return: *Provided further*, That any person in his or her behalf, or as such employer or fiduciary, shall be permitted to declare, under oath or affirmation, the form and manner of which shall be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, that he, she, or his or her ward, employee, or beneficiary was not possessed of an income of $5,000, or may declare that he, she, or his or her ward, employee, or beneficiary has been assessed and has paid a special excise tax elsewhere for the same year, under authority of the United States, measured by all his or her income, gains, or profits, and upon all the income, gains, or profits for which he or she is liable as such employer or fiduciary, as prescribed by this law; and if the collector or deputy collector shall be satisfied of the truth of the declaration, such person shall thereupon be exempt from excise tax in the said district for that year; or if the list or return of any person shall have been increased by the collector or deputy collector, such person may be permitted to prove the amount liable to be assessed; but such proof shall not be considered as conclusive of the facts, and no deductions claimed in such cases shall be made or allowed until approved by the collector or deputy collector. Any person feeling aggrieved by the decision of the deputy collector, in such cases may appeal to the collector of the district, and his decision thereon, unless reversed by the Commissioner of Internal Revenue, shall be final. If dissatisfied with the decision of the collector, such person may submit the case, with all the papers, to the Commissioner of Internal Revenue for his decision, and may furnish the testimony of witnesses to prove any relevant facts, having served notice to that effect upon the Commissioner of Internal Revenue, as herein prescribed.

Such notice shall state the time and place at which and the officer before whom the testimony will be taken; the name, age, residence, and business of the proposed witness, with the questions to be propounded to the witness, or a brief statement of the substance of the testimony he is expected to give: *And provided further*, That the Government may at the same time and place take testimony upon like notice to rebut the testimony of the witnesses examined by the person taxed.

The notice shall be delivered or mailed to the Commissioner of Internal Revenue a sufficient number of days previous to the day fixed for taking the testimony, to allow him, after its receipt, at least five days, exclusive of the period required for mail communication with the place at which the testimony is to be taken, in which to give, should he so desire, instructions as to the cross-examination of the proposed witness.

Whenever practicable the affidavit or deposition shall be taken before a collector or deputy collector of internal revenue, in which case reasonable notice shall be given to the collector or deputy collector of the time fixed for taking the deposition or affidavit.

SEC. 4. That all assessments shall be made and all persons shall be notified of the amount for which they are respectively liable on or before the 1st day of June of each successive year, and said assessments shall be paid on or before the 30th day of June, except in cases of refusal or neglect to make such return, and in cases of false or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, make a return upon information obtained as above provided for, and the assessment made by the Commissioner of Internal Revenue thereon shall be paid by such person or persons immediately upon notification of the amount of such assessment; and to any sum or sums due and unpaid after the 30th day of June in any year, and for 10 days after notice and demand thereof by the collector, there shall be added the sum of 5 per cent on the amount of tax unpaid, and interest at the rate of 1 per cent per month upon said tax from the time the same becomes due.

SEC. 5. That it shall be the duty of all paymasters and all disbursing officers under the Government of the United States, or persons in the employ thereof, when making any payment to any officers or persons as aforesaid, whose compensation is determined by a fixed salary or upon settling or adjusting the accounts of such officers or persons, to deduct and withhold the aforesaid tax of 1 per cent, and the pay rolls, receipts, or accounts of officers or persons paying such tax as aforesaid shall be made to exhibit the fact of such payment. And it shall be the duty of the accounting officers of the Treasury Department, when auditing the accounts of any paymaster or disbursing officer, or any officer withholding his salary from moneys received by him, or when settling or adjusting the accounts of any such officers, to require evidence that the taxes mentioned in this act have been deducted and paid over to the Treasurer of the United States or other officer authorized to receive the same. Every person, firm, or corporation who pays to any officer, employee, or other person a salary or compensation, interest, or other accrued profits, exceeding $5,000 for a taxable year, every lessee or mortgagor of real or personal property who pays to the lessor or mortgagee interest or compensation exceeding $5,000 for a taxable year, and every trustee, executor, administrator, conservator, agent, or receiver, employing any person or paying any person business earnings, within the meaning of this act, exceeding $5,000 for any taxable year, computed on the basis herein prescribed, shall make and render a return as provided herein to the collector or a deputy collector of his district, and shall deduct and withhold the tax herein imposed, and shall pay on said return the tax of 1 per cent per annum as required by this act: *Provided*, That any officer, employee, or other person for whom return has been made and the tax paid, as aforesaid, shall not be required to make a return unless such person has other net income, but only one deduction of $5,000 shall be made in the case of any such officer or employee: *Provided further*, That salaries paid to State, county, or municipal officers shall be exempt from the special excise tax herein levied: *And provided further*, That interest upon the bonds or other obligations of a State or any political subdivision thereof and also the proceeds of life-insurance policies paid upon the death of the person insured shall not be included in computing the net income of a person subject to the tax herein imposed: *And provided further*, That all property or its value passing by will or by intestate laws or transferred by deed or gift made or intended to take effect in possession after the death of the grantor, donor, testator, or ancestor shall be exempt from the operation of this law.

SEC. 6. That if any person, corporation, company, or association liable to make the return or pay the tax aforesaid shall refuse or neglect to make a return at the time or times hereinbefore specified in each year, or shall render a false or fraudulent return, such person shall be liable to a penalty of not less than $50 and not exceeding $500. Any person, corporation, company, or association required by law to make, render, sign, or verify any return who makes any false or fraudulent return or statement with intent to defeat or evade the assessment required by this act to be made shall be guilty of a misdemeanor and shall be fined not exceeding $1,000 or be imprisoned not exceeding one year, or both, at the discretion of the court, with the costs of prosecution.

SEC. 7. That it shall be the duty of every collector of internal revenue to whom payment of any tax is made, under the provisions of this act,

to give to the person making such payment a full written or printed receipt expressing the amount paid and the particular account for which such payment was made; and whenever such payment is made such collector shall, if required, give a separate receipt for each tax paid by any debtor on account of payments made or to be made by him to separate creditors in such form that such debtor can conveniently produce the same separately to his several creditors in satisfaction of their respective demands to the amounts specified in such receipts; and such receipts shall be sufficient evidence in favor of such debtor to justify him in withholding the amount therein expressed from his next payment to his creditor; but such creditor may, upon giving to his debtor a full written receipt, acknowledging the payment to him of whatever sum may be actually paid, and accepting the amount of tax paid as aforesaid (specifying the same) as a further satisfaction of the debt to that amount, require the surrender to him of such collector's receipt.

SEC. 8. That jurisdiction is hereby conferred upon the district courts of the United States for the district within which any person summoned under this act to appear to testify or to produce books shall reside, to compel such attendance, production of books, and testimony by appropriate process.

SEC. 9. That all administrative, special, and general provisions of law, including the laws in relation to the assessment, remission, collection, and refund of internal-revenue taxes not heretofore specifically repealed and not inconsistent with the provisions of this act, are hereby extended and made applicable to all the provisions of this act and to the tax herein imposed.

Mr. BORAH. Mr. President, day before yesterday I submitted an amendment in the nature of a substitute for the pending bill. I desire now, by permission of the Senate, to withdraw the amendment with the view of offering it in a different form.

The PRESIDENT pro tempore. It is within the Senator's right to modify the amendment in any way he pleases.

Mr. BORAH. Then I offer, in lieu of the amendment which I then submitted, the one I send to the desk, and I should like to have it read at this time so that the Senate may be informed with respect to it.

The PRESIDENT pro tempore. The proposed amendment in the nature of a substitute will be read.

The SECRETARY. It is proposed to strike out all after the enacting clause and insert:

That for the calendar year 1912, and for each calendar year thereafter, duties shall be assessed, levied, collected, and paid upon incomes, herein specified, received in such calendar year by every citizen of the United States, whether residing at home or abroad, and by every other person as to an income received from any property, business, trade, occupation, profession, or employment, situated or carried on within the United States. The dutiable incomes shall be those in excess of $5,000, and from every such dutiable income the sum of $5,000 shall be deducted in order to ascertain the amount upon which the duty shall be assessed, levied, and collected. The rate of duty upon dutiable incomes shall be as follows, to wit: Upon incomes not exceeding $10,000, 2 per cent; upon incomes not exceeding $20,000, 2½ per cent; upon incomes not exceeding $40,000, 3 per cent; upon incomes not exceeding $60,000, 3½ per cent; upon incomes not exceeding $80,000, 4 per cent; upon incomes not exceeding $100,000, 5 per cent; upon all incomes exceeding $100,000, 6 per cent.

SEC. 2. That the incomes upon which the duties hereinbefore specified are to be assessed and levied shall be incomes received during the calendar year and derived as follows, to wit:

First. Salaries, wages, or compensation for personal labor or service of whatever kind and in whatever form paid or received: *Provided*, That there shall be excluded the compensation of the existing President of the United States during the term for which he has been elected and of the judges of the supreme and inferior courts of the United States now in office; and there shall be also excluded the salaries and compensation of all officers and employees of a State or any political subdivision thereof.

Second. Earnings in any profession, after deducting the expense actually incurred in conducting such profession.

Third. The gains or profits of any trade, vocation, or business.

Fourth. The gains or profits of all sales or dealings in property, whether real or personal, provided that the gains and profits from sales of real estate purchased more than two years prior to the close of the year for which the income is being ascertained shall not be included.

Fifth. Any other gains or profits growing out of the ownership of or interest in real or personal property, or the transaction of any lawful business carried on for gain or profit.

Sixth. The amount received as dividends upon corporate stocks, together with the proportionate share of the undivided profits of corporations issuing such stocks, except corporations paying the excise tax under exitsing law, the amount received as interest upon bonds, obligations, or other evidences of indebtedness: *Provided*, That interest upon the bonds or other obligations of a State or any political subdivision thereof, and interest upon the bonds or obligations of the United States, exempt by their terms from taxation, shall not be included.

SEC. 3. That incomes or parts of incomes derived from any business, trade, vocation, or profession carried on wholly within a foreign country, or derived from property situated in a foreign country, shall not be included in the return hereinafter required.

SEC. 4. That it shall be the duty of every person of lawful age having an income of more than $5,000, computed upon the basis herein prescribed, for the year 1912 and for each year thereafter, to make and render a return on or before the first Monday of March, 1913, and on or before the first Monday of March of each year thereafter, in such form and manner as may be directed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury, to the collector or deputy collector of the district in which he or she resides, of the amount of his or her income computed as aforesaid; and every guardian, trustee, executor, administrator, agent, receiver, and every person or corporation acting in any fiduciary capacity shall make and render a return, as aforesaid, to the collector or deputy collector of the district in which such person or corporation acting in a fiduciary capacity resides or does business, of the amount of the income of any minor or person for whom they act whose income exceeds $5,000. The collector or deputy collector shall require every return to be verified by the oath or affirmation of the person rendering it, if it be an individual, or the proper officer or officers of a corporation, if it be a corporation. If the said collector or deputy collector has reason to believe that any return understates the income therein reported, he may increase the amount subject to the appeal hereinafter provided; and in case any such person having a dutiable income shall neglect or refuse to make and render such return, or shall render a willfully false or fraudulent return, it shall be the duty of such collector or deputy collector to make or correct such return from the best information he can obtain either by the examination of such person or by any other evidence, and to add 50 per cent as a penalty to the amount of the duty in all cases of willful neglect or refusal to make or render a return, and in all cases of a willfully false or fraudulent return, to add 100 per cent as a penalty to the amount of the duty ascertained to be due; the duty and the additions thereto as a penalty to be assessed and collected in the manner provided for in other cases of willful neglect or refusal to render a return or of rendering a false and fraudulent return. Any person aggrieved by the decision of the deputy collector in either of the cases above mentioned may appeal to the collector of the district, and his decision thereon, unless reversed by the Commissioner of Internal Revenue, shall be final. If dissatisfied with the decision of the collector, originally or on appeal, such person may submit the case with all papers to the Commissioner of Internal Revenue for his decision and may furnish the testimony of witnesses to prove any relevant facts, having served notice to that effect upon the Commissioner of Internal Revenue as herein prescribed. Such notice shall state the time and place at which and the officer before whom the testimony will be taken, the name, age, residence, and business of the proposed witnesses, with the questions to be propounded to each witness and a brief statement of the substance of the testimony he is expected to give: *Provided*, That the Government may at the same time and place take testimony upon like notice to rebut the testimony of the witnesses examined by the person against whom the collector rendered decision. The notice shall be delivered or mailed to the Commissioner of Internal Revenue a sufficient number of days previous to the day fixed for taking the testimony to allow him after its receipt at least five days, exclusive of the period required for mail communication with the place at which the testimony is to be taken, in which to give, should he so desire, instructions as to the cross-examination of the proposed witness or witnesses. Whenever practicable the affidavit or deposition of a collector or deputy collector of internal revenue shall be taken, in which case reasonable notice shall be given to the collector or deputy collector of the time fixed for taking the deposition or affidavit. No penalty shall be assessed upon any person for such neglect or refusal or for making or rendering a willfully false or fraudulent return except after reasonable notice of the time and place of hearing to be prescribed by the Commissioner of Internal Revenue so as to give the person charged an opportunity to be heard.

SEC. 5. That the duties on incomes hereby imposed shall be due and payable on the 1st day of July, 1913, for the year 1912, and on the 1st day of July of each succeeding year for the duties assessed and levied upon the incomes of the preceding year, and if the duty on any income remains unpaid after the 1st day of July as aforesaid and after 10 days' notice and demand thereof and therefor by the collector, there shall be collected as a penalty for such nonpayment the sum of 5 per cent on the amount of duty unpaid, and also interest at the rate of 1 per cent per month upon said duty from the time it becomes due. The Commissioner of Internal Revenue is authorized to relieve the estates of deceased, insane, or insolvent persons from the aforesaid penalty if the failure to pay at maturity was without fault of the person or persons in charge of said estates.

SEC. 6. That if at any time after the duty upon any income is paid, or, becoming due, is unpaid, the Commissioner of Internal Revenue ascertains that the person returning the said income for duty knowingly made a false return respecting the same, the amount of dutiable income so concealed shall be assessed for the year in which the discovery is made and there shall be collected for and on account of any such concealed income double the duty prescribed in this act.

SEC. 7. That at any time after September 1 in each year the internal-revenue collector in any district shall proceed to enforce by distraint upon any property belonging to any person upon whose income a duty has been assessed and levied and which duty or any part thereof remains unpaid, and all the property of any such person wherever situated subject to execution shall be liable to distraint for the collection of the unpaid duty.

SEC. 8. That it shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or make known in any manner whatever not provided by law to any person any information obtained by him in the administration hereof concerning the amount or source of income, profits, losses, expenditures, or any particular thereof set forth or disclosed in any income return by any person or corporation, or permit any income return or copy thereof or any book containing any abstract or parts thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return or any part thereof or the amount or sources of income, profits, losses, or expenditures appearing in any income return. Any offense against the foregoing provisions shall be a misdemeanor and punished by a fine not exceeding $1,000, or by imprisonment for a period not exceeding one year, or both, at the discretion of the court; and if the offender be an officer or employee of the United States, he shall be dismissed from office and be incapable thereafter of holding any office under the Government.

SEC. 9. That every internal-revenue collector shall, from time to time, cause his deputies to proceed through every part of his district and to inquire after and concerning all persons therein who may be in receipt of dutiable incomes hereunder, and concerning all persons or corporations having the care and management of property which may produce such income, and to make a list of such persons or corporations and to enumerate said properties.

SEC. 10. That only one deduction of $5,000 shall be made from the aggregate income of all the members of any family composed of one or both parents and one or more minor children or husband and wife. No penalty shall be assessed upon any person, corporation, or association for a neglect or refusal to make return or for making or rendering a willfully false or fraudulent return, except after reasonable notice of the time and place of hearing, to be prescribed by the Commissioner of Internal Revenue, so as to give the person charged with such neglect or refusal, or charged with such false or fraudulent return, an opportunity to be heard.

SEC. 11. That in the event that any person with a dutiable income fails to make the return prescribed in section — hereof to the collector or deputy collector, and the person shall be absent from his or her residence or place of business at the time the collector or deputy collector shall call for such annual return, it shall be the duty of such

collector or deputy collector to leave at such place of residence or business with some one of suitable age and discretion, if there be such person present, otherwise to deposit in the nearest post office, a note or memorandum addressed to such person requiring him or her to render to such collector or deputy collector the return required by law within 10 days from the date of such note or memorandum, verified by oath or affirmation. And if any person, on being notified or required as aforesaid, shall refuse or neglect to make such return within the time required as aforesaid, or delivers any return which, in the opinion of the collector, is false or fraudulent or contains any undervaluation or understatement, it shall be lawful for the collector to summon such person or any other person having possession, custody, or care of books of account containing entries relating to the business of such person or any other person he may deem proper to appear before him and produce such books at a time and place named in the summons and to give testimony or answer interrogatories under oath respecting any subjects which will tend to disclose the true income. The collector may summon any person residing or found within the State in which the district lies; and when the person intended to be summoned does not reside and can not be found within such State, he may enter any collection district where such person may be found and there make the examination herein authorized. And to that end he may there exercise all the authority which he might lawfully exercise in the district for which he is commissioned. This procedure shall apply to all cases of failure to make return and to all cases in which the collector shall be of opinion that the return is incorrect, false, or fraudulent.

SEC. 12. That when any person, corporation, or association refuses or neglects to render any return required by law, or renders a false or fraudulent return, the collector or any deputy collector shall make, according to the best information which he can obtain, including that derived from the evidence elicited by the examination of the collector and on his own view and information and such knowledge as he can obtain, a return according to the form prescribed of the income derived by any person under the care or management of such person, corporation, or association, and the return so made and subscribed by such collector or deputy collector shall be held prima facie good and sufficient for all the above purposes.

During the reading of Mr. BORAH's substitute,

Mr. WILLIAMS. I should like to ask the Senator from Idaho a question about the substitute which has just been read. In what respect does it materially differ with the income-tax act which was passed in 1894 and declared unconstitutional by the Supreme Court?

Mr. BORAH. If the Senator will permit the amendment to be read, then I will explain its provisions.

Mr. WILLIAMS. I thought that the Secretary had finished the reading of the substitute.

Mr. BORAH. No; he has not finished reading it.

The PRESIDENT pro tempore. The Secretary will continue the reading of the substitute.

The Secretary resumed and concluded the reading of the substitute.

The PRESIDENT pro tempore. Does the Senator from Idaho offer what has been read as an amendment at the present time?

Mr. BORAH. No; it was not my intention to offer it now. I assumed that the Senator from Georgia was going to discuss the matter. At the proper time I expect to offer it.

The PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. SMITH of Georgia. Mr. President, I will not discuss the wisdom or the justice of an income tax. The wisdom and the justice of requiring incomes to bear a fair part of the burden of Government is now almost universally recognized.

I wish to bring to the attention of the Senate some of the more important provisions of the excise bill which comes to us from the House, to call attention to the fact that this bill is entirely in line with recent decisions by the Supreme Court of the United States construing the Constitution, and to point out what we may expect as a result of the bill if it becomes a law.

I wish also, Mr. President, while earnestly and sincerely in favor of a general income tax, to give some reasons why it would seem wiser at the present time to adopt this excise bill rather than to pass a general income law.

We are all familiar with the income act passed in 1894. We are all familiar with the fact that in the spring of 1895 it went before the Supreme Court of the United States and was there attacked upon the ground that it was unconstitutional, upon the ground that it was a direct tax, and that therefore the amount should have been apportioned among the several States according to population.

The decision of the Supreme Court in the Pollock case is now a part of the history of the country. The shock that it gave to many lawyers and to the public generally, the belief on the part of many that it overturned a line of decisions which had been rendered for 100 years, that it overturned the construction of the Constitution placed upon it by men who were members of the body which framed that instrument—all this is now a matter of history. But that decision, five to four, still stands unreviewed and unreversed.

In 1909 the income-tax question was again before the Congress. There were Members of the House and Senators who urged that a general income-tax law should be passed, and that we should again take a measure of the Supreme Court and find out whether on reflection a majority of the court would not hold that the sound law had been announced in the dissenting opinions of Mr. Justice White and Mr. Justice Harlan.

After full consideration of the question, with a message from the President upon the subject, Congress determined not even at that time to adopt a general income tax. On the contrary, Congress determined to submit to the States an amendment to the Constitution which should expressly provide that an income-tax law might be passed without apportionment among the States according to population.

Congress also went further and passed an excise tax upon corporations, under which all the incomes of certain corporations were to pay a tax provided the incomes exceeded $5,000. The tax was to be levied upon the corporations in respect to the carrying on or doing business.

It was declared to be an excise tax, and it was with respect to carrying on or doing business; but it provided that all of their income should be subject to tax, not only that which came from property used in carrying on or doing business, but even if they had incomes from property not required to be actively used; if the corporations were engaged in carrying on or doing business, its entire net income over and above $5,000 was to be the subject of taxation.

During the discussion of this question Senators now upon the floor took the position that it was not necessary to limit the excise tax to corporations; that it might be properly extended to all persons, firms, or copartnerships carrying on or doing business or with respect to their carrying on or doing business.

The excise tax placed upon corporations has been before the Supreme Court of the United States, carried there in an effort to attack it upon the ground that it was unconstitutional. In the Flint case, reported in the Two hundred and twentieth United States, the special excise tax which the Congress placed upon corporations has been fully considered. The Supreme Court sustained it and distinguished it from the income tax bill, held to be unconstitutional in the Pollock case, and pointed out the difference between a direct effort to subject income to taxation and a special excise tax levied with respect to the carrying on or doing business. Without reviewing the Pollock case, the Supreme Court held that the corporation tax was a special excise tax not required by the terms of the Constitution to be apportioned according to population among the States, and was therefore properly imposed by Congress.

The Supreme Court went further and held that this tax was constitutionally imposed upon all of the income of corporations subject to it, even though part of the income came from property not subject to tax. The fact that the particular corporation was carrying on or doing a business which subjected it to the special excise tax left with Congress the power to measure the amount of the tax and the manner of calculating the tax.

In another decision, that in the Minnesota case, the Supreme Court distinguished between what was carrying on or doing business and what was not under the special excise tax imposed upon corporations, and held that the corporation which had surrendered those provisions of its charter which allowed it to do business or manage its own property, and had leased its property for 130 years, giving up all of its charter powers except the mere right to receive the income under the 130-year lease and divide it or dispose of the property, was not doing business, and that, therefore, such a corporation was not subject to the income tax. So it may certainly be claimed that the tax sustained upon corporations is for carrying on or doing business, and that the carrying on or doing business is the constitutional basis for the special excise tax.

The same principle which makes the tax constitutional when applied to a corporation makes it equally constitutional when applied to a person, a firm, or a corpartnership.

The present bill, in practically the language of the act placing the special excise tax upon corporations, places a special excise tax upon persons, firms, and copartnerships with respect to their being engaged in or doing business. In the Flint case language is used which clearly indicates the opinion of the court that this tax can properly be extended to persons, firms, or copartnerships; and, as I said before, the bill before us, in the very terms of the excise-tax law which has been sustained by the Supreme Court, extends the special tax to persons, firms, or copartnerships. If we adopt this measure, we adopt a measure already practically sustained by the Supreme Court of the United States and one which is in perfect accord with the recent decisions of the court.

The measure is very far-reaching. The term "business" is defined in the proposed act as follows:

The term "business," as herein used, is and shall be held to embrace everything about which a person can be employed, and all activities which occupy the time, attention, and labor of persons for the purpose of a livelihood or profit.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from California?

Mr. SMITH of Georgia. Yes, sir.

Mr. WORKS. I should like to ask the Senator from Georgia whether, under that definition of business, he thinks anybody could escape this tax except the idle rich?

Mr. SMITH of Georgia. I do not think that the idle rich will escape it. I think there are very few idle rich who do not look after their investments and take care of their profits; and I think that the so-called idle rich who exercise sufficient supervision over their property to direct their own investments, to look after the reinvestment of their profits, and to take care of their property, under the decisions of the courts are doing business, and I think that definition was intended to reach the class to which I refer. The definition is practically taken from the decision of the Supreme Court in the Flint case. I wish to read a few additional definitions of the term "business." In delivering the opinion of the court, Mr. Justice Day said:

"Business" is a very comprehensive term and embraces everything about which a person can be employed. * * * That which occupies the time and attention or labor of man for the purpose of a livelihood or profit.

The man of great wealth who looks after his investments for the profit that comes to him by giving direction to them would fall within the definition laid down by the Supreme Court. The justice then goes on to say:

We think corporations organized for the purpose of doing business and actually engaged in such activities as leasing of property, collecting rents, managing office buildings, making investments of profit, leasing oil lands, collecting royalties, managing wharves, dividing profits, and in some cases investing the surplus, are engaged in business within the meaning of this statute and in the capacity to make such organization subject to the law.

Persons, firms, or copartnerships occupied in the same way would be equally engaged in business.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Iowa?

Mr. SMITH of Georgia. Certainly.

Mr. CUMMINS. I have heard it said that there are some incomes that would not be taxed under the bill as it passed the House. I have listened to the definition of business as given by the Senator from Georgia, and my question is, Can the Senator from Georgia imagine any income, however derived, that would not be taxable if his interpretation or definition of business is accepted?

Mr. SMITH of Georgia. First, Mr. President, I desire to say that I have been giving the interpretation of the Supreme Court of the United States. I have been reading, rather, from the Flint case than giving my own views. I will a little further on quote additional authorities, and I will say that under the definitions of business by the Supreme Court of the United States, by leading courts of the different States, and by the English courts, I think this bill will practically reach everybody.

Mr. CUMMINS. If that be true, what is the difference, then, between this bill and an income-tax bill?

Mr. SMITH of Georgia. The difference is, as described by the Supreme Court in sustaining it, that it is a special excise tax for doing business, and not a direct tax upon incomes without regard to doing business.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Idaho?

Mr. SMITH of Georgia. Yes.

Mr. BORAH. Does the Senator from Georgia think that that is a substantial distinction to be maintained as against the distinction in the Pollock case?

Mr. SMITH of Georgia. The Supreme Court of the United States in the Flint case sustains the distinction and expressly declares that there is the distinction which I have stated.

Mr. BORAH. If the Senator be correct in his interpretation and construction of the Supreme Court decision, then the only difference between the excise-tax bill, which is now before the Senate, and the amendment which I have submitted would be the question of graduation.

Mr. SMITH of Georgia. I do not agree that that is literally true. I do say that I am not aware of any mode of holding property, and I do not desire to suggest any mode of holding property, which would enable the person possessing it to escape the special excise tax. I hope that the court will carry the proposed excise tax just as far as possible, but it would remain a question for the courts to decide whether a particular man or a particular occupation falls within a proper definition of the word "business." It is a judicial question and not a legislative question. The Supreme Court has declared that we can legally levy a special excise tax with respect to persons carrying on or doing business, and the House has simply followed the decision of the court.

If you ask me for my own opinion you ask for something which is of no value as compared to the authority which comes from the court which has the right to construe the law. At least, I may say that I have great respect for the dissenting opinions of Mr. Justice White and Mr. Justice Harlan in the Pollock case. I have never myself been able to overcome what seemed to me the irresistible logic of their opinions. But I find the decision of the majority of the court in that case not reviewed or reversed, and I find here the Flint case, which justifies this tax. While I am referring to this matter I will go just one step further. If the question had been presented for my determination or for my vote in 1909 I would have been much inclined to send at once another income-tax bill to the Supreme Court of the United States; but what did Congress do? Following the message of the President recommending that course, Congress passed a constitutional amendment relieving the Constitution from the construction placed upon it in the Pollock case and submitted it to the States. Thirty-four States have adopted it, four have rejected it, and eight have not yet acted. Would not the case go to the Supreme Court in very much weaker shape if at the present time it should be determined by Congress to send a straight income-tax bill to that court invoking a reversal of the Pollock case? How easy it would be to say, "Congress has accepted that decision; Congress has submitted to the States a constitutional amendment which only lacks the approval of two States to ratify it." Probably before the question reaches the Supreme Court those two will have ratified it. Well might the Supreme Court say, "The action of Congress and the action of the States have so far changed the status of this question that we will adhere to the majority opinion in the Pollock case."

It seems to me that the Senate and the House, by their action three years ago, have made it far more difficult to present that naked question of the constitutionality of an income tax to the Supreme Court. Frankly, I have for years hoped to see the decision in the Pollock case reversed. I would have been glad as soon as one man who belonged to the five rendering the majority decision went off the bench to put it up to the new man; but we have waited, and you have given it a different direction You have almost accomplished the constitutional amendment. How do we know that we can now pass a bill for a straight income tax? It will require approval by the President.

Three years ago Congress acted on the recommendation of the President and gave direction to the question of an income tax. If you adopt the substitute of the Senator from Idaho you take a measure, to say the least, involved in doubt; to say the least, confronted by five to four on the Supreme Bench; and you do it in preference to a measure that the Supreme Court has sustained, discriminating it from the Pollock case, and that will be almost as beneficial.

Now, this whole subject, as shown by the report of the committees in the House and by the debates there, was fully considered in that body, and they reached the conclusion embodied in this bill. Earnestly desirous as they were for a straight income tax, I yield to no one a greater desire to see such a tax than I possess. I believe it is essentially right, and I have no doubt it is coming, and coming in the near future.

Now shall we cast aside a measure which is almost as good, that has already been practically sustained by the Supreme Court of the United States, to adopt an income tax that we all want, which would be confronted with an adverse decision of the Supreme Court already existing, and with the further difficulty that three years ago Congress determined that the proper way to treat this subject was to accept the decision as sound and change the Constitution; and coupled with the further fact that before the case is heard in the Supreme Court probably the amendment will have been ratified by the two additional States?

Of course, the adoption of the amendment would not cure the trouble, if any trouble now exists in the passage of the income tax. It would not be retroactive; it would apply only to legislation passed subsequent to its adoption. I wish to go a little further.

Mr. SUTHERLAND. Mr. President——

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

Mr. SMITH of Georgia. Certainly.

Mr. SUTHERLAND. I have not been present during all the time the Senator from Georgia has been discussing this question, but I was greatly interested in his discussion as to what constituted "business."

Mr. SMITH of Georgia. I was just coming back to that; and I am going to read now a number of definitions.

Mr. SUTHERLAND. Will the Senator permit me to ask him a question?

Mr. SMITH of Georgia. Certainly.

Mr. SUTHERLAND. I want to get the Senator's view of it. Is it the Senator's position that any person who is in receipt of an income is engaged in business?

Mr. SMITH of Georgia. Not the mere naked receipt of an income; but if he takes care of his property, if he looks after his real estate, if he reinvests his profits, if he is looking after the preservation of his estate, he is engaged in business under the decision of the Supreme Court and other courts.

Mr. SUTHERLAND. It is reputed—I do not know how truthfully—that Mr. Carnegie is worth some two or three hundred million dollars; that his money is invested in bonds, and that Mr. Carnegie clips the coupons or has somebody else clip the coupons from the bonds, and in that way receives an income. If that be true, would Mr. Carnegie be engaged in business?

Mr. SMITH of Georgia. That might depend upon how he used his income. If he is engaged in the business of handling his income, then he would be engaged in business. Before the Senator came in I had called attention to two decisions of the Supreme Court of the United States in which they discriminated between what is "business" and what is not—the Minneapolis case, with which the Senator, of course, is familiar, and the Flint case—the Supreme Court holding in the Minneapolis case that the corporation was not subject to the tax because it had leased all it had for 130 years, retained no control whatever over it, was not reinvesting the proceeds for profit, but was only distributing the proceeds among its stockholders, and had amended its charter to take every power away from it except to receive the rent, divide it among the stockholders, and receive the principal if the property was sold. In the Flint case the broad definition which I read and which is embodied in this act is given.

Now, I would like to read a few more definitions of "business."

Mr. SUTHERLAND. I want to put another supposititious case to the Senator, if I may. There are in New York City a number of people who own lands of immense value. Some of them have been leased for long terms of years, some as long as 99 years, as I understand, some 50 years, and enormous sums are paid to the owners of the land in the way of rentals. Some of the gentlemen who receive these enormous sums of money, greatly exceeding what the Senator or I could earn in our profession, or what a surgeon could earn in his profession, spend their time in London or in Paris, and receive these large sums of money in the way of income from their lands. Would those gentlemen be subject to taxation under this law?

Mr. SMITH of Georgia. It would be necessary to inquire further with reference to them what management was necessary to handle those properties, to what extent the control of those properties became a business, and to what extent as a result of that fact they were themselves engaged in business.

I will say this to the Senator, that I think the bill goes just as far as it constitutionally can, and I think the courts have gone about as far as they possibly can, and I think that in nearly every instance, if an investigation was made, some line of work, at least in the nature of reinvesting profits, in the nature of looking after buildings or having it done, or employing agents to do it, would constitute a business and bring the party within the tax.

Just before the Senator came in I read from the Flint case, and having first shown that the same rule applied to corporations, relieving them, as would apply to an individual, I called attention to the fact that in the Flint case, in the opinion of the court, it is held that managing an office building, collecting rents, dividing profits, investing surplus, would constitute being engaged in business.

Now, I wish to read a little further from some other authorities on that subject, because I confess that I was myself surprised to see what a broad definition "business" had been given and how far the courts have gone in construing what constitutes being engaged in "business."

The broad definition given to the term "business" by the Supreme Court of the United States is in entire accord with the meaning of the term recognized generally by courts and law writers. I will give several definitions from courts and law writers as to the meaning of the term "business," giving it, I have no hesitation in saying, a much broader and more comprehensive meaning than I had supposed was the legal rule.

The definitions are:

"Transaction of affairs," "something to be transacted," "something required to be done," "that which occupies the time and attention or labor of a man for the purpose of profit or improvement," "occupation for gain." So that the courts, the law writers, our own Supreme Court, justify the conclusion that a man can not have his wealth invested, even in leased real estate, if he gives supervision or direction to his agents, or assumes responsibility in any way for the management of his property, or reinvests his profits, or cares for his estate, without being engaged in business. If he does anything that a man can be employed to do for a livelihood or does anything for the purpose of reinvesting his property as a profit or directs his property in any way, it constitutes being engaged in business; and under these definitions I believe there are very few of the so-called idle rich who could not be found and proved to exercise such interest in their property as to bring them within the provisions of this statute.

But, Mr. President, it is not essential to determine accurately that question to justify the support of this measure. It follows judicial decisions and goes as far as we can go following the courts. Now, if we wish to reach incomes and subject them to taxation, we can adopt this bill, and the estimate is made by those who have studied it that it will raise a revenue of $60,000,000 a year. Others insist that it will be considerably less.

As I said before, we confidently expect in the near future that more than two additional States will ratify the constitutional amendment, providing that an income tax can constitutionally be adopted without apportionment between the States according to population.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Iowa?

Mr. SMITH of Georgia. I do.

Mr. CUMMINS. Does the Senator from Georgia think if there were added to the definition of "business" contained in the act passed by the House, the words—

And shall also embrace the act or acts of receiving and caring for the returns or profits of investments of capital of whatever kind—

we would still be clearly within the decision of the Supreme Court in that case?

Mr. SMITH of Georgia. I would hesitate about expressing an opinion on that subject. I think in the House they have adopted the definition given by the Supreme Court of the United States, and perhaps that would be the safest course to pursue.

Mr. CUMMINS. The Senator from Georgia is an accurate interpreter, and a few moments ago in describing what "business" is he used almost the identical language I have just read and which I may say is an amendment that I may offer to that section of the bill if the present amendment shall not receive the approval of the Senate.

I wanted, while the Senator was discussing that phase of it, to get his opinion as to whether or not this language "receiving and caring for the returns of investments" constitutes "business" within the meaning of the decision of the Supreme Court.

Mr. SMITH of Georgia. I am not prepared at this moment to express an opinion on that subject. I am not sure that the legislative definition of "business" ought to have been embodied in the bill, but as that definition is exactly the definition given by the Supreme Court, there could be no objection to it. The authorities certainly go to the extent that if the party receiving the money exercises any supervision over the property, it constitutes "business"; that if he uses any portion of his income for reinvestment, taking care of his surplus to enlarge his estate, it constitutes "business." Clearly, to be engaged in supervising a building, to own an office building and collect the rents from it or employing agents to do it, constitutes being engaged in business. The exercise of supervision over their property by men of accumulated wealth constitutes doing business clearly within the interpretation of the courts.

Mr. BORAH. Mr. President, if the definition of doing business can be so extended as it is thought to be, by reason of the extension being sufficiently binding to cover that class which has been referred to in the bill, I would feel very much disposed myself not to urge the amendment which I have submitted. But I want to ask the Senator from Georgia if he thinks this kind of a case would be covered. It is a concrete proposition, because I know of such a case.

The party owns a very large block of buildings in the city of New York, from which he collects a very large rental. He lives abroad most of the time, yachting in the Mediterranean and luxuriating in the European capitals, but after he has collected the rents here and paid the tax to the city and State upon it he has a very large income.

Now, this gentleman does not pay for the support of the National Government a single cent. He is taxed in no possible

way for the benefit of the National Government. The charwoman who washes the dirt from his marble floors pays more tax than he does to the National Government. Would this bill or could this bill by such an amendment as has been suggested by the Senator from Iowa be made to cover that gentleman and his income?

Mr. SMITH of Georgia. If the bill does not do it now I am not sure that the amendment would correct the defect. But I would wish to make some further inquiries about this wealthy son of New York or son of some foreign country, whichever he is. I would wish to know whether he employed his agents; whether he controlled his property through his agents; whether he exercised direction about the management of his property; whether when he had a surplus he invested it. I would wish to carry the investigation a little further, because I have no doubt that in practically every case that would confront us we could find something more than the naked facts the Senator states upon which to base the charge that the party was engaged in business.

Mr. BORAH. Mr. President——

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

Mr. SMITH of Georgia. Certainly.

Mr. BORAH. I have no doubt that in all probability at the present time the gentleman employs agents. The Senator from Georgia will agree with me, I am sure, that if the employment of those agents would relieve him from the payment of an income tax, it would transpire 24 hours after the income-tax law was passed. He would simply require his renters to deposit their rents in bank for him, and there would be no act by which he could possibly reach it.

Mr. WILLIAMS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Mississippi?

Mr. SMITH of Georgia. Yes.

Mr. WILLIAMS. I wish to suggest to the Senators engaged in the colloquy that it would be absolutely impossible for a man living in Europe to receive rent from a large property in New York without either managing the business for himself or through agents, without employing and paying elevator men, custodians, and other employees about the building, and that under the decision of the Supreme Court the moment he employed an agent to collect rents and pay repairs and to pay taxes, the moment he employed an elevator boy or anybody else, or a custodian, he would be engaged in business.

Mr. BORAH. Mr. President, I disagree with the Senator from Mississippi. The Supreme Court, or no other court, has ever laid down the rule with reference to the doing of business which covers the mere collection of income.

Mr. WILLIAMS. The point that I was making, Mr. President, is that a man can not live in Europe and manage a large estate in New York with no other business except to receive rents. Tenants do not voluntarily pay rent; they do not voluntarily go to bank and get a bill of exchange and forward it to a landlord; and unless that man in the case stated by the Senator from Idaho had some agent somewhere to represent him while he was absent he would soon have to turn his property over to the city of New York or to the State of New York for taxes.

Mr. BORAH. Exactly, but, Mr. President, the unfortunate part of it is that the courts have not held that kind of transaction to be the doing of business.

Mr. WILLIAMS. But, if the Senator will pardon me, they have held that employing an agent to manage the property is doing business. Am I mistaken in that, I ask the Senator from Georgia?

Mr. BORAH. I should like to see the opinion. I want to say, before I close on that point, that if that is true, then the constitutionality of this tax is just as serious as the constitutionality of an income tax. While we call it an excise tax, and while that has some weight with the Supreme Court, yet they have said it is not controlling, that we may call it one thing, and it may in fact be another, and while they will give it weight it will not be controlling weight.

Now, if it be true that this which the Senator from Mississippi suggests as the doing of business is the doing of business within the discussion of the excise-tax cases, then there is no difficulty about making this an income-tax bill, and to cover those who are doing this, beyond question.

Mr. SMITH of Georgia. I do not think, Mr. President and Senators, that we can ourselves exactly determine the point at which the courts will stop and say that a particular person was not engaged in business and the exact length to which they will go to hold that he is engaged in business. I have not undertaken to give an opinion of my own that reaches an exact point. I have sought to point out how broad these judicial constructions are as to the meaning of the "business" and to what a great extent we may expect to reach by a special excise tax the incomes of the country.

I wish especially to press the fact that under the decision in the Flint case the income must not necessarily be derived from business in which the person is engaged. If we locate him as doing business or having an occupation that falls within the class of business, then all of his income is subject to the tax. He then comes into the class, the special excise tax is fixed upon him, and the measure of tax is a legislative problem, and that legislative problem we undertake to solve in this bill by saying that being subject to the special excise tax as a person doing business, all of his net income above $5,000 shall contribute 1 per cent to the National Treasury to help bear the burdens of government. The Flint case fully sustains this view.

Now, the question that confronts us is this: Here we have a bill carefully prepared, studied out with great labor, studied out by men who are just as anxious to pass an income tax of the broadest character as any Member of the Senate. Here we have it conforming to recent decisions of the Supreme Court of the United States. Here we have our constitutional amendment almost adopted. If we pass this excise-tax bill we follow the corporation excise tax and reach persons, firms, and copartnerships, and we reach all covered by the broad term "business."

After that is done, if we do not speedily get the constitutional amendment ratified by two other States, if we want to do so then we can pass another act if we find it necessary to measure the Supreme Court on the Pollock case. We can pass an act providing that the incomes of all persons who have not paid a special excise tax shall be subject. Then we can let such an act go to the Supreme Court without jeopardizing a certainty by going to an uncertainty.

It seems to me that this is a bad time to send to the Supreme Court of the United States an income tax. It is bad because three years ago, under the leadership of the President, Congress took another course. And now, when we have every right to expect that not a year must pass until the two additional States will approve the proposed constitutional amendment, we are in the poorest shape possible to send that question to the court and to seek to invoke a reversal of the decision, which stood five to four.

Now, as to the necessity for the income from this act, of course if its associate, the free-sugar bill, passes, the money would immediately be required. But if it did not pass, there are measures pending now between the two Houses that would require more than the income of the Government next year. Take the project to contribute through the States to educational work, take the project to contribute through the States to good roads, take the large increase which has been made in the pensions, and which if the House agrees to the provision offered by the Senator from Ohio [Mr. POMERENE] will add $30,000,000 additional expense in the next 12 months. Putting everybody at once upon the pension roll it would go up, I should think, to over $30,000,000 next year. I mean, of course, $30,000,000 additional, an additional demand on the Treasury which has not heretofore been made against it for pensions.

I regard the measure sent us by the House of Representatives as the wisest thing we can do under existing circumstances, insisting all the time that by voting for it I do not wish anyone to misunderstand my earnest devotion to a broad general income tax. After the constitutional amendment is ratified, then I think we should pass a broad income tax, wipe out the corporation tax, wipe out perhaps this tax, and provide an income tax pure and simple. I want to add that a graduated plan of an income tax commends itself to me most cordially.

Mr. SUTHERLAND. Will the Senator permit me to ask him another question in connection with this bill?

The PRESIDING OFFICER. Does the Senator from Georgia yield further to the Senator from Utah?

Mr. SMITH of Georgia. Certainly.

Mr. SUTHERLAND. The definition of the term "business" contained in this bill is that it—

> shall be held to embrace everything about which a person can be employed, and all activities which occupy the time, attention, and labor of persons for the purpose of a livelihood or profit.

I call the Senator's attention to the fact that a great deal of income-producing property in this country is held in this way. A man has accumulated an enormous fortune during his lifetime, and he makes a will constituting certain persons his trustees to take care of the property for the benefit of his heirs after his death, the will providing that the trustees shall manage the property, collect the income, and turn the proceeds over to the heirs. Does the Senator think under this bill all sums of money turned over to those heirs will be taxable?

Mr. SMITH of Georgia. I think the bill undertakes to levy the tax then on the trustee, and requires him to pay it before he turns the property over to the heirs. I think the bill undertakes to reach a guardian or trustee conducting the business for a ward.

Mr. SUTHERLAND. The trustee may be a member of the family, and he may be paid nothing for his services. In that case would he be engaged in any business for a livelihood?

Mr. SMITH of Georgia. I think a trustee would be engaged in business if managing that property.

Mr. SUTHERLAND. The limited provision of the bill is that he must be engaged in it for the purpose of a livelihood or for profit.

Mr. SMITH of Georgia. No; it would be an occupation which he could be engaged in for a livelihood. He would be doing work which somebody else could have been engaged in for the purpose of making a livelihood. It does not mean that the particular business or the particular person taxed must himself be working for a livelihood, but if he fills any occupation which some one might be performing for a livelihood. I think that is the view of the Supreme Court and other courts as to what is covered by the term "business."

Mr. SUTHERLAND. But the trustees themselves do not receive any income.

Mr. SMITH of Georgia. But they are engaged in a work or occupation.

Mr. SUTHERLAND. No; but the persons who receive the income receive it without being engaged in any business whatsoever.

Mr. SMITH of Georgia. The bill undertakes to tax the trustee and guardian, as I understand it, for the management of the property.

Mr. SUTHERLAND. I have not discovered that provision in the bill. The Senator may be right.

Mr. SMITH of Georgia. I do not undertake, as I said before, to fix the point at which this tax will stop. I think that finally must be a judicial question about which there is some doubt; but I do insist that it is very far-reaching, and the excise tax bill under consideration is our safest plan at the present time to make the income of the wealthy bear a just proportion of the burden of government.

Mr. BORAH. Mr. President, the bill under consideration provides in its first section as follows:

That every person, firm, or copartnership residing in the United States, any Territory thereof, or in Alaska or the District of Columbia, shall be subject to pay annually a special excise tax with respect to the carrying on or doing business by such person equivalent to 1 per cent upon the entire net income over and above $5,000 received by such person from all sources during each year; or, if a nonresident, such nonresident person shall likewise be subject to pay annually a special excise tax with respect to the carrying on or doing business by such person equivalent to 1 per cent upon the amount of net income over and above $5,000 received by such person from business transacted and capital invested within the United States and its Territories, Alaska, and the District of Columbia during each year. The term "business," as herein used, is and shall be held to embrace everything about which a person can be employed, and all activities which occupy the time, attention, and labor of persons for the purpose of a livelihood or profit. The word "person" wherever used in this act shall be held to include natural persons or individuals and firms or copartnerships.

The first section of the amendment, which is offered in the way of a substitute, provides:

That for the calendar year 1912, and for each calendar year thereafter, duties shall be assessed, levied, collected, and paid upon incomes herein specified received in such calendar year by every citizen of the United States, whether residing at home or abroad, and by every other person as to an income received from any property, business, trade, occupation, profession, or employment, situated or carried on within the United States. The dutiable incomes shall be those in excess of $5,000, and from every such dutiable income the sum of $5,000 shall be deducted in order to ascertain the amount upon which the duty shall be assessed, levied, and collected. The rate of duty upon dutiable incomes shall be as follows, to wit: Upon incomes not exceeding $10,000, 2 per cent; upon incomes not exceeding $20,000, 2½ per cent; upon incomes not exceeding $40,000, 3 per cent; upon incomes not exceeding $60,000, 3½ per cent; upon incomes not exceeding $80,000, 4 per cent; upon incomes not exceeding $100,000, 5 per cent; upon all incomes exceeding $100,000, 6 per cent.

These two sections present in convincing contrast the difference in principle between these two bills. To one who has studied the subject of taxation and is informed as to the effect of tax laws no other argument would seem to be necessary as to the respective merits of these measures.

Mr. WILLIAMS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Mississippi?

Mr. BORAH. I yield.

Mr. WILLIAMS. I wish to renew a question which I asked prematurely this morning. I should like to ask the Senator from Idaho what, if any, are the essential differences in legal principle between the bill which he is proposing as a substitute and the bill which was passed and became a law under the Democratic administration of Grover Cleveland in 1894, and which was subsequently pronounced, by a sudden change over night in the opinion of one judge, to be unconstitutional?

Mr. BORAH. Mr. President, in my opinion it would raise precisely the same legal question. I do not seek to present the question in any other way. I feel perfectly confident of being able to sustain the measure here and in the courts. I say this mindful at the same time of the Pollock case.

Mr. WILLIAMS. In asking the question my object was to obtain the answer given by the Senator, because from a somewhat hurried reading of the bill I arrived at the same conclusion; in other words, that there was no new legal proposition to be presented to the Supreme Court if this bill should pass the House and stand the test at the White House.

If the Senator from Idaho has any reason to believe that the present Supreme Court would not be guided by courtesy, to put it no stronger—judicial courtesy—by the precedent established by the Supreme Court in the other case, it seems to me that would be a very important fact for the consideration of Senators, because if there was any reasonable basis upon which to base a conviction of a reversal it would appeal to the sympathy of this side of the Chamber very much.

If the Senator can give no reason of that sort, it would seem to us that even if his bill had passed the House and the White House, and had gone to the Supreme Court it would still be a mere fulmination in the air.

Mr. BORAH. Mr. President, so far as the question of precedent is concerned, I can cite no better instance than the Pollock case itself. As early as 1796 the Supreme Court of the United States decided by a unanimous decision of the court that a tax upon personal property was not a direct tax—decided that the only direct tax was a land tax and a capitation tax. That decision stood unchallenged and uncriticized by the Supreme Court for nearly 100 years. It was reviewed again in the case in Seventh Wallace, where the specific question was raised as to what constituted a direct tax, and it was held that income of insurance companies, or derived from the business of insurance companies, was not a direct tax.

It was again raised in the case of Veazie Bank *v.* Fenno, in Eighth Wallace, and the Supreme Court reviewed at large, in extenso, the question again and held that a capitation tax and a land tax were the only taxes known as direct taxes.

That was again reviewed in Twenty-third Wallace, in the Scholey case, where the question of an inheritance tax was involved. The Supreme Court again reviewed its former decisions and again announced that the only taxes known as a direct tax to the makers of the Constitution were a land and a capitation tax.

Finally, and fifthly, the Supreme Court took the matter up in the Springer case and reviewed the matter again.

Now, upon five different occassions those who challenged the power of Congress, under the Constitution, to levy a tax upon incomes or upon wealth or property carried their case to the Supreme Court of the United States, and upon five different occassions that court held that under the Constitution these different cases presented did not present a direct tax; that the only direct tax was a capitation tax or a land tax.

I am not going to stop to read these opinions now; I may do so later to some extent. I am now answering somewhat extensively the suggestion of the Senator.

In 1894 the case was passed up to the court known as the Pollock case. The Supreme Court distinguished and overruled nearly 100 years of precedent. If we should stop there alone, Mr. President, with a divided court of four to five, with a change taking place which disclosed that one of the judges changed his opinion, we have this kind of an opinion overruling the precedents of the court for a hundred years previous. It would not be unusual under such circumstances to present the case again, nor presumptuous to assume that the court would go back to its opinions of nearly a hundred years, beginning with those who helped to write the Constitution.

But that is not all. I think we would be perfectly justified now, and I have always thought that we were justified in urging the amendment in 1909 for the purpose of putting it up to the Supreme Court, to ascertain whether or not that was the final adjudication of the court, but, in addition——

Mr. WILLIAMS. Mr. President——

Mr. BORAH. Just a moment. In addition to that, Mr. President, I can not interpret the decisions of the Supreme Court since that time in any other light than that of tearing away the foundation principle upon which it based the Pollock case. You can not reconcile the later decisions with the principles announced in the Pollock case; and, for whatever it is worth, I will say that I believe that the Pollock case has been

in effect overruled by the Supreme Court. I do not believe it is the law of that court now and that we are perfectly justified in legislating upon that basis.

Mr. WILLIAMS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Mississippi?

Mr. BORAH. I yield.

Mr. WILLIAMS. Mr. President, I dislike very much to destroy the continuity of the argument of the Senator from Idaho.

Mr. BORAH. I was answering the Senator from Mississippi, so that the interruption will not destroy the continuity of my remarks.

Mr. WILLIAMS. But I am tolerably well acquainted, as is every other reasonably well-informed man, with the legal literature surrounding the income-tax decision of the Supreme Court; and I take it that the Senator from Idaho and I are one in one respect, to wit, that the decision of the Supreme Court pronouncing the income tax to be unconstitutional was itself unconstitutional, but, unluckily, there is no way of passing upon a decision of the Supreme Court. The question, however, that I had propounded to the Senator from Idaho previously remains still unanswered. That is, What reason has the Senator from Idaho to suppose that the Supreme Court of the United States, having pronounced an unconstitutional decision, will align itself with the Constitution in the future?

Mr. BORAH. Mr. President, the Senator from Mississippi perhaps did not hear my last remark in regard to that. I said that, in my opinion——

Mr. WILLIAMS. I heard the Senator say that from other decisions of the Supreme Court winking in that direction, and from other cases, where, of course, those decisions must have been obiter dictum, he had arrived at the conclusion that the *Supreme Court had* already virtually overruled that decision, but obiter dicta do not count, you know. I thought perhaps from what the President of the United States said a couple of years ago, and from what I have heard from the Senator from Idaho to-day and from some other things that I have heard from other people, that there was some intimation coming individually from judges of the Supreme Court upon which we might base a confident hope that the court would reverse itself, and instead of giving the country a decision which is unconstitutional might give us one which is constitutional.

Mr. BORAH. If I should have heard anything in the way of a personal communication, I should very much prefer to rely upon the opinions of the court as they are found since that time rather than upon any personal suggestion. I have never deemed it highly professional or entirely safe to take my knowledge of the law from the lips of gossip.

The fact is, Mr. President, that the Supreme Court of the United States has taken up and expressly overruled at least one of the two controlling principles in the Pollock case. For instance, in the Pollock case one of the controlling propositions on the part of the court was what is known as the economic definition of a direct tax; that is, the shiftableness of the tax. If it was shiftable to another person, if it could be transferred to another person, it was an indirect tax; and if it could not be transferred to another person it was a direct tax. That was an argument deduced from the writings of Smith and Turgot and had much to do apparently with the decision of the court.

I think it is impossible to read the Pollock case and not conclude otherwise that that was a controlling proposition in that case. We know that, so far as that proposition is concerned, the Supreme Court has expressly overruled it, and has on two different occasions, if not more, taken it up, considered it, and rejected it. I desire, although the Senator from Mississippi has left the Chamber—perhaps he will look at this in the RECORD—to call his attention to what was said by Justice White in his dissenting opinion as to the effect of this proposition upon the court at the time it was presented:

> Now, after a hundred years, after long-continued action by other departments of Government, and after repeated adjudications of this court, this interpretation is overthrown and Congress is declared not to have the power of taxation, which may at some time, as it has in the past, prove necessary to the very existence of the Government. By what process of reasoning is this to be done? By resort to theories in order to construe the word "direct" in its economic sense instead of in accordance with its meaning in the Constitution, when the very result of the history which I have thus briefly recounted is to show that the economic construction of the word was repudiated by the framers themselves and has been time and time again rejected by the court.

Again, Mr. Justice White said:

> It seems evident that the framers, who well understood the meaning of this word, have thus declared in the most positive way that it shall not be so construed in the sense of Smith and Turgot.
>
> The argument, then, it seems to me, reduces itself to this: That the framers well knew the meaning of the word "direct"; that so well understanding it, they practically interpreted it in such a way as to plainly indicate that it had a sense contrary to that now given to it in the view adopted by the court; although they thus comprehended the meaning of the word and interpreted it at an early date, their interpretation is now to be overthrown by resorting to the economists whose construction was repudiated by them.

Justice Brown in his opinion said:

> By resurrecting an argument that was exploded in the Hylton case, and has lain practically dormant for a hundred years, it is made to do duty in nullifying not this law alone but every similar law that is not based upon an impossible theory of apportionment.

By reference to the opinion of Mr Chief Justice Fuller, it will be found what weight he gave to that theory of an economic definition of a tax; and, as I have said, that proposition has been taken up in a case involving an inheritance tax, and it has now been definitely decided by the Supreme Court that the shiftableness of the tax is not a controlling proposition with reference to it being direct or indirect So much for that. As the Senator from Mississippi is no longer present, I shall not now further seek to answer his question. "What is truth? said jesting Pilate, and would not stay for answer."

Mr. President, I do not conceal the fact that I am opposed to this bill as it now exists, whether the amendment which I submit should be adopted or not. I do not think it will result in taxing those who ought to be taxed and that it will result in taxing more those who are already taxed too much. We are pretending to tax wealth, but we are so laying the tax that wealth may easily transfer it to those who are not able to bear it and should not in justice bear it. The Senator from Mississippi referred to the position taken as to the decision of the court as being a fulmination in the air. To propose this tax as a tax upon wealth can hardly be said to be a fulmination in the air, but it is quite as profitless if we are seeking to tax those who are now unjustly escaping taxation.

Mr. BAILEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Texas?

Mr. BORAH. I do.

Mr. BAILEY. As the Senator from Idaho is now about to pass from the income tax to the bill under consideration, I want to submit for his consideration an amendment to the income tax bill. Under the income tax heretofore adopted in this country, the tax on corporate incomes is paid by the corporation, and the dividends paid to stockholders by those corporations are exempted in the hands of the stockholder. I followed that rule in the amendment which I proposed to the tariff bill of 1909, because I did not think it advisable at that time to introduce any change which might provoke a discussion over details; but I was absolutely certain then, as I am now, that the rule is not a just and wise one. I am just as certain that the wise and just method would be to levy no tax on that part of the income of corporations which they pay out in dividends, leaving the tax to fall upon the dividends in the hands of the stockholders. The soundness of that proposition will become apparent upon full reflection. Let us take a public-service corporation, a railroad company, for instance. If the railroad pays the income tax it charges the tax thus paid to its operating expenses, exactly the same as it now charges the ad valorem tax it pays to States, counties, and municipalities; and that charge becomes a part of the toll which it has the right to take from the public. The result, therefore, is that the railroad pays the tax and charges it back upon those who patronize it. If, instead of levying the tax on the income in the hands of the railroad and exempting it in the hands of the stockholder, you exempt it in the hands of the railroad and levy it upon the dividends received by the stockholder, this can not happen, because if A receives a million dollars in the shape of dividends on his railroad stock he has no power to collect his income tax from the public. Then, again, in the case of other corporations, it simplifies and makes the operation of the law more just in this respect: Suppose the Senator from Idaho had stock in an agricultural corporation or in any other corporation in his own State——

Mr. BORAH. It would seem like a dream.

Mr. BAILEY. From which he received $4,000. Assuming further that the corporation can not assess its taxes back against the public, the Senator would pay indirectly on $4,000 income, whereas a man who had his property otherwise invested would not pay a tax until his income exceeded $5,000. The Senator from Idaho will recall that it was to obviate that kind of injustice that we agreed to an amendment proposed by the Senator from Iowa [Mr. CUMMINS] in the session of 1909. Whether or not the pending bill is now accepted, it is certain that an income tax is sooner or later to become a part of the fiscal policy of this Government, and I think the sooner the better; but I hope when it is made a part of our policy the Congress will show itself wise enough to levy the tax upon those best able to pay

it with the least inconvenience; and the only possible way to make the men pay the income tax who really derive the benefit from the income is according to some amendment like that I have suggested. I thought once I would offer the amendment; but I think the Senator from Idaho ought to have the right to perfect his own bill, and I hope he will do so in the way I have suggested.

Mr. BORAH. Mr. President, I am in harmony with the views expressed by the Senator from Texas. While I have not very much hope that my amendment will ever become a law, if we find some evidence of its ripening into law I shall be very glad to suggest that amendment, or if the Senator from Texas will suggest it I will accept it so far as I can.

Mr. President, I am opposed to the excise tax for the reason that, in my opinion, the doing of business will never be construed by the court with that breadth necessary to cover that class of incomes which we ought to cover in this country, or that class of property which we ought to cover. If I felt at all certain that the Supreme Court would, or, rather, that it could, properly construe the doing of business to cover the mere collection of income, or the mere realization upon settled estates, I would be quite content to vote for this measure. But in my opinion the construction which will finally result will be that which will fasten upon the business activity of the country an additional tax and will relieve the idle incomes or the drones of business entirely from taxation.

I do not say this as charging upon the part of the authors of the bill a desire for that kind of an interpretation, nor, indeed, as desiring that result; but I do believe that that is what would necessarily follow. The bill has been framed not for the purpose of accomplishing that result, but because of what were considered legal restraints with reference to framing it in any other way. Believing, as I do, that it will tax those who employ labor, those who are exploiting business affairs, those who are actively engaged in developing the country, those who are really carrying on business, and that it will not tax those who have retired and who are simply living upon their incomes, who are the drones of business and of society, for that reason I am opposed to the measure as it is submitted, and unless there is some change in it I do not hesitate to say that I shall vote against it, even if my proposed amendment should not be adopted.

There is no doubt in my mind as to who will pay this tax. Whether or not that could be avoided under our present legal situation is a debatable question, but whether it can be avoided or not, the result will be that the low man, as usual, will pay this tax. It will be transferred by those engaged in business where competition no longer exists to the consumer, and the smaller business concerns operating in a competitive field are the small business men of the country anyway. So as we follow the tax in its final operation the incident of it will rest upon those who are already, in my judgment, bearing the principal portion of the burdens of the National Government. Whatever may be the good faith of its authors, which I seek in no way to impugn, the result will be as I have stated.

I do not know whether or not we, at this time, can fully reach as we should reach the large incomes which practically pay no tax. I believe that we can legally do so, and I believe, as I said a moment ago, that if that proposition ever reaches the Supreme Court again we will find that the adoption of a constitutional amendment was quite unnecessary, as was believed at the time by more than one Member of the Senate. I can not refrain from reading a statement as to the purpose which actuated the bringing in of the corporation-income-tax proposition. The then Senator from Rhode Island, Mr. Aldrich, said:

> I shall vote for a corporation tax as a means to defeat the income tax. * * * I am willing to accept a proposition of this kind for the purpose of avoiding what, to my mind, is a great evil and the imposition of a tax in time of peace when there is no emergency, a tax which is sure in the end to destroy the protective system.

Mr. KENYON. Was that said in a speech on the floor of the Senate?

Mr. BORAH. It was said in the debate upon the Senate floor. When the income-tax amendment was suggested in the debate of 1909 it was first brought into the Senate, as I remember, by the Senator from Texas [Mr. BAILEY]. The Senator from Iowa [Mr. CUMMINS] also offered such an amendment, and afterwards, as I recall, the two amendments became one amendment by agreement between the parties, and was finally submitted to the Senate in that form. It was ascertained at the time in that debate and during the discussion of the tariff bill that in all probability there were a sufficient number of votes in the Senate to pass that income-tax amendment. It therefore became necessary in the minds of those who were opposed to the amendment to submit some proposition which would secure a sufficient number of votes to defeat the income-tax amendment, and I do not reveal any secret when I say that the corporation tax was brought here for the purpose of defeating the income-tax amendment. If it had been believed at that time by those who were opposed to the income-tax amendment that the Supreme Court of the United States would again hold it unconstitutional there would not have been that great anxiety to defeat it here in the Senate. But for fear that it would be held constitutional, for fear that we would have a law which would tax the great idle incomes of this country and tax them probably in such a way that they could not transfer it to those who were already bearing the tax burden, the corporation-tax proposition was submitted in its stead. Of course every body who finally voted for the corporation tax was not thus controlled in purpose. But its origin was due to the fear of passing an income tax which would finally become an effective law.

Mr. CLAPP. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Minnesota?

Mr. BORAH. I yield.

Mr. CLAPP. The Senator refers to the fact that it was probable that the income-tax provision would pass. The fact is that it was universally conceded that on a careful poll we actually had a substantial majority for the income-tax amendment. It was conceded by all that that was the fact.

Mr. BAILEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Texas?

Mr. BORAH. I yield.

Mr. BAILEY. That the RECORD may be still more ample, as a matter of fact, at one time we had a majority of 4, not counting several uncertain votes, and the Senator will recall that when I was pressing for a vote from day to day I kept warning our friends on the other side that if we would postpone it long enough our adversaries would take that majority away from us; and the corporation tax, as the Senator has well said, was one of the devices by which they accomplished that result.

Mr. BORAH. Now, Mr. President, why was it that there was a desire to defeat the income tax with the corporation tax? If it be true that the corporation tax reached the same parties and that it is not possible to transfer that tax, but that those pay it who we assume pay it, why was it that the corporation tax was brought here in place of the income tax? It was for the reason that it was well understood that it is much easier, as has been more than once demonstrated, to transfer the corporation tax so that it will be finally paid by the consumer or those who do business with the corporations of the country. The tax is transferred to the consumer or to those who pay the ultimate price for the things purchased of the corporations doing business. That is true in all cases where the corporation is engaged in a field whence competition has been practically driven. The large corporations, the monopolistic corporations, those with the power to fix prices without hesitancy and without any difficulty add this tax to the price of the article which they are selling. The result is, assuming, as we do, that we are taxing corporations which could well afford to pay the tax by reason of their large incomes, we are, in fact, taxing the same people and the same taxpayers who pay the consumption tax to-day.

Take, for instance, the case of the express companies. In 1898, I believe, a tax was placed upon the express companies. The express companies openly and announcedly placed the tax upon the parties doing business with the express companies; added it to the cost of the expressage. There came up to the Supreme Court from the State of Michigan a case in which the question was litigated as to whether or not there was any method by which to hold this tax upon the express company upon whom it had been laid. The Supreme Court held that it was not within the power of the law to fix and establish definitely the incident of the tax. The result was that the tax which we placed upon these companies was immediately and without any effort of concealment passed on to those who were doing business with the express companies.

I call attention to the language of that decision:

> But, as we have said, though the correctness of the claim be arguendo taken for granted, such concession does not suffice to dispose of the essential issues. They are that by the statute the express company is forbidden from shifting the burden by an increase of rates, although such increased rates be in themselves reasonable As no express provisions sustaining the propositions are found in the law, they must rest solely upon the general assumption that because it is concluded that the law has cast upon the express company the duty of paying the 1-cent stamp tax, there is hence to be implied a prohibition restraining the express company from shifting the burden by means of an increase of rates within the limits of what is reasonable. In other

words, the contention comes to this, that the act in question is not alone a law levying taxes and providing the means for collecting them, but is moreover a statute determining that the burden must irrevocably continue to be upon the one on whom it is primarily placed. The result follows that all contracts or acts shifting the burden, and which would be otherwise valid, become void. To add by implication such a provision to a tax law would be contrary to its intent, and be in conflict with the general object which a law levying taxes is naturally presumed to effectuate. Indeed, it seems almost impossible to suppose that a purpose of such a character could have been contemplated, as the widest conjecture would not be adequate to foreshadow the far-reaching consequences which would ensue from it. To declare upon what person or property all taxes must primarily fall is a usual purpose of a law levying taxes. To say when and how the ultimate burden of a tax shall be distributed among all the members of society would necessitate taking into view every possible contract which can be made, and would compel the weighing of the final influence of every conceivable dealing between man and man A tax rests upon real estate. Can it be said that by the law imposing such a tax it was intended to prevent the owner of real property from taking into consideration the amount of a tax thereon, in determining the rent which is to be exacted by him? A tax is imposed upon stock in trade. Must it be held that the purpose of such a law is to regulate the price at which the goods shall be sold, and restrain the merchant therefore from distributing the sum of the tax in the price charged for his merchandise? As the means by which the burdens of taxes may be shifted are as multiform and as various as is the power to contract itself, it follows that the argument relied on if adopted would control almost every conceivable form of contract and render them void if they had the result stated. Thus the price of all property, the result of all production, the sum of all wages, would be controlled irrevocably by a law levying taxes, if such a law forbade a shifting of the burden of the tax, and avoided all acts which brought about that result. It can not be doubted that to adopt, by implication, the view pressed upon us, would be to virtually destroy all freedom of contract, and in its final analyses would deny the existence of all rights of property. And this becomes more especially demonstrable when the nature of a stamp tax is taken into consideration. A stamp duty is embraced within the purview of those taxes which are denominated indirect, and one of the natural characteristics of which is, although it may not be essential, that they are susceptible of being shifted from the person upon whom in the first instance the duty of payment is laid. We are thus invoked by construction to add to the statutes a provision forbidding all attempts to shift the burden of the stamp tax when the nature of the indirect taxation which the statute creates suggests a contrary inference. And, in this connection, although we have already called attention to the consequences which must generally result from the application of the doctrine contended for, it will not be inappropriate to refer to certain of the provisions of the act now under consideration, which more aptly served to make particularly manifest the consequences indicated, thus perfumery, patent medicines, and many other articles are required by the statute to be stamped by the owner before sale. The logical result of the doctrine referred to would be that the price of the articles so made amenable to a stamp tax could not be increased, so as to shift the cost of the stamp upon the consumer. Yet it is apparent that such a construction of the statute would be both unnatural and strained.

The argument is not strengthened by the contention that as the law has imposed the stamp tax on the carrier, public policy forbids that the carrier should be allowed to escape his share of the public burdens by shifting the tax to others who are presumed to have discharged their due share of taxes This argument of public policy, if applied to a carrier, would be equally applicable to all the other stamp taxes which the law imposes. Nor is the fact that the express company is a common carrier and engaged in a business in which the public has an interest and which is subject to regulation of importance in determining the correctness of the proposition relied upon. The mere fact that the stamp duty is imposed upon a common carrier does not divest such tax of one of its usual characteristics or justly imply that the carrier is in consequence of the law deprived of its lawful right to fix reasonable rates. Unquestionably a carrier is subject to the requirement of reasonable rates; but, as we have seen, no question of the intrinsic unreasonableness of the rates charged arises on this record or is at issue in this cause. As previously pointed out, to decide as a matter of law that rates are essentially unreasonable from the mere fact that their enforcement will operate to shift the burden of a stamp tax would be in effect but to hold that the act of Congress, by the mere fact of imposing a stamp tax, forbids all attempts to shift it, and consequently that the carrier is deprived by the law of the right to fix rates, even although the limit of reasonable rates be not transcended. This reduces the contention back to the unsound proposition which we have already examined and disposed of. (American Express Co. *v.* Michigan, 177 U. S. Repts., p 412.)

In 1898 a tax was put upon companies engaged in the business of refining sugar, refining oil, and manufacturing and selling tobacco. It is well known—no longer disputed—that that entire tax was passed on to the consumer, and one peculiar feature of the history of that matter is that after the tax was repealed the companies omitted to take off the extra charge which they had placed there by reason of the tax. It is for that reason that I voted against the corporation tax, and it is for that reason I am opposed to that system of taxation now. It is a subterfuge. It is dealing in duplicity with the people of this country. It pretends to tax wealth, and only furnishes a means for wealth to impose more burdens upon those whose burdens are already too great. Those who are so sensitive about putting this question up to the court again ought to display more sensitiveness about misleading the people, to their increased injury.

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Missouri?

Mr. BORAH. I yield.

Mr. REED. Does the Senator claim that his statement with reference to the corporation tax applies to all corporations and is universally true?

Mr. BORAH. I claim it is true, as I said a moment ago—perhaps the Senator was not present—that that is true with reference to all corporations engaged in business in a field from which competition has been practically driven. That is not true with reference to the small business concerns in competitive fields, but those are the people who are now paying too much of the taxes of this country.

Mr. REED. Well, Mr. President, let me merely add this: I understood the Senator's first statement to be limited as he now limits it, and that his last statement was broader. I do not care to cavil about that; but, taking the last statement made by the Senator, does the Senator claim that—to cite an instance—insurance rates have been raised because of the corporation tax?

Mr. BORAH. I am not familiar with a specific case under the new law, but there were plenty under the law of 1898, and I have no doubt that they will be raised and that finally the entire subject matter of the tax will be covered by the company. Does the Senator know that they have not been? As to insurance rates, the insurance companies have nothing except what the policy holders pay in, anyway. So the incentive is not so great.

Mr. REED. I only know in a general way that life-insurance premiums have experienced no change on account of the corporation tax.

Mr. BORAH. Well, Mr. President——

Mr. REED. The Senator and I agree so often, I am so thoroughly in harmony with him on many things that he has said, that I only want to correct his statement to the extent of insisting that he has overstated the case. Beyond any question there are a vast number of institutions paying the corporation tax who have not increased their charges to their customers, and the truth probably lies somewhere between the statement made by the Senator and the extreme opposite.

I can see how an express company may raise its rates. I can see how many companies add all their expenses to their charges. But speaking broadly of the whole country, of all the lines of business, I think the Senator would not be prepared to say that the corporations themselves have not had their net earnings reduced in many instances by this tax. I really think the Senator will agree to that.

Mr. BORAH. The Senator from Idaho may in his zeal be a little strong in his statement, and he is very glad to have his ardor dampened so that he may fly at a proper height.

Mr. REED. Since I am on the floor, I will say I favor, and my party for many years has favored, an income tax. The Democratic Party placed an income-tax law on the statute books and it was declared unconstitutional by the Supreme Court.

The Senator now expresses his confidence that the Supreme Court will reverse its decision if the case is again presented. The argument I have heard, the only one I have heard from the Senator on that line—I did not have the benefit of hearing the first part of his remarks—was that Senator Aldrich and those who were associated with him were anxious to defeat the enactment of an income-tax law by Congress.

Does the Senator think that Mr. Aldrich had any inside information as to the opinion of the Supreme Court upon a case not yet before it?

Mr. BORAH. The Senator from Idaho did not indicate anything of that kind.

Mr. REED. Well, then, does the Senator from Idaho think Mr. Aldrich and his associates are so much better lawyers than any other people that their fears should be made the basis for legislation?

Mr. BORAH. Not at all; not at all. The Senator from Idaho is not proceeding upon that ground at all. He had the misfortune of not having the presence of the Senator from Missouri when he stated the reasons why he thought the Supreme Court would reverse itself. I did not place it upon the declaration of the Senator from Rhode Island.

Mr. REED. Has the Senator any better reason than that to assure us and to assure the country that if his amendment is substituted for the excise bill it will be declared constitutional?

Mr. BORAH. Mr. President, that would require the Senator from Idaho to do what he very much dislikes to do, as he greatly fears it may not have much weight, and that is to advance his own opinion upon so important a matter. But I have no doubt in my mind, as a lawyer, that the Supreme Court has already overturned the principles of the Pollock case.

Mr. REED. I had not any doubt in my mind that they would declare the income tax constitutional in the first instance. The judges, however, held otherwise. I want to submit this to the Senator. I am with him for an income tax. It is practically certain, however, that we can levy an excise tax.

Mr. BORAH. Which we ought not to do.

Mr. REED. It has been decided that the income tax can not be levied.

In that state of the record, does the Senator think it is wise to throw away the certainty which we have for the mere opportunity of once more experimenting with a Supreme Court decision, when he knows that a decision would not ordinarily be reached for something like a year, probably, and maybe longer, and during all that time the uncertainty would continue to exist?

Mr. BORAH. Answering that fully, I will say that I would expend any amount of effort and any amount of energy to go to the Supreme Court as long as I had hope that I could establish a system of taxation which would put a proper burden upon those who are to-day, in my judgment, wholly escaping taxation so far as the National Government is concerned.

Mr. President, I do not know any more than any other man could know from studying the opinions of the court what the Supreme Court would hold. But I have an opinion about it, and I expressed that opinion three years ago during the debate upon the Payne-Aldrich bill. I have not modified my opinion since, and I have no doubt that the Supreme Court has already established the principle upon which this substitute could be sustained.

Mr. REED. Now, just one word further. I agree with the Senator that if there was no other means possible except to pass and repass bills such as he now proposes, if that was our only possible road, it would be well enough to pursue it, even though we should subject ourselves to the criticism the Democrats did suffer from in 1896, when they had the temerity to say that they would use all constitutional methods to secure the approval of an income-tax measure, and for the utterance of which we were denounced as anarchists throughout this country.

But here is the situation to-day. We have a plain and certain road upon which the feet of even blind men can walk, and that is to amend the Constitution. That proposition has been passed by Congress and it has been approved by almost enough States to give it vitality. It only requires the approval of two more States. Before this law now proposed can be tested, in all human probability the approval of those two additional States will be granted. Then the field is open for the enactment of a bill that will cover the entire subject. In the meantime legislation is contemplated and conditions exist which demand a certain revenue, and we have a certain course by which to obtain that revenue.

That is the consideration which leads many of us on this side not to vote for the income-tax amendment proposed by the Senator from Idaho.

Mr. BORAH. Mr. President——

Mr. REED. I hope the Senator will pardon me. I am rather trespassing on his courtesy, but I will be rather brief. The Senator withheld his amendment as it is now proposed until this very day at high noon or thereabouts, with the absolute certainty that we must pass upon this subject before the close of this calendar day. As it is now presented it has not even been printed, and he brings forward at this time, under these circumstances, an amendment which affects the entire country, with no earthly chance for it to be scrutinized and analyzed and understood. I submit if he intended to offer this important amendment he ought to have offered it under circumstances where those who were called upon to vote could do so in the light of a full and fair discussion.

I want to vote for an income-tax amendment if it can be done constitutionally. I want when I do vote upon it to have at least the opportunity to read the measure in print. Of course if the Senator has offered this merely for the purpose of uttering a solemn protest to the country and bringing his views before the country, that is all right, but if it is offered with the expectation that it shall be passed, then it is hardly in consonance with the usual fairness of the Senator that he should offer it when debate is impossible and scrutiny out of the question. I want to ask the Senator why he did not with his usual fairness give us some chance to examine this matter?

Mr. BORAH. Mr. President, the Senator from Idaho is uncompromisingly opposed to this bill as it rests before the Senate. I have never hesitated to oppose that kind of taxation when I have had an opportunity, but I do so for the reason, as I said a moment ago, that I believe the tax finally rests on those who are already paying the taxes of the country. That is a difference of opinion, I see, between the Senator from Missouri and myself, but nothing has been said which has modified my view in regard to it.

I did not offer this amendment with the hope of defeating the bill to which it is offered as a substitute, but I very much wish that I could do so. I should like to do anything that is possible in a legitimate and parliamentary way to defeat it, because I am opposed to it. But I offered the amendment largely, as the Senator from Missouri has said, for the purpose of submitting my views upon the question, and I should be very happy to be surprised and to have it adopted. But I know how utterly impossible it is to get an income tax through the Congress of the United States. There are a great many people who are in favor of an income tax, but there are not enough of them yet, it seems, to pass it through the Congress of the United States. There are also a great many who think they favor it whose zeal is not quite sufficient to resist the insidious methods always ready to be proposed to circumvent its passage. But I have hope and I have a strong faith that in the end so just a measure will prevail over its open and its concealed enemies After we shall have passed the constitutional amendment, if we do, I will take the chance on this prophecy, that we will not pass an income tax any more readily than we have.

Mr. CULBERSON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Texas?

Mr. BORAH. I yield.

Mr. CULBERSON. I am especially interested in the statement of the Senator that this excise tax, as compared with an income tax, would allow a great deal of capital to escape taxation which otherwise ought to be taxed to bear its fair share of the burdens of the Government. If the Senator is prepared, I should like for him to amplify and give us some tangible facts showing substantially what character of capital and how much would escape taxation under such conditions.

Mr. BORAH. If the Senator from Texas will bear with me for a little time—however, I might just as well take up that subject now as later. I had intended to discuss it later, but I would just as soon do it now.

Mr. CULBERSON. I would be glad if the Senator would take his choice about it and discuss it in his own time.

Mr. BORAH. I know of no reason why I should not do so now.

In order to make my remarks sufficiently connected, I wish to go back a moment to the experience we had in 1898. In 1898 we put a tax upon the large corporations engaged in the refining of sugar, the large companies engaged in the manufacture and sale of tobacco, and upon companies engaged in refining oils. A number of those companies were taxed, and the tax was sustained in what is known as the Spreckels case.

It was argued at the time that tax was laid that it was a call upon the part of the country to these large corporations to take a portion of their large income to sustain the burdens of the war; that it was an extraordinary period; and even those who were opposed to that kind of taxation were willing to yield for a time in the emergency in which we found ourselves upon the supposition that these large corporations would pay that tax. It was conceded that the people were already taxed too much to take on these extra burdens, and that consumption should be relieved and wealth should take a portion of the weight.

Now, Mr. President, what was the fact? What is the historic evidence, uncontrovertible and undenied, that every dollar of the large sum supposed to be laid upon the corporations was paid by the common people of this country in the increased price which the corporations made on their articles to the consumer. The tobacco monopoly not only put it on the price and kept it there while the tax was there, but it put it on the price and kept it there after the tax was taken off. It decreased the size of its package. It met the situation in one way or another; and I am not misstating an uncontrovertible historic fact when I say that every dollar of this increased taxation was unquestionably paid by the consumers of this country, who were already bearing the principal part of our taxes.

The same is true with reference to the other companies, and it is not disputed now that when this tax was repealed men who favored it came forward and said that they had no doubt that the tax had not been paid by these corporations at all.

I call attention to some statements made when the law was enacted and at the time of its repeal.

Senator Platt, of Connecticut, said at the time of its enactment:

> I desire to say a word why I propose to vote against this amendment. * * * It is picking out from all the interests of the country two classes of business where it is absolutely certain that the corporations will not pay the tax, but that it will be paid by the consumer. There is no other business in the country where the corporations or the persons engaged in it can so surely and certainly evade the payment of the tax as in the case of the business of oil refining and sugar refining, and what is more, the persons engaged in the business will be very careful in raising the price of oil and sugar to raise it a little more than the tax, so that the consumer will pay not only the tax, but the additional profit to these two companies.

Mr. PAYNE, when the time came to repeal the portions of the revenue tax of 1898, said:

It is true that there were two classes of special taxation in the war-revenue bill. These were put in by an amendment offered in the Senate, and when they came to the committee of conference they were acquiesced in. I remember making a remark at that time to my associates on the conference committee that they knew and I knew that if this tax should be imposed the people who were expected to pay it would simply put up the price of sugar and petroleum enough to reimburse themselves for the tax which they paid and allow them besides a handsome profit. No doubt such has been the case. I have no doubt that those interests that have been required to pay this tax have collected from their customers more than the amount which they have paid over to the United States in the form of taxation.

In his opening speech upon the repeal of the war taxes, in December, 1900, Mr. PAYNE said:

Of course, Mr. Chairman, some may say why not put this tax directly upon the express companies and telegraph companies? Well, we did consider that, but the express companies had a right to say to their customers how much they would charge for carrying packages from place to place and could easily add the amount of the Government tax to their charges. I know sometimes gentlemen will close their eyes and proceed blindly, as was the case in dealing with the tax on the Standard Oil Co. and putting a tax on a sugar refinery, as was done. They forget to consider that these taxes might possibly not affect the companies at all, but the consumers; and a review of the history of the last two years shows that some gentlemen then anticipated when the tax went on in the Senate that the companies not only got the amount of the tax back, but that the companies got a little additional sum from their customers to enable them to swell their dividends. That was the legislation in that regard. In other words, the tax in all instances seeks the consumer, and usually, if not arrested in its progress, it finds him and forces him to pay the amount due the Government and a little additional also to help swell the dividends of the companies upon whom it was supposed the tax was levied.

Again he says:

This latter tax—

Speaking of the tax upon insurances—

is paid almost entirely by the man who receives the insurance. The man who provides for the future of his family in the event of his death by securing a life insurance or in providing an indemnity for the family—for his wife and children in case the home should burn down—was forced to pay this tax.

Mr. BORAH. Here is a historic illustration. Let me ask the Senator does he have any doubt that when you lay a tax upon the incomes of these large corporations, which are doing business in a noncompetitive field, they will pass that tax on to the consumer? Now, I admit that you may by this tax tax a certain form of wealth. You tax that wealth which is in the field of competition where they can not so successfully pass it on. You tax the small business man, the small corporations composed of those people, already the small owners, the small property holders in the community, and already paying their undue proportion of the tax. That is the class of people it is desired to exempt, whom I would relieve, and I want to reach those who have the vast incomes, who now do not pay anything whatever to the support of the Government.

If the Senator can disclose to me that as a legal proposition it will have the effect of reaching those incomes, I will not urge my amendment but vote for his bill. But so long as it is apparent to my mind, not charging that it was the purpose, not charging that it was the intent of the framers of this bill, recognizing that they were controlled by what they considered legal necessities, notwithstanding all this, so long I say as it is apparent that those who ought to pay will escape, I must insist upon the substitute.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from South Dakota?

Mr. BORAH. I do.

Mr. CRAWFORD. I should like to hear the Senator's view with reference to this matter: How will it be more difficult under an income tax for those who enjoy large incomes to pass the burden on to the consumer than it is for those who will have to pay this excise tax, if it becomes a law, to pass the burden on to the consumer. For instance, if it be an express company or a sugar-refining company, and this tax is imposed upon it as an excise tax, the Senator has shown cases, and undoubtedly there are many such cases and there will be if this becomes a law, where the corporation passes the burden on to the consumer. But suppose it were an income tax, and the man who controlled and owned a majority of the stock in a refining company and enjoyed a large income because of his ownership should be compelled to pay an income tax, why would it not be just as easy for him in that case to pass that burden on to the consumer as it is for the companies to add the burden of of the excise tax to the consumer? In other words, how does the Senator get away from that method of dodging taxes?

Mr. BORAH. Mr. President, I am frank to concede that under no system which has yet been devised is it possible to impose the tax entirely and exclusively where it ought to be. It will always be possible in some cases to pass it. But this does reach more where they can not transfer it, and that would be especially true under the amendment of the Senator from Texas.

There are many incomes from settled and trusteed estates, from interest on bonds, and so forth, where it is impossible to transfer it.

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Missouri?

Mr. BORAH. Certainly.

Mr. REED. I wish the Senator would give us an example to illustrate his last statement, where it is impossible for the tax to be, at least in part, transferred on down the line to the ultimate consumer.

Mr. BORAH. I do not know that I can give you any better example than that of where you have a settled estate and where the trustees are managing the estate. The money is paid over to those who are not engaged in any kind of business, who have nothing to do with the transacting or carrying on of business, who are not in themselves in a position to manage the business and to increase prices, and so forth, but where it is a settled estate, controlled by trustees, those who receive the money having no power to pass back the taxes.

Mr. REED. Of course that is a general illustration applying to a class of people rather than to a class of investment or property. Hence it is impossible for me or anyone else to follow it out.

I want to take an illustration. I want to get the Senator's view. I refer to an illustration which has been used here of some citizen of this country who is possessed of a large amount of real estate which brings in an income, the title to that estate being vested in a corporation and the income turned over to the individual. I believe it has been conceded that that is one case where there would be difficulty in levying a tax under the excise bill now before us. But that could be reached by the bill proposed by the Senator.

Now, let us take an illustration. Here is an estate that owns a half dozen large business blocks in the city of New York, the title vested as I have said and the income tax is levied so that it reaches those rents after they have passed through the conduit of the corporation into the hands of the real owner. Therefore the profits of that real owner are decreased by the burden of taxation which has been placed, not upon the property itself, not upon the corporation holding the title, but in fact upon the income, so that in fact the burden is fixed upon the property.

Can the Senator conceive of any property, rental property, where all of the charges of every kind, including these taxes, are not in the last analysis paid by the tenant? Can you not trace back this burden, after all, in every instance, to the capital invested and from the capital to those who have to use it with as much certainty as an excise tax may be traced to the ultimate user or consumer? I confess I see difficulties. But I am interested in the Senator's argument, and that is why I am taking his time.

Mr. BORAH. I am frank to say, as I said a moment ago, that there are very many instances in which we can not prevent the transfer, but without going into detail, I have never read a thorough book upon the income tax wherein it was not stated and conclusively shown to my mind that it is the most difficult of all tax of this kind to be transferred. You can not prevent it in all instances, but there is one saving proposition about it always, and that is in a graduated tax he pays in accordance to his income and therefore if he raises his income he pays more tax and he does not get very much consolation out of that.

Mr. President, the subject of taxation must always be of deep interest to the people. Other questions come and go, but taxation we have with us always. Other problems may seem of far more importance and of a more pressing nature, and for a season they may be so. But the power of the National Government in the matter of taxation is without limit and the tendency to extravagance is without bounds—these two propositions rightly considered will bring every one to the firm realization that taxation is a subject of permanent import.

Furthermore, there is no advantage so elusive and subtle, yet so permanent and constant in its unjust and oppressive effect as that of the unfair and improperly distributed burden of Government. The citizen going about his duty, about his business, is not in a position to know what goes with the money collected by the Government, neither is he in a position to know the equities of the levy or why this tax is laid here and that tax there—so he meets the demands of his Government and the ever-increasing and inequitable burden is borne. If one class of businss is bearing its unjust proportion or if some

people escape their just proportion while others pay, there must in the end be felt the weight which marks the difference between success and failure, of poverty and prosperity.

Extravagance, looseness in the expenditure of public money is a national vice. It is a twin vice to extravagance in private life. It does not matter how much individual leaders talk economy, how earnest and honest may be the efforts to bring about a reasonable curtailment of national expenditures, it matters not what platforms may declare; until the people arouse themselves to the consideration of the question, make it an issue, nothing permanent will be accomplished. I have no doubt the State and National Governments are expending from 25 to 50 per cent more than is necessary in order to secure the same amount and the same kind of government now had. I am going to discuss a little later the value of the income tax as a teacher of economy. What I want to say now is that millions of dollars are being collected from the people that ought to be left with the people to serve not only the conveniences but in many instances the actual wants and necessities of life. And the worst of it, the misery of it all, is that so far as the national burdens are concerned they are being borne in grossly unjust proportions by those not able to bear them. If these vast sums thus collected could be collected from those who would scarcely miss them it would be bad enough, for at best national extravagance is a pernicious vice; but when these sums are collected from those who can not afford to pay them it is an economic crime.

Taxes seem to seek the low man with inevitable and remorseless certainty. All efforts to equalize the burdens of taxation according to the rule of ability to pay have so far failed, and only in a slight degree are we now improving upon the experiences of the past. That form of wealth now most remunerative most easily escapes taxation or most easily passes the tax on in the way of increasing prices to those less able to pay. Wealth should not bear all the burdens of government. Every man should in some way respond to the call of the government under whose institutions he lives and whose protection he enjoys. The contention has not been and is not now to place all the burdens of government upon wealth, but only its proper proportion under the golden rule of taxation that such burdens should be based upon the ability to bear them.

There will never be a system of taxation devised, however, which will prevent the transfer of an undue proportion of taxes to those who can least afford to pay them. The income tax will not accomplish this entirely, but as a part of a system of taxation it goes far toward accomplishing it and though not wholly, yet it will to a marked extent relieve those who are paying too much and reach those who are either not paying enough or worst still nothing at all, comparatively speaking.

History reveals with unvarying monotony the effort and the success of the strong to place all taxes necessary to sustain the government upon the weak. Solon, the wisest political leader of antiquity, when called upon to write the laws for the Athenians, found those in power who were privileged by birth and transferred the control from those of such privileges to those of wealth. But while he gave wealth the power he also imposed upon it all the burdens of government. He made their obligations to the government correspond to their power in the government. But immediately after Solon's death wealth at once transferred the burdens of taxation to the poor, but sought to retain the power of government. The result is familiar to all and I shall not take time to recount it. It was Balzac, the great French novelist, I think, who said "Money never yet missed the smallest opportunity of being stupid."

It is not too much to say that the brutal system of taxation which prevailed and had prevailed for years was one of the contributing causes of the French Revolution. Practically the whole enormous burden of government was borne by the middle and the peasant classes. Fully three-fifths of the land, that part which belonged to the King or to the nobility, was exempt from taxation. Upon the balance, two-fifths, was laid almost entirely direct taxes. In addition to this every conceivable form of business was taxed—that principle which we are now extending in this country with such haste prevailed in all its logical details. The peasant starting from a Province to Paris with a cask of wine would pay toll sixteen times before he reached Paris to the feudal lords and the King. His hay, pigs, chickens, and everything paid proportionate toll before he reached the market. He could not marry or christen his child or bury his dead or pursue any kind of business without paying the excise tax. Arthur Young, who traveled extensively in France, estimated that out of every $16 earned or realized by the peasant he paid $12 in taxes of some kind. It should be remembered, too, that at this very time France was rich in her natural resources and healthy in her economic conditions. If the burdens of government had been properly distributed the people would have been prosperous and contented.

While all this was going on and the people were groaning under the weight the great estates were exempt. Wealth had succeeded in shifting the whole burden of taxation to the poor. The golden rule of taxation was to whomsoever hath shall be given more and from whomsoever hath not shall be taken what he hath.

Turgot made a heroic effort to impose a tax upon the basis of ability to pay—that is, in effect, to equalize taxation. He sought to impose a tax upon the nobility and upon the great estates. Had he been successful in his plan there would have been no French Revolution in my opinion. The well-meaning, weak King stood by his minister for a time, but finally yielded to the demands of the nobility, and the weight of the government was placed back upon the middle class and the peasantry. The French Revolution was a fearful thing, but it was the most splendid demonstration of the law of retribution ever known among men. It would have been more agreeable if its fearful executions could have taken place in a more orderly way, but it was in accord with the decree of eternal justice for them to take place. Reason and argument no longer had any effect with the nobility; nothing could move them to a sense of justice or divorce them from their selfishness and brutality except a most terrible slaughter.

The history of taxation in the United States from a national standpoint has not been dissimilar to the history of taxation in other countries. We are young yet, but we have made progress. There has been the same struggle to transfer the tax to the low man, to those least able to pay it. That struggle has been so successful in operation as to practically change the Constitution of the United States. When the fathers framed our Constitution they placed no limit, save as to exports, upon the power of the National Government to tax anything and everything, and established but two rules, apportionment as to direct taxes, and uniformity as to indirect. The more we consider the scheme of the fathers the wiser it seems. It was broad and all encompassing, and had it been carried out faithfully would have been efficient to do justice in taxation. It included as direct taxes taxes upon lands and a capitation tax. All others were indirect taxes.

Thus the National Government could lay a tax upon imports, and each would pay in proportion as he consumed. But it was far from their intention to place the whole weight of the Government upon consumption, so they provided early for a tax upon wealth, upon what was then a luxury—carriages—which tax was sustained in the Hilton case. So far as the fathers understood the Constitution, and as it was interpreted and administered for a hundred years, the National Government could secure such portion of its taxes as it saw fit from incomes—from the less active and more idle wealth of the country. There was a tax upon consumption to which they would all contribute, and by reason of which every citizen gave some support to his Government. No man should escape entirely his contribution to the Government. It is not only a duty, but it makes him a more vigilant, thoughtful, interested citizen. On the other hand, it is manifestly inequitable and unjust that consumption should bear all the taxes, for this is to compel the man of small means to pay almost, and sometimes quite, as much to the Government as the man of great income.

Thus the fathers, in addition to the power to tax consumption, left the way open to tax wealth according to the first rule of taxation, to wit, the ability to pay. It would doubtless have startled the fathers to know that they had framed a Government in which it would be possible in time to exempt wholly and entirely as a practical proposition from the burdens of Government the vast incomes now arising from our great fortunes. But after a hundred years that is the situation. More and more is the tendency to place the burden of the taxes where it can be transferred to the man of least ability to pay it. It all illustrates the persistent, resistless tendency to place the heavy weight of government upon the poor, or, at most, upon the active forces of wealth, upon industry and energy, and to exempt idle wealth.

Let me give you an illustration. In one of our large cities stands in a central position a magnificent block of fine buildings, worth millions of dollars. The income is very large. After paying State and county taxes, which are really charged up in the rent, the owner derives a vast income. Though an American, the owner lives abroad, yachting on the Mediterranean or lounging in foreign capitals. American society is apparently too crude and American soil not sufficiently sacred to retain him among us. He does not pay a farthing to the support of the National Government. The charwoman daily bending over his marble floors, the laborer who repairs his building, each

pays more to the support of the National Government than this multimillionaire. The peanut vender conducting his business under the shadow of these buildings pays more to the support of the National Government than this man. When they tell me that our fathers framed or intended to frame a government which would enforce such a system I reply that it is a libel upon the fathers and is refuted by every page of history.

I might extend the illustrations. I could recall another American who collects from ten to twelve millions a year in the way of interest upon bonds. He pays but little more taxes to the National Government than a workingman in the mines upon which the bonds are raised.

The American millionaire must look this question of taxation upon the part of the National Government squarely in the face. He will not be so wise in retaining his wealth as he has been in gathering it and not so patriotic as a shrewd sense of business would suggest if he further insists upon being driven to the discharge of his duty toward the National Government. He should voluntarily assume to take on more of these expenses. If we are to build battleships he must help in accordance with his ability to pay for them; no one has so much to be protected. If we are to continue to take over more and more to the National Government the expenses and the responsibilities of the administration of affairs throughout the land he must not consider himself relieved when he shall have merely met the taxes assessed by the State.

If it were the belief of the American people that these great fortunes had been fairly and honestly gathered, still there would be in justice the claim that they should respond in accordance with their ability to pay. But added to this just principle of taxation is a feeling of profound significance, and he is a blunderer who does not weigh it when considering these matters. These people have legal title to these great fortunes, but a great majority in this country doubt if they have the moral title to them.

When one observes the indifference of wealth to this civic responsibility; when one finds a studied and selfish determination to avoid meeting the burdens of government; when one sees a great State, by reason of the shameless activity of great interests, cancel the ratification of an amendment to the Constitution providing for the levying of an income tax, and on the other hand remembers the deep-seated conviction that many of these vast fortunes have been wrongfully acquired and that in good morals they do not belong to their legal holders, it is not at all difficult to diagnose the spirit of resentment everywhere abounding even among thoughtful, sober, law-abiding, orderly people. I ask these holders of great wealth this question: Suppose the people should see fit, in a legal and orderly way, calmly but determinedly, to repeal the law of inheritance, where would your children and your children's children find themselves? It must be remembered that there is more than one way for the Anglo-Saxon love and conception of law to deal with this thirst for and dominancy of wealth. The way for men of wealth to allay discontent and silence the criticism which everyone recognizes as an element in our social and political life is to faithfully and willingly meet the responsibilities of wealth and discharge its duties and obligations both to society and to the Government.

I do not stop now to argue whether these fortunes have been justly earned. I do not seek to combat the widespread belief that through rebates, stolen franchises, favoritism, dishonest stock jobbing, unconscionable stock watering they have been acquired and built up, a belief, as I say, which is entertained by good citizens in all walks of life. I only appeal to them at this time to stop this blind, senseless determination to defeat the power of the Government to properly tax wealth, to take a just portion of these incomes to meet the expenses of government. I suggest to them in their own interest, if you please, but more particularly in the interest of honest, decent citizenship and the good order and perpetuity of our Republic, to cease from flaunting year after year their wealth, their wastefulness, their enervating luxuries in the face of the poor and less fortunate, cease those things which breed hatred and dissatisfaction, and on the other hand, mindful of their due proportion of the expenses of maintaining this Government, assume their proportion of the expenses which they year by year vote and which fall ultimately and almost entirely upon the backs and appetites of the common people of the country.

I am going to read a paragraph from one not given to loose speaking, one trained to the principles of English jurisprudence profoundly read in all her wide-reaching domain—a system, sir, which has been the pride and boast of all men who place the protection of property, and acquired wealth among the foremost duties of government. I quote from Chief Justice Coleridge, of England:

> All laws of property must stand upon the foot of the general advantage, for a country belongs to its inhabitants, and in what proportions and by what rules its inhabitants are to own its property must be settled by the law, and the moment a fragment of the people set up rights as inherent in them and not founded upon the public good, plain absurdities follow, for laws of property are like all other laws, to be changed when the public good requires it.

Will not these people bear in mind that these fortunes are gathered and transmitted under laws made by the people? Will they not bear in mind that by armies and navies our institutions are sustained to protect them? Will they not forget their selfishness and call to mind that not 1 cent of these vast fortunes go to their children to keep them in luxury and ease, but because the law which the people make so provides? Still they band themselves together to defeat all effort to place them upon a just proportion of the expenses of this beneficent Government under which they have so abundantly garnered, of this Government whose function and duty it is to maintain and enforce laws which protect their rights. It is possible to write into the statutes and laws of the land the inspired decree of 2,000 years ago, "Thy money perish with thee."

It is often said that there is growing up in this country a feeling against property, against wealth as such. If we are to judge the situation by the beneficent and favorable laws under which wealth may be gathered and held we must find the charge to be untrue. If we are to judge the feeling of the people by the tolerance they disclose in dealing with these subjects, we must know the charge to be false. There is no country in which there is so little envy upon the part of those of small means toward their more fortunate neighbor. There is no land where property is safer; more thoroughly protected. So long as our Government is worthy of the name it bears this should always be so, and industry and frugality should always find their impetus in the encouragement which the Government throws around their fruits. There are only two questions, sir, that the American ever asks of the man of great wealth: Did you get it honestly; if so, it is as safe from assault as the humblest competency in the land; second, are you in its use meeting the duties and obligations to society and the Government which its possession places upon you; if so, your standing is not only unimpeached but greatly honored. The American people unfriendly to wealth? Why, sir, this is the only Government on the face of Jehovah's footstool where there is no power upon the part of the National Government to tax the income from these great estates. This is the only land in the world where they are thus exempted. If an oriental navy were hammering at San Francisco to-day, and a hundred million dollars had to be collected to meet the emergencies of war, these vast idle incomes could not, as a practical proposition be touched, even to save the Republic from destruction.

Yet, sir, in their blind and selfish idolatry of their hoarded millions, they refuse to ratify a constitutional provision giving this Government the means of drawing upon them for self-preservation. That is the indictment, sir, against wealth. The Government under which these men have so beneficently prospered, the Government which expends millions to maintain navies and keep up its armies, pay for its courts and operate its departments, that Government is to remain shorn of its power to draw any part of its expenses from those who could pay and suffer not in anywise from the payment. No, sir; there is no prejudice against the rich. We only demand that they shall come forward and help bear, according to their ability, the ever-increasing expenditures of government. They will never miss it. They will not need to deprive themselves of a single comfort. They will not have to remit a single pleasure. They will not have to deny themselves a single luxury. They can, without inconveniencing themselves, lift from the shoulders of those whose efforts and toil bring them at best but a modest competency, and some not even so much, the unfair weight which now rests upon this class of our people.

I said in the beginning that we were extravagant in the use of public moneys—we are. The best teacher of public economy is an income tax. If the Government should call upon the men of wealth to meet these expenditures according to their ability to pay, they would soon become advocates of economy. They would be interested in our supply bills. It would become an educational force permanently and persuasively and persistently at work to keep down expenditures and hold them within economic limits. So long as the taxes can be transferred to those who can not resist their payment, so long as those of influence and power can pass them on, so long as these sums are collected wholly from consumption, we are going to suffer

from indifference to public extravagance. If the Government should say to the man of great wealth, "We need this year a certain per cent of your income," the man of great wealth would say in return, "I want to know what you are going to do with it." When he gets a call for a specific, concrete proposition, and knows that the call is for taxes, he will soon become interested.

Mr. President, it has been said here that this excise tax has been held to be constitutional and that its legality is not open to question. In my opinion the legality of this excise tax is as debatable a proposition as the substitute which I offer in its stead. The Supreme Court, it is true, passed upon the corporation tax and held that, so far as that tax was concerned, it was properly laid under the Constitution, but in order that it may go into the RECORD and that we may not be in error as to just what the court held when we vote upon this matter, I desire to read, with a view to commenting upon it briefly, a paragraph or two from the decision of the court:

> It is therefore apparent, giving all the words of the statute effect, that the tax is imposed not upon the franchises of the corporation irrespective of their use in business, nor upon the property of the corporation, but upon the doing of corporate or insurance business and with respect to the carrying on thereof, in a sum equivalent to 1 per cent upon the entire net income over and above $5,000 received from all sources during the year; that is, when imposed in this manner it is a tax upon the doing of business with the advantages which inhere in the peculiarities of corporate or joint stock organizations of the character described. As the latter organizations share many benefits of corporate organization it may be described generally as a tax upon the doing of business in a corporate capacity. In the case of the insurance companies the tax is imposed upon the transaction of such business by companies organized under the laws of the United States or any State or Territory, as heretofore stated.

The Supreme Court said, in other words, that the advantages of doing business in its corporate capacity was such an advantage as that you could rest an excise tax upon it, and that it was taxing, not the franchises, not the doing of business alone, but the doing of business in its corporate capacity by reason of the advantages which arose from doing business in that way.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from California?

Mr. BORAH. I yield.

Mr. WORKS. I should like to ask the Senator from Idaho whether he agrees with the broad construction of the term "business" given this morning by the Senator from Georgia [Mr. SMITH] as including every possible means of acquiring money?

Mr. BORAH. I do not.

Mr. WORKS. It seems to me that if that construction is placed upon business we bring ourselves squarely within the decision of the Supreme Court of the United States, and if the bill is enacted it will be unconstitutional.

Mr. BORAH. I think the Senator's suggestion is a very proper one, for the reason that if the bill is unconstitutional then an income tax would be, and if an income-tax law would be unconstitutional this would be.

I think the Supreme Court, with all due respect to that tribunal, has refined upon this question to the limit, and it will no longer be able to uphold the distinction sought to be made in the income-tax decision, and I do not think, from its late decision, that it intends to do so.

The court, in the corporation-tax case, further says:

> The act now under consideration does not impose direct taxation upon property solely because of its ownership, but the tax is within the class which Congress is authorized to lay and collect under Article I, section 8, clause 1 of the Constitution, and described generally as taxes, duties, imposts, and excises, upon which the limitation is that they shall be uniform throughout the United States.
>
> Within the category of indirect taxation, as we shall have further occasion to show, is embraced a tax upon business done in a corporate capacity, which is the subject matter of the tax imposed in the act under consideration. The Pollock case construed the tax there levied as direct, because it was imposed upon property simply because of its ownership. In the present case the tax is not payable unless there be a carrying on or doing of business in the designated capacity, and this is made the occasion for the tax, measured by the standard prescribed. The difference between the acts is not merely nominal, but rests upon substantial differences between the mere ownership of property and the actual doing of business in a certain way.

The State grants a franchise to the corporation. There is an advantage in doing business in that way. There is a relief from certain financial responsibility or obligation by reason of being a stockholder rather than a copartner or an individual in business; and the advantage which arises by reason of that franchise to do business in a corporate capacity was sufficient to justify the court, as it believed, in holding this excise tax to be not a direct tax within the meaning of the Constitution. But if you lay a tax upon me because I am collecting rents from my property, will that be said to be an indirect tax when if you lay a tax upon the same income realized by reason of the collection it is a direct tax?

Again the court says:

> The tax under consideration, as we have construed the statute, may be described as an excise upon the particular privilege of doing business in a corporate capacity.

Has the Supreme Court decided anything other than that?

The learned counsel who represented the parties contesting this tax urged that it was in effect a tax upon property; that when you tax a man for doing business in his individual capacity it was necessarily a tax upon his property, because out of his property he pays his taxes. That is precisely this bill here. If I happen to be running a farm and my income is over $5,000, you tax me for the business of carrying on farming, and out of my real estate on the farm I pay my tax. Is that to be said to be an indirect tax, and if you turn around and tax that income after I put it in the bank that it is a direct tax?

But the Supreme Court in answer to the contention of the counsel said: We are not taxing the income, we are not taxing the doing of business, we are not taxing the property, but we are taxing the right to do business in a certain way, which is a peculiarly exceptional advantage; and that is the extent of the Flint case. There is not a line or an intimation anywhere to be found that I have been able to discover which holds that you can lay an excise tax upon an individual for the mere right of engaging in his natural right to carry on some kind of business. He has no advantage over his neighbor. He stands in no peculiar relation to the business world. He has nothing exceptional upon which to place a tax. He is one of the members of a community, and therefore he passes entirely outside of that class who occupy a peculiarly and singularly advantageous position as does a corporate entity.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Iowa?

Mr. BORAH. I do.

Mr. CUMMINS. Did the Senator from Idaho read this sentence? I can not recall whether he did or not. It is very pertinent to the argument he is now making and emphasizes what he has just said. It is from the opinion in the Flint case. The court say:

> It is this distinctive privilege which is the subject of taxation, not the mere buying or selling or handling of goods which may be the same, whether done by corporations or individuals.

There is rather an inference there that the excise tax could hardly be sustained if it were levied upon the privilege of handling or buying goods by individuals.

Mr. BORAH. I have not read that, although I have it marked here. Undoubtedly it leaves a construction, or rather an inference, that the court in logical or practical effect held that, unless that special method of doing business was engaged in, there was nothing upon which to rest the excise tax as distinguished from a direct tax.

Now, that is brought home to us more conclusively when we read the briefs of the attorneys who presented this cause on the part of those resisting the tax, because the only answer the Supreme Court was able to find, if I may use the expression in that way, or rather the only answer which could be found, from a legal standpoint, to the contention made by those attorneys was that they were taxing a special advantage or a corporate capacity, and it was by reason of that that they sustained the tax. There is one more sentence that I should like to call attention to—

> with the advantages which arise from corporate or quasi-corporate organization; or, when applied to insurance companies, for doing the business of such companies. As was said in the Thomas case (192 U. S., 363 supra), the requirement to pay such taxes involves the exercise of privileges, and the element of absolute and unavoidable demand is lacking.

Let us discuss for a moment that single sentence. Properly analyzed, it would result in establishing a proposition that this tax would not be sustained, taken in connection with the sentence which was read by the Senator from Iowa and this sentence:

> The requirement to pay such taxes involve the exercise of privileges, and the element of absolute and unavoidable demand is lacking.

That is to say, if the people do not want to pay the tax they are not compelled to do so, because they can waive the privilege of doing business in a corporate capacity. But would the court say that the element of unavoidable demand is lacking if you should lay a tax upon every business about which the human mind could be engaged? Would it not be certain, definite, and unavoidable that the people would have to pay it and that they would have to pay it out of their property?

When you take into consideration the fact that you could have no precedent for this tax; that the Supreme Court has never gone further than to sustain an excise tax upon the capacity or upon the privilege of doing business as a corporation, and place against it the proposition that the Supreme Court in five different cases has sustained a tax upon the same principle as this substitute, and that the only citation to be cited against it is the Pollock case, where a majority of one established a different principle, and that there are no less than three decisions of the Supreme Court in the inheritance-tax cases which challenge, if they do not destroy, the principles upon which that case was decided, which one of these bills rests in the greatest legal security? The one which rests upon the precedent of a hundred years, with a divided court against it, with some three subsequent decisions seeming to overrule, or the case which has no legal foundation upon which to rest at all? Is it any more discourteous to the Supreme Court or any more a question of proper policy and decorum to put this case up to the Supreme Court again than to put up to them a case which is taxing all kinds of business in the country and ask them to hold that it is not a direct tax in the face of the decision of the Pollock case? In my opinion, the Supreme Court, as I have said, have overruled that case, but certainly it is a new doctrine in this country if we can not submit to that court as often as seems desirable so profound and far-reaching a question as to how you shall lay the taxes of 90,000,000 people.

I never did believe, I do not now believe, that there is any necessity for submitting the constitutional amendment, and it would not have been submitted had not a crisis arisen which either impelled the submitting of the constitutional amendment or the adoption of an income tax at that hour.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Iowa?

Mr. BORAH. I yield.

Mr. CUMMINS. The Senator from Idaho finishes his argument upon the phase of the case which he now has in hand. I desire to call his attention to page 10 of the House bill, upon which I believe that the House adopted without any qualification whatever the income-tax principle. I will read the paragraph I have in mind. I call the attention of those who are supporting, without amendment, the House bill to what I am about to read:

> Every person, firm, or corporation who pays to any officer, employee, or other person a salary or compensation, interest, or other accrued profits, exceeding $5,000 for a taxable year, every lessee or mortgagor of real or personal property who pays to the lessor or mortgagee interest or compensation exceeding $5,000 for a taxable year, and every trustee, executor, administrator, conservator, agent, or receiver, employing any person or paying any person business earnings, within the meaning of this act, exceeding $5,000 for any taxable year, computed on the basis herein prescribed, shall make and render a return as provided herein to the collector or a deputy collector of his district, and shall deduct and withhold the tax herein imposed, and shall pay on said return the tax or 1 per cent per annum as required by this act.

This paragraph, if I understand it, requires the partnership or firm or corporation and the lessee or mortgagee, executor, and so forth, paying to any person more than $5,000 a year to pay the tax. Of course, that is a tax upon the person who receives the money; it is to be paid without any regard whatsoever to the business or the employment of the person who receives the money; and to the extent that I have just suggested it is a plain, simple, income tax, dissociated from any attempt to fasten the excise tax upon it. If it can be done in that instance and under those circumstances, it can be done under all circumstances and apply to all people.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from California?

Mr. BORAH. I yield.

Mr. WORKS. As I understand, this bill was introduced and is being pressed for consideration upon the theory that it is a tax upon business. I want to call the attention of the Senator from Idaho to the peculiar language of the first section of the bill with respect to that claim. It provides:

> That every person, firm, or copartnership residing in the United States, any Territory thereof, or in Alaska or the District of Columbia, shall be subject to pay annually a special excise tax with respect to the carrying on or doing business by such person equivalent to 1 per cent upon the entire net income over and above $5,000 received by such person—

Mark this language following now—

> From all sources during each year.

Not from the particular business, but the tax is imposed upon money realized "from all sources." Then, going a little further down in the bill, it provides, in determining what shall be taxed, that it shall be the money "received by such person from business transacted and capital invested."

The definition of business does not cover capital invested, because a man may contribute to the capital of the business by subscribing for stock or the like without being connected directly or actively with the business. The term "business" is defined as follows:

> The term "business," as herein used, is and shall be held to embrace everything about which a person can be employed, and all activities which occupy the time, attention, and labor of persons for the purpose of a livelihood or profit.

Certainly this definition only includes such income as is derived from active participation in the business or labor performed, while the previous portion of the bill, as I have pointed out, is evidently intended to reach something else.

Mr. BORAH. I think the bill has all the vices of an income tax without any of its virtues, both legally and as a practical proposition. That expression might be misunderstood if I did not say that I have no doubt that those who drew it felt constrained to draw it in the way they did by reason of the decisions of the courts.

Mr. President, it has not always been considered anarchistic or characteristic of irresponsibility to advocate an income tax. That has grown up to some extent in the last few years with the growth and influence of those powers which more and more dominate and control the politics and the public thought of this country. It never occurred to those who organized the Republican Party and put it upon its feet, who took care of it for the first 10 or 15 years of its existence, that an income tax was what has been called here in the Senate Chamber a conspiracy against property. That idea has only arisen of late years as that influence has more and more permeated the popular mind, which finally resulted in the overthrow, consciously or unconsciously, of the precedents of our Supreme Court which had been established for nearly a century. It is that subtle, silent, elusive, indescribable influence created and sustained by wealth and which finally results in established institutions and crystallized statutes which has resulted in placing upon those in this country who insist upon an income tax the appellation of being enemies of frugality and of wealth.

I want to read from John Sherman statements uttered at a time when he was opposing the repeal of the income tax of 1870. We may well reflect upon the difference in public thought between that day and this when we find the leader of this great organization speaking in this language to his party and to the American people when he was contending, with all the power that he possessed against a disestablishment of a system of taxation which he believed to be a just one and the establishment of one which he characterized as cruel and unjust. We may well hark back in these days to those men who laid broad and deep the fundamental principles which insured the success of our party for 40 years, and withhold some of the anathema which is constantly being heaped upon those who would take a part of the burdens from those who are now paying more than their share and place it upon those who are paying practically no part of their just share. We may well invoke, too, a purpose to carry out in practice what we are constantly announcing in our platforms. We have advocated the income tax in certain portions of the country on the part of both parties for a number of years, but both parties have hesitated at the critical hour to lay the taxing hand upon those who hold in their control to such a remarkable extent the destiny of the political forces of this country. Fortunately, this is no political or a party question, because those who oppose it recognize no party lines. Mr. Sherman said:

> The public mind is not yet prepared to apply the code of a genuine revenue reform. But years of further experience will convince the whole body of our people that a system of national taxes which rests the whole burden of taxation upon consumption and not one cent on property or income is intrinsically unjust. While the expenses of National Government are largely caused by the protection of property, it is but right to require property to contribute to their payment. It will not do to say that each person consumes in proportion to his means. That is not true. Everyone can see that the consumption of the rich does not bear the same relation to the consumption of the poor that the income of the one does to the wages of the other. * * * As wealth accumulates, this injustice in the fundamental basis of our system will be felt and forced upon the attention of Congress.

Another distinguished Senator of that time said:

> There is not a tax on the books so little felt, so absolutely unfelt in the payment of it as this income tax by the possessors of great fortunes upon whom it falls. There is not a poor man in this country, not a laborer in this country but who contributes more than 3, more than 10, more than 20 per cent of all his earnings to the Treasury of the United States, under those very laws against which I am objecting, and now we are invited to increase their contributions and to release those trifling contributions which we have been receiving from incomes heretofore.

Quoting from Sherman again in one of his greatest speeches, delivered January 25, 1871:

> The income tax is now only levied upon those whose good fortune it is to enjoy large property or whose salary or profits lift them far above the pressing wants that rest upon the great mass of our people. The

possession of large property and the ability to earn large incomes necessarily give to those enjoying this income great influence over public opinion. They speak through the daily press, from high official stations, from great corporations, from cities where wealth accumulates and with the advantage of social and personal and delegated influence. I know the power of this influence. * * * It is the only tax levied by the United States that falls upon property or office or on brains that yield property, and in this respect is distinguished from other taxes levied by the United States, all of which are upon consumption, the consumption of the rich and of the poor, the old and the young. * * * My own conviction is so clear that its repeal now is wrong both in policy and justice, that it becomes my imperative duty to state the facts and reasons fully and clearly upon which this opinion is founded.

And these facts he proceeded to state in a way which has never been answered and never will be, because they were facts founded in justice. It is as true now as it was then, that as said by Mr. Sherman:

If you leave your system of taxation to rest solely upon consumption without any tax upon property or income you make an unequal and unjust system.

Adams Smith once said:

The subjects of every State ought to contribute toward the support of its government as nearly as possible in proportion to their respective abilities.

John Stuart Mill, the great English economist, has said:

Equality of taxation as a maxim of politics means equality of sacrifice. It means the apportioning, the contribution of each person toward the expenses of the Government so that he shall feel neither more nor less inconvenience from his share or payment than every other person experiences from his.

Wayne MacVeagh, a man who has given great consideration to this subject, said sometime ago:

Capitalists exhibit a singular stupidity in resisting every attempt to impose upon them their proper share of the public burdens.

I quote also from Senator Morton:

We have had the argument by epithet in this case. This has been called an inquisitorial and infamous and iniquitous tax. I will meet the argument by epithet with the argument of opinion, and I will give my opinion on the other side that it is the most equitable and just of all taxes. * * * The income tax is of all others the most just and equitable, because it is the truest measure that has yet been found of the productive property of the country.

I make this general statement and I defy successful contradiction that consumption is apportioned among the people far more nearly according to population than it is according to their wealth. Will it be denied by anybody that the consumption of articles which are taxed in any form falls more nearly upon the people according to population than according to their wealth? If that is so, then a tax upon consumption is an unequal and unjust tax. * * * A tax upon consumption is not a just tax, because it falls upon labor, it falls upon population, and does not fall in proper ratio and proportion upon the people according to their wealth who are able to pay it.

Mr. President, if this substitute should pass and should go to the other House, and finally be accepted and should be approved by the Supreme Court, we would have accomplished more for the equalizing of the burdens of taxation than we could possibly do at this time by any other act of which I know.

Why should not we try? Where the happiness and well-being of countless thousands are at stake; why not try? I can not appreciate that statesmanship which, because we can not get what the people ought to have, we should give the people that which they do not want and ought not in justice be compelled to take.

The PRESIDENT pro tempore. The question is on agreeing to the amendment in the nature of a substitute offered by the Senator from Idaho [Mr. BORAH].

Mr. SIMMONS. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from North Carolina suggests the absence of a quorum. The roll will be called.

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

Ashurst	Cullom	Martin, Va.	Smith, Ga.
Bacon	Cummins	Martine, N. J.	Smith, Mich.
Bankhead	du Pont	Massey	Smith, S. C.
Borah	Fall	Myers	Smoot
Bourne	Fletcher	Nelson	Stone
Brandegee	Foster	Newlands	Sutherland
Briggs	Gallinger	O'Gorman	Swanson
Bristow	Gronna	Oliver	Thornton
Bryan	Guggenheim	Overman	Townsend
Burnham	Heyburn	Page	Warren
Catron	Hitchcock	Perkins	Watson
Chamberlain	Johnston, Ala.	Pomerene	Wetmore
Clapp	Jones	Root	Williams
Clark, Wyo.	Kenyon	Sanders	Works
Crane	La Follette	Shively	
Crawford	Lodge	Simmons	
Culberson	McLean	Smith, Ariz.	

The PRESIDENT pro tempore. Sixty-five Senators have answered to their names. A quorum of the Senate is present. The question is on the amendment of the Senator from Idaho.

Mr. BORAH. On that I ask for the yeas and nays.

Mr. BACON. Mr. President, before that is put I understand that the original measure is open for amendment in order that it may be perfected before the substitute is acted upon.

The PRESIDENT pro tempore. Undoubtedly.

Mr. BACON. I have an amendment that I propose to offer to the bill in order to perfect it, and then, of course, the substitute offered by the Senator from Idaho will be first in order to be voted on as between the two.

I want to say, Mr. President, just one word in regard to this matter. We have all listened with very great interest and instruction to the very able address of the Senator from Idaho, and there is very little, if anything, that has been said by the Senator that is not fully agreed to by all of us who, with him, believe in the imposition of an income tax through the enactment of a law for that purpose. The Senator's portrayal of the great injustice in the inequality of burdens in the absence of a general income-tax law appeals to all of us by reason of its force and its unanswerable logic. I am a little at a loss, however, Mr. President, to see in what way one thinking as the Senator does on that subject, and as I do upon the same subject, and, I presume, as almost all of us do, from the fact that almost by a unanimous vote there was passed a resolution which proposed an income-tax amendment to the Constitution—I do not see how those thinking in that way have anything to gain by following the suggestion of the learned Senator in this case.

The thing greatly to be desired by the Senator and by those of us who agree with him in this general proposition is that there shall be from all persons in this country a payment upon their incomes by such equal imposition that the burden will be in a large measure lifted from the consumers, who now almost solely bear it, and that it shall be distributed equally among the people according to their means as measured by their incomes in excess of $5,000. We have upon the statute books now the corporation excise tax, which in a large measure meets that requirement. It meets the requirement so far as the corporate interests of the country are concerned if the law is carefully and properly and effectively enforced.

Mr. President, this bill proposes to supplement that law and to add to it that which will in a measure—not perfectly, but in a measure—complete that which we so much desire in requiring others besides the corporations, through the payment of an excise tax, to contribute in the measure that their incomes shall be the gauge of the exaction imposed by the Government, that which is not now contributed under the present corporation excise law. When individuals pay their part of the excise tax and the corporations pay their part of the excise tax, then we will very nearly accomplish all that a general income tax could accomplish in the collection of taxes.

If the evil is so great as the Senator from Idaho portrays and represents it to be, if the evil is so great as we all recognize it to be, if the desire to correct that evil is proportionate to the magnitude of it, shall the fact that the proposed excise law does not meet the case as fully as we wish and does not as fully eradicate the evil as a general income-tax law would, shall that fact deter us from taking advantage of the opportunity in part to do so by the enactment of this law?

I am not now speaking about the constitutional question, but I am speaking about the policy of the enactment of this bill into law; I am speaking of the question as to whether those who agree upon this great issue of the desirability of a general income-tax law should or should not now contribute what we can by this method as far as practicable to accomplish the great end which we all have in view.

It must be manifest, Mr. President, I think, as very forcefully set forth by my colleague [Mr. SMITH of Georgia] in his argument this morning, that to abandon the pending measure, to set it aside and to now enact a general income-tax law in the place of it before the income-tax amendment to the Constitution has been adopted by the States, does not promise in practical results what the enactment of the pending bill promises. After the income-tax amendment to the Constitution has been adopted, it will be different. If this bill should be enacted and become a law, and should be approved by the Supreme Court of the United States, we would in the operation of this personal excise law, in connection with the corporation excise law, come very near having all that would be accomplished by a general income-tax law.

Is it better, Mr. President, to try to do that, or is it better to put it aside from us and behind us and say that we will stand upon our original proposition that there should be a general income-tax law; that we will have that or nothing? It is manifest, as pointed out by my colleague this morning, that if we enact the income-tax law at the present time, the road is beset with difficulties and uncertainties; that great delays are undoubtedly involved; and that besides that the enactment of an income-tax law at this present time involves as a consequence the repeal of the present corporation excise law.

The Senator from Idaho shakes his head and indicates his dissent from that proposition. I do not mean to say that the

enactment of an income-tax law would repeal the corporation-tax law eo nomine, but I suppose the Senator from Idaho would not for a moment contend that there ought to be a general income-tax law which would subject all corporations to the payment of that income tax and at the same time lay upon the corporations of the country the additional burden of the present excise-tax law. That would be a gross injustice; it would be an injustice, Mr. President, which would be recognized by everybody; so that while it is true, as indicated by the dissent of the Senator from Idaho, given silently but still unmistakably, that the enactment of an income-tax law does not ipso facto involve the repeal directly of the corporation excise-tax law, it is a consequence that can not be escaped that it must involve it if we do justice as we would do it. No one can doubt that.

Mr. BORAH rose.

Mr. BACON. The Senator from Idaho——

Mr. CULBERSON. I ask the Senator from Georgia if, in order to repeal the corporation-tax law, it should be necessary to pass a constitutional income tax, would he not be willing to do that?

Mr. BACON. Of course, if the time comes, as I have no doubt it will come after the adoption of the amendment now before the States, and we have an opportunity to pass a law for the imposition of a general income-tax law, I should very much prefer it to the excise-tax law, and I would be willing to pass the general income-tax law and repeal the other.

Mr. CULBERSON. I understood the Senator was arguing against the substitution of the income tax because that would repeal the corporation tax.

Mr. BACON. No.

Mr. CULBERSON. Then I misunderstood him.

Mr. BACON. That may be, but I had not finished the application of what I was saying. I was going to make it, and I was in the midst——

Mr. CULBERSON. Of course we could not repeal the corporation-tax law unless we passed a constitutional income tax.

Mr. BACON. Yes, I know; but when we pass a law, we assume it is constitutional, otherwise we would not pass it.

Mr. CULBERSON. Certainly. I think most of the Senate believe an income-tax law is constitutional.

Mr. BACON. Yes; and I think so. But what I was about to say is this, that believing the income-tax law to be constitutional, if we pass it it is immediately our duty, by repealing the corporation-excise law, to relieve the corporations of the double tax which would be involved in the income-tax law and the corporate excise-tax law, if both were at the same time enforced against the corporations. We could not wait to see whether or not the general income-tax law was declared to be constitutional by the Supreme Court. We would have to assume that the general income-tax law passed by us was constitutional. We would have to act upon the assumption that it was constitutional and at once repeal the corporation excise-tax law. Every consideration of justice and propriety would require us, when we pass the general income-tax law, to assume that it was a constitutional law, and at the same time put the whole country under it and also at once relieve any part of the people from a double tax of this kind by repealing the corporation excise tax.

Now, the application I wish to make of that is this: We stand here now, if we pass a general income-tax law, to arrest the operation of the corporation excise tax upon the uncertainty as to the constitutionality of the income-tax law. It is much better to let the corporation excise tax remain in operation and then attempt to engraft upon, as it were, or add to it, by this additional legislation, the tax as to the excise upon persons, firms, and copartnerships having incomes in excess of $5,000.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Iowa?

Mr. BACON. I do.

Mr. CUMMINS. I rise to ask the Senator from Georgia his opinion with regard to the meaning of a part of this law.

I put him this case: Suppose that Mr. A is engaged in the dry goods business and has an income from that business of $1,000 per year. Suppose, further, that Mr. A is the owner of a large amount of real property and derives as rents from that property $20,000 per year. Does this law assess a tax upon the entire amount of the income, or would he be relieved from the tax because he was not receiving more than a thousand dollars from the business in which he was engaged?

Mr. BACON. If the definition of "business" is as broad as my colleague indicated in his argument this morning, I think he would be assessed on all of it.

Mr. CUMMINS. I am assuming now that as to his real estate he is simply collecting those rents, and that therefore as to the rents he is not doing business.

Mr. BACON. I think he would be.

Mr. CUMMINS. Under those circumstances would he be amenable to the tax?

Mr. SMITH of Georgia. Unquestionably.

Mr. CUMMINS. If that be true——

Mr. SMITH of Georgia. And the Supreme Court so ruled, I think, in the Flint case.

Mr. CUMMINS. If that be true——

Mr. SMITH of Georgia. They held——

Mr. CUMMINS. Just a moment. If that be true, is the tax upon the $19,000 assessed with respect to the business which he is carrying on?

Mr. SMITH of Georgia. The Supreme Court held, as I understand, in the Flint case that the special excise tax was levied by reason of the fact that the business was done; that the measure of that tax was for Congress; and having fixed a special excise tax, the measure of the tax could be derived not alone from the business done, but from property disconnected with the business; and in that case they went so far as to hold that it could reach the income from nontaxable property. This bill is specifically drawn with a view to covering the entire net income, whether it is drawn from the business or from some other source.

Mr. CUMMINS. I assumed that that was the view taken.

Then the tax is not a tax upon the profits or income derived from the business, but it is a tax upon a person who may be engaged in business in some way or other, and upon his entire income, without regard to the source of that income, whether as to that income he is in business.

Now, does the Senator from Georgia recognize any difference in principle between that and levying a tax upon the income itself? Does he believe that the intervention of an insignificant or negligible business transaction can make any difference in principle in the power of the Government to take the money?

Mr. SMITH of Georgia. I believe that the decisions of the Supreme Court of the United States settle it. I believe they have so decided, and I think that this proposed bill is constitutional under those decisions.

Mr. CUMMINS. Allow me to call the attention of the Senator from Georgia now to another part of the bill, which I mentioned a few moments ago, for I am anxious to understand the interpretation of those who have studied and who are defending the measure. I call the attention of the Senator from Georgia, as I did of the Senator from Idaho, while he was speaking, the junior Senator from Georgia then being absent from the Chamber, to the provision on page 10. I trust I am not interrupting or unduly interrupting the senior Senator from Georgia.

Mr. SMITH of Georgia. I might perhaps suggest to the Senator from Iowa that we had better let the senior Senator from Georgia proceed.

Mr. CUMMINS. I was just apologizing to the Senator from Georgia.

Mr. BACON. I am more than happy to have the burden taken off me for the present.

Mr. CUMMINS. These questions are very interesting to me, and will determine more or less my action in the matter.

This provision provides:

> Every person, firm, or corporation who pays to any officer, employee, or other person a salary or compensation, interest, or other accrued profits, exceeding $5,000 for a taxable year, every lessee or mortgagor of real or personal property who pays to the lessor or mortgagee interest or compensation exceeding $5,000 for a taxable year, and every trustee, executor, administrator, conservator, agent, or receiver, employing any person or paying any person business earnings, within the meaning of this act, exceeding $5,000 for any taxable year, computed on the basis herein prescribed, shall make and render a return as provided herein to the collector or a deputy collector of his district, and shall deduct and withhold the tax herein imposed.

I assume that the Senator from Georgia will agree with me that the tax here withheld and paid is a tax upon the income of the person who receives the compensation or pay, because he pays it.

Now, suppose a firm or corporation were to pay to Mr. A for salary or compensation more than $5,000 per year. Suppose that Mr. A was not engaged in any business whatever, within any meaning which the Senator from Georgia attaches to that word. Would not the tax be still levied and still paid, and would not that be true if it were paid as interest to a person not engaged in business, or would it not be true if it were paid as rent to a person not engaged in business; and if these things are true, does not the bill, in this respect at least, embody the precise doctrine of an income-tax law separated and dissociated entirely from any business in which the person who pays the tax may be engaged?

Mr. SMITH of Georgia. My understanding of this provision of the bill is that it is a mode of collection; that it does not propose to levy the tax except where the person whose money is withheld falls within the taxable provisions of the bill, and the party whose money is so temporarily withheld, returns having been made according to the provisions read by the Senator from Iowa, can present his view of the case before the internal-revenue collector, and if he sustains his claim that he is not subject to the tax, then the tax would not be levied.

Mr. CUMMINS. But as I read this provision there is no such limitation in it; that is to say, every employee who receives a compensation of more than $5,000 per year from any corporation or copartnership or firm must pay this tax, and there are not in the bill words, so far as I can discover, that prescribe that the person who receives the money and pays the tax must be engaged in business.

I only call it to your attention because it seems to me that, driven by the inexorable force of logic, the distinguished lawyer who prepared this bill and the House which passed it saw that there was no difference whatever between the attempt to levy a tax and call it an excise tax of this kind and the attempt to levy an income tax. If we are in any danger in again seeking a decision from the Supreme Court with regard to the income tax, I think we are in quite as much danger, if not greater danger, in seeking an opinion upon a tax levied in the way I have read.

Mr. SMITH of Georgia. My view of the construction of this part of the bill, taken together with the balance of the bill, is that it does not intend to levy the tax except where the party whose money is temporarily withheld falls within the taxable provisions of the bill, and that this is only a portion of the bill dealing with procedure for the purpose of collecting the taxes, and that the general provision of the bill authorizing a party who is taxed to present his case before the internal-revenue collector would apply to this portion of the bill also, and that the tax would only be applicable if the party whose money was temporarily withheld falls within the provisions stated on the first page of the bill.

That is my construction of the bill; that I know is the construction of those who drew the bill, and after examining it as a whole quite carefully I reached the conclusion that the construction was a logical one.

Mr. CLAPP. Right on this subject——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Minnesota?

Mr. SMITH of Georgia. I have not the floor.

Mr. BACON. Certainly. I yield.

Mr. CLAPP. I beg the Senator's pardon. I am going to suggest to the Senator from Georgia if it is not true that the limitation as to the persons subject to the tax would be read in connection with the provision on page 10, just as the exemption in the bill would be read with reference to the provision on page 10.

Mr. SMITH of Georgia. That is my view of the matter exactly.

Mr. BACON. Mr. President, I have but a few words to say before offering an amendment which I really rose to offer. I did not rise with the expectation of addressing the Senate on this subject.

I am very sorry that the Senator from Idaho has offered this amendment, the substitute, the general income tax law, in place of the pending bill. It is bringing discord and disagreement among the friends of measures looking to the imposition of taxes which shall more equally distribute the burden of taxation among the people of this country. We all agree on that fundamental proposition and in the desire to make it effectual, and the introduction of this income-tax amendment at this time, as I say, necessarily brings more or less discord among those who are at one in that purpose and that desire. We are simply traveling different roads to reach the same goal, and each one of us is as impatient to reach that goal as is the other.

I do not yield to the Senator from Idaho in his desire for a general income-tax law. There never has been a time since I have had the honor to serve in this body when I have not, by my vote at least and in part by my speech, endeavored to contribute to the consummation of this end which we so much desire. There has never been an opportunity when I have not voted for it. There never has been an opportunity when I have not voted for all measures that would advance the consideration of this question and bring it to a conclusion.

I recollect, Mr. President, that when the corporation excise tax was before the Senate three years ago I rose in my place and said that I refused to vote for it because of the fact that it was introduced and interjected for the purpose of preventing a vote upon the income-tax law, and I declined to vote for it until I had an opportunity to vote for the income-tax law, and gave that as my reason why I declined to vote for the corporation excise tax.

Afterwards, after we had an opportunity to vote on the income-tax measure, I did vote for it, but when it was first presented and when I thought it was presented for the purpose of defeating action on the income-tax proposition I declined to vote for it, and I gave that as my reason in the open Senate for so doing. So, Mr. President, I am not second to the Senator in my desire for the enactment of such a law, and I regret extremely to be put in a position where it should even appear that I am not in favor of it.

I am in favor of it now, and I am in favor of it at all times. I believe there can never be an equal distribution of the burdens of taxation in this country so long as we do not have the opportunity to apply the principle of the income-tax law in the collection of taxes to be paid by the people of the country for the support of the Government; and, believing that, of course I must be in favor of it; and yet my honest judgment is that looking to practical results we will come nearer to it by now voting for this bill. As I said before, we have now upon the statute books the corporate tax excise law, which covers a large part of what would be covered by an income-tax law, and by the enactment of this personal excise law we will approximately secure what is left undone in that direction by the corporate excise laws.

Believing so, Mr. President, although it is embarrassing to me, and I regret extremely to be put in that position, while I do not wish to be put in a position where it can be by the most superficial of persons construed into an unfriendliness to that legislation, nevertheless, believing as I do that the end to be accomplished will be best accomplished in that way, I shall vote against the substitute if the Senator insists upon its presentation.

Now, take the House. It is not improper for me to refer to it as the bill comes from there. The body which sends us the bill is as much in favor of an income tax as is the Senator from Idaho. Why is it that the House of Representatives did not pass that law? Why is it that the House of Representatives passed this excise law instead of a general income-tax law? Manifestly and undoubtedly because they believed that this was the most direct way to reach the most practical result and the most practicable of results.

Mr. President, they are not to be put in the position of being unfriendly to the income tax because they did not send us a general income-tax bill, because everyone knows what is their attitude. Everybody knows that the dominant party in the House favors the enactment of a general income-tax law.

Are those of us on this side, and I presume it is true of some Senators on the other side who may feel it their duty and in accordance with their best judgment to vote for this excise-tax bill, to be put in a position of being unfriendly to the income-tax law? I do not know how long my service here may be extended, Mr. President, but I trust and hope that unless it should be very suddenly and abruptly cut off I may be here long enough to vote for a general income-tax law, and when it is done, when an income-tax law is passed, it will be one of the greatest acts of justice to the American people that has ever been enacted into law.

You can not reach by property tax under our conditions a result which will so equally distribute the burdens of taxation as you can by an income-tax law, and no argument is needed to show that the most unequal of all burdens and the most unjust of all burdens is one which lays exclusively upon the consumer through an excessive tariff the burden of taxation, because the limit of consumption of every man is small, and the maximum of the smallest is very nearly equal to the consumption of the largest. When I say the "smallest" and the "largest" I am referring to differing conditions of wealth.

Now, Mr. President, with that statement I want one other word. I think myself there is a very narrow difference between the corporation excise-tax law as construed by the Supreme Court and an income tax. It is so narrow a difference that I have never been able to entirely satisfy myself that it is one that is well founded, but still believing as I do, not only in the policy of the income-tax law, but in its constitutionality, I am glad of the opportunity to take advantage of the judgment of the Supreme Court of the United States that an excise-tax law is not unconstitutional.

The Supreme Court of the United States has rested the constitutionality of the corporation tax law upon the power and authority of the Federal Government to tax the right to do business, and if the right to do business is taxable in a corporation, it is also, in my judgment, taxable in the individual.

Now, there being the difficulty in regard to the imposition of an income-tax law presented by the adverse decision of the Supreme Court, and there being the difficulty of so adjusting an excise tax as to reach everyone that we would reach by an income-tax law, I have thought, Mr. President, that an amendment to this bill, such as I am about to offer, might advance the accomplishment of that end; that an amendment might be suggested which would make for the more complete accomplishment of that which we would seek and expect to accomplish by a general income tax.

I had the same thought in my mind when we had before us three years ago the corporation excise-tax law, and I then offered an amendment, the purpose of which was to reach that class of men whom the Senator from Idaho so graphically portrayed here to-day—men who have great possessions and large incomes, and who bear no equal or appreciable part of the burden of this Government. I was fearful then, as I am now, that possibly the general language might not cover and reach some of these parties that, I think, more than all others ought to be required to bear their part of these burdens.

I introduced an amendment then, and I introduce now an amendment which is copied almost literally from that, simply the verbiage changed to adjust it to the bill which is now before us, and I will send it to the desk and ask that it be read. I am sorry that I did not have the opportunity to present it in order that it might be printed, but under the rule I was not permitted to interrupt the Senator from Idaho to make the request while he was on his feet, and so I could not ask that it be sent out to be printed.

Mr. MASSEY. Will the Senator from Georgia permit me to ask him a question?

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Nevada?

Mr. BACON. With very great pleasure.

Mr. MASSEY. Referring to the decision of the Supreme Court in the Flint case, I desire to inquire of the Senator whether the right involved in that particular case was a natural right, such as each citizen has, to engage in or transact business, or was it a right dependent upon law, artificially created, and whether he believes that the Supreme Court of the United States took that fact into consideration in determining the Flint case?

Mr. BACON. The inquiry of the learned Senator is a very pertinent one, and one that has not been overlooked in the reflections of those who have given any attention to this subject. I know that the suggestion has been made and it has been earnestly contended by some that the theory upon which the Supreme Court of the United States upheld the constitutionality of the corporation-tax law was that, as stated by the learned Senator, it was a tax upon a franchise, the right to do business.

That would be a most strong argument if the tax were laid upon corporations which derive their right of franchise from the Federal Government, because in that case it could be said with great strength of argument that the Government, having granted a franchise, having granted that which was not a natural right, having clothed the incorporated entity with powers which it could only have by reason of the grant of the Government, it had a right to tax the powers exercised in that way by the grant of the Government.

But it is not the case, Mr. President, and can not be, because I suppose nine hundred and ninety-nine thousandths, if not a very much greater proportion, of the corporations which are subjected to the payment of this corporation excise tax do not derive any corporate powers from the Federal Government, but derive them from the States in which they are situated and by which they are created.

For that reason I think the suggestion is not well founded that it is because it is an artificial person, for that artificial person has not been created by the Federal Government. That artificial person has received no powers from the Federal Government. That artificial person does not exist in any manner, draws no breath of life from the Federal Government. It is simply the power the Federal Government has, an exceedingly broad power, to tax anything—property, rights, avocations, enjoyments—anything except those things which are inconsistent with the Federal Constitution or which are inconsistent, as held by the courts, with the life of a State, which can only live when it can exercise itself the taxing power, either by the issue of bonds or otherwise, without itself being taxed out of existence.

I do not know whether I have answered the Senator or not.

Mr. MASSEY. Will the Senator yield again to a suggestion?

Mr. BACON. Most undoubtedly.

Mr. MASSEY. I know what the traditions and customs of the Senate are. I know it is expected that I should remain in my seat and vote right.

Mr. BACON. The Senator is mistaken about that. That is a misrepresentation as to the Senate, which reached the Senator before he came here.

Mr. MASSEY. Upon this question, as suggested by the distinguished Senator from Georgia, I believe that the act now pending before the Senate, as reported to the Senate by the committee, originating in the House, is unconstitutional. I believe that Congress has not the power to extend its excise tax over natural persons exercising a natural right under the Constitution, and that the Supreme Court of the United States in the determination of the Flint case, as evidenced by the extract read therefrom by the Senator from Idaho [Mr. BORAH], confines, and intended to confine, its decision of that right, so far as it does exist under the Constitution, to levying a tax of this kind on artificial creatures who have no existence except by virtue of law and have no rights except by virtue of the law.

I believe—and in the exercise of this belief I am simply exercising the right of a Senator—I believe that the law now proposed, coming from the House, is unconstitutional. I believe that the more strongly, notwithstanding the decision of the Supreme Court of the United States. I believe that an income tax graduated is unconstitutional, notwithstanding the decision of the Supreme Court of the United States. I believe also, as a matter of expediency, without embarrassment the Senate can better afford to adopt the amendment proposed by the Senator from Idaho and let the Supreme Court again have an opportunity to determine whether or not an income tax is unconstitutional. Let them again have an opportunity to pass upon that question, because, as is stated well and strongly by Senators upon both sides of the Chamber, a tax of that character and that kind takes the burden from the poor man and places it where it belongs.

For that reason I shall vote for the substitute offered by the Senator from Idaho and against the House bill.

Mr. BACON. Mr. President, I want to congratulate the learned Senator upon the promptness and facility with which he adapts himself to the customs and practices of the Senate. He has followed this afternoon very distinguished leads by other Senators.

I am not here, Mr. President, for the purpose of now discussing the constitutionality of this question, certainly not at large. I am not, however, ready to agree with the learned Senator in the proposition that the excise tax can only be upheld upon the ground that it is a tax upon an artificial person, and that a natural right exercised by a natural person can not be taxed by the United States Government. Every excise tax now enforced against the citizen is a tax upon a natural right. What is there in a man's brewing beer that is not a natural right which he exercises as a natural person? What is the difference between a man's brewing beer and doing any other legitimate business so far as natural right goes? Each one of them is a natural right. It is not because the beer is brewed by a corporation and it is not limited to the beer being brewed by a corporation. The same is true of the distillation of whisky. That is a natural right. Every man has as much right to distill whisky as he has to engage in any other business unless prohibited by law. The same thing is true of the refining of sugar, or the making and sale of cigars, or the making or selling of any other form of tobacco. They are all natural rights. And yet the exercise of these natural rights by natural persons are the subject of excise taxation by the Government. Besides these, many other illustrations could be given.

The Government of the United States has as broad a power for taxation as it is possible for a government to have outside of the direct limitations proposed by the Constitution. It can tax any avocation. It can tax any revenue. It can tax property. Of course, when it comes to taxing revenue or incomes or property the limitations of the Constitution are to be considered as to how and when that can be done and to what extent.

But I lay it down, Mr. President, as a proposition that outside of such limitations the Government of the United States has the right to tax any avocation; that it has as much right to tax one as it has another; and that any legitimate taxation on the exercise of a personal right is not dependent upon the fact, so far as the power of taxation goes, that it is a right exercised by an artificial person. It can be with equal authority imposed upon the exercise of a right by a natural person.

I want to say, Mr. President, as to the amendment which I have offered to-day, I regret it was not printed, but I think it is sufficiently comprehensive and short to be readily understood by Senators from the reading at the desk. It was offered by me formerly to the corporation excise-tax act and received very liberal support in the Senate on both sides of the Chamber. Upon a motion which was made by the then Senator from Rhode

Island, Mr. Aldrich, to lay it upon the table, it was supported, that is, not the motion, but the measure itself was supported by opposing the motion, by every Democrat and by the following Republicans who were then Members of this body: Messrs. BORAH, BRISTOW, CLAPP, CRAWFORD, CUMMINS, GAMBLE, JONES, LA FOLLETTE, and Piles. This amendment, except so far as the first part of it is changed so that it may be engrafted upon this bill and except the provisos which are intended to prevent double taxation, is copied from the amendment I then offered and is identical with it. I trust it may be adopted.

The PRESIDENT pro tempore. The amendment submitted by the Senator from Georgia will be read.

The SECRETARY. It is proposed to add to the bill as section 2 the following:

SEC. 2. That the term "business," as herein used is, and shall also be, held to embrace the act or acts of holding, receiving, caring for, and disbursing, either personally or through agents, the returns or profits of investments of capital of whatever kind; and every person, firm, or copartnership, residing as aforesaid, holding the bonds, debentures, or other evidence of indebtedness of any corporation or association organized under the laws of either the United States or of any State, Territory, or District of the United States, or doing business therein, shall, upon the carrying on or doing business by such person, either personally or by agent, in respect to the income therefrom as aforesaid, and upon the right to hold, possess, manage, and control the principal and to collect the interest or other income of said bonds or other evidence of indebtedness, be subject to pay annually a special excise tax equivalent to 1 per cent upon the annual interest or income payable upon said bonds or other evidence of indebtedness: *Provided*, That said tax shall not be paid upon the interest of income derived from said bonds or other evidences of indebtedness when the same is otherwise paid under the provisions of this act by the person holding or owning the same: *And provided further*, That said tax shall not be paid by the holder or owner of said bonds or other evidence of indebtedness except to the extent that the said interest or income from the same shall, when added to the other net income of said holder or owner for the year, exceed the net income of $5,000 received by such person from all sources during each year.

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

Mr. SMITH of Georgia. Mr. President, I wish just two minutes to reply to the suggestion of the Senator from Nevada [Mr. MASSEY].

In the Spreckels case the excise tax applied not only to corporations, but to persons as individuals and to partnerships. It was sustained equally as to all three. In the Flint case the Supreme Court clearly recognized——

Mr. MASSEY. Will the Senator permit me just at this time to propound a question to him?

Mr. SMITH of Georgia. Yes.

Mr. MASSEY. Was that question presented to the Supreme Court in the Spreckels case for decision?

Mr. SMITH of Georgia. I am not sure whether the case before the Supreme Court was only the case of a corporation, but in discussing it they treated the entire act as being equally valid.

Mr. MASSEY. If the Senator will pardon me, I assume that the discussion of a question by the Supreme Court that was not before it was mere obiter in so far as that discussion was concerned.

Mr. SMITH of Georgia. That would be true, but in the Flint case in discussing it again they clearly recognized the fact that the excise tax could be applied to individuals or partnerships. The Supreme Court used the following language:

Let is be supposed that a group of individuals, as partners, were carrying on a business upon which Congress concluded to lay an excise tax. If it be true that the forming of a State corporation would defeat this purpose, by taking the necessary steps required by the State law to create a corporation and carrying on the business under rights granted by a State statute, the Federal tax would become invalid and that source of national revenue be destroyed, except as to the business in the hands of individuals or partnerships. It can not be supposed that it was intended that it should be within the power of individuals acting under State authority to thus impair and limit the exertion of authority which may be essential to national existence.

So the Supreme Court in the clearest terms when discussing the Flint case pointed out that the corporation should not be exempt from the special excise tax, because if by incorporating under a State law the excise tax could be avoided, then by incorporation the tax could be escaped by all but individuals.

Mr. MASSEY. That I assume would extend this law to the American rancher engaged in ranching in the Mississippi Valley, whose property is all visible and all will be taxed.

The PRESIDENT pro tempore. The question is on agreeing to the amendment submitted by the Senator from Georgia [Mr. BACON] to the amendment.

The amendment to the amendment was agreed to.

The PRESIDENT pro tempore. The question now is upon the amendment as amended.

Mr. HITCHCOCK. Mr. President, I had intended to offer an amendment to the House bill, and had intended to do so after the vote upon the substitute offered by the Senator from Idaho [Mr. BORAH]. Under the ruling of the Chair, however, I think it proper to make my offer at this time of an amendment to the House bill. I understand it is proper to perfect that bill first.

Before I send it to the Secretary's desk to have it read, I want to say in explanation that this amendment is not intended particularly to raise revenue. I have designed it in an attempt to see whether by the use of the great power of taxation the Government may be able to crush a great trust which it has not been able to crush through legislation or other judicial proceedings. I refer to the Tobacco Trust.

I propose in this amendment to levy an additional excise tax on tobacco in all forms and on snuff. I propose to have the tax begin at a certain point of manufacture; that is to say, I exempt any production of 20,000,000 pounds a year of tobacco, or 400,000,000 cigars a year or 400,000,000 cigarettes a year or 4,000,000 pounds of snuff a year. After those exemptions in the amendment I propose to levy a progressive or graduated tax upon the tobacco, cigars, snuff, or cigarettes manufactured in the United States. As the production increases the rate of the tax rises, the purpose being to reach a prohibitive point, so that the three great snuff concerns and the four great tobacco manufacturing concerns that are a part of the trust now existing under the sanction of a judicial decree shall find it impossible to continue business.

This is the same power of taxation which we applied to State-bank notes, whereby we have driven them out of existence. It is the same power of taxation which we applied to oleomargarine, for the purpose of protecting the dairy interests from its disastrous competition. It is the same power which we exerted during the present Congress to put a stop to the manufacture of poisonous matches.

I send the amendment to the desk and ask to have it read.

The PRESIDENT pro tempore. The amendment submitted by the Senator from Nebraska will be read.

The SECRETARY. Add at the end of the bill the following additional sections:

SEC. 10. That manufacturers of tobacco, cigars, cigarettes, and snuff shall after the 31st day of December, 1912, be subject to pay a special excise tax in addition to the taxes now provided by law, which special additional excise tax shall be payable quarterly and be graduated and levied as follows:

SEC. 11. On all tobacco, whether smoking tobacco, plug tobacco, twist, or fine cut, manufactured during the quarter over and in excess of 20,000,000 pounds, 1 cent a pound for the first million pounds excess or part thereof, 2 cents a pound for the second million pounds excess or part thereof, 3 cents a pound for the third million pounds excess or part thereof, 4 cents a pound for the fourth million pounds excess or part thereof, 5 cents a pound for the fifth million pounds excess or part thereof, 6 cents a pound for all above the fifth million pounds excess.

SEC. 12. On all cigarettes and cigars weighing less than 3 pounds per thousand manufactured during the quarter over and in excess of 400,000,000, 25 cents per 1,000 on the first 50,000,000 cigarettes and cigars excess or part thereof, 60 cents per 1,000 on the second 50,000,000 cigarettes and cigars excess or part thereof, $1 per 1,000 on the third 50,000,000 cigarettes and cigars excess or part thereof, $1.50 per 1,000 on the fourth 50,000,000 cigarettes and cigars excess or part thereof, $2 per 1,000 on the fifth 50,000,000 cigarettes and cigars excess or part thereof, $2.60 per 1,000 on the sixth 50,000,000 cigarettes and cigars excess or part thereof, $3.25 per 1,000 on all over 300,000,000 cigarettes in excess of 100,000,000 for the quarter.

SEC. 13. On all cigars and cigarettes weighing more than 3 pounds per thousand manufactured during the quarter over and in excess of 400,000,000, $1 per 1,000 on the first 100,000,000 cigars and cigarettes excess or part thereof, $2 per 1,000 on the second 100,000,000 cigars and cigarettes excess or part thereof, $3 per 1,000 on all above that amount.

SEC. 14. On all snuff manufactured during the quarter over and in excess of 4,000,000 pounds, 1 cent a pound for the first 1,000,000 pounds or part thereof in excess, 3 cents a pound for the second 1,000,000 pounds or part thereof in excess, 5 cents a pound for the third 1,000,000 pounds or part thereof in excess, 10 cents a pound for all over 3,000,000 pounds in excess.

SEC. 15. In computing the product of any manufacturer there shall be included the products, as above specified, made directly by said manufacturer and by any company controlled by said manufacturer in whole or in part through stock ownership, contract, lease, or otherwise, and any company having directors or stockholders in common to the extent of 25 per cent of the stock, or one-third of the directors, shall be considered and held to be a part of the same manufacturing organization, and the rate of tax shall be based on their combined output, each company to pay upon its proper proportion thereof.

SEC. 16. It shall be the duty of every manufacturer of tobacco, cigars, cigarettes, or snuff, on demand of any officer of internal revenue, to render such officer a true and correct statement, under oath, of the quantity and amount of all tobacco, cigars, cigarettes, or snuff manufactured by him during the quarter, and this statement shall be made on or before the 10th day of the month following the close of the quarter. It shall also be the duty of every manufacturer on demand of any officer of internal revenue to render to such officer a true and correct statement, under oath, showing in detail the ownership, management, and organization of the business, whether it is an individual, partnership, corporation, or association, who the officers and directors or trustees of the same are, what, if any, contract, lease, or other arrangement exists with another manufacturer of tobacco, cigars, cigarettes, or snuff.

In case of refusal or neglect to render any such statement as herein provided, or if there is cause to believe such statement to be incorrect or fraudulent, the collector shall make an examination of persons, books, and papers in the manner provided by law in relation to frauds and evasions of internal-revenue taxes.

SEC. 17. The special additional excise tax on tobacco, cigars, cigarettes, and snuff shall be paid on or before the 10th of April, July, October, and January for the previous calendar quarter, and, in enforc-

ing this act and in the collection of this tax, all existing provisions of law relating to the collection of internal revenue are hereby made applicable, and the commissioner is hereby authorized to make and enforce proper regulations to carry these provisions into effect.

Mr. HITCHCOCK. Mr. President, I want to say briefly in explanation that I feel justified in offering this amendment to this bill for the reason that it is not competent in this body to offer a measure to raise revenue. The only possibility is to attach such a proposition to some measure which comes from the House of Representatives.

As to the existence of the so-called Tobacco Trust there is no doubt. The Supreme Court, something over a year ago, I think, declared the existence of a Tobacco Trust and decreed its dissolution. It has been evident since that time that, through mistake or lack of judgment or connivance or in some other way, the dissolution, as agreed upon before the court by the representatives of the Government, was a practical evasion of the law. The great American Tobacco Co., which was ordered dissolved, was divided by agreement and under the sanction of the court into certain parts. Those parts exist to-day; but their business, instead of being injured, has apparently been improved.

Their stock, which had had a value largely due to monopolistic control of the market, not only has that value to-day, but has an increased value in the various companies which have grown out of that dissolution. We find the greatest of these new companies—the American Tobacco Co.—now controls 37 per cent of the cigarette business of the country; the next in size—the Liggett & Myers Tobacco Co.—controls 28 per cent of the cigarette business of the country; the third in size—the Lorillard Co.—controls 15 per cent of the cigarette business of the country. In smoking tobacco, plug and fine cut, the control is almost equally absolute.

The stock of the American Tobacco Co. is listed upon the stock exchange at 302 and has been rising in value; the stock of Liggett & Myers is listed at 205 and has been rising in value; the stock of the Lorillard Co. is listed at 191 and has been rising in value, notwithstanding the fact that before these companies were formed stock dividends were declared in the subsidiary companies and the stocks of those subsidiary companies were distributed.

In the report of the Commissioner of Corporations it is shown with some particularity that a large portion of the value of the stock of the original Tobacco Trust and of the present tobacco companies is due to monopolistic control; it is shown that the Tobacco Trust earns a profit two and one-half times larger than the profit of the independent companies; it is shown that the business of the independent companies is so small and so insignificant by comparison as hardly to cut a figure in the great tobacco business of the United States.

While the American Tobacco Co. produces over three thousand million cigarettes a year and does an annual business in smoking, plug, and twist, and fine-cut tobacco amounting to 119,000,000 pounds a year, the largest independent concern does a business of less than 10,000,000 pounds a year, and 48 of the largest independent tobacco manufacturers do a business altogether of only 48,000,000 pounds of tobacco a year.

It seems to me if we could pick out an instance of a trust controlling and dominating the market this is the one. We have here a trust already subject to the payment of taxes; we have a trust whose business is thoroughly known to the Government; we have a trust which is already under the supervision of Government officials, and simply by empowering those officials to collect from this trust or from the four companies which make up the trust in the tobacco business a graduated tax in proportion to their business, on a rate which rises as the product increases, we shall put into the hands of the Commissioner of Internal Revenue the power to render that business unprofitable and impossible. In the beginning the tax of 1 cent a pound additional will assist the weaker companies in competition, but as the production rises a point will be reached where the trusts will find it just as unprofitable to do business as the State banks found it unprofitable to issue notes and pay an annual tax of 10 per cent upon them.

If we are in earnest, if we want to put in motion a force which will destroy this trust and restore competition to this one branch of manufacture in the United States, here is our chance. Here is a power which has been thoroughly recognized and often exerted, a power which has been established by the decisions of the Supreme Court of the United States. We may legislate for years on the trust question; we may keep the courts busy in the prosecution of trusts, but we know by experience that a large part of our efforts go for naught.

I recognize the fact that some may consider this experimental. It is not experimental, however, because it is analogous to other instances in which we have exercised the taxing power in a similar manner.

Some one said to me that this will have a tendency to increase the price of tobacco to the consumer. I deny it. The price of tobacco to the consumer during the last 20 years has largely increased and the quality has deteriorated. As we all know, through the domination of this trust the tobacco growers have suffered because they have had only one market in which to sell their tobacco product. If we can free the market from the domination of this trust, if we can restore competition in the manufacture of cigars and tobacco, we can make a free market for the growers of tobacco and the independents will increase and develop their business up to the point of the 20,000,000 pounds a year which I have mentioned in the amendment and become prosperous concerns.

What is the history of the growth of the Tobacco Trust? When the Tobacco Trust was first conceived in 1890 and developed through the nineties up to 1904, the industry of manufacturing tobacco existed in many States in the Union; but as the trust secured control of various factories it closed them, closing as many as 30 in a short period of time; as we know, it invested something like $50,000,000 in buying them up and closing them. The result is that instead of having tobacco manufacturing establishments located in different parts of the country where the tobacco is raised, factories appropriate to the neighborhood, factories calculated to use the product of the neighborhood and market it effectually, we have had a great concentration of that business, and there is no longer that diffused manufacture of tobacco.

I shall not take the time of the Senate to go into the further history of the development of this trust, nor shall I take the time of the Senate to argue the wisdom of doing something which will really affect the trust, but I want to say to those who come from States where tobacco is raised that they can confer no greater benefit on their constituents than to restore to the tobacco market a competitive condition and not permit these four behemoths to monopolize the field as they do now.

Let me state something of what the present condition is. The American Tobacco Co. produced in 1910, the last year for which I have the statistics, 3,250,310,000 cigarettes. On them it paid a tax to the Government under the present law of $4,006,637. Under my bill, if it continues to manufacture as many cigarettes, it would pay $6,807,257 additional.

I have no idea that it would continue to pay such a tax or that it could pay it and exist. It would be compelled to enter into a real dissolution, it would be compelled to sell its factories and divide its properties into competing bodies.

During the same year the American Tobacco Co. manufactured 119,000,000 pounds of tobacco in various forms, on which the tax paid was $9,532,320. Under my amendment it would have $5,349,240 additional to pay. Altogether that company paid to the Government $13,664,732 internal revenue taxation, while under my amendment they would have something like $12,000,000 taxes additional to pay if they continued to do this huge business.

The figures for Liggett & Myers, the Lorillard Co. and the R. J. Reynolds Co. are similar, although somewhat smaller.

The condition in the snuff market is even more extreme. The total manufacture of snuff is something over 31,000,000 pounds a year. Three companies manufacture 29,000,000 pounds, absolutely monopolizing and controlling the market. These three great tobacco companies have identical stockholders, whether their directors are identical or not. I have provided in my amendment that where a company has control of another company, through lease or contract or in any other way, the product of the two companies shall be added to compute the rate, and where the stockholders are identical in two companies to the extent of 25 per cent the rate shall also be fixed in the same way, that is they shall be considered for the purpose of this law as belonging to the same manufacturing corporation.

I am sorry that I have not had the opportunity to have my amendment printed and submitted to Senators, but I believe that the power to tax being the power to destroy is a power that ought to be used in connection with those trusts that we are not able to reach in any other way.

Mr. BAILEY. Mr. President, when the Supreme Court of the United States used the expression with which the Senator from Nebraska concluded his remarks, it held the tax invalid for the very reason that it was an attempt to destroy. I think, however, that if the Senate should choose to levy the tax proposed the court would sustain it, although I venture that opinion with some hesitation, because I have not carefully examined the amendment of the Senator. But I rose to say that if the Senate intends to make an experiment of that kind, why does it not select some of the great corporations which are dealing in the necessaries of life or industry? So far as I am concerned, although I am in a small way a victim of it on ac-

count of my smoking habit, I care less about the Tobacco Trust than I do about any other trust in existence, because whatever a man pays to it or whatever a man pays to the Government in the way of taxation on tobacco is a voluntary payment. We are not compelled to patronize it, though the habit of using tobacco has become so general that a tax upon it is a tax of almost universal application. If the Senate desires to make an experiment of this kind it ought to select some enterprise in whose prices the people have a deeper interest.

Of course, every Senator knows that I am bound by my rules against using the taxing power to accomplish what the Senate has no power to accomplish directly. The Senate would have no power to say that no tobacco company should manufacture beyond a certain quantity of tobacco, cigars, or cigarettes, and I think it dangerous to assume that power by indirection, because I think it will be extended just as the Senator now proposes to extend it.

I resisted the tax on oleomargarine. I contended what the Senator now says, that the whole purpose of it was to give the dairies an advantage in competition with the manufacturers of oleomargarine. I resisted the tax obviously levied for the purpose of preventing the manufacture of matches by a certain process. And so I will resist this tax.

If the Democratic Party has any principle left and well settled, it is that the Government ought to do directly whatever it does, so that whatever it does can have a fair scrutiny and a fair determination in the courts of the land. But if we have this power and are to exercise it, I am very much inclined to make the tax on cigarettes absolutely prohibitory. If we are going into this business, let us destroy all commerce in that injurious article.

But I am one of those old-fashioned Democrats who believe that the best way to correct a bad habit is to leave it to a wholesome public sentiment, and if we must invoke any law I am inclined to invoke the police power of the State. But if we are to concede it to the Federal Government, why not dig up the cigarette industry by the root and throw it away? I want to admonish my friend from Nebraska and all my other friends here that as soon as they establish this principle our prohibitionists will be clamoring at the doors of the Senate Chamber for a tax on the manufacture of liquor, on the sale of it, and on the transportation of it that will be in effect a national prohibition law; and you will not be able to place any limit to this kind of legislation.

I want to say to the Senator from Nebraska, besides, that to levy a tax of this kind is simply to give one dealer an advantage over another dealer. Now, if the Senator answers that statement with the reply that it is giving an advantage to a lawful dealer as against an unlawful dealer, I say that the way to end unlawful business transactions in this country is not through the taxing power, but it is through criminal prosecutions under the antitrust law itself.

I have about reached the point where I am willing to take out of the antitrust law its fines and compel the men who organize and operate the trusts of this country to face prosecution in the criminal courts, and, in my opinion, that is the only way to finally and effectively establish the policy of that law. As long as men are permitted to form and operate these trusts and to pay a fine to the Government they will continue to organize and operate them, because when the Government fines them they simply fine the people; and the very purpose of a trust being to obtain such a control over the market that it can limit supply and fix prices, of course whenever the Government punishes a corporation or a combination of that kind by a mere fine, that combination possesses the power to take that fine out of the pockets of the people, and it will always take it out with a usurious interest.

Mr. HITCHCOCK. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Texas yield to the Senator from Nebraska?

Mr. BAILEY. Certainly.

Mr. HITCHCOCK. I call the Senator's attention to the fact, however, that the method which I propose here is one which the trust can not use in that way. It can not pass the tax on to the consumer.

Mr. BAILEY. That will depend on whether the independents, having the price of their chief competitors' articles raised, will follow that rise in the price. Now, unless human nature has changed it will do it, because we know what has happened. For instance, in the steel industry all the independents say that they follow the prices fixed by the great corporation. We know what has happened in the oil industry. All independents follow its prices.

Mr. HITCHCOCK. Let me stop the Senator right here.

Mr. BAILEY. Yes.

Mr. HITCHCOCK. That happened for the reason that the Steel Trust and the Oil Trust are able to manufacture much cheaper, as we have demonstrated, than the smaller independent companies. But by this tax we propose to make the manufacture so much more expensive that that will now be impossible. It will not be possible for the Tobacco Trust to hold an umbrella over those small companies, as the expression goes, for the reason that the tax is so high as to make the manufacture so inviting that the field will undoubtedly be filled, and these independent companies, now numbering even less than a hundred, certainly only 48 of any size, will increase and multiply and restore the condition which existed prior to 1890, when, as we all know, the conflict between them was fierce and broad.

Mr. BAILEY. I think the Senator will find himself mistaken in the assertion that the Steel Corporation, which is commonly called the Steel Trust, manufactures all of its commodities more cheaply than do some of the independents.

I think it will be found upon an investigation that this enormous organization has not economized the cost of production to anything like the extent it was prophesied; and whether it has or not, it is still true, as I said a moment ago, that the smallest concerns follow its price list, and the testimony is abundant in the hearings before the committees of the two Houses of Congress that there is no substantial competition, some of the smaller concerns going so far as to say that if they attempted to undersell the greater concern the greater concern would undersell them and take their trade away from them.

I do not believe we can safely calculate that the independent or smaller concerns, when the price of tobacco is raised by their larger competitor, will necessarily stop where they are now and suffer their competitors to be destroyed by the tax.

Mr. HITCHCOCK. I think the Senator possibly has misunderstood the effect of this amendment. I had intended to make it so high as to become prohibitory and force a dissolution of the trust.

Mr. BAILEY. In other words, the Senator is trying by a tax to control the manufacture of an article in a State. I think Congress has no power to do that.

Mr. HITCHCOCK. It is now highly profitable to manufacture on an enormous scale, and it will, by operation of this tax, become unprofitable to do it. It will become more profitable to the smaller companies to manufacture in smaller amounts.

Mr. BAILEY. That is simply a confiscation of property. If the companies against which this amendment is aimed are guilty of a crime, I would not only confiscate their property in fines and penalties, but I would put the men who have organized and who are operating those combinations in the penitentiary. That is the way to do that—not misuse the taxing power of the Government. If these tobacco companies are still in an unlawful combination, the antitrust law can be enforced against them, and it ought to be enforced against them with the greatest severity; but if they are now conducting their business in obedience to the law, this discriminating tax upon them is indefensible from every point of view.

Mr. HITCHCOCK rose.

Mr. BAILEY. If the Senator will permit me just to finish——

Mr. HITCHCOCK. Certainly.

Mr. BAILEY. Mr. President, I have heard much about the necessity of amendments to the antitrust law. I am one of the men who believe that it needs thorough enforcement rather than amendment. If the men who are engaged in violating it were properly admonished—and there is but one admonition that is sufficient to them, and that is to put every one of them in the penitentiary as fast as you can get to them—if they are properly admonished that it is just as dangerous to the liberty of a man to organize and operate a trust in this country as it is to steal a horse, I think they will desist. I believe it is worse, morally and legally, because the theft of a horse inflicts an injury only upon the man whose horse is stolen, while a violation of the antitrust law in this country, assuming that that law is founded upon a just and wise policy, not only inflicts an injury upon the thousands and millions of men and children from whom it exacts unlawful tribute, but it works an injury to the Government itself in a hundred ways; and in no way is that injury more impressively illustrated than by the proposition now presented to the Senate by the Senator from Nebraska. We are tempted to wrest the law from its true course and make it serve a purpose outside of its true function and its constitutional authority.

The one amendment to the antitrust law that I would make would be this: I would provide—and it would be merely a short additional section to the bill—that whenever any firm, corporation, or person should be found guilty of violating that law the

court should forthwith appoint a receiver, and that the receiver should proceed without undue delay to dispose of the property at public sale and distribute the proceeds among the stockholders, after the expenses of the proceeding has been satisfied. If we adopt that amendment, and if we will enforce the criminal provisions of that law, trusts will disappear from our commercial life. Just as now the managers and owners of those trusts go as far beyond the law as they dare to go without compelling the Government to take notice of their transgressions, so under a system such as I have suggested they will keep as far inside the law as is necesary to insure their safety against prosecution by a reasonable officer and insure their requittal if they happen to be prosecuted by some man who is unreasonable.

These men for the sake of enormous profits promised by these combinations will not take the chance of individual imprisonment, nor will they take the chance of the destruction of their property values. If we will adopt that simple amendment and set our faces resolutely to the enforcement of the law, we can destroy the trusts.

If we do not do that, the trusts will destroy this Government. The injustice which they practice upon their customers and the destruction wrought among their competitors are all stupendous and awful in their consequences; but, sir, to see a great government like this confess before the world its impotency to deal with any crime, admitting that it can not enforce its statutes, to confess publicly to the world that it is so deficient in its wisdom that it can not devise a law to destroy these commercial outlaws without devising one that will likewise destroy this Government, is the tragedy of this century.

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

Mr. HITCHCOCK. On that I ask for the yeas and nays.

The yeas and nays were not ordered.

The amendment was rejected.

Mr. FLETCHER. I desire to submit an amendment which I presented yesterday. It is printed, and is a reproduction of section 38 of the tariff law of 1909. I do not believe it will be objected to.

The PRESIDENT pro tempore. The Secretary will read the amendment.

The SECRETARY. On page 4, line 13, insert the following:

And provided further, That nothing in this act contained shall apply to labor, agricultural, or horticultural organizations, or to fraternal beneficiary societies, orders, or associations operating under the lodge system and providing for the payment of life, sick, accident, and other benefits to the members of such societies, orders, and associations and dependents of such members, nor to domestic building and loan associations organized and operated exclusively for the mutual benefit of their members, nor to any corporation or association organized and operated exclusively for religious, charitable, or educational purposes no part of the net income of which inures to the benefit of any private stockholder or individual.

Mr. SIMMONS. Mr. President, I think this amendment is substantially the same as that in the present excise law applying to corporations. It extends that provision to these associations when not organized into corporations.

On the part of the minority members of the committee I am authorized to say we have no objection to the amendment.

The amendment was agreed to.

Mr. CLAPP. Mr. President, when the Payne-Aldrich bill was passed the so-called corporate tax came in with an exemption of holding companies from the payment of the tax for the privilege of doing business as a corporation.

On the floor of the Senate we struck out the exemption. It was put back in conference without any authority, in excess of the authority of the conferees. I gave notice the other day that I would offer an amendment to the House bill now under consideration, repealing the exemption in the tariff law on the holding company, but I find upon examining the House bill that that not only repeals it, but, I think, very much improves it, as it passes the tax, which under the law sought to be repealed would be paid by the holding company, over to be paid by the stockholders in the trust or holding company, and can not as easily be passed back upon the consumer.

Therefore I will not offer my amendment, and I commend the House bill in that particular respect.

Mr. CUMMINS. I offer an amendment to the House bill. It is the measure offered yesterday in connection with the wool bill, creating a tariff commission. I do not believe it is necessary to have it read to the Senate. It was read twice yesterday, I think. Every Senator is familiar with it. I hope the Senator in charge of the bill will accept it, so that we may avoid any more discussion about it.

The amendment of Mr. CUMMINS was to insert at the end of the bill the following additional sections:

That a board is hereby created, to be known as the Tariff Board, which shall be composed of five members, who shall be appointed by the President, by and with the advice and consent of the Senate. The members first appointed under this act shall continue in office from the date of qualification for the terms of two, three, four, five, and six years, respectively, from and after the 1st day of July, A. D. 1911, the term of each to be designated by the President; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate a member of the board to be the chairman thereof during the term for which he is appointed. Any member may, after due hearing, be removed by the President for inefficiency, neglect of duty, or malfeasance in office. Not more than three members of said board shall be members of the same political party. Three members of said board shall constitute a quorum. The chairman of said board shall receive a salary of $7,500 per annum and the other members each a salary of $7,000 per annum. The board shall have authority to appoint a secretary and fix his compensation, and to appoint and fix the compensation of such other employees as it may find necessary to the performance of its duties.

SEC. —. That the principal office of said board shall be in the city of Washington. The board, however, shall have full authority, as a body, by one or more of its members, or through its employees, to conduct investigations at any other place or places, either in the United States or foreign countries, as the board may determine. All the expenses of the board, including all necessary expenses for transportation incurred by the members or by their employees under their orders, in making any investigations, or upon official business in any other places than in Washington, shall be allowed and paid on the presentation of itemized vouchers therefor, approved by the chairman of the board. Should said board require the attendance of any witness, either in Washington or any place not the home of said witness, said witness shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

SEC. —. That it shall be the duty of said board to investigate the cost of production of all articles which by any act of Congress now in force or hereafter enacted are made the subject of tariff legislation, with special reference to the prices paid domestic and foreign labor and the prices paid for raw materials, whether domestic or imported, entering into manufactured articles, producers' prices and retail prices of commodities, whether domestic or imported, the cost of transportation from the place or places of production to the principal areas of consumption, the condition of domestic and foreign markets affecting the American products, including detailed information with respect thereto, together with all other facts which may be necessary or convenient in fixing import duties or in aiding the President and other officers of the Government in the administration of the customs laws, and said board shall also make investigations of any such subject whenever directed by either House of Congress.

SEC. —. That to enable the President to secure information as to the effect of tariff rates, restrictions, exactions, or any regulations imposed at any time by any foreign country upon the importation into or sale in any such foreign country of any products of the United States, and as to any export bounty paid or export duty imposed or prohibition made by any country upon the exportation of any article to the United States which discriminates against the United States or the products thereof, and to assist the President in the application of the maximum and minimum tariffs and other administrative provisions of the customs laws, the board shall, from time to time, make report, as the President shall direct.

SEC. —. That for the purposes of this act said board shall have power to subpœna witnesses, to take testimony, administer oaths, and to require any person, firm, copartnership, corporation, or association engaged in the production, importation, or distribution of any article under investigation to produce books and papers relating to any matter pertaining to such investigation. In case of failure to comply with the requirements of this section, the board may report to Congress such failure, specifying the names of such persons, the individual names of such firm or copartnership, and the names of the officers and directors of each such corporation or association so failing, which report shall also specify the article or articles produced, imported, or distributed by such person, firm, copartnership, corporation, or association, and the tariff schedule which applies to said article.

SEC. —. That in any investigation authorized by this act the board may obtain such evidence or information as it may deem advisable, but said board shall not be required to divulge the names of persons furnishing such evidence or information; and no evidence or information so secured under the provisions of this section from any person, firm, copartnership, corporation, or association shall be made public by said board in such manner as to be available for the use of any business competitor or rival.

SEC. —. That said board shall submit the results of its investigations, as hereinbefore provided, including all testimony, together with any explanatory report of the facts so ascertained, to the President or to either House of Congress, from time to time, when called upon by the President or either House of Congress.

SEC. —. That upon the taking effect of this act the body now known as the Tariff Board shall transfer to the Tariff Board hereby created all such property and equipment, books, and papers as are now possessed or used by said first-mentioned board in connection with the subjects for which the Tariff Board is hereby created, and thereupon the said first-mentioned board shall cease to exist.

Mr. SIMMONS. Mr. President, I regret that I am not able to accept that amendment. I have no authority to accept the amendment.

Mr. CUMMINS. I do not intend to submit the matter at any length at all. The subject has been debated here very often. I believe there is a great necessity for the tribunal that is created by this measure, and therefore upon my amendment I ask for the yeas and nays.

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

Mr. BAILEY (when his name was called). I announce my pair with the Senator from Montana [Mr. DIXON] and withhold my vote.

Mr. BRADLEY (when his name was called). I again announce my pair with the Senator from Maryland [Mr. RAYNER] and withhold my vote. I would vote "yea" if I could.

Mr. WATSON (when Mr. CHILTON's name was called). I desire to announce the absence of my colleague [Mr. CHILTON]

on account of illness. He is paired with the Senator from Illinois [Mr. CULLOM]. If my colleague were present, he would vote "nay."

Mr. CULLOM (when his name was called). I am paired with the junior Senator from West Virginia [Mr. CHILTON] and therefore withhold my vote. I will allow this announcement to stand for the day.

Mr. MARTINE of New Jersey (when Mr. DAVIS's name was called). I desire again to announce the pair of the Senator from Arkansas [Mr. DAVIS] with the Senator from Kansas [Mr. CURTIS].

Mr. FOSTER (when his name was called). I have a pair with the junior Senator from Wyoming [Mr. WARREN]. He notified me that he would be absent from the Senate this evening on public business. I therefore withhold my vote.

Mr. CRAWFORD (when Mr. GAMBLE's name was called). I desire to announce that my colleague [Mr. GAMBLE] is necessarily absent. He has a general pair with the Senator from Oklahoma [Mr. GORE]. I will allow this announcement to stand for further roll calls.

Mr. LODGE (when Mr. MCCUMBER's name was called). The Senator from North Dakota [Mr. MCCUMBER] is necessarily absent to-day from the Senate Chamber. He is paired with the Senator from Mississippi [Mr. PERCY].

Mr. CHAMBERLAIN (when Mr. OWEN's name was called). The senior Senator from Oklahoma [Mr. OWEN] is paired with the senior Senator from Nebraska [Mr. BROWN]. If the senior Senator from Oklahoma were here, he would vote "nay." I desire to make this announcement for the day.

Mr. DU PONT (when Mr. RICHARDSON's name was called). My colleague [Mr. RICHARDSON] is absent from the city. He is paired with the junior Senator from South Carolina [Mr. SMITH]. Were my colleague present and free to vote, he would vote "yea."

Mr. SANDERS (when his name was called). I am paired with the junior Senator from Indiana [Mr. KERN] and therefore withhold my vote. I would vote "yea" if I were at liberty to vote.

Mr. SMITH of South Carolina (when his name was called). I have a general pair with the Senator from Delaware [Mr. RICHARDSON]. I transfer that pair to the Senator from Maine [Mr. GARDNER], and vote. I vote "nay." I will allow this announcement to stand for the balance of the day.

Mr. WETMORE (when his name was called). I have a general pair with the Senator from Arkansas [Mr. CLARKE], and therefore withhold my vote. If I were at liberty to vote, I would vote "yea."

I desire to state that my colleague [Mr. LIPPITT] is unavoidably detained from the Senate, and that he is paired with the junior Senator from Tennessee [Mr. LEA].

The roll call having been concluded, the result was announced—yeas 38, nays 29, as follows:

YEAS—38.

Borah	Crawford	La Follette	Pomerene
Bourne	Cummins	Lodge	Root
Brandegee	Dillingham	McLean	Smith, Mich.
Briggs	Du Pont	Massey	Smoot
Bristow	Fall	Nelson	Stephenson
Burton	Gallinger	Oliver	Sutherland
Catron	Gronna	Page	Townsend
Clapp	Guggenheim	Penrose	Works
Clark, Wyo.	Jones	Perkins	
Crane	Kenyon	Poindexter	

NAYS—29.

Ashurst	Hitchcock	Paynter	Swanson
Bankhead	Johnson, Me.	Reed	Thornton
Bacon	Johnston, Ala.	Shively	Tillman
Bryan	Martin, Va.	Simmons	Watson
Chamberlain	Martine, N. J.	Smith, Ariz.	Williams
Culberson	Myers	Smith, Ga.	
Fletcher	O'Gorman	Smith, S. C.	
Heyburn	Overman	Stone	

NOT VOTING—27.

Bailey	Curtis	Kern	Rayner
Bradley	Davis	Lea	Richardson
Brown	Dixon	Lippitt	Sanders
Burnham	Foster	McCumber	Smith, Md.
Chilton	Gamble	Newlands	Warren
Clarke, Ark.	Gardner	Owen	Wetmore
Cullom	Gore	Percy	

So Mr. CUMMINS's amendment was agreed to.

Mr. GRONNA. I offer the following amendment, which I ask to have read.

The PRESIDENT pro tempore. The amendment will be read.

The SECRETARY. At the end of the bill, after the amendment just agreed to, insert:

SEC. 10. That the act entitled "An act to promote reciprocal trade relations with the Dominion of Canada, and for other purposes," approved July 26, 1911, be, and is hereby, repealed: *Provided*, That from and after the passage of this act the duty on chemical wood pulp shall be one-twelfth of 1 cent per pound, dry weight, if unbleached, and one-eighth of 1 cent per pound if bleached; and the duty on printing paper, as described in paragraph 409 of the act approved August 5, 1909, shall be one-tenth of 1 cent per pound if valued at not above 3 cents per pound, two-tenths of 1 cent per pound if valued above 3 cents and not above 5 cents per pound, and 7½ per cent ad valorem if valued above 5 cents per pound.

Mr. GRONNA. Mr. President, I am not going into a discussion of this question, but I wish to say that it is one in which the people of the entire West are much interested and I trust the Senator in charge of the bill will accept the amendment. I ask the Senator from North Carolina if he will be kind enough to accept the amendment.

Mr. SIMMONS. The Senator from North Carolina has no authority from the minority members of the committee to accept the amendment.

Mr. GRONNA. I then ask for the yeas and nays on the amendment.

Mr. BACON. Mr. President, I offer an amendment to the amendment. It is to strike out the proviso and insert in lieu thereof the words I send to the desk.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The SECRETARY. Strike out the proviso and insert in lieu thereof the following:

Except so far as the same concerns the provisions of said act relating to wood, wood pulp, and printing paper.

The PRESIDENT pro tempore. The question is on agreeing to the amendment to the amendment. [Putting the question.] The "noes" appear to have it.

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

The yeas and nays were ordered.

Mr. BACON. Mr. President, I simply want to say that of course the amendment is very hastily drawn, but I think it is in language which covers the point. I have not the act before me, and I do not know that I correctly designate the several subjects, but it is according to my recollection of the provisions in that act so far as they relate to the importation of wood, wood pulp, and print paper. I am not sure whether there is any other subject which should be designated in order to cover the design of the exception.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Iowa?

Mr. BACON. I do.

Mr. CUMMINS. I want to know just what the Senator from Georgia intends by this amendment? Does he intend to establish free print paper?

Mr. BACON. I intend that the act known as the reciprocity act shall remain unchanged so far as its present terms relate to those subjects. In other words, if we repeal the act generally, I propose that that much of it shall be retained.

Mr. CUMMINS. As I remember it, the act provides that from certain parts of Canada and under certain conditions paper may come in free, but from all other parts of Canada and in the greater part of Canada the paper does not come in free, but comes in under a duty of $3.75 a hundred, or $6 a hundred.

Mr. BACON. I have not the act before me, but I will state as plainly as I can that the purpose is to retain so much of the act as relates to those subjects. If hereafter——

Mr. CUMMINS. If the Senator desires a low duty on paper, does he not believe that the amendment proposed by the Senator from North Dakota, which makes a low duty upon all paper coming either from Canada or anywhere else, without regard to conditions, will be better for those who use paper than though the free entry of paper from a small part of Canada were to continue and the high duty remain as to all other parts of the world?

Mr. BACON. My idea is this: So far as the repeal of the reciprocity agreement with Canada is concerned, I care nothing for it; I am perfectly willing to vote to repeal that part of the act. But the other part is a part which really belongs to a revenue bill. In fact, it does not belong here. It does not affect the question of the repeal of the reciprocity features of the act, so far as they are limited to the questions of reciprocity. Therefore I am ready to join the Senators who desire to repeal so much of the act as proposes to establish reciprocal relations in matters of imports and exports between the two countries. I am ready to join with them on that; but this is a separate and independent matter, and we can very well leave all the questions as to duties on wood pulp and wood and print paper to be dealt with in connection with the tariff bills.

Why should we force the question now as to what customs duties shall or shall not be imposed on any particular articles, when the purpose of this proposed legislation is simply to get rid of the matter of reciprocity? I am ready to join with Sen-

ators and vote for a repeal of the reciprocity act as to everything which properly and exclusively belongs to reciprocity.

But here is a matter which does not belong exclusively to that. It is a matter in which very large industries in this country are very closely concerned. Even if it is not now in the shape the Senator from Iowa and others might desire it should ultimately be, let us confine ourselves to the question of the repeal of the reciprocity law, so far as it proposes to establish reciprocity in the matter of customs duties, and save all these other things for future consideration.

I am not prepared to discuss the question which the Senator now suggests to me as to whether there should be a change in that particular part of the law which relates to wood, wood pulp, and free paper, but it does not properly belong to what is the actuating motive of Senators. Senators are opposed to the provision under which reciprocity is made possible whenever Canada shall agree to it, if she should ever do so. I want to exclude the possibility that by Canada's action we may be hurried into that.

I will say that I speak only for myself, because I have never had an opportunity to confer with Senators on my side of the Chamber. I did not know that this matter was to be now brought up; but it does strike me, Mr. President, if the purpose of Senators who propose this amendment and who desire to support it is that reciprocity shall be repealed, they can do it by adopting my amendment; and then hereafter let us meet the question as to what duty shall be imposed upon wood and wood pulp and print paper and not destroy the whole of it when it is not within the contemplation and purpose of Senators to do that, when their main purpose is simply to get rid of reciprocity. For myself, I am ready to join them on that, but I do not think we ought now to go further than that.

Mr. WILLIAMS. Mr. President, I am in favor of keeping this free-print-paper provision as passed in the Canadian reciprocity act upon the statute books as an everlasting demonstration of the falsity of Republican pretenses. While the matter was up for consideration in the Committee on Finance and in the Senate we were told every day that if that provision were passed all the paper manufacturers in the United States would have to go out of business. The provision was passed. It has been in existence now for a long time—just exactly how long I do not remember; I believe a year or more—and so far as I know no paper-manufacturing concern has gone out of business or has been in anywise disturbed except, perhaps, as to some undue profits; it has not been in anywise unduly disturbed, to use the proper language.

Whenever it is proposed to reduce a tariff tax some so-called witness comes up before the Finance Committee and bears so-called testimony to the effect that if taxes upon the people at large are reduced some particular business or industry will have to cease to exist. That is exactly what took place in this particular case, and here is the everlasting demonstration of the falsity of the pretense. I want it to stay upon the statute book as a demonstration for all time of the falsity of at least one of these hothouse-industry pretenses.

Moreover, Mr. President, the tax upon print paper is a tax upon knowledge, upon the spread and dissemination of information. It is a tax upon the newspaper business. I know that whenever a man seeks to be relieved of a tax he stands, in the minds of those on the other side of the Chamber at any rate, suspected of lack of patriotism; suspected of selfishness or something else; but whenever he seeks to have a tax increased in order that his business may be hothoused into a degree of prosperity which without law it could not enjoy, he is a patriot, taking care of American industries. When he comes forward seeking to have a tax removed in order that his business may be improved, he is suspected of all sorts of incivicism. I hope that the law removing this tax will be kept upon the statute books for all time, in order to prove how absolutely false were the pretenses of those who opposed the Canadian reciprocity bill in the only respect in which the Canadian reciprocity bill has taken effect.

Mr. SMITH of Georgia. Mr. President, I am not familiar with the details or the provisions contained in the reciprocity act as a consequence of which the price of paper has been somewhat lowered. I understand, however, that there is a provision lessening the tax upon wood pulp or some element used in paper manufacture which has caused the reduction in the price of paper. So I have been advised by men who purchase large quantities of paper.

I am opposed, as is the senior Senator from Georgia [Mr. BACON], to the repeal of any portion of the reciprocity act that in specific terms lowered the tariff tax and has gone into effect. I am perfectly willing to join the Senator from North Dakota [Mr. GRONNA] to repeal the remainder of the reciprocity act, and I will vote to do so.

It seems to me that the provision affecting wood pulp and paper could properly be eliminated from the amendment of the Senator from North Dakota. It also seems to me that this is a mighty good place to put on the other portion of his amendment, with a view of getting it through and having it approved. I do not believe that Senators on this side of the Chamber, or Democrats generally, can agree to a repeal of the reciprocity act carrying with it certain reductions in wood pulp and print paper. I understand that is the objection to repealing the reciprocity act; but modified in the manner indicated, I think the Senator can get all he is really desirous of accomplishing.

Mr. GRONNA. Mr. President——

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

Mr. SMITH of Georgia. Yes.

Mr. GRONNA. I will say to the Senator from Georgia that in the amendment I have offered there is a great reduction in the rates on wood pulp—a reduction from $3.75 to $2 a ton—and a reduction on print paper in proportion. So far as I am personally concerned I would have no objection to accepting the proposition made by the Senator from Georgia, but the question is whether or not it would be treating this industry right.

Mr. SMITH of Georgia. The reduction has gone into effect, but the industry is prospering; contracts have been made in consequence of it; there is no financial loss anywhere, and I know there is serious objection in certain quarters to a modification of that part of the reciprocity act.

Mr. GRONNA. I will say to the Senator from Georgia that the law has not been on the statute books long enough to have any effect. I know that under the favored-nation clause in certain treaties foreign countries are demanding the same right that Canada has under the reciprocity law. If their demands are granted, it will be shown whether the law will have a bad effect or not.

Mr. SMITH of Georgia. I do not believe it is going to be possible, or, at least, I am afraid it is not possible to get through the amendment of the Senator in the form it now is. I do think he can get through all of that portion in which he is especially interested. I think he can get through a provision which will repeal the features of the reciprocity act which concern the farmers of his State.

Mr. GRONNA. I can say to the Senator that, personally, I should have no objection to that, but I only have one vote, and I take it that other Senators would object.

Mr. BACON. The Senator has a right to modify his amendment if he wishes to do so.

Mr. SMITH of Georgia. If the Senator will modify his amendment along the lines suggested by the senior Senator from Georgia in the manner referred to by me, I will vote for it.

The PRESIDENT pro tempore. The Senator from Georgia demands the yeas and nays on the amendment to the amendment.

Mr. THORNTON. Mr. President, I wish to define my position on this matter. The Canadian reciprocity bill as passed provides that paper and wood pulp shall be admitted into the United States from Canada free of duty, while Canada still retains her tax against identically the same products going from the United States into Canada. For that reason I voted for the Root amendment, which would have removed that feature of the bill, stating when I did so that, in my opinion, the reciprocity agreement gave so many more advantages to Canada than it did to the United States I did not wish it to give any more than could possibly be helped. The Root amendment provided that the section of the bill relating to print paper and wood pulp should be operative only when Canada removed her restrictions against importations of the same products into her territory from the United States.

I am not willing to allow the free importation of anything from Canada into this country when Canada puts a tax on identically that same product imported from this country into Canada. For that reason, I am opposed to the amendment of the Senator from Georgia.

The PRESIDENT pro tempore. Is the demand for the yeas and nays seconded?

Mr. SHIVELY. Mr. President, I should like to have the amendment to the amendment offered by the Senator from Georgia stated.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The SECRETARY. It is proposed to amend the amendment offered by Mr. GRONNA by striking out the proviso in that amendment and inserting the words:

Except so far as the same concerns the provisions of said act relating to wood, wood pulp, and printing paper.

So that if amended it will read:

SEC. 10. That the act entitled "An act to promote reciprocal trade relations with the Dominion of Canada, and for other purposes," approved July 26, 1911, be, and is hereby, repealed except so far as the same concerns the provisions of said act relating to wood, wood pulp, and printing paper.

Mr. SHIVELY. Mr. President, I suggest to the Senator from Georgia that the word "pulp" ought to go in before the word "wood."

Mr. SMITH of Georgia. I was going to suggest that instead of the language used by the senior Senator from Georgia. I would say "with the exception of the provisions of section 2," which is the section on that subject and the only section which the amendment to the amendment affects.

Mr. BACON. Mr. President, I will read the second section of the act, if the Senate desires, to see whether that would be more desirable than the language proposed by me. The second section reads:

SEC. 2. Pulp of wood mechanically ground; pulp of wood, chemical, bleached, or unbleached; news print paper, and other paper, and paper board, manufactured from mechanical wood pulp or from chemical wood pulp, or of which such pulp is the component material of chief value, colored in the pulp, or not colored—

And so on.

I think, Mr. President, it is necessary to have the language which I have employed in the amendment, because of the fact that this section is not complete in itself. It necessarily relates to other parts of the act.

The Senator from Mississippi [Mr. WILLIAMS] suggests that the words should be "pulp wood, wood pulp, and print paper." I will change it in that respect.

The PRESIDENT pro tempore. The amendment as modified will be stated.

The SECRETARY. As modified, the amendment to the amendment reads:

Except so far as the same concern the provisions of said act relating to pulp wood, wood pulp, and print paper.

Mr. REED. Mr. President, so far as I am concerned, I want the newspapers and periodicals of this country to be able to acquire their paper and the paper mills to acquire wood pulp as cheaply as possible. A trial of this feature of the law has wrought no devastation such as was prophesied. But, further than that, I believe that the people of the United States are entitled to buy foodstuffs as cheaply as they can; and if Canada shall hereafter accept the reciprocity proposition, and if it shall in some measure reduce the cost of living to the people of the United States, then, in my judgment, we ought to have that advantage. I do not believe that any nation ever enriched or blessed its population by making the food of the people higher than it ought to be.

I represent in part a great agricultural State, and I can say for the people of that State that they do not fear the competition of Canada. They do not fear the competition of any country; and if it be true that reciprocity with Canada would afford a wider market in which our people could buy the necessities of life, I am willing that they shall have that advantage, and I am not willing to vote for the amendment offered by the Senator from North Dakota.

Mr. WILLIAMS. Mr. President, I understand to some extent, not fully, the feeling that actuates a man when he has done a right thing and it is proposed to reverse it because some other party interested in the transaction has refused to join him in doing it. There is an imaginary line between the United States and Canada; conditions of labor are pretty much the same in both countries; social conditions are pretty much the same, especially after you leave the Province of Quebec toward the West. So far as I am concerned—and I wish to put the opinion upon record—I am perfectly willing to hold out the glad hand to Canada throughout all our national history. I am perfectly willing to allow an invitation to stay upon the statute books, to be accepted by her whenever she pleases, for free trade between the two countries, and, as next to that, a provision allowing opportunity for the kind of reciprocity to which we have agreed. I am myself a farmer.

Mr. GRONNA. Mr. President——

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

Mr. WILLIAMS. One word and I will yield to the Senator. I am myself a farmer. All of my income outside of my salary depends upon the production of textile stuff and foodstuffs. I am handicapped by the necessity of producing them with remarkably inefficient labor, a very cheap labor in the sense of being a low-cost labor per week, per month, and per year, but a very high-priced labor in the sense of being inferior; but, notwithstanding that handicap, I have never been able to see how any Canadian could hurt me in the production of any foodstuffs that I raise.

Moreover, I want to add this, Mr. President, whether any Canadian could or could not injuriously affect me, humanity speaks always in favor of cheap foodstuffs to the poor in every country. No man has a right by law to make the price of meat and bread higher than nature has made it for the poor who inhabit the great cities and work in the great factories. There are no great cities in my State; there are no great factories there; there is no labor vote there; so that I can not be suspected of knuckling to any demand from that class of people; but it is a demand of humanity, it is the demand of ordinary fellow-feeling between one man and another that men, women, and children shall have bread and meat just as cheaply as they can get it by the joint production of the entire world engaged in producing bread and meat. Now I yield to the Senator from North Dakota.

Mr. GRONNA. Mr. President, I understood the Senator from Mississippi to say that he was perfectly willing to have free trade between Canada and the United States. Am I right?

Mr. WILLIAMS. Perfectly.

Mr. GRONNA. Then, does not the Senator from Mississippi think that we ought to repeal the reciprocity law in order to get free trade?

Mr. WILLIAMS. If I thought——

Mr. GRONNA. The Senator from Mississippi knows, if he will allow me, that the present reciprocity law proposed to tax the American farmer on the manufactured article and to grant free trade only in agricultural products.

Mr. WILLIAMS. Mr. President, if I thought that by repealing the reciprocity law I could procure free trade across the great imaginary boundary between the United States and Canada, between two great English-speaking peoples, two great pioneer civilizations in the New World, I would be perfectly willing to repeal it.

The Senator adds that the reciprocity act proposed to tax the American farmer. When that act was passed nobody proposed to tax the American farmer. If the provisions of that act would have any effect at all it would be to untax the American consumer of meat and bread and other products affected by the Canadian reciprocity bill.

Mr. President, if anyone contends that because by operation of a tax law any man engaged in any species of production having received a legally conferred special privilege, is taxed by withdrawing in whole or in part that legally conferred special privilege, then the suggestion made by the Senator from North Dakota is well taken; but if that be not true, it is not well taken at all.

One more word in that connection. The Senator from Louisiana [Mr. THORNTON] a moment ago said—and in effect the Senator from North Dakota has followed it up—that since the Canadians would not agree to remove some duties existing there, we ought not to remove the duties existing here. In other words, if the Canadians are unwilling to relieve themselves as consumers of a tax burden, we therefore ought not to relieve ourselves as consumers of a tax burden.

I do not see any sense in that. I never have seen any sense in it. So far as I am concerned, I would have voted, without any reciprocity feature at all, for the reduction of every duty contained in the reciprocity bill if Canada had not been concerned in it. I would have done it, because it was a relief to the American people, and I do not conceive that this great Government was organized for the purpose of enabling a few people along the border to make undue profit in the industries in which they are engaged by aid of operation of law.

Gentlemen talk as if we were depriving them of some natural privilege. We are not. They talk as if we were depriving them of some vested right. We are not. We are merely putting them upon a footing of equality with their neighbors across the border. Equality, did I say? Yes; so far as law is concerned. Equality in any other way? No. You have the advantage of climate; you have an equally good soil; you have equally efficient and equally intelligent labor; you have equally efficient and intelligent operators of capital. So far as nature is concerned you have the advantage which God has given you in sunlight, in heat, and in climate—in every way.

Mr. GRONNA. Does the Senator from Mississippi believe it is fair to the American farmer to compel him to buy his machinery in a protected market and to sell his products in a free-trade market?

Mr. WILLIAMS. No; I do not.

Mr. GRONNA. Is not that true in this particular case?

Mr. WILLIAMS. To a certain extent the Senator from North Dakota is now right, but the remedy for the evil is not by keeping upon the statute books a tax law which enables the farmer to enjoy an unnatural, artificial, law-conferred privilege, but the remedy consists in reducing to the revenue point the duty upon the articles which he must buy; and for that this

side of the Chamber stands. After the 4th of March next we will give the Senator from North Dakota the relief which he is seeking. We will not give it to him in the way in which he is seeking it, but we will give it to him by reducing the duties upon the things which the farmer must buy.

It is absolutely unfair, it is absolutely inequitable, it is absolutely unequal, to make the farmer sell in a free market and buy in a protected market. But the remedy is not the remedy suggested by the Senator from North Dakota. The remedy is to keep upon the statute books what we have now in the interest of freer trade, and to follow it up with more statutes still more in the interest of freer trade upon certain articles, to wit, the articles which the farmer must buy.

Mr. GRONNA. May I further interrupt the Senator from Mississippi?

Mr. WILLIAMS. My friend the Senator from North Dakota may always interrupt me.

Mr. GRONNA. I do not think that the Senator and I differ upon the real fundamental principle. I am a protectionist and he is a free trader, and I will say this to the Senator from Mississippi——

Mr. WILLIAMS. I would be a free trader if I had any other way of getting national revenue, but I have not.

Mr. GRONNA. I will say to the Senator from Mississippi that if I can not have the protection of agricultural products as well as of the manufactured articles, then I want to be a free trader.

Mr. WILLIAMS. Now I am in still greater agreement with the Senator from North Dakota, and I hope that he can not have the protection upon agricultural products, because if he does not have it then he will join the right school of politics later on and will become a free trader to the full extent under the construction which the Supreme Court has placed upon the Constitution.

The Senator asked me if I was in favor of free trade. There are a whole lot of people now who pretend to be afraid of the word "free." I am in favor of a free press; I am in favor of free speech; I am in favor of freedom of religion; I am in favor of free ships, as some one says, to the utmost extent which can be had under existing conditions. Nobody but a fool now would be in favor of free trade, with the decision of the Supreme Court on the income tax and other decisions of the Supreme Court staring them in the face. Nobody anywhere, not even in England, is in favor of absolute free trade, because you must have taxes upon imports at least sufficient to countervail internal taxes upon articles which are subject to internal taxation.

I am in favor of a tax for revenue, and I will not say in this connection that I am right now in favor of a tax for revenue only even, because I realize that a man has very little practical constructive statesmanship sense who would proceed to a tariff for revenue only to-morrow morning, if he could, because due regard must be paid to existing conditions.

If a man wants to build a new house upon the site of an old house, he will not set fire to the old house, with the inhabitants in it, for the purpose of getting a free place upon which to build a new house. He will take his time, give notice sufficient for the inhabitants to move, at any rate, before he builds his new house.

But I have no sort of fear, as many seem to have, to answer the question of the Senator from North Dakota. I am in favor of as near free trade as I can go consistently with existing conditions, and consistently with the common-sense limitation of not creating an absolute revolution—a bouleversement of all existing industries. My ultimate aim under existing Supreme Court decisions is tariff for revenue only overnight, and I would not go even to that extent overnight—ueber nacht, as the Germans say, as my friend will understand. I am glad to know and to have known for a long time my friend from North Dakota. We are not very far apart about a great many things. He calls himself a Progressive Republican and I call myself a Democrat, but fundamentally, in principle, I find myself very much more nearly related politically to him than to a great many men on that side of the Chamber, than I do to some men on this side of the Chamber who, in my opinion, are unduly retroactive in many ways. I hope, Mr. President, that the motion of the Senator from Georgia will be defeated. I think it is a good deal better than the motion first presented, before it was modified, but I want to hold out a hand to all nations of the earth that mean peace and fellowship and amicable and friendly relations and mutual interchange of products. I do not want either physical war or commercial war with any nation on the surface of this earth, unless it be some nation not belonging to the white race, outside of the sphere of the white man's civilization, whose conditions are so absolutely dissimilar to ours that any sort of reciprocity between us commercially or otherwise is impossible.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Georgia [Mr. BACON] to the amendment of the Senator from North Dakota [Mr. GRONNA], on which the Senator from Georgia demands the yeas and nays.

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

Mr. BURNHAM (when his name was called). I have a general pair with the junior Senator from Maryland [Mr. SMITH]. In his absence I withhold my vote.

Mr. CLARK of Wyoming. I have a general pair with the senior Senator from Missouri [Mr. STONE] and therefore withhold my vote.

Mr. FOSTER (when his name was called). I again announce my pair and withhold my vote.

Mr. SHIVELY (when Mr. KERN's name was called). I desire to announce that my colleague is unavoidably absent from the city. He is paired with the junior Senator from Tennessee [Mr. SANDERS].

Mr. SMITH of South Carolina (when his name was called). I again announce my pair with the Senator from Delaware [Mr. RICHARDSON] and transfer it to the Senator from Maine [Mr. GARDNER] and vote. I vote "yea."

The roll call was concluded.

Mr. BRADLEY. I again announce my pair with the senior Senator from Maryland [Mr. RAYNER].

Mr. WATSON. I desire to announce the pair of my colleague [Mr. CHILTON] with the Senator from Illinois [Mr. CULLOM]. If my colleague were present he would vote "yea."

Mr. LODGE. I desire to announce again the pair of the Senator from North Dakota [Mr. MCCUMBER], necessarily detained from the Senate, with the Senator from Mississippi [Mr. PERCY].

The result was announced—yeas 27, nays 37, as follows:

YEAS—27.

Ashurst	Hitchcock	Overman	Smith, Ga.
Bacon	Johnston, Ala.	Paynter	Smith, S. C.
Bankhead	Martin, Va.	Poindexter	Swanson
Bristow	Martine, N. J.	Pomerene	Tillman
Chamberlain	Myers	Shively	Watson
Clapp	Newlands	Simmons	Works
Fletcher	O'Gorman	Smith, Ariz.	

NAYS—37.

Borah	Cummins	Kenyon	Smith, Mich.
Bourne	Dillingham	Lodge	Smoot
Brandegee	du Pont	McLean	Stephenson
Briggs	Fall	Massey	Sutherland
Bryan	Gallinger.	Nelson	Thornton
Burton	Gronna	Page	Townsend
Catron	Guggenheim	Penrose	Williams
Crane	Heyburn	Perkins	
Crawford	Johnson, Me.	Reed	
Culberson	Jones	Root	

NOT VOTING—30.

Bailey	Curtis	La Follette	Richardson
Bradley	Davis	Lea	Sanders
Brown	Dixon	Lippitt	Smith, Md.
Burnham	Foster	McCumber	Stone
Chilton	Gamble	Oliver	Warren
Clark, Wyo.	Gardner	Owen	Wetmore
Clarke, Ark.	Gore	Percy	
Cullom	Kern	Rayner	

So Mr. BACON's amendment to Mr. GRONNA's amendment was rejected.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from North Dakota [Mr. GRONNA]. [Putting the question.] The ayes appear to have it.

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

Mr. NELSON. I ask for the yeas and nays, too.

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

Mr. BRADLEY (when his name was called). I again announce my pair with the Senator from Maryland [Mr. RAYNER]. If that Senator were present I would vote "yea."

Mr. BURNHAM (when his name was called). I make the same announcement as before of my pair with the Senator from Maryland [Mr. SMITH]. I desire this announcement to stand for all subsequent votes.

Mr. WATSON (when Mr. CHILTON's name was called). I desire to announce the absence of my colleague [Mr. CHILTON] and to state that he is paired with the Senator from Illinois [Mr. CULLOM]. If my colleague were present he would vote "nay."

Mr. MARTINE of New Jersey (when Mr. DAVIS's name was called). I was requested to announce that the Senator from Arkansas [Mr. DAVIS] is paired with the Senator from Kansas [Mr. CURTIS].

Mr. FOSTER (when his name was called). I again announce my pair with the Senator from Wyoming [Mr. WARREN].

Mr. SANDERS (when his name was called). I again announce my pair with the junior Senator from Indiana [Mr. KERN].

Mr. SMITH of South Carolina (when his name was called). I again announce my pair with the Senator from Delaware [Mr. RICHARDSON] and the transfer of my pair to the Senator from Maine [Mr. GARDNER]. I vote "nay."

The roll call was concluded.

Mr. DU PONT. My colleague [Mr. RICHARDSON] is absent from the city. He is paired with the Senator from South Carolina [Mr. SMITH]. If my colleague were present he would vote "yea."

Mr. LODGE. The Senator from North Dakota [Mr. MCCUMBER] is paired with the Senator from Mississippi [Mr. PERCY]. If present, the Senator from North Dakota would vote "yea."

The result was announced—yeas 37, nays 26, as follows:

YEAS—37.

Borah	Cummins	Kenyon	Smith, Mich.
Bourne	Dillingham	La Follette	Smoot
Brandegee	du Pont	Lodge	Stephenson
Briggs	Fall	McLean	Sutherland
Bristow	Gallinger	Massey	Thornton
Burton	Gronna	Nelson	Townsend
Catron	Guggenheim	Page	Works
Clapp	Heyburn	Penrose	
Crane	Johnson, Me.	Perkins	
Crawford	Jones	Root	

NAYS—26.

Ashurst	Hitchcock	Overman	Smith, S. C.
Bacon	Johnston, Ala.	Paynter	Swanson
Bankhead	Martin, Va.	Poindexter	Tillman
Bryan	Martine, N. J.	Pomerene	Watson
Chamberlain	Myers	Reed	Williams
Culberson	Newlands	Shively	
Fletcher	O'Gorman	Simmons	

NOT VOTING—31.

Bailey	Curtis	Lea	Sanders
Bradley	Davis	Lippitt	Smith, Ariz.
Brown	Dixon	McCumber	Smith, Ga.
Burnham	Foster	Oliver	Smith, Md.
Chilton	Gamble	Owen	Stone
Clark, Wyo.	Gardner	Percy	Warren
Clarke, Ark.	Gore	Rayner	Wetmore
Cullom	Kern	Richardson	

So Mr. GRONNA's amendment was agreed to.

Mr. NEWLANDS. I offer an amendment to the pending bill.

The PRESIDENT pro tempore. The Senator from Nevada offers an amendment, which will be read.

The SECRETARY. Add a new section, as follows:

SEC. —. That the revenue derived from the special excise tax imposed by this act shall constitute a special fund in the Treasury to be applied to making up any deficit in existing revenue caused by a reduction of customs duties, and any surplus derived from such excise tax above the amount necessary to make up such deficit shall be reserved and applied to the regulation of the navigable rivers, including the prevention of and protection against floods, and the improvement of post and interstate roads in cooperation with the States.

Mr. NEWLANDS. Mr. President, in connection with the excise tax, which I propose to support, arises the question as to whether any additional taxation is necessary to meet the expenses of the Government. The total revenue is about a billion dollars, of which about one-quarter is derived from postal receipts and expended in the postal service. About one-third is collected from internal-revenue taxes, about one-third from customs duties, and the balance from the corporation tax and other miscellaneous receipts.

It is clear that to-day there is no deficit in revenue. There is a surplus of revenue. To what purpose then will this additional tax, involving a burden of $60,000,000, be applied? The answer is that we expect to reduce the customs duties to such an extent as will necessitate the imposition of this tax. The reduction in duties already effected by the action of the House aggregates about seventy million dollars. The increase of duties accomplished by the House bills amount to about $4,000,000. The revenue to be derived from this tax will equal about $60,000,000. So we will have nearly enough derived from this tax and derived from an increase of duties to take the place of the diminished revenue caused by a reduction in duties. That diminished revenue involves a loss of over $50,000,000 on sugar and $16,000,000 on other articles.

Mr. President, it is probable that this tax bill will pass, but I am not sure that the reduction in duties called for by the House action will take place. The legislation in that direction may fail in Congress and legislation in that direction may be vetoed by the President. Yet it is a wise thing in advance to provide additional revenues so that we can accomplish a reduction in the customs duties.

The purpose of this amendment, therefore, is to prevent this additional revenue, in case there should be no reduction in customs duties, from being expended in current administration, in perhaps wasteful administration, and to impound this money in the Treasury of the United States in such a way as that it shall be applied in the future to any deficit in revenue caused by a reduction of customs duties, and that any surplus may be applied to the constructive work of the Nation instead of to mere administration.

The constructive work which the Nation has in view involves the regulation of our rivers, the prevention of floods and protection against floods, and also the improvement of post roads and interstate roads in cooperation with the States. At least $75,000,000 will be required for those two purposes annually if we enter upon that work. So the $60,000,000 can be applied to that work if it is applicable to the deficit in revenue.

I will ask the Senator who has charge of the bill, the Senator from North Carolina [Mr. SIMMONS], whether he can accept this amendment?

Mr. SIMMONS. Mr. President, as I stated before, except where the minority members of the Finance Committee have considered an amendment, I do not feel that I have any authority to accept or to decline to accept an amendment. They have not considered this amendment, and therefore I can not comply with the request of the Senator.

Mr. NEWLANDS. In view of the Senator's statement, I shall not press this amendment now, but I would suggest to the Senator from North Carolina that this amendment can be put upon subsequent revenue bills. It can be put upon the bill that will be before us to-morrow and, perhaps, upon the cotton bill if it comes from the House; and I will ask the serious consideration by the Finance Committee of this amendment as a means of preventing a wasteful use of this revenue in case it should be secured and if, at the same time, our legislation for a reduction of customs duties should temporarily fail.

The PRESIDENT pro tempore. The Senator from Nevada withdraws his amendment.

Mr. BORAH. I move to strike out sections 1 to 9, inclusive, of the bill and insert in lieu thereof the amendment which is at the desk.

Mr. CUMMINS. Will the Senator from Idaho withhold his amendment just a moment while I offer a verbal amendment to the House bill, to make the meaning clear?

Mr. BORAH. Very well.

Mr. CUMMINS. I offer the amendment I send to the desk.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Iowa will be read.

The SECRETARY. Insert, after the word "paid," in line 12, page 4, the words "upon such amounts."

Mr. CUMMINS. I call the attention of the Senator from Georgia to the amendment.

Mr. SMITH of Georgia. I think that makes the language clearer, and, so far as I am concerned, I shall vote for the amendment.

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

The amendment was agreed to.

The PRESIDENT pro tempore. The Senator from Idaho wishes to modify his amendment?

Mr. BORAH. I move to strike out of the original bill sections 1 to 9 and to insert what is at the desk.

The PRESIDENT pro tempore. It is within the Senator's right to modify his amendment as he chooses.

Mr. BORAH. I offer the amendment in lieu of sections 1 to 9 of the original bill.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. Strike out all of the House text down to section 9 of the bill, on page 12, line 24, and insert the following——

Mr. SMITH of Georgia. The "following" is substantially the substitute that the Senator before offered.

Mr. BORAH. It is precisely the substitute which I offered, and I wish to do it in a different way for the reason that I do not desire that it shall take the place of some of the amendments which have been agreed to.

Mr. SMITH of Georgia. So, really, the vote now is upon the Senator's substitute to the original bill.

Mr. BORAH. It is.

Mr. WILLIAMS. I should like to ask the Senator what the nature of the substitute is. Is it the Senator's income-tax amendment?

Mr. BORAH. Exactly.

Mr. MARTINE of New Jersey. Mr. President, I desire that my position may be known on the proposition that is now before the Senate, the amendment of the Senator from Idaho [Mr. BORAH]. I want to state primarily that I am a Democrat and proud of it. I want to be with my party; I love it, and I

have made sacrifices for it equal to those of any other Member of this body; but, beyond and above all, I want to be right. I desire that the burdens of government shall be shared by all. I realize that under our present system such is not the case. That is provoking more discontent throughout the length and breadth of this land than any other one thing; and I insist that those who love their country should endeavor to secure legislation that shall contemplate the sharing of the burdens of government equally by all. I believe an income tax is a step in that direction.

I am aware that my fellow Senators on this side of the Chamber will not vote for the amendment of the Senator from Idaho. I should love to be with them, but I can not follow them. For 25 years I have declared for an income tax; I have written over my own signature articles urging an income tax which have gone throughout the length and breadth of my little Commonwealth; I have spoken for it on a hundred platforms. Every national convention of our party for the past 25 years has peremptorily and positively declared for it. In my campaign for Senator recently, in a platform of principles which I published and declared for, I pledged myself to it. I believe in it; I believe it is right; I believe it is just; and at this stage of the proceedings I should be a coward if I should vote against it because it happens to come from a Republican source.

I know scores of men in my own home town and many within our Commonwealth who roll in wealth, and yet who contribute scarce a pittance to the needs of the Government. I insist that it is my duty not only as a Democrat, but that it is my duty as a patriotic citizen to sustain this method of taxation, and I shall vote for the amendment.

Mr. SIMMONS. Mr. President, I desire to make an inquiry of the Senator from Idaho. I understand the Senator proposes to strike out all of the original House bill and to substitute his amendment for it.

Mr. BORAH. I propose to strike out all of the original House bill and to insert in lieu of it the amendment which was read from the desk earlier to-day.

Mr. SIMMONS. Does the Senator also include section 9? Does he propose to strike out the whole House bill?

The PRESIDENT pro tempore. Does the Senator from Idaho include section 9 in his motion?

Mr. BORAH. I think I do; because the provisions of the amendment that I have submitted, in my judgment, cover that feature of the bill.

The PRESIDENT pro tempore. The question, then, is upon the amendment submitted by the Senator from Idaho to strike out all after the enacting clause and to insert the amendment which he has offered.

Mr. NELSON. Mr. President, is not that a mistake? The bill has been amended, as I understand, and this is a substitute only for that part of the bill which came from the other House—the excise-tax portion.

The PRESIDENT pro tempore. The Senator is correct. The question is on agreeing to the amendment.

Mr. MASSEY. I call for the yeas and nays on the amendment, Mr. President.

Mr. NEWLANDS. Mr. President, like the Senator from New Jersey [Mr. MARTINE], I favor an income tax, but I shall vote against the amendment offered by the Senator from Idaho [Mr. BORAH], because, if successful, it will accomplish the defeat of a measure which will impose upon wealth a considerable proportion of the burdens of government. The position which I have taken is that stated in a resolution adopted in a conference of the Democratic Senators to-day, to the following effect:

> That, while favoring an income tax, they realize that, with the pending amendment to the Constitution authorizing an income tax now requiring the favorable vote of only two States, it is preferable to support the pending bill for an excise tax, which, with the existing corporation excise tax, will raise approximately an equivalent amount of revenue.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Idaho [Mr. BORAH] in the nature of a substitute, on which the yeas and nays have been demanded.

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

Mr. BAILEY (when his name was called). I again announce my pair with the Senator from Montana [Mr. DIXON] and withhold my vote.

Mr. BRADLEY (when his name was called). I again announce my pair and withhold my vote.

Mr. WATSON (when Mr. CHILTON's name was called). I desire to announce that if my colleague [Mr. CHILTON] were present he would vote "nay."

Mr. LODGE (when Mr. MCCUMBER's name was called). The Senator from North Dakota [Mr. MCCUMBER], as I have already announced, is absent. He is paired with the Senator from Mississippi [Mr. PERCY].

Mr. PAYNTER (when his name was called). I have a general pair with the Senator from Colorado [Mr. GUGGENHEIM]. He is absent from the Chamber. If he were present he would vote "yea" and I should vote "nay."

Mr. REED (when his name was called). I have a pair for to-day with the Senator from Michigan [Mr. SMITH], but upon this particular amendment I have his authority to vote. I vote "nay."

Mr. SANDERS (when his name was called). I again announce my pair and withhold my vote.

Mr. TOWNSEND (when the name of Mr. SMITH of Michigan was called). The senior Senator from Michigan [Mr. SMITH] has been called from the Chamber. I am requested to say that if he were present he would vote "nay" on this amendment. He is paired with the junior Senator from Missouri [Mr. REED].

Mr. SMITH of South Carolina (when his name was called). I again announce my pair with the Senator from Delaware [Mr. RICHARDSON] and the transfer of that pair to the Senator from Maine [Mr. GARDNER]. I vote "nay."

The roll call was concluded.

Mr. FOSTER. I again announce my pair and withhold my vote.

Mr. DILLINGHAM. I notice that the senior Senator from South Carolina [Mr. TILLMAN] has left the Chamber. I desire to announce my pair with him and to say that if he were present I would vote "nay" on this amendment. I make this announcement for the evening and to hold good on the passage of the bill.

Mr. CHAMBERLAIN. I have a general pair with the junior Senator from Pennsylvania [Mr. OLIVER] and, therefore, withhold my vote.

Mr. MYERS (after having voted in the negative). I ask if the Senator from Connecticut [Mr. MCLEAN] is recorded as having voted?

The PRESIDENT pro tempore. The Chair is informed he is not.

Mr. MYERS. During his temporary absence from the Chamber I have a pair with that Senator, and I ask leave, therefore, to withdraw my vote.

The result was announced—yeas 23, nays 33, as follows:

YEAS—23.

Ashurst	Clapp	Hitchcock	Page
Borah	Crawford	Jones	Perkins
Bourne	Culberson	Kenyon	Poindexter
Bristow	Cummins	La Follette	Townsend
Burton	Fall	Martine, N. J.	Works
Catron	Gronna	Massey	

NAYS—33.

Bacon	Johnson, Me.	Pomerene	Stephenson
Bankhead	Johnston, Ala.	Reed	Sutherland
Brandegee	Lodge	Root	Swanson
Briggs	Martin, Va.	Shively	Thornton
Bryan	Nelson	Simmons	Watson
du Pont	Newlands	Smith, Ariz.	Williams
Fletcher	O'Gorman	Smith, Ga.	
Gallinger	Overman	Smith, S. C.	
Heyburn	Penrose	Smoot	

NOT VOTING—38.

Bailey	Curtis	Lea	Richardson
Bradley	Davis	Lippitt	Sanders
Brown	Dillingham	McCumber	Smith, Md.
Burnham	Dixon	McLean	Smith, Mich.
Chamberlain	Foster	Myers	Stone
Chilton	Gamble	Oliver	Tillman
Clark, Wyo.	Gardner	Owen	Warren
Clarke, Ark.	Gore	Paynter	Wetmore
Crane	Guggenheim	Percy	
Cullom	Kern	Rayner	

So Mr. BORAH's amendment was rejected.

Mr. HEYBURN. Mr. President, just a moment, before the closing scene in regard to this bill. There are some anomalous conditions to which I desire briefly to call attention. I looked in the dictionary to ascertain the accurate technical definition of the words "excise tax," and I find this:

> An excise tax is an inland duty or impost operating as an indirect tax on the consumer.

I merely read that for the comfort of those who have been talking about the consumer. Now, they propose to reduce duties, and thus reduce prosperity, and then tax on their income the people whose prosperity they have reduced.

The Senator from Nevada [Mr. NEWLANDS] confessed that the probabilities were that we would have no use for this money, and he suggested by an amendment that we should use it, in the event it transpires that we have no occasion for it in paying the expense of the Government, for the improvement of waterways. Why not loan it to the farmers, according to the

proposition of about 15 years ago, or devote it to any other useless purpose?

Mr. President, just a few thoughts that occur to me. It is proposed by this legislation to tax our people directly and to relieve foreigners of the taxes, or that which they call taxes, through the customs duties; in other words, to transfer the taxation from the foreigner to our own people directly. We have the power, perhaps; but it is not necessary to exercise it.

I believe in an income tax levied by the State at any time that in its judgment it is wise or necessary. I do not believe in an income tax levied by the General Government in time of peace. I believe in having the power and reserving its exercise for times of stress and necessity only.

Mr. President, this measure proposes merely a slowing down process of prosperity. It is proposed to put a direct tax upon those whose incomes exceed $5,000, with the power remaining in those people, who are admittedly the business people of the country, to charge it up through additional profits to be paid by the down-trodden and oppressed people. It does not appeal to me. I feel no patriotic impulses to support such a measure, and there is no necessity for it. It emanates from two sources; first, those who have an unreasoning dislike to other people's prosperity. I do not know that I ever knew a prosperous man to hate another man because he was prosperous; if I have, it is a rare exception; but there is a class of people in this country who are always trying to drag down the man who is in front of them. They would not stand on their own solid ground if they could; they want to stand on the wreck of somebody else. It is an instinct that I can not account for. They are only comfortable when they are dragging somebody down and posting themselves on top of the wreck of their fellow men. That is one source from which it emanates. The other is the desire upon the part of those who have no other political issue, except that of free trade and enmity toward the protective-tariff policy, to find or create an excuse for destroying the system of taxation upon the foreigner who enters our market in competition with the American producer. It is used to make a political issue. It is an old cry upon an old horn that has been out of order so often and tinkered up so often that to-day it is scarcely recognizable; but it is the same old horn upon which they are sounding this note.

They will call it any name to accommodate you; they will call it free trade; they will call it tariff for revenue; and when they get among those who like to dally between the lines of responsibility, they will then call it tariff reform. It has no baptismal name, but it is the name that means destruction to the industries of the American people.

Now, out of the very necessity for creating a political cry or issue they will destroy the income of the Government from the legitimate and natural resources in order that they may substitute an income derived from direct taxation upon our own people. They would rather tax our people than tax the foreigner who seeks to enter and take advantage of our market. They are the two classes of people from whom this demand emanates, and from nowhere else. The opposition to-day would not dare to put in force the doctrine they preach here and elsewhere, but they would like to ride into power upon it, upon high-sounding phrases, upon stern denunciation of the successful party of this country, upon a condemnation of the principles that have been tried and tested and found to be sound, conservative, and sufficient for the maintenance of a Government such as ours.

I will support no measure that has no other or better principle than that.

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

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

The bill was read the third time.

The PRESIDENT pro tempore. The question is, Shall the bill pass?

Mr. SIMMONS, Mr. SMITH of Georgia, and others demanded the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. BRADLEY (when his name was called). I again announce my pair. If I were allowed to vote, I would vote "nay."

Mr. CHAMBERLAIN (when his name was called). I have a general pair with the junior Senator from Pennsylvania [Mr. OLIVER]. If he were present and I were permitted to vote, I would vote "yea."

Mr. WATSON (when Mr. CHILTON's name was called). My colleague if present would vote "yea." He is paired with the Senator from Illinois [Mr. CULLOM].

Mr. GARDNER (when the name of Mr. Johnson of Maine was called). My colleague is unavoidably absent. If he were present, he would vote "yea."

Mr. MYERS (when his name was called). I have a pair on this vote with the Senator from Connecticut [Mr. MCLEAN]. If he were present and I were at liberty to vote I would vote "yea."

Mr. PAYNTER (when his name was called). Has the Senator from Colorado voted?

The PRESIDENT pro tempore. The Chair is informed that the Senator from Colorado has not voted.

Mr. PAYNTER. I have a general pair with him, and for that reason withhold my vote. If he were present, he would vote "nay" and I should vote "yea."

Mr. REED (when his name was called). Upon this vote I am paired with the Senator from Michigan [Mr. SMITH]. If I were at liberty to vote, I would vote "yea," and if the Senator from Michigan were here, he would vote "nay."

Mr. DU PONT (when Mr. RICHARDSON's name was called). My colleague is absent from the city. He is paired with the junior Senator from South Carolina [Mr. SMITH]. If my colleague were present and free to vote, he would vote "nay."

Mr. SANDERS (when his name was called). I am paired with the Senator from Indiana [Mr. KERN].

Mr. TOWNSEND (when the name of Mr. SMITH of Michigan was called). The senior Senator from Michigan is unavoidably absent. He is paired with the junior Senator from Missouri [Mr. REED]. As stated by that Senator, my colleague if present would vote "nay" on this proposition.

Mr. SMITH of South Carolina (when his name was called). I again announce my pair with the Senator from Delaware [Mr. RICHARDSON]. I transfer it to the Senator from Maine [Mr. GARDNER] and will vote. I vote "yea."

The roll call was concluded.

Mr. BURNHAM. I again announce my pair with the junior Senator from Maryland [Mr. SMITH] and therefore withhold my vote. If at liberty to vote, I should vote "nay."

Mr. MARTINE of New Jersey. I again announce the pair existing between the Senator from Arkansas [Mr. DAVIS] and the Senator from Kansas [Mr. CURTIS].

Mr. BAILEY. I again announce my pair with the Senator from Montana [Mr. DIXON] and withhold my vote.

Mr. FOSTER. I again announce my pair. If I were at liberty to vote, I would vote "yea."

Mr. DILLINGHAM. I transfer my pair with the senior Senator from South Carolina [Mr. TILLMAN] to the Senator from Wisconsin [Mr. STEPHENSON] and will vote. I vote "nay."

Mr. LODGE. I again announce the pair of the Senator from North Dakota [Mr. MCCUMBER] with the Senator from Mississippi [Mr. PERCY].

The result was announced—yeas 37, nays 18, as follows:

YEAS—37.

Ashurst	Fletcher	Nelson	Smith, S. C.
Bacon	Gronna	Newlands	Swanson
Bankhead	Hitchcock	O'Gorman	Thornton
Bourne	Johnson, Me.	Overman	Townsend
Bristow	Johnston, Ala.	Poindexter	Watson
Bryan	Jones	Pomerene	Williams
Clapp	Kenyon	Shively	Works
Crawford	La Follette	Simmons	
Culberson	Martin, Va.	Smith, Ariz.	
Cummins	Martine, N. J.	Smith, Ga.	

NAYS—18.

Brandegee	Dillingham	Lodge	Root
Briggs	du Pont	Massey	Smoot
Burton	Fall	Page	Sutherland
Catron	Gallinger	Penrose	
Crane	Heyburn	Perkins	

NOT VOTING—39.

Bailey	Curtis	Lippitt	Richardson
Borah	Davis	McCumber	Sanders
Bradley	Dixon	McLean	Smith, Md.
Brown	Foster	Myers	Smith, Mich.
Burnham	Gamble	Oliver	Stephenson
Chamberlain	Gardner	Owen	Stone
Chilton	Gore	Paynter	Tillman
Clark, Wyo.	Guggenheim	Percy	Warren
Clarke, Ark.	Kern	Rayner	Wetmore
Cullom	Lea	Reed	

So the bill was passed.

MILITARY ACADEMY APPROPRIATION BILL.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 24450) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1913, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. DU PONT. I move that the Senate insist upon its amendments and agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. DU PONT, Mr. WARREN, and Mr. JOHNSTON of Alabama conferees on the part of the Senate.

EIGHTH INTERNATIONAL PRISON CONGRESS (H. DOC. NO. 890).

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

To the Senate and House of Representatives:

I transmit herewith for the information of Congress a report of the proceedings of the Eighth International Prison Congress, held at Washington in October, 1910, in pursuance of the invitation extended by the President in virtue of the joint resolution approved March 3, 1905.

The attention of Congress is invited to the accompanying report of the Secretary of State concerning the printing of the report of the proceedings of the Prison Congress.

WM. H. TAFT.

THE WHITE HOUSE, *July 26, 1912.*

[The report of the proceedings accompanies the message to the House of Representatives.]

IMPORTATION OF ADULTERATED SEEDS.

Mr. GRONNA, from the Committee on Agriculture and Forestry, to which was recommitted the bill (H. R. 22340) to regulate foreign commerce by prohibiting the admission into the United States of certain adulterated seeds and seeds unfit for seeding purposes, reported it with amendments and submitted a report (No. 985) thereon.

THE SUGAR SCHEDULE.

Mr. NEWLANDS submitted an amendment intended to be proposed by him to the bill (H. R. 21213) to amend an act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909, which was ordered to lie on the table and be printed.

Mr. LODGE. I move that the Senate adjourn.

The motion was agreed to; and (at 7 o'clock and 52 minutes p. m.) the Senate adjourned until to-morrow, Saturday, July 27, 1912, at 12 o'clock m.

HOUSE OF REPRESENTATIVES.

FRIDAY, *July 26, 1912.*

The House met at 12 o'clock noon.

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

O Thou, who art the beginning and the end, the alpha and omega; our God and our Father, whose patience is without end, whose mercy is from everlasting to everlasting, who beareth our burdens, comforteth our sorrows, chastiseth us when we do wrong, maketh the heart rejoice with gladness when we do right; Thy laws are inexorable. To keep them is heaven; to break them is hell. Continue, we beseech Thee, Thy ministrations unto us and bring us at last in harmony with Thee. For Thine is the kingdom and the power and the glory forever, amen.

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

MILITARY ACADEMY APPROPRIATION BILL.

Mr. HAY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Military Academy appropriation bill, disagree to the Senate amendments, and ask for a conference.

The SPEAKER. The gentleman from Virginia [Mr. HAY] asks unanimous consent to take from the Speaker's table the bill (H. R. 24450) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1913, and for other purposes, disagree to the Senate amendments, and ask for a conference. Is there objection?

There was no objection; and the Speaker appointed as conferees on the part of the House Mr. HAY, Mr. SLAYDEN, and Mr. PRINCE.

TARIFF DUTIES ON WOOL.

Mr. UNDERWOOD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 22195) to reduce the duties on wool and manufactures of wool, disagree to the Senate amendments, and ask for a conference.

Mr. PAYNE. Mr. Speaker, reserving the right to object, if the gentleman will withhold that request until to-morrow morning, perhaps I will not object to it.

Mr. UNDERWOOD. Very well, Mr. Speaker, at the request of the gentleman from New York I will withdraw my request.

STANDARD APPLE BARRELS.

The SPEAKER laid before the House the bill (H. R. 21480) to establish a standard barrel and standard grade for apples when packed in barrels, and for other purposes, with Senate amendments thereto.

The Senate amendments were read.

Mr. SULZER. Mr. Speaker, I move to concur in the Senate amendments.

The motion was agreed to.

LEAVE OF ABSENCE.

By unanimous consent leave of absence was granted—

To Mr. MADDEN, indefinitely, on account of sickness in his family.

To Mr. RODDENBERY, indefinitely, on account of sickness.

To Mr. TURNBULL, indefinitely, on account of sickness.

MRS. LOUISA J. ROSE—LEAVE TO WITHDRAW PAPERS.

Mr. LAFFERTY obtained unanimous consent to withdraw from the files of the Committee on Invalid Pensions, without leaving copies, the papers relating to H. R. 3629, granting a pension to Mrs. Louisa J. Rose.

CHANGE OF REFERENCE—HOUSE DOCUMENT 613.

By unanimous consent, the Committee on Appropriations was discharged from the further consideration of House Document No. 613, a letter from the Secretary of the Treasury, transmitting copies of a communication from the Secretary of War submitting estimates of appropriations required to meet certain claims against the United States in connection with the Engineer Department, and the same was referred to the Committee on Claims.

MESSAGE FROM THE SENATE.

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

H. J. Res. 340. Joint resolution making appropriation to be used in exterminating the army worm.

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. 22195. An act to reduce the duties on wool and manufactures of wool.

The message also announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 7337. An act to provide for the purchase of a site and the erection of a building thereon at the city of West Point, State of Virginia.

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. 7337. An act to provide for the purchase of a site and the erection of a building thereon at the city of West Point, State of Virginia; to the Committee on Public Buildings and Grounds.

ENROLLED BILLS SIGNED.

Mr. CRAVENS, 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. 24699. An act extending the time for the repayment of certain war-revenue taxes erroneously collected;

H. R. 24598. An act for the relief of Jesus Silva, jr.;

H. R. 20873. An act for the relief of J. M. H. Mellon, administrator, et al., all of Allegheny County, Pa.;

H. R. 18033. An act to modify and amend the mining laws in their application to the Territory of Alaska, and for other purposes;

H. R. 13938. An act for the relief of Theodore Salus;

H. R. 12375. An act authorizing Daniel W. Abbot to make homestead entry;

H. R. 1739. An act to amend section 4875 of the Revised Statutes to provide a compensation for superintendents of national cemeteries;

H. R. 644. An act for the relief of Mary E. Quinn;

H. R. 22111. An act for the relief of the Delaware Transportation Co., owner of the American steamer *Dorothy;*

H. R. 22043. An act to authorize additional aids to navigation in the Lighthouse Service, and for other purposes;

H. R. 20347. An act to authorize the Dixie Power Co. to construct a dam across White River, at or near Cotter, Ark.; and

H. J. Res. 340. Joint resolution making appropriation to be used in exterminating the army worm.

ADDITIONAL CLERKS TO COMMITTEE ON ENROLLED BILLS.

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

The resolution was read, as follows:

House resolution 635 (H. Rept. 1066).

Resolved, That the chairman of the Committee on Enrolled Bills be, and he is hereby, authorized to appoint two additional clerks of said committee, who shall be paid out of the contingent fund of the House at the rate of $6 per day from and after the time they entered upon their duties, which shall be evidenced by the certification of said chairman.

Mr. MANN. How many clerks does this authorize the employment of?

Mr. LLOYD. Two.

Mr. MANN. When did they enter upon their duties?

Mr. LLOYD. They have not begun yet.

Mr. FITZGERALD. Is this intended simply to provide for their employment during the remainder of the present session?

Mr. LLOYD. Just the remainder of the present session.

Mr. MANN. I do not think it says so.

Mr. FITZGERALD. After the word "committee" the words "for the remainder of this session" should be inserted.

Mr. LLOYD. Mr. Speaker, I move to amend by inserting after the words "duties," in line 6, the words "until the end of the present session."

Mr. MANN. That is not where it belongs.

Mr. TOWNSEND. It should be after the word "committee."

Mr. LLOYD. In line 3, after the word "committee," insert the words "for the remainder of the present session."

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend by inserting, in line 3, after the word "committee," the words "for the remainder of the present session."

The amendment was agreed to.

The resolution as amended was agreed to.

GENERAL DEFICIENCY APPROPRIATION BILL.

Mr. FITZGERALD. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 25970) making appropriations to supply deficiencies in appropriations for the fiscal year 1912, and for prior years, and for other purposes; and pending that motion I ask the gentleman from Illinois [Mr. CANNON] if we can fix the time for general debate?

Mr. CANNON. I have had requests for one hour and a half from two Members, one for an hour and the other for 30 minutes. So far as I myself am concerned, I do not think I shall desire more than 5 or 10 minutes in general debate.

Mr. FITZGERALD. I think we can easily conclude the general debate inside of three hours.

Mr. CANNON. If I desire 5 or 10 minutes of the gentleman's time——

Mr. FITZGERALD. I think we can accommodate the gentleman in that way. I ask unanimous consent that the general debate be limited to three hours, one half to be controlled by myself and the other half by the gentleman from Illinois [Mr. CANNON].

The SPEAKER. Pending the motion to go into Committee of the Whole House on the state of the Union the gentleman asks unanimous consent that general debate on this bill be limited to three hours, one half to be controlled by himself and the other half by the gentleman from Illinois [Mr. CANNON]. Is there objection?

Mr. MANN. Reserving the right to object, I should like to ask whether it is the gentleman's intention to endeavor to keep the House in session and finish the bill to-day, or whether he will be satisfied if we finish it to-morrow?

Mr. FITZGERALD. I think we can at least finish it by to-morrow.

Mr. MANN. There is no intention to endeavor to force us to stay here to finish it to-day?

Mr. FITZGERALD. If we proceed with such speed that it is evident that it will not prolong the session beyond the usual time, I shall be glad to finish it to-day.

Mr. MANN. If it does not prolong the session beyond the usual time.

Mr. FITZGERALD. The gentleman understands very well that we will be here until doomsday unless somebody forces something.

Mr. MANN. It looks to me very much as though we would be here until doomsday, anyhow.

Mr. FITZGERALD. It would be a beneficial thing for the country if the other House were Democratic. Just at present it is merely obstructing public business.

Mr. MANN. The other House is the only place where they are doing business now.

Mr. CANNON. Mr. Speaker, three hours of general debate would place us pretty well up to 4 o'clock. So far as the consideration of this bill is concerned, upon the bill itself, I see no reason why it should not be passed to-day, but, as matters go, I should say probably it would be fortunate if we get through by 3 o'clock to-morrow. There is no disposition on my part to consume any time except upon the consideration of the bill.

Mr. FITZGERALD. The gentleman from Illinois understands that the peculiar conditions existing heretofore which required the presence of many Members elsewhere on account of important business after 3 o'clock in the afternoon no longer exist, and there will be less difficulty in keeping Members in the House. They will have no longer to go to other places where their presence has seemed to be imperative.

Mr. CANNON. The gentleman is satisfied that we can depend upon the bulletins for the news that we desire to get? [Laughter.]

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered. The question is on the motion of the gentleman from New York that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the general deficiency appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 25970, the general deficiency appropriation bill, with Mr. HAMMOND in the chair.

The CHAIRMAN. The Clerk will read the bill.

The Clerk read the title of the bill.

Mr. FITZGERALD. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. The gentleman from New York asks unanimous consent to dispense with the first reading of the bill. Is there objection?

There was no objection.

Mr. FITZGERALD. Mr. Chairman, I shall take a very brief time to state generally what this bill contains. The estimates submitted to the committee in connection with appropriations to supply deficiencies for the past fiscal year and for other years aggregated $11,723,874.56. The bill as reported recommends appropriations aggregating $6,182,838.24, or a reduction under the estimates of $5,541,036.32. Of these reductions, $3,300,000 was an estimate to pay a judgment of the Court of Claims in favor of certain Ute Indians. After the investigation made by the committee there was very grave doubt as to the advisability of making the appropriation in the manner recommended by the department. It appeared that the item had been placed on the Indian appropriation bill in the Senate, and the Committee on Appropriations of the House dismissed further consideration of the appropriation.

This is the smallest general deficiency appropriation bill that has been reported to the House or enacted into law since 1886. Outside of certain items in the nature of audited settlements for the Post Office Department, deficiencies for the House of Representatives, largely consisting of gratuities to the widows of deceased Members, certified judgments of courts and of the Court of Claims, and $170,000 appropriated for a specific purpose for the next fiscal year, because of the emergency character of the item, and $150,000 appropriated for the proper commemoration of the fiftieth anniversary of the Battle of Gettysburg, in all aggregating the sum of $1,652,241, there remains carried by the bill $4,530,597 as the amount reported to supply deficiencies in the appropriations for the various services during the past and prior fiscal years. Of these $4,530,000, $2,300,000 is to supply deficiencies in appropriations for the support of the Military Establishment.

These deficiencies are occasioned by the fact that in submitting the estimates required for the subsistence of the Army and for the pay of the Army for the fiscal year 1912 the Secretary of War arbitrarily reduced the estimates submitted by the Commissary General and the Paymaster General by $2,534,000, and there was transmitted to Congress for the support of the Army and for the pay of the Army estimates which it was known in the War Department would be inadequate. If those estimates were to be eliminated from the amount carried in the bill, the amount carried to supply deficiencies, not accounted for in the manner already indicated, would aggregate $2,196,597.

In some instances, Mr. Chairman, the committee in its investigations ascertained that some of the departments or some of the bureaus had deliberately ignored the antideficiency act, and in those instances the committee declined to make the appropriations to supply deficiencies. The law clearly points out the

penalty for such violations, and until those penalties are enforced by the administration the committee will not supply moneys for which obligations have been incurred in violation of law.

It is a very commendable situation that with appropriations for the maintenance of the Federal service, aggregating more than $1,000,000,000 in a year, that outside of the matters set forth as indicated, the actual deficiencies, about which there might be some differences of opinion, amount to only $2,196,000. That is not due to any peculiar change in the administration. It is not due to any different disposition upon the part of those in the departments to expend money according to their will rather than in accordance with the judgment of the Congress. In my opinion, based on investigations which I have made, it is due entirely to the fact that this is a Democratic House of Representatives, and the knowledge has sunk into the heads of those charged with responsibility for expending the public moneys that there is now a place and a body and a power which proposes to insist that the laws be obeyed, and that the servants of the people obey the law. [Applause on the Democratic side.]

Mr. Chairman, as is well known, the work of preparing bills carrying appropriations to maintain the various services of the Government is not a very easy nor a pleasant task. There had been for many years a disposition on the part of the departments to ignore not only the law, but to ignore the determination of Congress in fixing limitations upon the amounts that might be expended for various purposes. I believe that this bill indicates that there is a change in the attitude of the officials in the departments toward these matters. Realizing that the Congress will not tolerate longer the ignoring or the open violation of the law, a marked change has taken place in their attitude, and if it were possible in some way to prevent what was done regarding the Army estimates, to arbitrarily reduce them and furnish the Congress over the protest of the Commissary General and the Paymaster General of the Army estimates for the maintenance of the Military Establishment, known to be inadequate, and upon which appropriations were to be based, a much greater reform would be effected in our financial system. When the Army appropriation bill for the fiscal year 1912 was before the House, the gentleman from Virginia [Mr. HAY] called attention to the fact that the appropriations were grossly and knowingly inadequate and would result in large deficiencies being requested by the departments. He endeavored to have appropriated sums that it was apparent the strength of the Army and the cost of rations would require.

But the Republican Congress refused to make the appropriations and turned over to a Democratic House the necessity of supplying at this time the funds necessary to pay the bills for the feeding and for the pay of the Army. There are some other matters in the bill that, during the course of its consideration, I shall be pleased to go into at greater length. The committee included in this bill, however, the item of $150,000 as a contribution toward certain expenses in connection with the celebration of the fiftieth anniversary of the Battle of Gettysburg. A number of the States in the Union, both in the North and in the South, have appropriated money to pay the transportation of Union and Confederate soldiers to the battle field of Gettysburg. The State of New York appropriated $275,000 for this purpose. For the purpose of supplying adequate accommodations, water, and other things for the large numbers that will gather on the battle field of Gettysburg, the Congress was requested to appropriate $150,000. It is not in order upon this bill. In view of the unanimity of the sentiment throughout the country that this celebration take place as an evidence of the union that has really taken place between all sections of the country, the committee believed it desirable and proper to include it in this bill.

Mr. HOBSON. May I ask the gentleman if the whole amount of $150,000 is in the bill?

Mr. FITZGERALD. The entire amount. The committee inserted in the bill the Senate joint resolution, which was prepared along the lines desired by the officials in control of the celebration. Mr. Chairman, I shall reserve the balance of my time.

Mr. BURKE of South Dakota. Will the gentleman yield for a question?

Mr. FITZGERALD. Yes.

Mr. BURKE of South Dakota. I desire to ask if it is the custom on a general deficiency bill to provide an appropriation to pay for the judgments entered in the Court of Claims, or whether they have been placed on the sundry civil bill or some other bill?

Mr. FITZGERALD. In the general deficiency bill certain classes of certified judgments are included.

Mr. BURKE of South Dakota. I would like to ask the gentleman if his attention has been called to the fact that there is a judgment existing against the United States in favor of the Ute Indians and that an amendment has been added to the Indian appropriation bill at the other end of the Capitol to pay that judgment? I wish to ask the gentleman if it is not a matter that the Appropriations Committee should have taken jurisdiction of instead of having it incorporated in the Indian appropriation bill.

Mr. FITZGERALD. It probably would have applied to this bill, but it is on the Indian appropriation bill already and the Committee on Appropriations did not desire to have it appear that it was overanxious to have the judgment paid in the way it was presented to the committee. The department not only asked for what it was entitled to under the law and under the judgment, which would have been an appropriation equivalent to 4 per cent upon the amount fixed in the judgment, the judgment being three million three hundred and odd thousand dollars, but it also desired authority to expend such part of the principal of the judgment as the Secretary of the Interior may deem advisable for the benefit of the Indians. There were some features about it that so long as it was pending in another place the Committee on Appropriations was perfectly willing to be relieved of the burden of determining what should be done. The Court of Claims decreed that certain attorneys should be paid $210,000 or $211,000 for services consisting, according to the report, almost entirely of work before the committee of Congress in obtaining the resolution upon which the judgment was obtained. Having some knowledge of the Committee on Indian Affairs from six years' service upon it I know of no service that could be rendered by any attorney before that committee that would be worth $100,000 or $200,000 or any other such indefensible sum.

Mr. BURKE of South Dakota. I would like to ask the gentleman if he is aware of the fact that the amount allowed by the court to the attorneys, which amount I believe was $211,000, has already been paid?

Mr. FITZGERALD. I do not believe it has been paid because there is no appropriation.

Mr. BURKE of South Dakota. I will say to the gentleman, in the jurisdictional act the attorneys were shrewd enough to include a provision in the matter of the payment of their fee, so that it would be paid regardless of whether the judgment was paid or not.

Mr. FITZGERALD. I think not.

Mr. BURKE of South Dakota. I will say to the gentleman——

Mr. FITZGERALD. I read the jurisdictional act which provided for the payment of these fees either out of the proceeds of the judgment or out of the proceeds of the sale of land; but under a statute passed a few years back by Congress, that no act of Congress should be construed as making an appropriation unless in specific terms the appropriation was made in the act, I know of no feature of the jurisdictional act under which anybody was authorized to pay these attorneys $211,000.

Mr. BURKE of South Dakota. I will say, for the information of the gentleman and for the information of the committee, that there has been paid $211,000 to attorneys who represented the Indians in presenting the Ute Indian claim to Congress and carrying it through the Court of Claims.

Mr. FITZGERALD. From what fund was it paid?

Mr. BURKE of South Dakota. I am not informed as to that, but I do know it was paid, because I had occasion to look it up. I would like to ask the gentleman another question.

Mr. FITZGERALD. Evidently the attorneys were more alert than the department. The supplemental judgment was entered some time early in 1911. If the attorneys got their money, they did very much better than the starving Indians who owned it.

Mr. BURKE of South Dakota. I want to ask the gentleman if this item ought to be incorporated in the Indian appropriation bill, which is a bill providing for current expenses of the Indian Department, or whether it ought not to be incorporated in this pending bill or some other bill?

Mr. FITZGERALD. If it is to be incorporated in any, I think it should be in this bill.

Mr. BURKE of South Dakota. The first question I asked the gentleman was this: If it has not been the policy of the Committee on Appropriations in either the deficiency or some other bill to make provisions for judgments that have been entered in the Court of Claims?

Mr. FITZGERALD. Yes; it has always done so and would have been done so in this instance in accordance with the law.

Mr. MANN. May I ask the gentleman a question in that connection? Does the Committee on Appropriations feel obligated

to pay a large judgment without any examination of the matter at all?

Mr. FITZGERALD. No; and it would not have incorporated in this bill the provision submitted by the Department of the Interior in connection with the estimates for the payment of the judgment. The Court of Claims finds distinctly that the amount of the judgment is the sum upon which the interest is to be computed which is to be paid annually to the Indians. And if a paper account is to be opened up in the Treasury so as to make possible the computation of interest available for the Indians and under the proposal of the Department of the Interior we spend the principal, three million and odd dollars, for the benefit of the Indians, I am convinced that inside of 20 or 30 years somebody else will have the irrigated land and the property of the Indians, and we will have the Indians as the dependents of the Nation, with their moneys dissipated, they existing through the generosity of the people.

Mr. MARTIN of Colorado. Will the gentleman permit me a brief statement? Owing to the fact that the Ute Indian lands and reservation were in Colorado——

Mr. FITZGERALD. I just wish to make this one statement for the benefit of the gentleman from Illinois [Mr. MANN], if I may have his attention. In examining the findings of fact of the Court of Claims it appears that certain payments by the United States, aggregating more than $3,000,000, had been made for the benefit of the Ute Indians under certain treaties. It is very difficult to tell the attitude of the court toward those payments. It did not give the United States credit for them. I am not so certain that the United States was not entitled to the credit of the $3,000,000, and, if it had been, there would not have been the sum of $3,500,000 found due to the Indians in this proceeding. There was no appeal taken.

Mr. BURKE of South Dakota. I would like to ask the gentleman a further question.

Mr. FITZGERALD. Just one moment.

The CHAIRMAN. Does the gentleman from New York yield to the gentleman from South Dakota?

Mr. FITZGERALD. I yield.

Mr. BURKE of South Dakota. If I am not mistaken, the Ute Indians had a fund from which they received annually an annuity; the amount I do not know.

Mr. FITZGERALD. The fund was a little over a million dollars. I think it was $1,200,000.

Mr. BURKE of South Dakota. And that fund has been merged in the judgment, and the income that has been annually going to these Indians has ceased. Is not that the case?

Mr. FITZGERALD. So I am informed.

Mr. BURKE of South Dakota. At the present time the judgment is not paid, and the interest has ceased upon this fund which has been merged into the judgment?

Mr. FITZGERALD. But the Committee on Indian Affairs could have appropriated money to be reimbursed hereafter from the Indian funds. The history of how this fund was created is very interesting. These Indians owned certain lands in Colorado; they were set aside as national forests.

The Indians have a judgment for the value of these lands so set aside as national forests at $1.25 an acre, amounting to over 2,000,000 acres. They still have undisposed of and to their credit over 7,000,000 acres of land to be disposed of. I have examined somewhat hastily the judgment of the court, and I am not certain at all that the United States should not have been credited with more than $3,000,000 additional paid to the Indians under the treaty.

Mr. BURKE of South Dakota. I want to say to the gentleman—

Mr. FITZGERALD. And if it is necessary to make some provision for these Indians, it will be easy to make an appropriation reimbursable hereafter out of funds to be placed to their credit. But I do not agree with the Secretary of the Interior that this judgment money which should be placed to the credit of the Indians and upon which the interest charge should be calculated shall be treated as a cash item and he be given authority not only to spend the interest but to spend next year $500,000, as he asks.

Mr. BURKE of South Dakota. I want to say, in justification of the fact that there was no provision made in the Indian appropriation bill for the Ute Indians, that it was not brought to the attention of the House Committee on Indian Affairs, and that committee knew nothing about it and only knows of it now because an amendment was adopted by the Senate to the Indian appropriation bill providing for the payment of the judgments.

Mr. FITZGERALD. The gentleman knows the fault of that condition is not with the Congress, but it is with the department, that had all this information and never submitted it to the House.

Mr. BURKE of South Dakota. I presume an estimate was submitted by the Secretary of the Treasury in the usual way as a judgment of the Court of Claims and that the estimate went to the Committee on Appropriations. It certainly did not go to the Committee on Indian Affairs.

Mr. FITZGERALD. I have now before me the estimates submitted, in which there is a demand that there shall be appropriated $3,305,257.19 as the net amount of this judgment, for expenditure for the benefit of these Indians in the discretion of the Secretary of the Interior.

It was contended at first that he would have that power under some general statute, but upon request being made to the officials before the committee for a reference to the statute it was quickly determined there was no authority whatever to spend any part of that principal, but covered up ingeniously was this provision giving the authority not now possessed by the department to expend the principal.

Mr. BURKE of South Dakota. Unless there was some legislation in connection with it the Indian Committee would have no jurisdiction over this matter.

Mr. FITZGERALD. There is $3,322,305.34 found by the Court of Claims to have been paid these Indians under certain conditions, let me add, for which the United States have no credit. If it had been credited on that judgment of $3,500,000, the only thing that would have been left would have been the sum paid to the attorneys as their fee. An examination of the supplemental judgment did not satisfy me or the other members of the committee that it was a matter upon which they were sufficiently well advised to recommend the legislation in question.

Mr. BURKE of South Dakota. I hope the body at the other end of the Capitol will add an item to pay this judgment as an amendment to this bill and let the committee that has jurisdiction of the subject dispose of it, and that it may be eliminated from the Indian appropriation bill, where it does not properly belong.

Mr. FITZGERALD. Let me say this to the gentleman from South Dakota [Mr. BURKE]. I do not know what the committee at the other end of the Capitol will do on the Indian bill, but I know it will not add anything on the appropriation bill from the Committee on Appropriations that does not belong there, meritorious or otherwise; or rather, I mean it will not stay there if it be added.

Mr. BURKE of South Dakota. I understand the gentleman to say that this item properly belongs on the general deficiency appropriation bill if it is going to be appropriated for at all?

Mr. FITZGERALD. I think it does.

Mr. BURKE of South Dakota. That is satisfactory.

Mr. MARTIN of Colorado. Mr. Chairman, I would like two minutes' time in which to make a brief statement, if the gentleman will permit.

Mr. FITZGERALD. I yield.

Mr. MARTIN of Colorado. I wanted to make a statement in the nature of an interruption of the gentleman from New York [Mr. FITZGERALD]. I wish to say to the gentleman that I have no personal interest, and very little of any other kind, in this appropriation; but owing to the fact that the Ute Indian Reservations and lands were located in the State of Colorado and in the district which I have the honor to represent I introduced the bill carrying the appropriation to pay the Court of Claims judgment in favor of the Confederated Band of Ute Indians.

Now, the gentleman from New York [Mr. FITZGERALD] is mistaken in saying that these lands were taken for forest reserves. The Ute Indians were forcibly dispossessed—of course, under treaty agreement—but they were forcibly dispossessed some 25 years ago, and were removed to the State of Utah. Now, these lands have been largely sold by the Government.

Mr. FITZGERALD. A very large portion of them were put in forest reserves, and the Court of Claims in its decision says that the extraordinary services rendered by the attorneys were rendered in convincing Congress that the lands appropriated for forest reserves should be considered as sold.

Mr. MARTIN of Colorado. I will say this to the gentleman: That some of those lands have been in forest reserves, and a great part of them have been sold to settlers, and the selling price received by the Government. I have a bill pending to make a full further allowance in favor of the Ute Indians for the lands that have been disposed of since the rendition of this judgment.

Mr. FITZGERALD. Let me call the gentleman's attention to the fact that in the opinion of the court it is stated that

in view of the law and the facts, as stated, the court has found the lands thus set apart in forest reserves paid for at the rate of $1.25 per acre, amounted to $3,825,325.75; and as a set-off to these and other matters, it brings the judgment down to $3,500,000. From that opinion of the court the gentleman can readily see that this judgment is almost entirely for land set apart for forest reserves.

Mr. MARTIN of Colorado. Now, the attorney's fees have been paid. That is no part of the amounts carried in the bill, which is $3,305,257.19. This is the net amount of the judgment, and, as expressly stated in the bill, it is exclusive of the amount awarded for attorney's fees, which I understand to be, as stated by the gentleman from South Dakota [Mr. BURKE], already paid.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Colorado yield to the gentleman from Texas?

Mr. MARTIN of Colorado. I yield to the gentleman.

Mr. STEPHENS of Texas. Will the gentleman please state to what committee the gentleman's bill has been referred for the payment of these claims?

Mr. MARTIN of Colorado. Yes. My bill was referred to the Committee on Appropriations, and I have mentioned it several times to the gentleman from New York [Mr. FITZGERALD].

This is what I object to, I will say to the gentleman from Texas: This appropriation has been hung onto the Indian appropriation bill in the Senate. In my individual judgment it was hung onto the bill there for the purpose of anticipating action by the Committee on Appropriations in the House on the general deficiency bill. Now, the gentleman from Texas [Mr. STEPHENS] assures me that he does not propose to stand for that amendment at all.

Mr. STEPHENS of Texas. Does the gentleman believe that the House should not insist upon this going to the proper committee?

Mr. MARTIN of Colorado. I will say that the House did so insist on this when it sent it to the committee having jurisdiction of the general deficiency bill.

Mr. STEPHENS of Texas. That was done, instead of its going on the Indian appropriation bill in the Senate, when the Indian Committee of the House has had no chance to investigate the grounds of the matter and determine what should be done with the fund, if we should determine it is due at all.

Mr. MARTIN of Colorado. What will result is not fair to a Member of the House. This is what will result: This general deficiency bill will go to the Senate and it will go into conference, just the same as the Indian appropriation bill. The Indian Affairs Committee of the House will not stand for this item on the Indian appropriation bill, and at the other end the item will be shifted to this bill, the general deficiency bill, so that it will be safe to predict right now that when the general deficiency bill becomes a law this item will be in it and not in the Indian appropriation bill.

This is a just debt and it ought to be paid. I am not relying simply on the statements of the Commissioner of Indian Affairs, but I am relying also on statements of people in Durango to the effect that these Indians are in need and unable to pay their debts. Their funds are exhausted. There are no funds now available for the Ute Indians, so even if the whole of this judgment is not appropriated for at least a substantial part of it ought to be appropriated for. This is a condition which ought to be met.

It is conceded that this general deficiency bill is the proper bill on which to provide for judgments of the Court of Claims. It could not very well be denied when the bill actually carries appropriations to pay judgments of the Court of Claims, and I think the bill will in the end carry this judgment before it becomes a law.

Mr. STEPHENS of Texas. Can the gentleman state how it was that the attorneys' fees were paid before this judgment was collected?

Mr. MARTIN of Colorado. I will say to the gentleman that I can not explain that. I do not know a thing on earth about the relations of the attorneys to this claim. I do not know who they were; I do not know what they got, and I do not care. I simply introduced this bill by request, as a matter of duty, to get this judgment paid, because the Indians who owned the lands lived in the district I have the honor to represent. The judgment was obtained before I had any knowledge that the case was pending.

Mr. FITZGERALD. The gentleman said he wanted two or three minutes in which to make a statement. I do not want him to use up all my time.

Mr. MARTIN of Colorado. I have now made the statement I desired to make. My position is this: This appropriation will finally be paid, and through this maneuvering it will finally be paid as the result of the efforts of gentlemen at the other end of the Capitol where our appropriations are usually secured.

Mr. FITZGERALD. Let me say this to the gentleman: That this appropriation, if I can prevent it, will not be made in such a way as to permit this money being dissipated instead of being conserved for the benefit of the Indians.

The Indians have been looted now to the extent of $200,000 for alleged services of attorneys. I do not propose, if I can prevent it, that the balance shall be appropriated with the understanding that it shall be invested in improvements on their lands and then taken by another sort of alleged friends of the Indians and the Indians themselves left in the same beggarly condition as they would be in if they had never had anything at all.

Mr. MARTIN of Colorado. I shall do what I can to get the appropriation through regardless of the bill on which it is placed, who gets the credit for it, or who will be entitled to the benefit of it after it is passed.

Mr. FITZGERALD. I believe the Indians should get what they are justly entitled to, but I do not believe in enriching a lot of grafters who have been living on these dependent Indians for years under the pretense of giving them that to which they are entitled.

Mr. MARTIN of Colorado. This appropriation was indorsed to the gentleman's committee by the Commissioner of Indian Affairs and the Secretary of the Interior, and the gentleman could have brought them before his committee and ascertained these facts, if they are facts.

Mr. FITZGERALD. We have ascertained that they wished to do something which, in my opinion, was absolutely indefensible.

Mr. MARTIN of Colorado. The gentleman is going behind the judgment of the Court of Claims.

Mr. FITZGERALD. The gentleman is not going behind the judgment of the Court of Claims. The Court of Claims did not find that the department should have the right to expend any part of the principal of this money. It distinctly states that it is the measure of the interest to which the Indians are entitled; but the officials in the department, assuming that they know better than Congress and that they are above the law, calmly propose to spend $500,000 at once of this $3,300,000, because they say these Indians are in such a deplorable condition, and they make the admission that they are among the most backward Indians in the United States. To give these allotments of land and spend $3,000,000 in improvements means that they are preparing to hand over to some very astute white gentlemen in the Western States some very desirable lands at very unremunerative prices, and to leave the Indians upon the hands of the Government and the Federal Treasury for many years to come.

Mr. MARTIN of Colorado. Mr Chairman, just a further very brief statement. It is true that the bill as drafted authorizes the Secretary to make payments and expenditures in his discretion, and I do not know what amount he may have asked the committee for authority to expend——

Mr. FITZGERALD. He wants authority to expend it all, but he said he would expend about $500,000 this year.

Mr. MARTIN of Colorado. But, as I understand it, it is up to the committee to fix the limitations and say in what amounts or at what times payments may be made.

Mr. FITZGERALD. No; it is not. There is a change in the law. That is not controlled by the Committee on Appropriations.

I reserve the balance of my time.

Mr. CANNON. Will the gentleman yield to me 10 minutes?

Mr. FITZGERALD. I yield 10 minutes to the gentleman from Illinois.

Mr. CANNON. Mr. Chairman, I listened with interest to the statement of the gentleman from New York [Mr. FITZGERALD] touching the amount covered by this bill, and I congratulate the House and the administration as well on the fact that this is the smallest deficiency bill that has been reported for many, many years.

This is due to several causes. I agree with the gentleman from New York in his statement that the estimates referred to by him, transmitted last year by the Secretary of War under the law, were too small. This bill would have been still less in amount if that estimate had been as large as it ought to have been.

The smallness of the bill is due to another fact. For many years Congress has been attempting to compel the Executive to cut the garment according to the cloth. Legislation has been enacted from time to time, and in both the Sixtieth and Sixty-

first Congresses legislation was enacted, which is largely to be credited with the small deficiencies carried by this bill. Notwithstanding there is a penalty against the official who expends more than is appropriated, yet from the necessities of the public service here and there expenditures have been made which are technically made in violation of the law. Just to illustrate as one instance: The Mississippi River overflowed; people were starving; the waters were rising; there was no money to relieve them. Estimates were sent for a considerable amount to relieve the flood sufferers. The appropriation was not made, and, in my judgment, wisely not made, because the President agreed to meet the existing conditions by furnishing Army rations and other service. The gentleman from New York stated that in his opinion it was the duty of the President to meet the emergency and furnish these supplies, and I concurred in that statement, and the gentleman from New York assured the President that, in his judgment, Congress would make the deficiency appropriation.

That condition was repeated again at the time of the earthquake disturbances in Alaska. A technical violation of law? Yes. But, after all, conditions must be met with intelligence and patriotism.

I am not criticizing the gentleman from New York [Mr. FITZGERALD]. It is all very proper for us to flap our wings and rejoice when there is a desirable condition, as there is in this deficiency bill, in that it is the smallest deficiency bill of many years. It is all well enough for the gentleman to say that this is due to the Democratic majority, a statement which is received with great applause upon the other side. Well, this appropriation for the public service for the year just expired was made when the Republicans were in the majority in the House. I just state that by way of a set-off to the political part of my friend's statement. I take great pleasure in saying that substantially this bill is well made.

Another thing, the bill would have been larger if it had been passed earlier, because under the provision of law that expenditures shall not be made unless appropriated for, if this deficiency bill had been passed in March, April, or May, the public service for the remainder of the fiscal year would have been cared for in some instances where it ought to have been cared for, but was not cared for, because the law prevented it in the absence of appropriations. The fiscal year having now expired, of course that diminishes the amount of the bill.

Reference has been made to the $3,300,000 judgment of the Court of Claims. I quite agree with the gentleman from New York that the committee did right in not including that $3,300,000 in this deficiency bill, because it was ascertained that the Senate had put this appropriation upon the Indian appropriation bill.

The estimate was resting before the Committee on Appropriations. There were two strings to the bow, and if it was not obtained according to the will of perhaps some legislators or some people interested in the same, under conditions in one bill, they would then have another string and see if they could not do it better on another bill, and there you are. It is simply ridiculous to have two of the great money bills carrying the same appropriation and the body which amends appropriation bills putting the amendment on the Indian appropriation bill.

I have some views about this judgment in one particular which I shall not at this time discuss. I am not entirely satisfied that there ought not to be at least $2,000,000 deducted from the amount of the judgment. I am examining and shall continue to examine that question, either as a member of the committee or as a Member of the House, or both, in order that I may act intelligently when I vote in the premises. I quite agree with what the gentleman from New York [Mr. FITZGERALD] has stated, that whatever is done when this appropriation is made to satisfy this judgment, we should not make a law placing the whole amount of the judgment at the discretion of the Interior Department or the administration to expend it in its discretion for any purpose it may desire.

I shall not talk about the attorney fees at this time. There are 2,000 of these Indians. There are 7,000,000 acres of this land, forest and mineral and agricultural in its nature, that have not yet been sold. A large sum is yet coming to these 2,000 Indians. I trust that in the future, where suits are brought before the Court of Claims and dismissed for want of jurisdiction, there will not be legislation enacted without sufficient consideration which would give jurisdiction to the Court of Claims which will be an instruction to take jurisdiction and adjudicate the claims along certain lines. The $211,000 of attorney fees I shall not say was a fraud upon the Indians and the Government, but I am satisfied that both Indians and Government would be far better off if these attorney fees had never been authorized.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. FITZGERALD. Mr. Chairman, I reserve the balance of my time.

Mr. CANNON. Mr. Chairman, I yield to the gentleman from Massachusetts [Mr. GILLETT].

[Mr. GILLET addressed the committee. See Appendix.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. FITZGERALD having taken the chair as Speaker pro tempore, a message in writing from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills of the following titles:

On July 20, 1912:

H. R. 17239. An act to authorize Arkansas and Memphis Railway Bridge & Terminal Co. to construct, maintain, and operate a bridge across the Mississippi River; and

H. R. 20501. An act to authorize the Secretary of the Treasury to exchange the site heretofore acquired for a United States immigration station at Baltimore, Md., for another suitable site and to pay, if necessary, out of the appropriation heretofore made for said immigration station, an additional sum in accomplishing such exchange, or to sell the present site, the money procured from such sale to revert to the appropriation made for said immigration station, and to purchase another site in lieu thereof.

On July 22, 1912:

H. R. 19403. An act authorizing the Director of the Census to collect and publish statistics of cotton.

On July 25, 1912:

H. R. 21477. An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

GENERAL DEFICIENCY APPROPRIATION BILL.

The committee resumed its session.

Mr. CANNON. Mr. Chairman, I now yield 30 minutes to the gentleman from Washington [Mr. HUMPHREY].

Mr. HUMPHREY of Washington. Mr. Chairman, I desire to reply to some of the statements that were made by the gentleman from Nebraska [Mr. NORRIS] yesterday. I hardly think it is necessary for me to state to this House, and I know it is not necessary for me to state to the gentleman from Nebraska, that anything I shall say in no way reflects upon the honesty or integrity of his purpose. He is one of the first gentleman with whom I became acquainted as a Member of this body. I formed a high regard for him then, and that regard has remained with me ever since. I shall merely attempt to criticize his judgment in some of the statements he made in his speech of yesterday and the day before.

It is not my intention to discuss the facts in relation to the selection of delegates from the State of Washington to the Republican national convention. I am not fully conversant with the facts. I was not at home at the time these delegates were named and took no part in the contest whatever. I had friends upon each side of this question. Whatever the facts are, I want them made public in fullest detail that the public may know the truth and pass judgment.

But I do resent the attempt of the gentleman from Nebraska [Mr. NORRIS] to reflect upon the honesty and integrity of a large number of the citizens of my State by quoting the opinion of some man whose name he is not willing to give. The gentleman in his speech said, in substance, that a certain gentleman of wide acquaintance and of high standing, whose statements would have great weight with the Members of this House and of the country, and who was conversant with all the facts, had stated to him that the delegates from the State of Washington to the Republican national convention "were absolutely stolen." I listened to this statement with much anticipation and waited for him to give the name of the gentleman. When it seemed apparent that he did not wish to do this or had forgotten it, uncertain as to his intent, I asked him who the gentleman was. He refused to give his name, but did state later, in reply to a question from me, that the gentleman was a supporter of President Taft and a candidate for office on the Republican ticket. For this reason he had refused to permit the use of his name.

Mr. NORRIS. Mr. Chairman, will the gentleman yield?

Mr. HUMPHREY of Washington. Certainly.

Mr. NORRIS. Mr. Chairman, the gentleman is mistaken when he says that I stated this man was a candidate for office on the Republican ticket. I made no such statement. I would

like to state that I did give the name of a man who prepared the statements.

Mr. HUMPHREY of Washington. The gentleman, as I understand it, then, stated that the gentleman to whom he referred was a supporter of President Taft and had political ambitions.

Mr. NORRIS. I judged that he did have.

Mr. HUMPHREY of Washington. The gentleman judged that he did have political ambitions.

Mr. NORRIS. Yes, that is one of the men whose name I did not give.

Mr. HUMPHREY of Washington. I understood him to say that he was a candidate for office. If he had political ambitions I know no other inference to draw from it.

His reasons for not giving this name may be and doubtless is entirely satisfactory to himself, but his failure to either do so or to withdraw such statement I do not think was satisfactory to this House, nor do I think that the position in which the gentleman finds himself in trying to justify his use of such evidence is entirely satisfactory to himself.

Mr. NORRIS. Mr. Chairman, will the gentleman yield there?

Mr. HUMPHREY of Washington. I yield for a question

Mr. NORRIS. I stated frankly that it was true that I admitted that would detract from my statement; but I stated that I knew the man and his opinion had great weight so far as my opinion was concerned. I did not offer that to influence the gentleman. I offered that as one of the reasons why I am convinced of the truth of it.

Mr. HUMPHREY of Washington. I am much obliged to the gentleman for interrupting me and saying that such evidence as that has great weight in his judgment. That is the very question that I am going to discuss—the condition of the gentleman's mind when such evidence as that does have great weight with him. As these statements were directly concerning the State of Washington and a number of her citizens, I can not permit it to go unchallenged. The gentleman from Nebraska once occupied with distinguished ability a high judicial position, though I admit that no one would have ever suspected that he had been a judge from that portion of his speech to which I have referred. Think of a judge permitting a witness to testify and permitting such testimony to go into the record and be received as evidence that a certain man of high standing, well known in the community, had said that he had investigated facts and that the defendant at bar was a thief, but as he was a friend of the thief he would not permit his name to be told. It was exactly upon such evidence as this that the gentleman wanted the country to believe that the State of Washington had been stolen and a great crime against honest government had been committed.

Suppose I should rise in my place in this House and name some fellow Member and then declare that I had been told by a man of national reputation, a man whose truth and veracity the Members of this House would not doubt, that he had carefully investigated the record of the Member I had named and that he was satisfied that such Member was a scoundrel and a criminal, and then, when the name was demanded of me, I would refuse to give it because the man whom I had quoted was a friend of the Member and was a candidate for public office. What a monstrous proposition that is! Is there a man on this floor whose innate sense of honesty, fairness, and justness would not arouse his hot indignation? I would deservedly be expelled from this body and carry with me the contempt of all my former associates. Is it any less monstrous, any less dastardly to utter such statements about a large number of reputable citizens to discredit them, and for political purposes to assassinate the reputation of a great political party? I know that the gentleman from Nebraska does not approve any such method. I am still utterly unable to account for his using such methods, or having used them to fail, upon reflection, to ask to have this portion of his speech stricken from the RECORD. This is the method of the anonymous letter writer, held in scorn and contempt by all decent men. This is the method of the blackmailer, the most cruel and cowardly of criminals, to extort blood money from his terrified and helpless victim while shielding himself. This is the method of the pitiless poisoner of the domestic peace in his neighbor's family. This is the method of the lowest and slimiest of all God's creations, the vile monster that by anonymous whispers assassinates the reputation of virtuous women.

As I have said, I do not believe that the gentleman from Nebraska intended to be unfair. It must be that in the zeal of his cause or in the enthusiasm of hysteria he for the moment lost control of his better judgment. Had such a statement as this been made by another no man in the House would have seen it more quickly or condemned it more strongly than the gentleman from Nebraska. Not only did the statement of the gentleman from Nebraska regarding this witness give the impression that his opinion of the case was of great weight, but it further carried with it the expression that this gentleman had unusual opportunities to know the facts, and, by implication at least, the impression was also given that he was much better informed than the general public, the national committee, or the gentleman from Wyoming in regard to the matter. I submit that the statement of the gentleman from Nebraska is a gross injustice to a large number of good men in my State, to himself, and to the great party with which he has long been identified.

But the gentleman discredits his own methods and impeaches this high-minded, far-famed, and nameless witness of his. He informs us that this great and good man, whose name we do not know, believed that the delegates from the State of Washington were stolen. If the delegates from Washington were stolen, if the unknown witness told the truth, and the contention of the gentleman from Nebraska is correct, then the convention at Chicago was fraudulent; then President Taft has stolen his nomination. Such was asserted again and again by the gentleman from Nebraska to be true. But this anonymous paragon of honor, of wde reputation, quoted to discredit honest men, is supporting Taft knowing that his nomination is stolen. This witness of high standing, of splendid character, that the gentleman from Nebraska uses without giving his name, is supporting the Republican party in its attempt to profit by this great outrage.

And, says the gentleman from Nebraska, this unknown witness of his is not only supporting Taft, the man who has received the stolen goods, but he is himself a candidate for office, or, as the gentleman now says, to quote him correctly, has political ambitions, and, therefore, does not want it known that he thinks that the delegates from the State of Washington were stolen. It is almost inconceivable that the gentleman from Nebraska should make such statement. Is it a justification for a man to support another for office when he knows that that man has stolen his nomination because he is himself a candidate? Is a man justified in refusing to expose political thefts because he is himself a candidate of the party that practiced such corrupt and dishonest methods? What becomes of the high standing, the unimpeachable character of this unknown witness which the gentleman from Nebraska has introduced? If the gentleman states the facts about his own witness he is guilty of everything that the gentleman in other portions of his speech condemns. May I ask the gentleman from Nebraska what rule he uses in measuring the honesty and the credibility of candidates for office when called as witnesses to prove political crookedness?

Mr. NORRIS. Mr. Chairman, will the gentleman yield there?

Mr. HUMPHREY of Washington. I will not yield at this time.

Mr. NORRIS. But the gentleman has asked me a question.

Mr. HUMPHREY of Washington. The gentleman can answer it in his own time a little later, when I shall yield. He vouches in highest terms for the character, the standing, and the integrity of his nameless witness and then in almost the same sentence admits that this same witness is now supporting a candidate for President that he knows was dishonestly nominated.

Mr. COOPER. Mr. Chairman, will the gentleman yield?

Mr. HUMPHREY of Washington. Not at this time. I will yield a little later. Does the gentleman believe under his own statements that his own witness is entitled to credit? If he does, then what estimate are we to place upon the judgment of the gentleman from Nebraska upon any question of this character? The excuse of the gentleman from Nebraska for the nameless one is that he has political ambitions. If that is a sufficient excuse for supporting Taft, knowing that he was not honestly nominated, if that is a sufficient excuse for refusing to give to the country the truth about the Chicago convention, in the estimation of the gentlemen who are opposed to President Taft and to the action of the Chicago convention would it not also be a sufficient excuse for these same gentlemen to support other candidates regardless of the way that they were nominated? Would it not be sufficient excuse for these same gentlemen to keep from the public the truth about their own candidates and about their own party?

The gentleman from Nebraska is himself a candidate for high office, and if he is to subscribe to the doctrine that he has advanced in behalf of his unknown witness, that when he is a candidate for office he is excusable for acting with a party that he knows is corrupt, that he is excusable for supporting a candidate dishonestly nominated for the highest office in the civilized world, that he is excusable for not giving facts in regard

to dishonesty and graft in his own party, does not the gentleman impeach himself and place himself in a position where his own motives may be justly questioned?

Are we to conclude that it is upon this theory that we hear so much to-day about stolen delegates, about dishonesty, about corruption, about political robbery, that each candidate because he is a candidate is justified in denouncing and condemning in most unmeasured and vicious terms his opponent, and is equally justified in concealing the truth about his own party and his own candidates? This seems to be the logic of the position of the gentleman from Nebraska. I regret to say that this does seem to-day to be the approved method of a large class of professional reformers who are seeking by the volume of their vocabulary to make the public believe that with them rests the salvation of the Republic and that with them virtue will perish from the earth.

If an honest man, a man of highest character, of unquestioned truth and veracity, worthy of every confidence, can and does support President Taft, knowing he secured his nomination by stealing, knowing that the Chicago convention was controlled by bosses, jobbers, thieves, highwaymen, scoundrels, robbers, thugs, grafters, thimbleriggers, porch climbers, and pirates, freebooters, buccaneers, and bandits—I believe I call a majority of the names in common use by the gentleman from Nebraska and his followers—if any honest man can support the work of that convention—and this man is honest, for the gentleman from Nebraska has so declared—then to what purpose does the gentleman from Nebraska continue to vex the atmosphere with his declamation? If that is his opinion of honesty and of honest men, then no one doubts that he may honestly believe that the Chicago convention was controlled by crooks. I emphasize this part of the gentleman's speech to show the temper of the gentleman, to show on what evidence he is ready to condemn others, to show what he regards as fair argument, to show the condition of his mind, to show how easily he can be convinced that others are dishonest, to show what character of men he considers high-minded and worthy of credit. I dwell upon it to emphasize the fact that a mental condition to-day seems to be widely prevalent, a condition that is anxious to believe anything from any source however disreputable, provided only that it tends to discredit. It is utterly useless to present facts or evidence or argument to sustain the good reputation or the high character or the honest purpose of any man to one in such state of mental aberration, when excitement or self-interest has so prejudiced his judgment and paralyzed his sense of reason.

Perhaps some will think that the statements of the gentleman from Nebraska should have gone by unchallenged, but I believe that reckless and unbridled statements are too common in this House. It is not to our credit that it is so. In justice to the gentleman from Nebraska I must say that he is usually careful and moderate in his statements, and weak, indeed, must be his case now if he finds it necessary to depart from his usual custom and introduce such evidence as he has done. It seems that there are many estimable gentlemen in the country that are in such dazed and hysterical condition that they have lost all sense of proportion. They seem utterly unable to weigh evidence. Their sense of fairness seems to have become paralyzed in their appeals to have it appear that they alone are honest and that they alone are the friends of the people. I hope that soon this period of suspicion, hysteria, and of reckless denunciation will have passed away, and we will have less of the cant and hypocrisy of self-appointed guardians of the people in their self-righteousness, so loudly and fervently thanking God that they are not as other men are.

There is just one other statement that I wish to notice in a sentence made by the gentleman from Nebraska and that is that the action of those who have supported President Taft had destroyed the Republican Party. It is strange to me, even if this is true in the light of the gentleman's career for the last few years that such action should arouse his solicitude or bring him regret, for if any man, according to his ability, and that ability is not small, has done more to destroy the Republican Party than the gentleman from Nebraska, then the Democratic Party should erect costly monuments to his memory and sing his praise in song and story down to the last syllable of record time.

Mr. CANNON. Mr. Chairman, I yield to the gentleman from Illinois [Mr. RODENBERG] one hour.

Mr. NORRIS. The gentleman from Washington has not used all his time, and I desire to ask him a question if he will yield.

Mr. CANNON. I want the hour and a half, and the gentleman will have opportunity later.

Mr. NORRIS. I am not asking for time, but I want to know if the gentleman from Washington will yield. He has not consumed all of his time, has he?

The CHAIRMAN. The gentleman has not consumed all his time.

Mr. CANNON. How much time?

The CHAIRMAN. Twenty-four and a half minutes.

Mr. HUMPHREY of Washington. I yield back the balance of my time.

Mr. NORRIS. I would like to ask the gentleman from Washington a question or two.

Mr. CANNON. I yield to the gentleman from Illinois [Mr. RODENBERG] 60 minutes.

Mr. HEFLIN. Before the gentleman yields that time, I do not see Mr. FITZGERALD on the floor——

Mr. CANNON. I hope this will not be taken out of my time.

Mr. HEFLIN (continuing). Mr. FITZGERALD promised to yield to me 10 minutes immediately following the gentleman from Washington [Mr. HUMPHREY].

Mr. CANNON. I yield 60 minutes to the gentleman from Illinois.

Mr. HEFLIN. Before the gentleman proceeds; the gentleman from New York [Mr. FITZGERALD] promised to allow me 10 minutes immediately following Mr. HUMPHREY. I do not see him in the Hall, and I ask that I may be allowed that 10 minutes now.

Mr. ROBINSON. Mr. Chairman, I ask unanimous consent that the gentleman have 10 minutes, to be taken out of the time of the gentleman from New York.

Mr. CANNON. I believe I have the floor, and I yield to the gentleman from Illinois one hour. The gentleman from Alabama will get 10 minutes, perhaps when it will suit him better, after the gentleman from Illinois has spoken.

Mr. RODENBERG. Mr. Chairman, I desire to thank my distinguished colleague for this courtesy, and I hope that I may be able to conclude my remarks without consuming all the time that has been so generously granted to me.

Mr. Chairman, when a great political party has nominated its candidate for the office of President of the United States it is only natural that the people should immediately manifest an intense interest both in the personality of the nominee and in the principles for which he is known to stand. His habits of life, his opinions on social and economic questions, his theories of governmental policy, become at once legitimate and interesting subjects of inquiry and investigation. While it is true that in a Republic like ours government must necessarily be conducted by and through political parties, yet it is also true that the platform of principles adopted by a political party and on the strength of which the candidate appeals for popular support is in no sense a true index of the candidate's worth or of his fitness for the office to which he aspires. In this enlightened day and age, when the standard of general intelligence is higher than it has ever been, the personality of the candidate becomes in a very large measure the true platform of his party. The people are more vitally interested in ascertaining the honest convictions of the candidate, formed in a time of sober and mature reflection, uninfluenced by ambition or hope of political preferment, than they are in any professions or promises contained in a platform which they know has been constructed solely to meet the exigencies of practical politics. In the history of American politics, with but very few exceptions, no man has ever been nominated for the high office of President of the United States by either of the great contending parties who was wholly unknown to fame or who had not previously rendered distinguished services to his country on the field of battle, in legislative forum, or in high executive or judicial place. The candidates who have been nominated by the Republican and Democratic Parties in this year of 1912 are not an exception to this rule. Both are men of high personal character, and both have records of public or semipublic service, which should enable the intelligent voter to form a correct conclusion as to their relative worth and fitness.

William Howard Taft has had a long and honorable career as a Federal judge, as governor of the Philippines, as Secretary of War, and as President of the United States. Woodrow Wilson, on the other hand, has been in public life for a very short time, having served less than two years in the office of governor of the State of New Jersey, that being the only political office that he has ever held. He has, however, had a long and honorable career as president of Princeton University, one of the great universities of this Nation, and he has had even a longer career as an author of note and distinction. He has been a most prolific writer, exploring every nook and corner of the field of history, sociology, and political economy. In his

voluminous writings and public addresses every subject in which the American people have ever shown the slightest interest, with the possible exception of the question of race suicide, has been treated by him in a manner which reflects great credit on his intellectual courage and independence, if not upon his political foresight and acumen. But I want to say in defense of the scholarly professor and man of letters that at the time he was expressing his honest views on these multitudinous subjects his fine literary soul was unvexed and unannoyed by the alluring prospects of political preferment. The shadow of the White House had not fallen athwart his peaceful path. The presidential bee had not yet begun to buzz. In fact, it had not even been hatched.

It is with this period in the professor's life that I purpose to deal to-day. For the benefit of such as do not have ready access to his numerous publications I desire to call attention to some of the startling views expressed by Prof. Wilson on men and measures, principally as they appear in his most important work, "*History of the American People.*" This history was published in 1902, only 10 years ago. At the time of publication Prof. Wilson was 46 years of age, and by reason of his erudition and scholarly attainments enjoyed then, as he does now, the titles of doctor of philosophy, doctor of literature, and doctor of laws. It will be apparent, therefore, that the views expressed by him are not the hasty and ill-considered fulminations of a college graduate, but rather the sober and philosophic reflections of the matured student and thinker.

WOODROW WILSON VERSUS THOMAS JEFFERSON.

Mr. Chairman, Thomas Jefferson is regarded as the founder of the Democratic Party and by common consent is accepted as its patron saint. His teachings have furnished Democracy's inspiration since the foundation of the party. Impassioned Democratic orators have been known to bring tears to the eyes of their listeners while describing the patriotic pulsations of that great heart that was wont to beat in sympathy with the oppressed of all mankind. In glowing terms they have pictured Thomas Jefferson as the great commoner, the embodiment of all the homely virtues, simple in all of his tastes, and devoted to the plain people of whom he was part and parcel. No Democratic national convention has ever failed to pay homage to the "Sage of Monticello." At the convention which met at Baltimore we find as the first resolution that time-honored, moss-grown, stereotyped expression with which we are all so familiar:

We, the representatives of the Democratic Party in national convention assembled, reaffirm our devotion to the principles of Democratic government as formulated by Thomas Jefferson.

To-day the mantle of the immortal Jefferson rests upon the narrow but classic shoulders of the Princeton professor. That mantle was placed there amid scenes of great excitement on the second day of July, by the frenzied followers of the lamented Jefferson in convention assembled at Baltimore. It was done in the daytime, in the full glare of the midday sun, at an hour when the spirits of the departed that hover forever near the scene of their earthly activities are supposed to go into retirement, preparing for their nightly walks. Jefferson was taken at a disadvantage, and he is therefore not to blame, for, if given an opportunity, I insist that the spirit of the author of the Declaration of Independence would certainly have protested, and protested vigorously, against the action of that convention. In righteous indignation he would have pointed to page 3, volume 4, of Woodrow Wilson's History of the American People, in which appears this sentiment:

The difference between Mr. Jefferson and Gen. Jackson was not a difference of moral quality so much as a difference in social stock and breeding. Mr. Jefferson, an aristocrat, and yet a philosophical radical, deliberately practiced the arts of the politician and exhibited oftentimes the sort of insincerity which subtle natures yield to without loss of essential integrity.

He would next have pointed to page 289 of Wilson's Life of George Washington, in which Prof. Wilson characterizes Thomas Jefferson as a "philosophical radical rather than a statesman," and says further:

Washington found him a guide who needed watching.

Mr. Chairman, if Woodrow Wilson is correct in saying that Thomas Jefferson was at heart an aristocrat while pretending to be of and for the common people, if he is correct in placing upon him the brand of insincerity, then Jefferson was easily the greatest demagogue, the most consummate hypocrite that has ever lived in the tides of time. If Wilson is correct in saying that in the critical formative period of our Nation's life Jefferson was wanting in loyalty to Washington, in whose Cabinet he served, and that he was "a guide who needed watching," then I insist that Jefferson was not a patriot, but a dissembler and an intriguer.

I for one, however, refuse to accept Woodrow Wilson's estimate of the character of Thomas Jefferson. I decline to have one of the historic idols of my youth and manhood shattered by a Democratic candidate for the Presidency. [Applause on the Republican side.] As the years recede the halo that surrounds the memory of the immortal Jefferson grows brighter and brighter, and I insist that that halo can not and must not be dissipated by Woodrow Wilson or any other Democratic theorist in the United States. The fame of Jefferson is secure; his is "one of the few, the immortal names, that were not born to die." But with Woodrow Wilson as the candidate for the Presidency I insist that it is high time for the Democratic Party, as a matter of expediency, if not consistency, for the latter is well-nigh impossible, and in justice to both Jefferson and Wilson, to change the name of its patron saint.

It is always a great embarrassment to a candidate to find himself out of harmony with a popular tradition of his party, and it is not exactly fair to the memory of the man who is responsible for the tradition.

WILSON VERSUS THE FOREIGN-BORN CITIZEN.

Mr. Chairman, I was under the impression that the spirit of "Knownothingism" that was once rampant in this country was long since dead. I was under the impression that that spirit had been crushed out of existence forever by the convincing power of the great truth which lies at the very foundation of our republican form of government, that "all men are created free and equal and endowed by their Creator with certain inalienable rights." I did not believe that the time would ever come when a great political party would nominate as its candidate for President a man in whom there seems still to linger a trace of the intolerance, the prejudice, and the narrow resentment that gave birth to the un-American, antiforeign agitation of some 50 years ago.

On page 212, volume 5, Woodrow Wilson's History of the American People, I find this remarkable statement:

Now, there came multitudes of men of the lowest class from the south of Italy and men of the meaner sort out of Hungary and Poland, men out of the ranks where there was neither skill nor energy nor any initiative of quick intelligence; and they came in numbers which increased from year to year, as if the countries of the south of Europe were disburdening themselves of the more sordid and hapless elements of their population. The people of the Pacific coast had clamored these many years against the admission of immigrants out of China, and in May, 1892, got at last what they wanted—a Federal statute which practically excluded from the United States all Chinese who had not already acquired the right of residence; and yet the Chinese were more to be desired, as workmen if not as citizens, than most of the coarse crew that came crowding in every year at the eastern ports.

Mr. Chairman, it has long been our proud boast that ours is the land of liberty and of opportunity.

Here, on the hospitable shores of the "home of the free," the persecuted of the earth have always found a refuge and an asylum. Our welcome has gone out to all alike. We recognize neither class nor caste, nationality nor religion. Every honest immigrant, no matter from what country he hails, whether from the north of Europe, the south of Europe, the east of Europe, or the west of Europe, if able to meet the requirements of our liberal immigration laws, is invited to partake of our liberties and to join with us in working out the manifest destiny of the American Republic. [Applause on the Republican side.]

It is this spirit that lies at the basis of our national greatness. It is this spirit that is responsible for our national supremacy. And to the eternal credit of the vast majority of our foreign-born citizens, including those from the south of Europe, be it said, that when they take the oath of allegiance to the laws and Constitution of our country, they become American citizens, not only in word, but in spirit as well, and they instill in the hearts of their children a sincere love and reverence for the old flag and for the institutions of their adopted country. [Applause on the Republican side.]

Oh, my friends, the history of civilization teaches us that liberty does not live with the rich, the powerful, and the great. It lives with the poor, the lowly, the humble, and the oppressed. Its fires have always burned more brightly in the humble cot of the day laborer than in the stately mansion of the multimillionaire. [Applause on the Republican side.]

God knows, I would not deny to any man, no matter how lowly his position in life, the right to enjoy the liberty of a free country. While I believe in the strict enforcement of our immigration laws, to protect us against the vicious, the lawless, and the depraved, yet I would not draw the line against admitting immigrants who, judged by our own experience, possess the possibility of developing into useful American citizenship.

My sympathy goes out to the man who has never had a chance in the struggle for existence, to the man whose dreary

pathway through life has never been illuminated by the bright, golden sunlight of hope and opportunity. I would not discriminate against the Italian, the Hungarian, or the Pole. I have not forgotten that Columbus was the son of an Italian laborer. I have not forgotten that among the great sculptors and artists who have given Italy her proud place in the world of art are the sons of men who earned their bread in the sweat of their brows. Ah, genius knows no nationality, and is not the result of birth or location. No nation has a monopoly on intellect, a corner on brains. Italy has her Garibaldi, Poland, her Kosciuszko, Hungary, her Kossuth; and even the learned Princeton professor may profit by reading the inspiring story of their heroic lives. [Applause on the Republican side.] In this land of equal opportunity, the son of the immigrant of to-day may become the American statesman of to-morrow. [Applause on the Republican side.]

Oh, as I read the pathetic story of the patriotic struggle of the people of the south of Europe for greater freedom and for larger opportunity, and as I recall all that they have contributed to the genius of our national life, I must take issue with Prof. Wilson. I believe that these people are superior in every way to the Chinese, and that it is an insult to the Caucasian race to say that they are not. [Applause on the Republican side.]

WILSON THE FRIEND OF THE CHINAMAN.

Prof. Wilson seems to be especially fond of the Chinese. Continuing the quotation which I have just read, on page 213, volume 5, of Woodrow Wilson's History of the American People, the professor proceeds as follows:

They—

Meaning the Chinese—

had, no doubt, many an unsavory habit, bred unwholesome squalor in the crowded quarters where they most abounded in the western seaports, and seemed separated by their very nature from the people among whom they had come to live—

Now listen—

but *it was their skill, their intelligence, their hardy power of labor, their knack at succeeding and driving duller rivals out, rather than their alien habits,* that made them feared and hated and led to their exclusion *at the prayer of the men they were likely to displace,* should they multiply. The unlikely fellows who came in at the eastern ports were tolerated because they usurped no place but the very lowest in the scale of labor.

Mr. Chairman, the history of the Geary Act, which passed in 1892, and which resulted in the exclusion of the Chinese from the United States, tells us that that act was passed upon the unanimous and urgent request of American workingmen, who justly regarded the Chinaman as an alien, incapable of assimilation and incapable of Americanization. I do not agree with Prof. Wilson in the statement that the workingmen of this country were driven to make demand upon Congress for this legislation because of their "*fear of the superior skill and intelligence*" of the Chinese. I know of no wage earner in the great industrial district which I have the honor to represent in this chamber who is not the superior of the Chinaman in point of "*skill, intelligence, or power of labor.*" I know of no American wage earner anywhere who is only a "*dull rival*" of the Chinaman. There can be no rivalry between the intelligent laborers of the United States and the ignorant coolies of China. Rivalry can exist only between equals. There is no equality between an American and a Chinaman, and Prof. Wilson wholly underestimates the character and the capacity of the American workingman when he makes a statement to the contrary. [Applause on the Republican side.]

As I read Prof. Wilson's glowing tribute to the Chinese race I could readily understand why the Chinese Students' Club of America met in the city of New York on the 2d day of February, 1912, and solemnly indorsed the candidacy of their friend, "Woodlow Wilson." [Laughter on the Republican side.] I can readily understand why there was such great rejoicing in the Chinese laundries of this country when the news went out that Wilson had been nominated for President at Baltimore. [Laughter on the Republican side.] Even at the risk of alarming my colleagues on this side of the Chamber I am forced to admit that the Chinese vote is hopelessly lost to the Republican Party. [Laughter on the Republican side.] It has gone over in a body to Woodlow Wilson. [Applause on the Republican side.]

WILSON VERSUS LABOR UNIONS.

Mr. Chairman, I believe in union labor and in labor unions. I regard them as the logical outgrowth of our modern industrial system, and I know that they have accomplished much for the betterment of the conditions of those who toil for a living. During the 12 years that I have been honored with a seat in this Chamber I think my colleagues will bear me out when I say that I have always been a consistent and loyal supporter of any measure that was presented for the consideration of this House which would prove beneficial to the working men of this country. I believe that any man who has ever given the slightest thought to this subject recognizes and fully appreciates the great and good work that is being done by the labor unions of to-day.

The Democratic Party in the platform adopted at Baltimore professes undying friendship for organized labor, and then, as an evidence of its sincerity, nominates as its candidate for President, Woodrow Wilson, who, on the 13th day of June, 1909, only three short years ago, in a baccalaureate address to a graduating class at Princeton, expressed the following remarkable views on this all-important subject:

You know what the usual standard of the employee is in our day. *It is to give as little as he may for his wages.* Labor is standardized by the trades unions, and this is the standard to which it is made to conform. *No one is suffered to do more than the average workman* can do; in some trades and handicrafts no one is suffered to do more *than the least skillful of his fellows can do within the hours allotted to a day's labor, and no one may work out of hours at all,* or *volunteer anything beyond the minimum.* I need not point out how economically disastrous such a regulation of labor is. It is so unprofitable to the employer that in some trades it will presently not be worth while to attempt anything at all. He had better stop altogether than operate at an inevitable and invariable loss.

The labor of America is rapidly becoming unprofitable under its present regulation by those who have determined to reduce it to a minimum. Our economic supremacy may be lost because the country grows more and more full of unprofitable servants.

I do not agree with Prof. Wilson that members of trades unions are "*unprofitable servants.*" I do not agree with him that the man who belongs to a labor organization is trying "*to give as little as possible for his wages.*" I do not agree with him that the work of the least skillful member of a labor organization sets the standard which marks the amount of work that his fellow craftsmen can perform. I do not believe that that great organization, the American Federation of Labor, is trying to make American labor unprofitable by reducing it to a minimum.

I do not believe that Mr. Gompers, Mr. Mitchell, and Mr. Morrison are trying to destroy the economic supremacy of the United States. If I read Prof. Wilson aright, he is opposed to putting any limitation on the hours of labor, and would therefore, in order to produce more "*profitable servants,*" exact from the wage earner all that human endurance is capable of producing.

My friends, the recognition of the eight-hour day as constituting a day's work is one of the greatest triumphs of organized labor. [Applause.] It represents years of faithful, patient, intelligent effort and agitation, and it is in full harmony with the enlightened spirit of the times. Its abolition, as so manifestly desired by Prof. Wilson, in order to produce more "*profitable servants,*" may prove popular with a Princeton graduating class, but I am sure that it will never prove popular with the 20,000 union men who live and work and vote in the twenty-second congressional district of Illinois. [Applause.]

And I go further. I measure my words well when I say that organized labor would receive a blow from which it would not recover in 20 years if a man holding the views that Woodrow Wilson holds on the question of labor organizations should be elected to the Presidency on a platform which limits his tenure of office to a single term in the White House. Platform or no platform, he would consider himself free to bend every energy and to use the power and influence of his great office to carry into effect his own narrow views on the question of organized labor.

WILSON VERSUS THE SOLDIER.

Mr. Chairman, on the 12th day of December, 1911, 98 Democratic Members of the present House joined with 130 Republicans and 1 Socialist and passed the Sherwood service pension bill. Eighty-four Democrats and only eight Republicans are recorded in opposition to this bill.

While the provisions of the Sherwood pension bill were not as liberal and generous as those of the Sulloway bill which we passed in the preceding Congress, yet, taken as a whole, it is a very meritorious measure, and the gallant veterans of the great civil conflict, whose ranks are so rapidly thinning, have reason to thank Gen. SHERWOOD, Mr. SULLOWAY, Col. BRADLEY, Mr. RUSSELL, Mr. FULLER, and the other members of the Committee on Invalid Pensions for the splendid work that was done in their behalf.

In the platform adopted at Baltimore I find this plank:

We renew the declaration of our last platform relating to a generous pension policy.

Prof. Wilson, the Democratic candidate for President, does not seem to be in harmony with this declaration. In a review of the administration of Grover Cleveland, whom he eulogizes

to the point of idolatry, on page 180, volume 5, History of the American People, Prof. Wilson says:

What most attracted the attention of the country, aside from his action in the matter of appointments to office, was the extraordinary number of his vetoes. Most of them were uttered against pension bills, great and small. Both Democratic House and Republican Senate were inclined to grant any man or class of men who had served in the Federal armies during the Civil War the right to be supported out of the National Treasury, and Mr. Cleveland set himself resolutely to check their extravagance. He deemed it enough that those who had been actually disabled should receive pensions from the Government and regarded additional gifts for mere service both an unjustifiable use of the public money and a gross abuse of charity.

In view of this remarkable statement, I would like to inquire how many Republicans and Democrats in this House who voted for the Sherwood service pension bill, or any other pension bill, did so on the theory that any man who had ever served in the Federal Army had an absolute right to be supported out of the National Treasury? I would like to inquire of the Democrats who supported this bill if they agree with Prof. Wilson that legislation of this kind is an "*unjustifiable use of the public money and a gross abuse of charity*"? The trouble seems to be that Prof. Wilson does not comprehend the true spirit and intent of our pension system. I maintain that the man who spent several of the best years of his young manhood in the service of his country is entitled to the everlasting gratitude of the Nation, whether he was actually disabled or not [applause on the Republican side], and that gratitude can only manifest itself in a practical way by granting him a pension if his declining days to compensate him for the loss that he sustained while at the full zenith of his power and capacity to earn a competency for himself and his family. [Renewed applause.]

No, no, my friends, a service pension is not "*an unjustifiable use of the public money.*" It is not "*a gross abuse of charity.*" It is founded on the eternal principles of right and justice. It is the expression of a Nation's love for the heroism of the men who were prepared to sacrifice their lives on the altar of patriotism that "government of the people, by the people, and for the people might not perish from the earth." [Applause on the Republican side.]

It is possible that Prof. Wilson has experienced a change of heart since he wrote those cold and heartless lines, for I recall that less than a year ago he himself applied to Andrew Carnegie for a pension, and based that claim not upon disability but upon "*mere service*" as an educator. [Laughter and applause on the Republican side.] I hope the fact that he did not succeed in getting the Carnegie pension will not embitter his soul, but that it will lead even him to recognize the injustice of his views as expressed on the question of service pensions.

WILSON VERSUS BRYAN.

Mr. Chairman, the dominating power in the Baltimore convention was William Jennings Bryan, of Nebraska. In fact, William Jennings Bryan, of Nebraska, has been the dominating power in the Democratic Party so long that the memory of a "first voter" runneth not to the contrary. For 16 long and weary years he has been Democracy's Old Man of the Sea, gripping her with a strangle hold and choking her into abject submission to his every whim and caprice. In utter defiance of a precedent that has been as binding as law in every Democratic national convention for 60 years, in utter disregard of every consideration of elementary decency and fair play, he succeeded in robbing the distinguished Speaker of this House of the honor of a nomination for the high office of President of the United States after the Speaker had secured a majority of the votes on eight successive ballots [applause], and he succeeded in bestowing that honor upon a man who was not only not his friend but his pronounced and active enemy.

If it be true that Opportunity knocks but once at every man's door, then CHAMP CLARK may never again have a chance to be President of the United States, but CHAMP CLARK will live in the hearts and affections of his fellow men long after William Jennings Bryan shall have been forgotten. He will live, and his name will be honored because all the world knows that CHAMP CLARK has always been true to his friends, true to his ideals, true to his conception of duty, standing "four-square to all the winds that blow," in fair weather and in foul. [Applause.] And when the impartial historian of the future shall come to write of his base betrayal at Baltimore he will denounce the act of William Jennings Bryan as marking the very acme of perfidy, the culmination of political treachery. [Applause.]

I have said that Prof. Wilson was not the friend of William Jennings Bryan, and for a verification of that statement I refer to page 258, volume 5, Woodrow Wilson's History of the American People, and this is what he says about the man who was once democracy's "peerless" but who is now her "cheerless" leader:

Mr. Bryan, though he had been a Member of Congress and had spoken in the House upon the coinage question, had made no place of leadership for himself hitherto, was unknown to the country at large and even to the great mass of his fellow partisans, and had come to the convention with the delegation from Nebraska unheralded, unremarked. A single speech made from the platform of the convention had won him the nomination, a speech wrought not of argument but of fire, and uttered in the full tones of a voice which rang clear and passionate in the authentic key of the assembly's own mood of vehemence and revolt. It was a thing for thoughtful men to note how a mere stroke of telling declamation might make an unknown, untested man the nominee of a great party for the highest office in the land, a popular assembly being the instrument of choice.

Mr. Wilson was not the friend of Mr. Bryan in 1896, and he was not his friend as late as April 29, 1907, when he wrote the following letter from Princeton:

MY DEAR MR. JOLINE: Thank you very much for sending me your address at Parsons, Kans., before the board of directors of the Missouri, Kansas & Texas Railway Co. I have read it with relish and entire agreement. Would that we could do something, at once dignified and effective, to knock Mr. Bryan once for all into a cocked hat.

[Laughter from the Republican side.]

"*I have read it with relish and entire agreement!*" And in the Parsons speech Mr. Joline, the great trust and corporation lawyer, gives utterance to this sentiment:

But I venture to utter what is perhaps a feeble protest against the blind and foolish outcry against all railways. You and I know who are responsible for this socialistic, populistic, antiproperty crusade. It is the cry of the envious against the well to do—the old story. It is not new to this generation, only it is louder and more bitter than ever before in this country.

This is what Woodrow Wilson read "*with relish and entire agreement.*" This was his honest opinion as late as 1907 of Bryan and Bryanism, and yet to-day, to gratify his ambitions, he is prepared to set aside the convictions of a lifetime, to don sackcloth and ashes and to eat out of the hand of the man whom he denounced as an untried declaimer, and who, because of his populistic and socialistic tendencies, he was anxious to "*knock into a cocked hat once for all.*" [Applause on the Republican side.] Oh, what a spectacle for gods and men! What an example for the youth of our land to emulate! How proud our Democratic friends should be of the sincerity, the consistency, and the moral courage of their candidate for President of the United States! [Applause on the Republican side.]

Mr. Chairman, I shall not go much further into the record of this anti-Jefferson, antiforeign, antilabor, antisoldier, and pro-Chinese candidate for the Presidency. [Laughter and applause on the Republican side.] I shall not speak of his remarkable reversal of opinion as to the efficacy of the initiative, the referendum, and the recall. Suffice it to say that a few years ago he denounced this doctrine as revolutionary and as destructive of constitutional government. Yet to-day he loudly proclaims it as the one panacea for all the ills that afflict the body politic. I shall not speak of his sneering references to the Farmers' Alliance and of his characterization of the Knights of Labor as being tinctured with the hideous doctrine of anarchy. I believe that it was Job who said, "Oh, that mine adversary had written a book." I would say, "Oh, that the voters of this country would read the books written by mine adversary." For if Woodrow Wilson's History of the American People were made a campaign document and placed in the hands of every man who will exercise the sacred right of franchise on the 5th day of next November he would be buried beneath an avalanche of votes so deep that he would never hear the blast of Gabriel's trumpet on the morning of the resurrection. [Applause on the Republican side.]

Mr. Chairman, the Republican Party faces this contest with courage and with confidence. We know that we are right and we have an abiding faith in the triumph of any question of truth or justice submitted to the will of a free and an enlightened people. We have an abiding confidence in the discriminating sense of the American voter. We believe that he can distinguish between wheat and chaff, between a statesman and a demagogue, between evolution and revolution. [Applause on the Republican side.] The record of the administration of William Howard Taft will be fully vindicated. When the froth and foam and fury of misrepresentation shall have disappeared, when the billows of billingsgate shall have subsided, when the calm succeeds the storm, the sober-thinking people who are in a majority in this country will do full justice to this brave, fearless, and manly man who has never failed to do the right as "God has given him to see the right." [Applause on the Republican side.] They will elect William Howard Taft as his own successor because in him the American people recognize the dignity and the majesty of an honest man who has tried faithfully to uphold the best traditions of the Republican

Party, the party of progress and protection, the party of a people's hope and of a Nation's desire, the party that believes in preserving in all its strength and purity and glory the Constitution of the fathers. "We stand at Armageddon and we battle for the Lord." [Loud and continued applause.]

Mr. FITZGERALD. Mr. Chairman, before this session of Congress adjourns I expect to call to the attention of the House the statements made by the President of the United States and by a former President of the United States in which they picture their real thoughts regarding each other. They had them concealed for some years, but the exigencies of the present political campaign compelled them to develop their real beliefs regarding each other. I shall set forth their views of each other as a contribution to important historical events of the recent past. At this time, however, I desire to ask unanimous consent to print in the RECORD a speech by Hon. Woodrow Wilson on "Government in relation to business," which was delivered at the recent banquet of the Economic Club of New York at the Hotel Astor on May 23, 1912, in which he makes some pertinent observations as to the methods adopted and followed by the Republican Party during the past few years in enacting legislation and in legislating particularly for the benefit of "big business" rather than for the masses of the people.

The CHAIRMAN. The gentleman from New York asks unanimous consent to print in the RECORD a certain speech designated by him.

Mr. MANN. Mr. Chairman, reserving the right to object, the other day the gentleman from Connecticut [Mr. HILL] asked unanimous consent to print in the RECORD a speech delivered by Dr. Woodrow Wilson, to which, for some reason, a gentleman on the Democratic side objected, and I desire to couple that request with the request of the gentleman from New York.

Mr. FITZGERALD. What is it?

Mr. MANN. If you are not willing to have printed in the RECORD any speech he made, say so.

Mr. HILL. I have no objection to the request. I think the more that is published of Dr. Wilson's writings the better it will be for the Republican Party, but I will state to the gentleman from Illinois that the speech to which he referred was subsequently made a part of my remarks on the day after the gentleman from Georgia had refused unanimous consent.

Mr. MANN. I want to know whether anybody on the Democratic side objects to the printing of this speech of Woodrow Wilson's.

Mr. FITZGERALD. I would gladly print in the CONGRESSIONAL RECORD and send to every voter in the United States a copy of everything Woodrow Wilson has ever written. [Applause on the Democratic side.] And I think if that were done I do not believe that there would be a single State in the Union which would not cast its electorial vote for the Democratic candidate after November.

Mr. MANN. Perhaps the gentleman has read the speech since a gentleman on the other side objected to its being printed the other day.

Mr. FITZGERALD. The gentleman must not put me in that attitude. I did not make any such objection.

Mr. MANN. The gentleman was not here.

Mr. FITZGERALD. If I had been, I would have been glad to have induced gentlemen to withdraw their objections. It might have been that some one objected to the printing in the RECORD of extracts from speeches of Gov. Wilson——

Mr. MANN. That was not the request at all.

Mr. FITZGERALD (continuing). A practice that has been followed in certain parts of the country, where they have printed portions of his speeches which entirely misrepresent his attitude and his statements on important public questions. Whenever gentlemen desire to publish in full his statements I know that this side of the House will not only welcome the publishing of them, but will gladly contribute to the circulating of them, not only among Democrats but among the disorganized, disheartened, and discredited Republicans of the country. [Applause on the Democratic side.]

I yield to the gentleman from Alabama [Mr. HEFLIN] 10 minutes.

Mr. MANN. Mr. Chairman, still reserving the right to object, I decline to let the gentleman from New York insinuate in any way that the request which was made the other day and objected to was to print extracts. It was to print a speech in full, and the request was refused by the Democratic side.

Mr. FITZGERALD. Who objected?

Mr. MANN. A number of gentlemen made serious inquiry and afterwards had some one object.

Mr. SHERLEY. That is not a fair statement to put in the RECORD. It does not show that some Democrats induced another Democrat to object, and the gentleman has no right to make any such statement.

Mr. MANN. Well, I make it. I do not misrepresent gentlemen who were not within a thousand miles of here, and they should not undertake to say anything on the floor about my misrepresenting that which they know nothing about.

The CHAIRMAN. Is there objection to the request of the gentleman from New York [Mr. FITZGERALD]?

There was no objection.

The CHAIRMAN. The gentleman from Alabama [Mr. HEFLIN] is recognized for 10 minutes.

Mr. HEFLIN. Mr. Chairman and gentlemen of the committee, the world is at war with tyrants and the party of Jefferson has practically destroyed the Republican Party. [Applause on the Democratic side.] Behold the two factions of this agent of predatory wealth, each accusing the other of hypocrisy and theft.

I used to hear it said that—

When thieves fall out and begin their fights,
Honest men will get their rights.

I have heard from my youth time that "it takes a thief to catch a thief." I have heard it said also that the way of the ungodly shall perish, and "Whatsoever a man soweth, that shall he also reap." The Republican Party has sown political corruption. That party is now reaping the fruits of that corruption. [Applause on the Democratic side.] Well can that party now exclaim, "The thorns that I have reaped are of the tree that I have planted. They have torn me and I bleed."

As I view the mutilated form of this old party of plunder, and as I see the spoilsmen, the pie-hunting brigade, arrayed on opposing sides, the big fat man from the Philippines commanding one army and the wild man from Africa commanding the other [applause and laughter on the Democratic side], I recall these appropriate lines:

Humpty Dumpty sat on the wall,
And Humpty Dumpty got a great fall;
And all the king's horses and all the king's men
Can't put Humpty Dumpty together again.

[Laughter and applause on the Democratic side.]

Gentlemen have told us on that side that the nomination was stolen from Roosevelt at Chicago. Other gentlemen on that side contend that money was used to corrupt voters to buy them for Roosevelt. Both factions have been indicted and both factions stand convicted at the judgment bar of the American people. [Applause on the Democratic side.]

Roosevelt wants to come back and serve the powers that he served so well when in office before. But the present President has gone him one better, and the Woolen Trust, the Sugar Trust, the Beef Trust, and other trusts are saying "Hurrah for Taft." But the Harvester Trust and Perkins, Morgan, and many of the tariff barons are thankful for past favors, and are saying "Hurrah for Roosevelt." One has served them; the other is serving them now. With the Republican Party it is not so much in the "happy long ago" and the "sweet by and by" as it is in the "happy now and now." [Laughter and applause on the Democratic side.]

Mr. Chairman, look upon the prostrate form of the old standpat party.

Who killed Cock Robin?
"I," said the Roosevelt sparrow,
"With my little bow and arrow;
I killed Cock Robin."

[Applause and laughter.]

Who saw him die?
"I," said the Taft fly,
"With my little protection eye;
I saw him die."

[Applause and laughter on the Democratic side.]

Who will dig his grave?
"I," said the crow,
"With my Democratic hoe;
I'll dig his grave."

[Applause and laughter on the Democratic side.]

Who will toll the bell?
"I," said the independent bull,
"For I can pull;
I'll toll the bell."

[Applause and laughter on the Democratic side.]

Who will be chief mourner?
"I," said the trust dove,
"For I mourn for my love;
I'll be chief mourner."

[Applause and laughter on the Democratic side.]

So, my friends, let the bell toll. The Republican Party's withered soul floats on the Stygian river. Now, Mr. Chairman, in conclusion, the gentleman from Nebraska [Mr. NORRIS] has shown us what a thieving, villainous gang marches behind the

banner of Taft, and the gentleman from Wyoming [Mr. MONDELL] has shown us what a motley crew of hypocrites and trust agents follow the flag of Roosevelt, and the people of all parties are praying that Democracy's great leader will be elected, and the signs of the times point to the overwhelming election of Woodrow Wilson President of the United States. [Applause on the Democratic side.]

The gentleman from Illinois [Mr. RODENBERG], who has just spoken, is the most cheerful and best-natured mourner that I have ever seen following a political hearse. [Laughter on the Democratic side.] The gentleman whistles to keep up his courage. He raised his hand and said, "We go into this campaign with confidence."

He reminds me of my experience with a negro that I once defended for murder. I assured him that he would be acquitted by the jury. He talked as though he thought so, too, until he got into the court room and heard the indictment read and saw the solicitor, who was a splendid prosecuting officer. He looked around at me doubtfully. I said, "Joe, we are going to acquit you." He hung his head for a moment and then said: "Mr. HEFLIN, there is some talk around here about Dr. Hudson getting my body. I don't want my body cut up." I said, "What?" He said, "Dr. Hudson wants my skeleton. I make this request of you: I do not want any doctor to put a knife into my body when I'm dead." [Applause and laughter.] I began to fear, as Joe did, that they would convict him, and they did convict him. Joe knew that he was guilty, but he talked of his innocence right up until the time he was arraigned, and somehow or other he commenced to think what would happen to his body should he be hanged, and he knew what was going to happen.

So my friend RODENBERG, if he would only speak the conviction that is in his heart, would say: "Boys, by gosh, they've got us. What will become of us after the election in November?" [Laughter and applause on the Democratic side.] The gentleman, by his attack on the great statesman of New Jersey, can not turn the attention of the people from the miserable record of the Republican Party—

> For the raven, never flitting, still is sitting, still is sitting
> On the pallid bust of Pallas, just above your chamber door,
> And the lamplight o'er him gleaming, * * * casts his shadow on the floor;
> And your party's soul—
> From out that shadow shall be lifted—nevermore.

[Loud applause on the Democratic side.]

Mr. CANNON. Mr. Chairman, I believe I have a few minutes remaining.

The CHAIRMAN. The gentleman has 12 minutes.

Mr. CANNON. I always listen, Mr. Chairman, with great interest to the gentleman from Alabama [Mr. HEFLIN]. Great heavens! If he had turned to theology, what a powerfully rousing individual he would have been at a camp meeting. [Laughter and applause on the Republican side.]

I am not going to undertake to make reply, or to detain the House. You know that little story of the Sunday-school teacher with the little class of boys. She said, "Listen, little boys, while I read you from the Holy Bible," and she turned and read the proclamation of Goliath, who, full-armored, pranced out before the armies of the living God and made his "defi," "*hooplah*," day after day repeated. One bright-eyed little boy in the class said, "Skip that, madam; he is blowin'." [Laughter on the Republican side.]

Goliath HEFLIN, we will skip it. You are "blowing." [Laughter and applause on the Republican side.]

One word in conclusion, and then I will sit down. After all, a great contest is in front of us, all the people are cosovereigns. The campaign will soon commence. We shall have various candidates. The Republican Party has a candidate. The Democratic Party has a candidate. There are various other candidates. [Laughter.] When the silent ballots fall somebody will be chosen. Perchance, if in the chapter of happenings and by a vote of the majority your candidate Mr. Wilson is elected and becomes President of the United States, he will be your President, and my President, the President of the whole country, the coordinate branch of the Government, the titular leader of his party in all soberness; and you will be called on many a time to answer this question: If you succeed and elect your candidate for the Presidency, will his policy be shaped according to the first 42 years of his life, as evidenced by his writings, by his teachings? Or will it be shaped by what he has said in the last 12 months, directly to the contrary of his teachings? Who is to be deceived if he becomes President? And will it be by his givings out of the last 12 months, or by his words and writings and actions for the first 42 or 43 years of his life? [Applause on the Republican side.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. FLOYD of Arkansas having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, 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. 38. An act to create a legislative assembly in the Territory of Alaska, to confer legislative power thereon, and for other purposes.

GENERAL DEFICIENCY APPROPRIATION BILL.

The committee resumed its session.

Mr. FITZGERALD. Mr. Chairman, I yield two minutes to the gentleman from Connecticut [Mr. REILLY].

Mr. REILLY. Mr. Chairman, this seems to be an afternoon of reading, some of ancient history, some of modern. I wish to take a moment or two of the House to read something from the editorial page of to-day's New York Sun, which appears to be prophetic, in view of the speech that was delivered a few moments ago by the distinguished gentleman from Illinois [Mr. RODENBERG].

This editorial is headed "A waste of wind." It is as follows:

A WASTE OF WIND.

The Hon. WILLIAM A. RODENBERG, Republican Representative in Congress of the twenty-second Illinois district, is reported to be laden with a most tremendous and horrendous speech, wherein he will trace every known spoken and written word of Woodrow Wilson since that statesman acquired language and the use of the pen. Every bit of his "record" is to leap to light; every book and magazine article of his has been searched with a gerfalcon eye; let him tremble and cower while the majestic and surcharged RODENBERG "exposes" his inconsistencies, "scores" him, "excoriates" him, "flays" him; shakes the Rodenbergian fist and the untanned Wilsonian hide before the haggard eyes of mankind.

In the name of the prophet, stuff!

It is with the Woodrow Wilson of to-day and not of any other time that the country has to deal. Everybody wants to know what he says, what he writes in his great representative capacity as the chosen chief and spokesman of the Democracy. Nobody cares a franked speech what he has said or written or is to be gulled by any malicious midgemadge of extracts and quotations.

Mr. RODENBERG is wasting his wind.

[Applause on the Democratic side.]

Mr. MANN. All truth is wasted on that side of the House. The Members on that side are incorrigible. Any truth is wasted over there.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. FLOYD of Arkansas having taken the chair as Speaker pro tempore, 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 Senate to the bill (H. R. 24565) making appropriations for the naval service for the fiscal year ending June 30, 1913, and for other purposes, and had insisted upon its amendments still in disagreement, and had asked a further conference and had appointed Mr. PERKINS, Mr. LODGE, and Mr. TILLMAN as the conferees on the part of the Senate.

The message also announced that the Senate had passed the following resolution:

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (H. R. 18041) granting a franchise for the construction, maintenance, and operation of a street railway system in the district of South Hilo, county of Hawaii, Territory of Hawaii.

GENERAL DEFICIENCY APPROPRIATION BILL.

The committee resumed its session.

Mr. FITZGERALD. Mr. Chairman, I yield five minutes to the gentleman from Nebraska [Mr. NORRIS]. [Applause.]

Mr. NORRIS. Mr. Chairman, it is absolutely unnecessary for me to reply to the kind of a speech that the gentleman from Washington [Mr. HUMPHREY] has seen fit to make, as far as the issues involved are concerned. I wanted to ask him a question or two, and, as the House well remembers, he refused to yield. One of the questions I desired to ask was, after he had devoted 24 minutes of his 30 minutes to personal abuse of myself, whether he would not condescend to discuss the issues that were involved in the debate between myself and the gentleman from Wyoming [Mr. MONDELL].

When the gentleman from Washington reads what I said on the point that he discussed—and I shall not change it in a single particular—I do not believe that the gentleman himself in his own conscience, if he has one left, will conclude that he was justified in saying what he did. I stated that a written statement prepared by a man whose name I gave, as far as Washington was concerned, had been submitted to another man, whose name I also gave, and that I had submitted the statement to another man of national reputation, whose name I did not give; but I will say to the House that I expect to be able to give it within the next few days, and every man here will admit, when he hears it, that I told absolutely the truth about it, and never exaggerated it for a moment. The gentleman

from Washington will have to admit it. I stated then that I did not expect that to add to the effect of the statement as evidence, but that it went a good way to convince me of the truth of the statement written by the man whose name I gave and in whom I had confidence.

I offered the evidence in the Washington case. I made it public and laid it bare, and the gentleman from Washington, after laboring half an hour here in personal abuse of myself, has failed to refer to a single particle of it. As far as he is concerned, this evidence pertaining to his own State stands here before the House and before the country absolutely uncontradicted. He can not gain anything by abusing the man who brought it out, and I am not going to take the time of this House or of anybody else to try to reply to a man who resorts to such disreputable, uncourteous, and disrespectful methods. He can not gain anything——

Mr. MANN. Unless the gentleman withdraws that language, I shall ask to have it taken down.

Mr. NORRIS. Let it be taken down.

Mr. MANN. I ask to have the language taken down—characterizing language used by any gentleman on the floor of the House as disreputable.

Mr. NORRIS. I have no objection to taking it down. I suppose it has already been taken down. The gentleman from Illinois has misquoted me. I have not used the language that the gentleman from Illinois has imputed to me.

Mr. MANN. The gentleman did use the word "disreputable" in connection with the gentleman from Washington.

Mr. NORRIS. I did not say that the gentleman from Washington was disreputable.

Mr. MANN. I ask that the language be read.

Mr. NORRIS. If I have said anything that is wrong, no man on earth will more quickly apologize for it than I will. I remember what I said, I think, and if my recollection is right, there is not anything in the language that is wrong or that is not justified under the circumstances.

Mr. MANN. Mr. Chairman, I did not think that the gentleman would want the language to stand.

The CHAIRMAN. The time of the gentleman from Nebraska has expired.

Mr. NORRIS. Mr. Chairman, I suppose that the time taken by the gentleman from Illinois should not be taken out of my time. He has raised a question of order.

The CHAIRMAN. The time of the gentleman from Nebraska had already expired.

Mr. NORRIS. But the gentleman from Illinois has raised a question of order.

The CHAIRMAN. The time of the gentleman had expired in any event.

Mr. UNDERWOOD. Mr. Chairman, I ask unanimous consent that the time of controversy may not be taken out of the gentleman's time.

The CHAIRMAN. It has not been taken out of the gentleman's time. The time had expired in any event. If there be no objection, the gentleman will be permitted to proceed.

Mr. FITZGERALD. Mr. Chairman, I have control of the time, and I will be very glad to yield to him.

Mr. NORRIS. I am about through.

Mr. FITZGERALD. How much time have I remaining, Mr. Chairman?

The CHAIRMAN. The gentleman has 25 minutes remaining.

Mr. FITZGERALD. How much time does the gentleman from Nebraska wish?

Mr. NORRIS. About two minutes.

Mr. FITZGERALD. I yield two minutes to the gentleman from Nebraska.

Mr. NORRIS. Mr. Chairman, I was about to conclude by saying that in the statement of the Washington case I showed what had been done in Washington by Coiner, the chairman of the State central committee. I showed how he had been rewarded, or, at least, since doing that and since the Chicago convention has received an appointment as United States district attorney. When they are out of evidence and have nothing left but personal abuse of the man who brings the evidence out, and does it reluctantly, as I said yesterday, then they select the gentleman from Washington [Mr. HUMPHREY] to make a speech abusing me for 26 minutes, without referring to the evidence at all; and I presume, like the other man from Washington, Coiner, he will receive his reward the same as the other fellow did. I would not be surprised if before long we will find that the man in the White House has rewarded the man here who had devoted his time to the personal abuse of the man who developed the facts and brought them out before the House and the country.

Mr. FITZGERALD. Mr. Chairman, I yield five minutes to the gentleman from Texas [Mr. HARDY].

Mr. HARDY. Mr. Chairman, at some future time I may desire to spend a little more time in reply to some of the observations of the gentleman from Illinois, Mr. RODENBERG. Just now I wish just briefly to make a few comments. The gentleman attempts to appeal to every class of prejudice that might possibly exist in the bosom of any living human being in the United States. He sings the praises of Thomas Jefferson. A eulogy upon Jefferson by the gentleman from Illinois, who has spent his whole lifetime in fighting every vital principle advocated by Jefferson, seems to me to be superb humbug. He criticizes Mr. Wilson because Mr. Wilson in his writing has said that Jefferson was an aristocrat. Mr. Wilson did say that, and it is not the first time I have heard it said. It has been my understanding all of my life that Thomas Jefferson was personally an aristocrat; that he was proud, even haughty; that he himself was responsible for a change in the order of the sitting of the Cabinet in this country, around the council board of the head of the Nation, because he did not propose to take a lower seat than Mr. Hamilton, and therefore the Secretary of State in this country is seated at the Cabinet meetings on the right hand of the President, whereas in England the chancellor of the exchequer, corresponding to our Secretary of the Treasury, has that high position in the cabinet. Mr. Jefferson was an aristocrat and Washington was an aristocrat; so was Lafayette, one of the noblest defenders that came from foreign climes to help us wrest our independence from the old mother, Great Britain. Aristocrat many times have devoted their lives to the service of the whole human race, and the history of the labor legislation in Great Britain is the story of the joint labor of a nobleman and a son of labor. Lord Ashley, I believe it was, on the one hand and John Burns on the other labored hand in hand to redeem the toiling masses of England and to give place on the statute books of England to the most progressive labor legislation that the world up to now has ever seen.

It is not a remarkable thing that the gentleman should now undertake to criticize Mr. Wilson by reading extracts from his book. This thing of reading extracts is a wonderful way of misrepresenting the character of individuals and also their views. I have heard Thomas Jefferson quoted as being in favor of ship subsidies and discriminating tonnage dues, and yet, when you read the passages which are quoted and the context unquoted, it simply shows that Mr. Jefferson said in his writings that as long as England adopted measures oppressing our merchant marine we, in retaliation, should adopt discriminating duties, and that he was in favor of free seas, but it also shows that if he could he would remove all restrictions. Such illustrations of the garbled and isloated extracts from writings will be found in many, many political speeches, and only the full context can sometimes bring a right conception of the views of the writer, whose disconnected expressions are used to distort his views. As to Mr. Wilson's views and relations to labor, while the gentleman comments on the fact that Mr. Wilson has been charging that Mr. Gompers and his companions are seeking to tear down industry in this country and to destroy the industrial supremacy of the country, it is a strange thing that Samuel Gompers himself is for Woodrow Wilson for President. [Applause on the Democratic side.] Samuel Gompers has watched the works of the man and is with him. Mr. RODENBERG can eulogize Thomas Jefferson, yet all of his life he votes the other way, and he criticizes Woodrow Wilson, who all of his life has voted to support and maintain the doctrines of Thomas Jefferson.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. FITZGERALD. Mr. Chairman, I yield two minutes more to the gentleman from Texas.

Mr. HARDY. Mr. Chairman, the gentleman from Illinois sings the praises of CHAMP CLARK to-day, and yet his party associates, if not himself, were busy collecting little extracts from the sayings of CHAMP CLARK in order that had he been nominated at Baltimore he also might be torn to shreds by spreading before the country just pieces of what he had said. I wonder if the praise of Mr. CLARK by Republicans to-day is not just with the faint hope of hurting Wilson rather than helping CLARK. I simply wish to say that in this coming race we will meet the gentlemen with their criticisms fair or unfair. Not only will we show that Samuel Gompers is for him, but that in the State of New Jersey, where for over one year he has administered the affairs of that Commonwealth, all the labor unions are unanimously for him, as they are all over the country where they know his work; and when this campaign is over by his fruits he shall be known, and the fruits of labor of Mr. Wilson as a public man the people of this country will approve, and they will elect him President of these United States. [Applause on the Democratic side.]

Mr. FITZGERALD. Mr. Chairman, I yield one minute to the gentleman from Georgia [Mr. HOWARD].

Mr. HOWARD. Mr. Chairman, I ask unanimous consent of the House to print in the RECORD an address delivered by the Hon. P. C. Wadsworth, of Georgia, delivered in Washington, D. C., July 19, 1912, at a meeting of Representatives in Congress from the cotton-growing States, upon the subject of the economical marketing of farm products.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that the address referred to be printed in the RECORD. Is there objection? [After a pause.] The Chair hears none.

[For address, see elsewhere in to-day's RECORD.]

Mr. FITZGERALD. Mr. Chairman, I yield three minutes to the gentleman from Indiana [Mr. CULLOP].

Mr. CULLOP. Mr. Chairman, as an evidence of the very great amount of harmony that is existing in the Republican Party in Illinois, I desire to read a letter confirming that great degree of confidence which the gentleman from Illinois [Mr. RODENBERG] expressed in his party's success this fall:

TAFT'S MANAGERS CUT BY THEIR OWN KNIVES.

NEW YORK, *July 15.*

Oscar King Davis, at national headquarters of the new Progressive Party, has made public the following letter:

[E. R. Shuey, manager Villa Grove branch; L. A. Rider, manager Westfield branch, Shuey & Rider, dealers in general hardware, stoves, queensware, paints and oils, and groceries. Stores at Westfield, Ill.; Villa Grove, Ill.]

WESTFIELD, ILL., *July 1, 1912.*

DEAR SIRS: We have just received, via express prepaid, from you 1 dozen knives etched Taft and Sherman. We are at a loss to know just what to do with them. There is only one Taft man here, the postmaster, and he already has a jackknife. The majority of our people think Roosevelt is the nominee, and it would be justifiable homicide, or at least assault and battery against us, if we should offer the knives you sent us. Honestly, there are not three men in this town who are openly for Taft. Maybe we can sell them to the blind or those who can't read. We are receiving them under protest.

Respectfully,

SHUEY & RIDER.

"We want Teddy."

Now, Mr. Chairman, the above portrays the true situation of the harmonious conditions existing in the great State of Illinois in the Republican Party. What is true in that State is true in every other State, such a demoralized condition of affairs exists throughout the Union in the ranks of that party. Under such a condition, how can it hope to win? How can it expect victory? Defeat stares it in the face everywhere, and all the attacks it makes on Woodrow Wilson fall ineffectual upon the public's ear. Assault him or the Baltimore platform as they will or may, but nothing they can say or do will impede the march to victory of the Democratic Party and its standard bearers in this campaign.

The CHAIRMAN. The Clerk will read the bill.

The Clerk read as follows:

International Seismological Association: For defraying the necessary expenses in fulfilling the obligations of the United States as a member of the International Seismological Association, including the annual contribution to the expenses of the association, for the fiscal year 1912, $800.

Mr. MANN. Mr. Chairman, I reserve the point of order on this item, and I would like to ask the gentleman in charge of the bill about these various items in this bill relating to international conferences. Last year on the consideration of the diplomatic and consular appropriation bill by the House these same items were in that bill, as reported to the House, if my memory serves me correctly. I think they went out on points of order made by the distinguished gentleman from New York [Mr. HARRISON]. I know that they were not available for the last fiscal year. Now, do I understand it to be the policy of the Committee on Appropriations that in the consideration of one of the other appropriation bills coming from the committee which has jurisdiction of that appropriation bill, where items are not inserted in the appropriation law, thereupon the Committee on Appropriations includes those items in the deficiency appropriation bill? When things are deliberately stricken out, when appropriation bills come from another committee and items do not go into the law, does the Committee on Appropriations sit as a board of review and provide in the deficiency bills items which were estimated for but refused in the regular appropriation bill?

Mr. FITZGERALD. Mr. Chairman, there are three or four of these items. I regret——

Mr. MANN. The gentleman will notice I did not touch the first item.

Mr. FITZGERALD. I regret the gentleman from Illinois has reserved the point of order——

Mr. MANN. I will say to the gentleman I will withdraw the point of order and I will ask the gentleman to explain the matter.

Mr. FITZGERALD. I was about to say I regret the gentleman reserved the point of order on this particular item and did not reserve it on the first item.

Mr. MANN. I think the first item ought to be allowed.

Mr. FITZGERALD. The International Prison Commission, in which the gentleman himself is so vitally interested, is an item as to which he might have directed these remarks in apparent criticism of the committee.

Mr. MANN. Will the gentleman yield?

Mr. FITZGERALD. In that event, if the House had felt that his criticism had been justified, he could have eliminated, on the point of order or by motion, not only the appropriation for the commission, just read, but the commission or congress, in which the gentleman is so much interested, and of which one of his most distinguished constituents is the representative of this Government. The committee's action was based upon these facts——

Mr. MANN. Before the gentleman proceeds, I did not make the point of order or reserve the point of order on the first item, because I was afraid somebody would make the point of order if I reserved it, and I did not want the item to go out on a point of order. I tried to put it on the diplomatic bill, and I did not succeed. I am in favor of that item.

Mr. FITZGERALD. I think the gentleman tried to put it on the deficiency bill the last session of Congress.

Mr. MANN. I tried to put it on every bill I could.

Mr. FITZGERALD. And as a reward of the gentleman's persistency, in part, the committee considered the very persuasive argument made by him and decided to put it on this bill. The facts about these various commissions and associations are these. For a number of years under arrangements made by the Department of State, the United States has been a participant in the International Prison Commission, the International Railway Congress, the International Seismological Association. The cost in one instance is $2,000, $400 a year, and $800 a year. For the last fiscal year, when the items were carried in the diplomatic bill the gentleman from New York [Mr. HARRISON] interposed points of order, and they were all stricken from the bill.

The items for the present fiscal year are carried in the diplomatic bill, which has already received the approval of the President. That leaves us in the anomalous position of having continued our connection with these associations or congresses for a number of years and of having refrained from paying our small subscription for one year. The committee thought that sooner than have the United States be put in the attitude for being indebted for $400 in one instance and $800 in another and $2,000 for the expenses for the distinguished gentleman residing in the district of the distinguished gentleman from Illinois, the Democratic Congress would remedy the dereliction of the Republican Congress and recommend to the House that these slight appropriations be made in order to discharge these obligations which a nation should discharge. We regret that a Republican Congress was unable to find itself able, because of its desire to reduce the appropriations, to appropriate this $3,200; but rather than have the United States placed in that unfortunate position that the Nation could not afford to pay this $3,200 for these various subscriptions, the committee recommended the appropriations.

Mr. MOORE of Pennsylvania. Touching the matter of the influence of committees, do these items have any stronger legal status in the appropriation bill than they would have had had they remained in the diplomatic and consular bill?

Mr. FITZGERALD. Not at all.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FITZGERALD. I ask for a few more minutes.

Mr. MOORE of Pennsylvania. I ask that the time of the gentleman be extended for five minutes?

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania? [After a pause.] The Chair hears none.

Mr. FITZGERALD. These are conferences or arrangements into which the United States has entered through the Department of State. There is no authority for the department to do so. They have been doing it for a number of years, and Congress has acquiesced by making appropriations, but for one year no appropriation was made.

Mr. MOORE of Pennsylvania. My recollection is that is the reason given by the gentleman from New York [Mr. HARRISON], when he made the point of order.

Mr. FITZGERALD. The Department of State had no authority to enter into these arrangements. It only could be done with the approval of Congress or the President and the Senate.

Mr. MANN. Mr. Chairman, while the gentleman is on his feet I wish to ask him a question with reference to another matter. I do not notice any items in this bill for the payment of election-contest expenses.

Mr. FITZGERALD. None were certified to the committee.

Mr. MANN. I would suggest to the gentlemen who were interested that they had best get busy and have them certified.

Mr. FITZGERALD. The committee has no knowledge that there were any contests.

Mr. MANN. I understand.

Mr. FITZGERALD. The practice of the committee has always been to insert in this bill the expenses of the contestants within the amount limited by law upon the certification of the chairman of the Committee on Elections. It has accepted his certificate. Either there have been no contests or those involved in them are reluctant to ask Congress to reimburse them.

Mr. MANN. I will say that the gentlemen who are interested had better get busy before this bill passes. Those items ought not to be inserted in the Senate, although they possibly could be. I know half a dozen or more gentlemen have spoken to me on both sides of the aisle, asking what the procedure was, and they have been told by me and others how to go at it.

Mr. FITZGERALD. No gentleman has made any request, or I would have informed him of the practice to be followed—and I have enough gentlemen seeking my assistance to obtain appropriations without hunting them up.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The unexpended balance after the payment of outstanding liabilities of the appropriation of $170,000 for special repairs to the Subtreasury Building, New York, N. Y., contained in the sundry civil appropriation act approved June 25, 1910, is reappropriated and made available toward construction of vaults and work incidental to their installation in the assay office in the city of New York, N. Y.; and said vaults and work incidental to their installation are authorized, at a total cost not exceeding $322,000, including the sum herein reappropriated therefor, and a contract or contracts are authorized to be entered into within such limit of cost.

Mr. FOSTER. Mr. Chairman, I reserve a point of order.

Mr. MANN. Mr. Chairman, I desire also to reserve a point of order.

Mr. WEEKS. Mr. Chairman, I do not wish to be heard on the point of order. I want to offer an amendment.

Mr. FOSTER. I would like to inquire of the chairman if this language—

And said vaults and work incidental to their installation are authorized, at a total cost not exceeding $322,000, including the sum herein reappropriated therefor, and a contract or contracts are authorized to be entered into within such limit of cost—

is authorized?

Mr. FITZGERALD. The vaults will cost $322,000, and making $170,000 available at this time and giving authority to make a contract for the construction of them is all that is necessary now. The situation is that we have over one thousand million dollars in gold stored at present. We are accumulating gold at the rate of $100,000,000 a year. Within five years all the possible available storage places in the United States will be filled. They have just completed in New York City a refinery for assaying gold, back of the old assay office, on Wall Street. The condition of the vault there is such that it is imperative that a new one be constructed. A vault one story high would cost $168,000. By going any farther down it is necessary to go down sufficiently far to get a rock foundation, and to do that would require but very little more to complete a five-story vault. Four stories of it will be below the water line in the city of New York, which makes a very effectual protection. These vaults when completed will hold over two thousand millions of gold and will furnish all of the storage space for gold for an indefinite period. If the work is to be done, it must be done at this time in connection with the work that is going on at present. In the last Congress $170,000 was appropriated to rearrange and refit the Subtreasury in New York, which is adjacent to the assay office. Upon investigation the Treasury Department states that the advantages to be gained from the expenditure of this money will be so insignificant that it would not be an advisable expenditure, but the necessity for the vaults is very great and very pressing. They ask that that money be made available for the vaults. They presented plans and information which led the committee to believe that if the vaults are to be built at all the most economical and most advisable plan to adopt is the one which gives the five-story vault for the $322,000.

Mr. FOSTER. This $170,000 was not sufficient to build these vaults?

Mr. FITZGERALD. It was not appropriated for that purpose. It was not available. It was for improvements to the subtreasury. A one-story vault could be built for $168,000, but the very greatly increased storage space that could be obtained by less than double that sum, together with the very greatly increased protection that would come from the sinking of these vaults below the water line induced the committee to adopt this plan.

Mr. FOSTER. In view of the statement of the gentleman from New York I withdraw the point of order.

Mr. MANN. I renew the point of order and reserve it. I would like to ask the gentleman from New York [Mr. FITZGERALD] a question. It may be the information has been given, for so long as the gentleman, the chairman of the Appropriations Committee, insists on remaining in the middle of one side of the House it is impossible on the other side of the House to hear what he says. Is not this item an item over which the Committee on Public Buildings and Grounds has jurisdiction?

Mr. FITZGERALD. It is not. It belongs to the Committee on Appropriations.

Mr. MANN. Why?

Mr. FITZGERALD. It is an item intimately connected with the security of funds under control of the Treasury Department, and such items have always been carried in the sundry civil bill.

Mr. MANN. If a bill were introduced for this purpose, it would go to the Committee on Public Buildings and Grounds.

Mr. FITZGERALD. I have no information about that.

Mr. MANN. Nobody in the House has more information than has the gentleman as to how bills should be referred.

Mr. FITZGERALD. I have no information about the matter except that which was submitted by the Treasury Department, and the committee believed it was a desirable thing to do.

Mr. MANN. As I understand, these vaults if completed under the plan proposed will be capable of storing $2,000,000,000 of gold?

Mr. FITZGERALD. Two thousand millions.

Mr. MANN. That is two billions. I understand that is a part of the program of the Committee on Appropriations, to store the gold in the assay office in New York and to abolish the assay offices in other parts of the country—a proposition which came into the House on the sundry civil bill in naked form and was temporarily defeated.

Mr. FITZGERALD. This has nothing to do with that.

Mr. MANN. Oh, I am glad to have the gentleman's assurance that this has nothing to do with that, but I think it is a part of that plan to do away with the assay offices on the Pacific coast and at Denver and St. Louis and in North Carolina and at various other places and concentrate them all in New York City, where there is ample room to store all the gold in the new vaults that we have just provided for. However, I will withdraw the point of order.

Mr. WEEKS. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Massachusetts [Mr. WEEKS].

The Clerk read as follows:

Amend, page 4, by inserting at the end of line 22 the following: "For rent and expenses incident thereto of the building leased for use as a customhouse in the port of Boston for the year ending June 30, 1913, $96,000."

Mr. WEEKS. Mr. Chairman, in the act approved March 4, 1909, an appropriation was made for the remodeling of the Boston customhouse, including the expenses of carrying on that service while the remodeling was under way. There was a proviso in that act as follows:

That the total cost of said enlargement, remodeling, or extension of said customhouse building shall not exceed $1,800,000, including expenses incident to the temporary removal of the force employed in the customhouse during the enlargement, remodeling, or extension.

Last month an act was passed practically increasing the appropriation for this purpose. The amount of money that was to be expended for rent and other things incident thereto aggregated $285,000. It was virtually the striking out of this part of the act which I have just read, that no part of the amount, $1,800,000, should be used for the expenses incident to the temporary removal of the force employed in the customhouse during the remodeling of the building.

Now, there is enough money available to continue the construction of this building until the 4th of next March, so that it is not necessary in this bill to appropriate any more money for that purpose. But there is no authorization for paying rent in the quarters that are now being occupied by the customhouse, and I am informed by the Treasury officials, and particularly by the Comptroller of the Treasury Department, that there is great doubt whether they have any right to expend any money which would otherwise have been available if this act which I have just read had not been passed—to expend any money for rent or other matters that would be incidental to the rental of these quarters. This amount of money will have to be appropriated, either now or later, for this rental, and it seems to me that it is wise and proper that the item should go in this bill.

Mr. FITZGERALD. Mr. Chairman, this item is not in this bill because it is not necessary. We appropriated for the matters of construction and rent in the sundry civil bill to the amount of $500,000. I am not certain of the exact sum, but it is all that can be used. The law that was enacted does not in

any way change the availability of that appropriation. The purpose of it was to increase the limit of the amount that might be expended on the building proper. There is no necessity of putting this item of $96,000 on this bill. I hope the amendment will not be agreed to.

Mr. WEEKS. Mr. Chairman, I would like to add a word more; I would like to say that the Comptroller of the Treasury Department is in disagreement with the chairman of the Committee on Appropriations on that point. He is in doubt, and he would so say to anybody who would communicate with him—that there is strong doubt as to that authorization.

Mr. FITZGERALD. I may say to the gentleman that the comptroller and myself frequently disagree, and the inclusion of this item in the bill would result in the comptroller resolving the doubt in his own way.

Mr. WEEKS. I would like to find out how many gentlemen agree with the comptroller against the opinion of the chairman of the committee, and therefore I ask for a vote.

Mr. FITZGERALD. There is no disposition to withhold the money authorized by law for the customhouse. The committee gave all that could be expended, not only for the building but also for rent. It is absolutely futile and unnecessary to add $96,000 to this bill.

Mr. WEEKS. Let me ask the gentleman this question: Is it not going to be necessary to appropriate at some time this $96,000 for this year?

Mr. FITZGERALD. On that theory we might as well appropriate at this time, instead of $500,000 to complete that building, the entire balance under the limit authorized by law. The gentleman might as well say it is necessary to appropriate now for the gentleman's salary for the next 10 years. I hope the gentleman will continue his service here for that long, but that is no reason why it should be done this year.

Mr. WEEKS. But, Mr. Chairman, if this money is to be appropriated some time, it should have been appropriated in the sundry civil bill for the year ending June 30, 1913, and inasmuch as it was not appropriated in that bill, it seems to me it should be carried now in this bill. Otherwise we are going on and spending money for rental during the year when there is no actual authorization.

Mr. FITZGERALD. There is an appropriation for it carried in the sundry civil bill, that covers this item for rental.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MURRAY. Mr. Chairman, may I ask the chairman of the Committee on Appropriations in what bill it is planned to make the authorization? I understand from the position of the chairman that it is not necessary to appropriate this $96,000 now, because it will be taken care of at some other time.

Mr. FITZGERALD. Because it was included in the $500,000 carried in the sundry civil bill.

Mr. MURRAY. That is a matter of dispute.

Mr. FITZGERALD. I do not understand that it is a matter of dispute.

Mr. MURRAY. Of course it is a matter of dispute.

Mr. FITZGERALD. I do not call these matters of dispute.

Mr. MURRAY. As I understand, there is a lump sum of $500,000 appropriated in the sundry civil bill, and this $96,000 may or may not be included in the $500,000.

Mr. FITZGERALD. There is no question of may or may not. It is included.

Mr. MURRAY. There is no question in the mind of the gentleman, but in the minds of some other gentlemen there is a question. Is that not so?

Mr. FITZGERALD. I do not know. I never heard of it until a few days ago.

Mr. MURRAY. Has the comptroller, for instance, expressed an opinion on it?

Mr. FITZGERALD. I do not know. I never heard from the comptroller about it. The committee gave all the money asked toward the construction and rent of the Boston customhouse in the sundry civil bill.

Mr. MURRAY. Has the gentleman ever heard until to-day that the comptroller takes a different attitude?

Mr. FITZGERALD. No; I never heard that the comptroller did so. If the appropriation were needed, I would not object to it. In my opinion, it is not necessary and should not be made.

Mr. MURRAY. And the House may have the assurance of the gentleman that it has already been appropriated in the sundry civil bill for these purposes? Is that the fact?

Mr. FITZGERALD. The sundry civil bill carries, if I recall correctly, $500,000 toward the construction of the Boston customhouse, and out of that $500,000 it was contemplated and expected and intended to pay the proportion of the $96,000 rent that would be required until the next sundry civil bill becomes a law in March next.

Mr. WEEKS. Will my colleague yield while I ask the gentleman from New York a question?

Mr. MURRAY. Certainly.

Mr. WEEKS. I find in the sundry civil bill this item:

Boston (Mass.) customhouse: For continuation of the enlargement, extension, remodeling, or improvement of the building under present limit, $250,000.

It says nothing about rent.

Mr. FITZGERALD. It was not necessary to say anything about rent. That was covered by the original act.

Mr. WEEKS. Will not the gentleman from New York [Mr. FITZGERALD] agree that this $96,000 must be appropriated some time?

Mr. FITZGERALD. No; I do not. I insist that it has been appropriated and that it is included in the item in the sundry civil appropriation bill.

Mr. MURRAY. Is that the item which the gentleman from Massachusetts has just read?

Mr. FITZGERALD. Yes; that is the item. There was a similar item, out of which they paid the rent last year, and this is the item out of which they will pay the rent this year.

Mr. MURRAY. The item is $250,000 instead of $500,000. I wonder if it is the same item.

Mr. FITZGERALD. I was under the impression that it was $500,000. It is the same item, however.

Mr. MURRAY. I see that says nothing about rent.

Mr. FITZGERALD. And it says nothing about architects' fees, either.

Mr. MANN. The original act provided that the limit of cost should be so much, and out of that should be paid the cost of moving the customhouse. That was considered to include rent. I heard a gentleman the other day wax eloquent upon that. We passed a bill here the other day providing for the reimbursement to this fund of any money that was paid as rent, but these items, so far, have all been like that in the appropriation bill and rent has been paid out of them. It seems to me it is not a question whether $96,000 rent can be paid out of the $250,000 as a matter of law, but whether the $250,000 toward the continuation of the improvement over there is sufficient for the next year with the $96,000 taken out. Whether it was contemplated by the Committee on Appropriations——

Mr. FITZGERALD. The gentleman might just as well have added to his amendment an item proposing to reimburse the appropriation heretofore made by $280,000, as requested by the department.

Mr. WEEKS. The reason I did not add that to my amendment was because I was informed by the department that they had sufficient money for construction purposes until the 31st of next March, and therefore it would not be necessary.

Mr. FITZGERALD. They assured us that the money we appropriated would be sufficient for construction purposes until the 4th of next March, as well as to pay the rent. Perhaps we have given them more than we should have in the item, if the gentleman's statement be correct, but the fact is that the only thing done by the act passed by Congress was to make it possible to spend for construction $300,000 more than originally had been intended. There is no necessity to appropriate the additional $96,000 at this time.

The CHAIRMAN. The question is on the amendment of the gentleman from Massachusetts.

The amendment was rejected.

The Clerk read as follows:

PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE.

The accounting officers of the Treasury Department are authorized and directed to credit in the accounts of W. S. Richards, disbursing clerk, Treasury Department, $93.50, and S. R. Jacobs, disbursing clerk, Treasury Department, $101.16, being amounts disallowed by the said accounting officers for sums paid by the said disbursing clerks prior to April 18, 1911, for wrapping and addressing Public Health Reports and other circulars and publications of the Public Health and Marine-Hospital Service.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I should like to inquire whether, after the comptroller held that the Public Health and Marine Hospital Service could not pay for the work of mailing Public Health Reports out of the general appropriation, that was corrected in making the general appropriation for this year?

Mr. FITZGERALD. It was not. These persons were employed in violation of the act of 1882 prohibiting the payment for personal services at the seat of government out of certain appropriations unless specifically authorized. These men had done the work and the committee thought they should be paid.

Mr. MANN. It was not because the original appropriation did not authorize the work to be done, then, but only because of the method of their employment?

Mr. FITZGERALD. It is very doubtful whether they had any authority to incur the obligation for this service at all.

Mr. MANN. As I understand, they had authority to wrap, address, and mail Public Health Reports, but they could not pay for personal services out of that appropriation.

The CHAIRMAN. If there be no objection, the pro forma amendment will be considered as withdrawn, and the Clerk will read.

The Clerk read as follows:

CUSTOMS SERVICE.

To defray the expenses of collecting the revenue from customs, being additional to the permanent appropriation for this purpose for the fiscal year ending June 30, 1912, $350,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman from New York inform the House if any of this money is for the purpose of investigation?

Mr. FITZGERALD. This is to meet the pay roll for the latter half of the month of June. It has been customary for Congress in the past to appropriate a sum of money somewhat insufficient to meet the expense of the customs service. Early in the month of June the Treasury Department called attention to that fact and stated that unless the money was to be appropriated it would be necessary to furlough a very large number of employees.

Mr. MOORE of Pennsylvania. It has nothing to do with investigations?

Mr. FITZGERALD. The committee took up the matter with the department, and upon investigation informed the department it would recommend an appropriation of $350,000 to cover the deficiency that would be created. Upon that assurance the department continued these employees, and the amount actually required is within a few hundred dollars of the $350,000, and that is merely to meet the deficiency for the last fiscal year.

Mr. MOORE of Pennsylvania. They are regular employees?

Mr. FITZGERALD. Yes.

Mr. MOORE of Pennsylvania. Not engaged in any special or secret-service work?

Mr. FITZGERALD. The matter to which the gentleman refers, some special investigation, I think, was predicted within a few days by the press.

Mr. MOORE of Pennsylvania. Yes.

Mr. FITZGERALD. And would not come from this appropriation.

Mr. MOORE of Pennsylvania. This item has nothing to do with that.

The Clerk read as follows:

Motor tags: For additional amount required for the purchase of enamel, metal, or leather identification-number tags for motor vehicles in the District of Columbia, fiscal year 1912, $200.

Mr. JOHNSON of Kentucky. Mr. Chairman, I would like to ask the chairman of the committee a question. Inasmuch as these tags when purchased are paid for on the half-and-half system and are sold by the District of Columbia at $2 each, and then afterwards the United States has to put $2 each against that to offset it as a source of revenue for the District of Columbia, does the gentleman not think the District of Columbia should pay for the whole of it? There is a provision later along in the bill providing this and all other items relating to the District of Columbia shall be paid for one-half by the District of Columbia and one-half by the United States. I offer an amendment, Mr. Chairman, that the District of Columbia shall pay this entire sum out of this revenue.

Mr. FITZGERALD. Mr. Chairman, this is to supply deficiencies in these items. This is a small sum. I believe on the District bill which has been enacted into law there is a provision which covers this matter. It covers in the future just what the gentleman wishes to do.

Mr. MANN. Mr. Chairman, if the gentleman from Kentucky will permit, I raised this question a number of years ago, and it was covered as to certain things; and in the last District appropriation bill, which just became a law, there was inserted in the Senate and, I think, agreed to in such form that it would cover this and all similar cases a provision that the money received from the sale of these should be covered into the Treasury on the half-and-half principle. So that the appropriation is payable on the half-and-half principle, one-half from the Government Treasury and one-half from the District treasury, and as the money that comes in equals what is paid out the money that comes in goes into the Treasury, one-half to the credit of the General Treasury and one-half to the credit of the District treasury.

Mr. JOHNSON of Kentucky. Mr. Chairman, I will say that I am thoroughly familiar with that, and there are several items preceding this and some which follow that are small and trifling. Yet it is the principle of the thing. There is a provision following providing that the United States Government shall pay half of this and the District of Columbia shall pay half. When the United States Government pays half of this $200 it thereby paves the way to let that $200 and all that the tags are sold for find its way into the treasury of the District of Columbia as a source of revenue, and then next year the United States Government will have to put up an amount to equal this.

Mr. MANN. If the United States Treasury pays one-half of the $200 and then the tags are sold for $200——

Mr. JOHNSON of Kentucky. They are sold for a good deal more than that. They may be sold for several thousand dollars.

Mr. MANN. Half of that goes into the Treasury of the United States.

Mr. JOHNSON of Kentucky. Not of this item.

Mr. MANN. Oh, yes.

Mr. JOHNSON of Kentucky. No; of the next item.

Mr. MANN. Oh, all of these items.

Mr. JOHNSON of Kentucky. Not of this.

Mr. MANN. I want to say that my understanding is to the contrary.

Mr. JOHNSON of Kentucky. My understanding of it is—and I think I am right—that the tags purchased with the amount in the appropriation bill which has recently passed comes under the description referred to by the gentleman from Illinois, but not under this.

Mr. MANN. There was general language inserted by the Senate and agreed to in conference which was intended to cover all of these items wherein the Government contributed half, that the receipts should go one-half to the Government. Whether that language is sufficient I do not undertake to say. I think it is.

Mr. JOHNSON of Kentucky. My recollection is that it is not sufficient, but it is a trifling thing here—only $200—and, as it is, and as I have overlooked several other small items, I will ask unanimous consent that I may withdraw the amendment which I offered.

Mr. FITZGERALD. This is to pay an outstanding obligation. The tags have been bought. It is possible they have all been sold and the proceeds turned into the Treasury.

Mr. JOHNSON of Kentucky. Turned into the District treasury; and that is the objection to it.

The CHAIRMAN. Without objection, the amendment of the gentleman from Kentucky will be withdrawn.

There was no objection.

The Clerk read as follows:

Horse-drawn vehicle tags.—For additional amount required for the purchase of metal identification-number tags for horse-drawn vehicles used for business purposes in the District of Columbia—
For the fiscal year 1912, $550.
For the fiscal year 1911, $500.

Mr. JOHNSON of Kentucky. Mr. Chairman, I rise to a point of order for the purpose of at least asking the chairman of the committee what disposition will be made of the sale of those tags?

Mr. FITZGERALD. They are covered into the Treasury as miscellaneous receipts.

Mr. JOHNSON of Kentucky. Is it not true they have already been covered into the District treasury?

Mr. FITZGERALD. I have no information on that.

Mr. JOHNSON of Kentucky. I think I can safely say that.

Mr. FITZGERALD. I do not know.

Mr. JOHNSON of Kentucky. I believe, the District having sold these tags and having gotten the money and put it into their own treasury, and the Government having to pay dollar for dollar, unless an amendment be agreed to letting the District pay this, I shall make the point of order.

Mr. FITZGERALD. Mr. Chairman, I am ready to discuss the point of order.

Mr. JOHNSON of Kentucky. I will say to the gentleman before he discusses the point of order that in the report made here they admit the point of order and state in the report that it is "submitted matter."

Mr. FITZGERALD. Nobody can concede a point of order who does not belong to this House.

Mr. JOHNSON of Kentucky. The gentleman can find no authority; if he has it, he must do it.

Mr. FITZGERALD. If I understand correctly, the law authorizes the commissioners to require identification tags. There is a regulation which requires all horse-drawn vehicles to be provided with these tags. Under authority given the commissioners they make these regulations and they furnish these tags at a fixed price.

Mr. MANN. If the gentleman will permit——

Mr. JOHNSON of Kentucky. There is no act of Congress authorizing it.

Mr. MANN. If the gentleman will permit, the act of Congress specifically specifies that there shall be these vehicle tags and that they shall be furnished by the District of Columbia upon

application, and so much shall be paid for them. We had that act up the other day for amendment.

Mr. FITZGERALD. I understand the statute authorizes the commissioners to make regulations, compels them to furnish the tags, and it is an instance in which, the law requiring them to do the act, there is authorization to incur a deficiency. Now, the appropriation last year was $500. The receipts up to the time the estimates were submitted were $3,658.

The proceeds from this tax went into the District treasury, and the purpose now would be a change of that law. The only question, I understand here, is as to the authority of the commissioners to purchase these tags. If there is any question about it I will be glad to have the matter passed until later we can find the statute which authorizes them to do so.

Mr. JOHNSON of Kentucky. I make the point of order, Mr. Chairman.

The CHAIRMAN. What is the point of order?

Mr. JOHNSON of Kentucky. I make the point of order that the purchase has not been authorized, and I will say in the report submitted by the commissioners themselves, which is Document No. 634, they say that in the fiscal year 1912, "submitted," $550; for the fiscal year 1911, they quote the act of March 4, 1911, volume 36, page 1296, section 1, $500, but that is only an appropriation without formal authorization and they claim no authorization for the $550. I have the report in my hand, document No. 634.

Mr. FITZGERALD. The gentleman simply refers to a document in which the estimate is simply submitted, and there is no information there. I would like the matter be passed temporarily until we can find the statute.

Mr. JOHNSON of Kentucky. I might be out for a moment and the gentleman will permit me to be present when it comes up.

Mr. FITZGERALD. If the gentleman only steps out temporarily, but we want to get along with this bill.

Mr. JOHNSON of Kentucky. I make the point of order.

Mr. FITZGERALD. I ask unanimous consent that the matter may be passed temporarily.

Mr. JOHNSON of Kentucky. I object, Mr. Chairman.

Mr. FITZGERALD. Well, I insist that under the law the authority exists.

The CHAIRMAN. The Chair is ready to rule.

Mr. JOHNSON of Kentucky. I insist, Mr. Chairman, the gentleman must produce his authority; that is the rule.

Mr. FITZGERALD. The Chair may have that information without the gentleman producing it, but certainly I do not think that the gentleman would object to passing the matter temporarily. If the Chair is not satisfied that the statute exists I will ask the Chair himself to reserve his decision temporarily, as he has the power to do, and let us pass on until an opportunity is given for the Chair to be satisfied as to what the law is.

The CHAIRMAN. The point of order is overruled.

Mr. JOHNSON of Kentucky. Mr. Chairman, I move to amend by providing that the two amounts shall be paid entirely out of the District revenues.

The CHAIRMAN. Where would the gentleman from Kentucky have his amendment inserted, at the end of the section?

Mr. JOHNSON of Kentucky. Yes, Mr. Chairman——

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

After line 4, page 8, insert "*Provided*, That half of this amount indicated in these figures be paid out of the revenues of the District of Columbia."

Mr. FITZGERALD. I reserve a point of order on that.

Mr. JOHNSON of Kentucky. The gentleman will not seriously contend——

Mr. FITZGERALD. Well, I make the point of order. Under the law one half of the expenses of the District of Columbia is payable from the District treasury and one half from the Federal Treasury. My recollection is that there are several rulings made, particularly upon the item for playgrounds, in which it was held that an attempt to make the entire cost of the playgrounds payable out of the District revenues was subject to the point of order.

Mr. JOHNSON of Kentucky. Mr. Chairman, nobody who pretends to be familiar with the act of June 11, 1878, will contend that the United States Government has ever agreed to pay half the expenses of the District of Columbia. The furthest that act goes is, and nobody familiar with it will claim that it goes beyond, paying one-half of such expenses of the District of Columbia as Congress may agree to pay. Congress has not agreed to pay this, and Congress will not have agreed to pay it until at this session it adopts the motion agreeing to pay this. I contend that Congress has never agreed to pay this——

Mr. FITZGERALD. I will ask to have the amendment again reported.

The Clerk read as follows:

Page 8, after line 4, insert the following: "That half of this amount indicated in this paragraph be paid out of the revenues of the District of Columbia."

Mr. JOHNSON of Kentucky. I did not say half; I said the total amount of the two sums be paid out of the District revenues. There is a provision a little later along that says of all these items one-half shall be paid by the District of Columbia and one-half by the Federal Government.

The Clerk read as follows:

Page 8, after line 4, insert "that the total of the two amounts indicated in this paragraph be paid out of the revenues of the District of Columbia."

Mr. FITZGERALD. I insist that it is subject to the point of order.

Mr. JOHNSON of Kentucky. It is subject to a point of order. The provision for it to be paid out of the Federal Treasury makes it subject to a point of order.

Mr. FITZGERALD. Mr. Chairman, I withdraw the point of order. Let us vote on the matter.

The CHAIRMAN. The question is on the amendment of the gentleman from Kentucky [Mr. JOHNSON].

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. JOHNSON of Kentucky. Mr. Chairman, I ask for a division.

The committee divided; and there were—ayes 4, noes 18.

So the amendment was rejected.

The Clerk read as follows:

Industrial Home School for Colored Children: For maintenance, including purchase and care of horses, wagons, and harness.

Mr. HOBSON. Mr. Chairman, I move to strike out the last word for the purpose of asking unanimous consent to have printed in the RECORD an article on agricultural credit banks, appearing in the June issue of the Journal of the Institute of Bankers, of London. It is not very long, about 25 pages, and it is a very valuable contribution.

The CHAIRMAN. The gentleman from Alabama [Mr. HOBSON] asks unanimous consent to print in the RECORD as a part of his remarks a certain publication which he has named.

Mr. MANN. Would the gentleman prefer to have it printed in the RECORD or as a House document?

Mr. HOBSON. To have it printed as a House document will be satisfactory.

Mr. SHERLEY. You can do that when you get in the House.

Mr. HOBSON. All right. I accept the suggestion of the gentleman from Illinois [Mr. MANN].

The Clerk read as follows:

Special assessment refunds: The Commissioners of the District of Columbia are authorized and directed to pay to Carrie Madison the sum of $146.47, amount paid by her on account of redemption of erroneous sale of special assessment taxes chargeable to property owned by her.

Mr. JOHNSON of Kentucky. Mr. Chairman, I reserve a point of order on the item. I would like to ask the chairman of the committee if it is not true that Carrie Madison has paid to the District of Columbia $146.47 as taxes erroneously collected, and that now the District of Columbia proposes by this bill to return her money to her, and under the provisions of this bill, in returning her money which the District of Columbia got, the United States Government is asked to pay one-half of it?

Mr. FITZGERALD. I think not. I think this is assessment work.

Mr. JOHNSON of Kentucky. It says:

Erroneous sale of special assessment taxes chargeable to property owned by her——

Mr. FITZGERALD. Mr. Tweedale, the auditor of the District, makes the following statement:

In this case Congress provided the special assessment should go back, half to the United States and half to the District of Columbia. Previous to that they have been going back to the appropriation. When they went back to the appropriation, if a person made an erroneous payment, we could pay them out of the appropriation. Now the money is put back half in the United States funds and half in the District funds, and there is no way we can refund erroneous payments.

This money having been placed half to the credit of the United States and half to the credit of the District of Columbia, when it is to be repaid——

Mr. JOHNSON of Kentucky. I beg your pardon; it was paid entirely by the District of Columbia.

Mr. FITZGERALD. The gentleman may be better informed than the auditor.

Mr. JOHNSON of Kentucky. I do not think the auditor says that.

Mr. FITZGERALD. I am reading from the statement of the auditor that this money went half to the United States and half to the District of Columbia.

Mr. JOHNSON of Kentucky. Read it and see if you are not mistaken.

Mr. FITZGERALD. It says:

In the case just preceding and in this case Congress provided the special assessment should go back, half to the United States and half to the District of Columbia.

Mr. JOHNSON of Kentucky. Now, read on.

Mr. FITZGERALD (reading)—

Previous to that they have been going back to the appropriation, and if a person made an erroneous payment we could pay them out of the appropriation.

Mr. JOHNSON of Kentucky. They paid them out of the appropriation, and the appropriation was upon the half-and-half plan.

Mr. FITZGERALD. But that is the general appropriation, and this money has been erroneously paid.

Mr. JOHNSON of Kentucky. Into the District treasury.

Mr. FITZGERALD. I assert again that the auditor states it has been paid half to the District treasury and half to the Treasury of the United States, and this proposes to repay it.

Mr. MANN. If the gentleman from Kentucky [Mr. JOHNSON] will permit, a few years ago, upon the consideration of the District appropriation bill, I called the attention of the House to the fact that at that time we were appropriating half out of the general revenues for the maintenance of the office which did this work, and issued permits, and collected special assessments; that all the revenues that came in went entirely into the District treasury. The gentleman in charge of the bill at that time, or subsequently, provided by amendment or by a new bill—it was in different cases—that this money should go half into the Federal Treasury and half into the District of Columbia treasury. I presume by the auditor's statement that this case was covered by that. I do not know.

Mr. JOHNSON of Kentucky. Can the gentleman from Illinois say with any degree of accuracy what is to become of the deficit of $73,000 in that same fund, which was stolen a few years ago?

Mr. MANN. I can not say with any degree of accuracy with reference to that or this item further than I have said. But I will say further, I find upon examination of the recent District bill, which contains section 10, providing for the covering in on the half-and-half principle of receipts, it would not cover this case apparently and would not cover the motor tags or vehicle tags.

Mr. FITZGERALD. This particular matter was taken care of last year.

Mr. MANN. Several years ago, I think. The new provision covers the annual wheel tax on automobiles and other motor vehicles, but I do not think covers the tag proposition which I stated a while ago I thought it did cover.

Mr. JOHNSON of Kentucky. I will withdraw the point, Mr. Chairman.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Judgments: For payment of the judgments, including costs, against the District of Columbia, set forth in House Documents Nos. 402, 634, 648, and 777 of this session, $8,944.04, together with a further sum sufficient to pay the interest, at not exceeding 4 per cent, on said judgments, as provided by law, from the date the same became due until the date of payment.

Mr. JOHNSON of Kentucky. Mr. Chairman, I move to strike out the last word. I would like to ask the gentleman to explain the nature of these judgments. There is nothing here to show their nature. I have not seen the hearings.

Mr. FITZGERALD. Mr. Chairman, I did not look particularly to see what the judgments were for. They were final judgments of the court to which no appeal had been taken and from which none could be taken. It is customary for Congress to pay judgments of the courts after the time for appeal has expired.

To be frank with the gentleman, I did not bother to burden myself with the information regarding the nature of the litigation. I ascertained if the judgments were final and whether the time for appeal had expired; and that being shown and the claims being a valid obligation against the Government, I thought they should be paid.

Mr. JOHNSON of Kentucky. Then, the gentleman knows nothing about it?

Mr. FITZGERALD. Nothing more than that. They are all small claims, I will state, except one for $2,500.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Miscellaneous expenses, supreme court: For payment of such miscellaneous expenses as may be authorized by the Attorney General for the Supreme Court of the District of Columbia and its officers, including the furnishing and collecting of evidence where the United States is or may be a party in interest, including also such expenses as may be authorized by the Attorney General for the Court of Appeals, District of Columbia, $13,000.

Mr. WILSON of Pennsylvania. Mr. Chairman, I reserve a point of order for the purpose of asking the gentleman in charge of the bill if there is in this paragraph or any other paragraph of the bill included any payment or any appropriation for the payment of services of the three prosecutors appointed by the court for the prosecution of the case of Gompers, Mitchell, and Morrison in contempt proceedings?

Mr. FITZGERALD. This appropriation of $13,000 is to meet certain expenditures, mostly all ascertainble—and $12,000 of the amount is ascertained—in connection with the proceedings to acquire the property to be added to the Capitol Grounds. The attorney in charge of the proceedings appeared before the committee and made a statement as to the sum due. He said it was in the neighborhood of $12,000, and he thought there would probably be an additional thousand dollars or so required to take care of small items. He stated that he had no definite information about them.

No request was made of the committee to pay for the services of the character mentioned by the gentleman, either on the part of the justice or anybody else.

Mr. WILSON of Pennsylvania. No such money is carried on this bill?

Mr. FITZGERALD. No money is carried in this bill for that purpose, according to the understanding or intention of the committee. Whether any of these appropriations is available for the purpose I do not know. The attorneys in those proceedings were appointed by the court and acted as amici curiæ—friends of the court—and I know of no authorization of law to pay for services of that character unless they are specifically authorized. I am not certain about it, but I know of none. No request was made, and no appropriation was made here with the intention of its being utilized for the purpose named by the gentleman.

Mr. WILSON of Pennsylvania. I withdraw the reservation of a point of order.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Reimbursement of State of Texas: To reimburse the State of Texas the amount expended for the increased force of rangers required for policing and patrolling the international boundary along the Rio Grande during the months of October, November, and December of the year 1911, and during the month of January of the year 1912, $9,639.41.

Mr. MANN. Mr. Chairman, I reserve a point of order. I would like to ask if there is any authority of law for this item? That is, the Texas item.

Mr. FITZGERALD. No; there is no authority for it.

Mr. MANN. Was there any agreement that the Government should pay it?

Mr. FITZGERALD. The President, I understand, made an arrangement with the governor of Texas, and sent a message to Congress in regard to it.

Mr. MANN. This is to carry out that agreement?

Mr. FITZGERALD. Yes; this is to carry out the arrangement.

Mr. MANN. I withdraw my reservation of a point of order.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

To pay claims adjusted and settled under section 4 of the river and harbor appropriation act approved June 25, 1910, and certified to Congress in House Documents Nos. 313, 664, 713, and 823, at the present session, and 1386, Sixty-first Congress, third session, $1,509.05.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I suppose this item refers to the payment of damages caused by collisions with Government vessels in river and harbor work. There is nothing in the item itself, without reference to the document to which it refers and the text of the law, to indicate what it is, but I think that is what it is. As I am the father of that scheme, I have some interest in it. Why is it not perfectly practicable to put the items in the appropriation bill?

Mr. FITZGERALD. We have put in this bill only the claims certified in accordance with the law.

Mr. MANN. I am not questioning that, but why is it not practicable to put in briefly the items, so that we will know what they are?

Mr. FITZGERALD. It would be pretty voluminous to do that in all these matters, and this is the customary way.

Mr. MANN. Oh, there has been no customary way. This is a new scheme.

Mr. FITZGERALD. Yes. There are other certified claims besides these, and they are done in the same way, because in many instances they include a large number of very trifling claims. But the committee in preparing this bill included only those which were certified under the law. Where they were in excess of the amount limited to the department, the committee declined to insert them.

Mr. MANN. The reason why I asked the question is that I first presented this proposition to the House in connection

with the Lighthouse Board, and it went through, and the War Department copied it, and the river and harbor branch of the service and the Navy Department copied it, providing for the adjustment and settlement of claims not exceeding $500 in any case, and I think I stated, when the first proposition came before the House as the result of that, that these claims would be certified to the Committee on Appropriations, and the items would thus come before the House, so that anybody who wished to know about them would know what they were; but I see I was mistaken.

The reason given by the gentleman is sufficient for me if there are a great many of these claims and they are individually very small.

Mr. FITZGERALD. I am informed by the clerk of the committee that the claims included in this particular document alone would probably take several pages of the bill. They are all small claims.

Mr. MOORE of Pennsyvania. Have these claims been adjudicated by the Court of Claims?

Mr. FITZGERALD. Oh, no. Under the law certain claims for damages arising from collisions are investigated by certain departments, and if they do not exceed $500 do not require to be adjudicated by the Court of Claims. If the department determines that the United States was at fault, the amount of the damages not to exceed $500 is certified, and we make the appropriation.

Mr. MOORE of Pennsylvania. Being interested in a matter of this kind, I want to learn the method of procedure. The total amount appropriated here is slightly in excess of $1,500, but the persons to whom payment is to be made are not specified. There may be one or a number.

Mr. FITZGERALD. These claims are included in five different documents, and they are of this character:

J. Randazzo, for $25, as reimbursement of cost of repairing damages to lugger *Australia* caused by collision with a United States Government barge on the night of December 15, 1910.

The Rathbun Co., for $283.36, as reimbursement of cost of repairing damages to its wharf in Oswego (N. Y.) Harbor, caused by collision with the U. S. tug *W. H. Lee*, formerly the *Wm. C. Chapman*, on November 4, 1910.

F. H. & A. H. Chappell Co., for $140.29, as reimbursement of cost of repairing damages to its dock, New London, Conn., caused by collision with the U. S. lighter *Panuco* on March 29, 1911.

Frygoe Jolstad, for $18.75, as reimbursement of cost of repairing damages to his motor launch *Lyn* by U. S. snagboat *Missouri* at St. Charles, Mo., on July 5, 1911.

Krause & Banks, for $25, as reimbursement of cost of repairing damages to their shipways at North Bend, Oreg., caused by collision with the U. S. dredge *Oregon* on June 6, 1911.

Columbia River Packers' Association, for $100, as reimbursement of cost of repairing damages to its ship *Jabez Howes* and wharf at Astoria, Oreg., caused by collision with the U. S. dredge *Chinook* on February 4, 1911.

Johnson & Hamilton, for $233.17, as reimbursement of cost of repairing damages to their launch *Taurus*, caused by collision with the U. S. dredge *Delatour* at Morgan City, La., on April 5, 1911.

W. G. Downie, for $7.15, as reimbursement of cost of repairing his warehouse at Pomeroy, Ohio, damaged by collision with U. S. snagboat *E. A. Woodruff* on September 19, 1911.

This is one of five documents. The amount in each case is trivial.

Mr. MANN. If the gentleman will permit me, before the act was passed providing for the adjustment of these claims, and their settlement in this way, they came to the House in communications from the department and were referred to the Committee on Claims, or went to the Senate, where the same action was taken. It became the settled policy of both Houses, as frequently stated in the committee reports, for Congress in adjusting damages for collisions, where Government vessels were at fault, not to make an allowance for demurrage for the time that the vessel was laid up. That was the settled policy, as frequently stated by the committees, and time and again I have seen the matter voted upon in the House, and every time the House voted that it would not allow demurrage; that it would only allow the actual damage to the vessel. Yet these claims that are allowed here do cover demurrage. Not only that. Even the Committee on Claims is now undertaking to reverse the policy of the House; and the Senate has taken the back track on the question, and is willing to allow almost any amount of demurrage that anybody claims. It was for that reason that I called the attention of the committee to it, and will do so further if a certain bill now on the calendar gets before the House.

Mr. FITZGERALD. Mr. Chairman, my recollection from an examination I made of these documents was that there was no demurrage in any of these claims. I may be mistaken. My recollection is that they are all amounts fixed for repairs—unless the department includes under the term "repairs" an allowance for demurrage.

Mr. MANN. I have examined the claims, and there are allowances for demurrage; but, of course, the amount is small, and these claims are authorized and will have to be paid, I suppose.

The Clerk read as follows:

To reimburse the German ambassador at Washington, D. C., for expenses incurred by him in procuring information for the Interior Department as to the whereabouts in Germany of the heirs of John A. Beck, and Frank A. Armbruster, who died at the Government Hospital for the Insane, $3.45.

Mr. ANDERSON of Ohio. Mr. Chairman, I offer the following amendment as a new paragraph.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 23, after line 17, add:

"Three hundred thousand dollars, or so much thereof as may be necessary, to employ temporarily extra clerks by the Commissioner of Pensions to aid him in the work incident to the adjudication of pension claims filed under the act entitled 'An act granting a service pension to certain defined veterans of the Civil War and the War with Mexico,' approved May 11, 1912, at salaries not to exceed $1,200 each; and in order to facilitate said work the Commissioner of Pensions is authorized to employ clerks heretofore employed in other departments of the Government service, or others who may be sufficiently skilled to do the required work, without complying with the requirements of the civil-service laws: *Provided, however*, That none of said extra clerks shall continue in the service beyond the fiscal year of this appropriation without further legislation, or, by reason of said employment alone, be eligible for transfer to the service in other departments, or be continued longer than may be necessary to do the work hereby provided for."

Mr. FITZGERALD. I make the point of order on the amendment, Mr. Chairman. This is a deficiency bill. There is no authority for the employment of these clerks.

Mr. ANDERSON of Ohio. Mr. Chairman——

Mr. FITZGERALD. I make the point of order. These clerks are not needed.

Mr. MANN. The year which this bill covers is passed. They could not be employed in the future under this bill.

Mr. FITZGERALD. I make the point of order.

Mr. ANDERSON of Ohio. Mr. Chairman, I can not believe that the gentleman is in earnest when he says——

Mr. FITZGERALD. I make the point of order. The gentleman can believe it or not.

The CHAIRMAN. The Chair understands that the gentleman from Ohio is about to discuss the point of order.

Mr. ANDERSON of Ohio. There is no question in my mind that the gentleman from New York is joking when he states that the Pension Bureau does not need additional help to adjudicate the claims——

Mr. FITZGERALD. I am not only not joking, but I know what I am talking about.

Mr. MANN. This bill only applies to the time before July 1, and if they needed them before the 1st of July, they could not employ them now under this bill.

Mr. ANDERSON of Ohio. The act was passed May 11, 1912, which was before the 1st of July.

Mr. MANN. The gentleman knows that is covered in another bill.

Mr. FITZGERALD. This is a deficiency bill, and the gentleman wants to employ services during this fiscal year.

The CHAIRMAN. The Chair will hear the gentleman from Ohio on the point of order made by the gentleman from New York.

Mr. ANDERSON of Ohio. Mr. Chairman, if an amendment was offered in the Senate to the sundry civil bill and the point was not made there, I can not understand why this amendment should not be adopted here. This House passed the most generous pension bill that was ever passed by any legislative body. It was based on service and disability. It was amended by the Senate and based on age, service, and disability. It passed the House, carrying an appropriation of $75,000,000 approximately. The Senate amended it by cutting it down from a third to a half.

Mr. MANN. Mr. Chairman, I suggest that the gentleman is not discussing the point of order.

The CHAIRMAN. The gentleman will please confine himself to the point of order.

Mr. FITZGERALD. We will not discuss the pension matter at this time.

Mr. MANN. If the gentleman desires to discuss the matter of pensions, I shall make the point of order that there is no quorum present.

Mr. FITZGERALD. We do not care to enter into a competition between the gentleman from Ohio at this end of the Capitol and the gentleman from Ohio at the other end of the Capitol, who are competing for the favoritism of certain classes of persons.

The CHAIRMAN. The gentleman from Ohio will proceed in order on the question of order.

Mr. ANDERSON of Ohio. Mr. Chairman, I withdraw the amendment.

Mr. WILLIS. Mr. Chairman, I move to strike out the last word for the purpose of asking the gentleman from New York a question. This item under discussion here strikes me as being a peculiar one, and if the gentleman from New York can give the information as to the origin of it I should like to have it. It provides an appropriation of $3.45 to pay the German ambassador for his services in locating the heirs of one John A. Beck and one Frank A. Armbruster.

Mr. MANN. For his expenses.

Mr. WILLIS. It strikes me as a peculiar item.

Mr. FITZGERALD. It is a peculiar item.

Mr. WILLIS. Why was it desirable that the American Government should assume the obligation of hunting up the heirs of these two particular men? It arouses my curiosity.

Mr. MANN. It was not; but he did it.

Mr. WILLIS. Why should we do it?

Mr. MANN. Because the State Department requested him to do it; and in doing it he expended some money, and it is common courtesy that we should reimburse him the money.

Mr. FITZGERALD. Mr. Chairman, John A. Beck, who had been a private in the Kentucky Volunteer Infantry, was sent to the Government Hospital for the Insane, where he died, leaving $101.50 to his credit. According to the records taken at the time of his enlistment he was born in Germany. An effort was made to locate his heirs, in order to turn this money over to them. An effort was made through the German ambassador. The German ambassador incurred an expenses of $3.45, and presented a claim for reimbursement.

There was no appropriation out of which it might be made, and the committee believed that it was highly appropriate that Congress should authorize the payment of this sum of $3.45 to reimburse the ambassador for the expense incurred by him in attempting to obtain for the Government of the United States the information desired.

Mr. WILLIS. Mr. Chairman, I withdraw the pro forma amendment and thank the gentleman for the information and desire to make the observation that it seems to me that it is a very complimentary reference to the care with which the business of this Government is conducted, particularly so far as the Appropriation Committee is concerned, that an item of $3.45 can be figured out here to be paid a representative of a great government such as Germany.

Mr. FITZGERALD. There was no appropriation from which it might be paid.

Mr. WILLIS. I understand, and I think it is perfectly proper.

Mr. FITZGERALD. It was a claim, and while there might be some doubt as to the legality of the expense incurred at the request of the Government, the committee did not wish to raise any question of that character. The German ambassador having stated he spent the money doing this work, the committee felt that he should be reimbursed.

Mr. WILLIS. And I think it is right.

Mr. FITZGERALD. And not compel him to bear the burden of the expenditures while obtaining information for this Government.

The Clerk read as follows:

The accounting officers of the Treasury are authorized and directed to credit the accounts of Charles F. Read, special disbursing agent, General Land Office, under the appropriation for "Expenses of hearings in land entries, fiscal year ended June 30, 1910," with the sum of $8.39, being the amount disallowed by said accounting officers on account of payments in excess of 10 cents per folio made by the disbursing officer to United States commissioners in the State of Colorado for taking depositions in land hearings under section 4 of the act of January 31, 1903.

Mr. MANN. Mr. Chairman, I move to strike out the last word for the purpose of calling the attention of the gentleman from New York to the fact that after a long and arduous day's labor it is proper to rise. It seems that we might easily finish this bill by 3 o'clock to-morrow.

Mr. FITZGERALD. The committee has shown so much interest and we have made so much progress that I was in hopes that we might run a little longer.

Mr. MANN. I think we will be able to finish this in a very few hours to-morrow. I withdraw the pro forma amendment.

Mr. FITZGERALD. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. HAMMOND, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 25970, the general deficiency appropriation bill, and had come to no resolution thereon.

INTERNATIONAL PRISON CONGRESS (H. DOC. NO. 890).

The SPEAKER laid before the House the following message from the President of the United States, which was read:

To the Senate and House of Representatives:

I transmit herewith for the information of Congress a report of the proceedings of the Eighth International Prison Congress, held at Washington in October, 1910, in pursuance of the invitation extended by the President in virtue of the joint resolution approved March 3, 1905.

The attention of Congress is invited to the accompanying report of the Secretary of State concerning the printing of the report of the proceedings of the prison congress.

WM. H. TAFT.

THE WHITE HOUSE, *July 26, 1912.*

The SPEAKER. The Chair thinks that the letter of the Secretary of State accompanying the President's message ought also to be read to the House, as there seems to be some question of doubt as to who ought to pay for the printing. The Clerk will read the letter.

The Clerk read as follows:

THE PRESIDENT:

The undersigned, the Secretary of State, has the honor to lay before the President a report of the proceedings of the Eighth International Prison Congress, held at Washington in October, 1910.

As this congress was so held by reason of the invitation extended by the President in virtue of the joint resolution of the Congress of the United States, approved March 3, 1905, it would seem to be required that the report should be transmitted to Congress for the information of that body.

In recommending this action the undersigned feels obliged to say, however, that in view of the joint resolution approved March 30, 1906, entitled "Joint resolution to correct abuses in the public printing and to provide for the allotment of certain documents and reports," the transmission of the report is not to be deemed to imply any request that it be printed if the cost of printing would be a charge against the Department of State, inasmuch as the appropriation for the printing of the Department of State is not sufficient to provide for the department's printing and also for the printing of documents of this description, as to which the department serves only as a conduit.

Respectfully submitted.

P. C. KNOX.

DEPARTMENT OF STATE,
Washington, July 25, 1912.

The SPEAKER. Ordinarily the order in this case would be that it be referred to the Committee on Foreign Affairs and ordered printed. There are 131 pages of typewritten matter of letter size constituting the papers in the case. The request of the Secretary of State, or his suggestion is, that he does not want to ask this to be printed, provided it is to be charged up to the printing fund of the office of the Secretary of State, because that seems to be about exhausted.

Mr. MANN. Mr. Speaker, I recall nothing whatever in the resolution providing for the invitation to be extended to this Congress that there should be any report made to the Congress of the United States. I do not see why the Secretary of State sends it here unless it is to have it printed.

Mr. FITZGERALD. At the expense of Congress.

Mr. MANN. At the expense of Congress. It has not been usual, I think, for the Secretary of State to transmit to the House copies of the proceedings of all of the international congresses that are held here.

The SPEAKER. Well, the Chair will refer this message and the Secretary's letter to the Committee on Foreign Affairs and order them printed.

Mr. FITZGERALD. I move that the accompanying document lie on the table.

Mr. MANN. Why not print the document and charge it up to the State Department.

The SPEAKER. He does not want that done.

Mr. MANN. Then he has no business to send it here.

Mr. FITZGERALD. Mr. Speaker, I move that the accompanying document lie on the table.

Mr. MANN. I suggest that the matter remain on the Speaker's table for the present without reference until there can be investigation made.

Mr. SULZER. Mr. Speaker, let us know the nature of the document.

The SPEAKER. It is a letter from the Secretary of State about the last meeting of the prison congress. Now, the Secretary of State in his letter which the President transmits with this bundle of papers, 131 pages of typewritten matter, makes the suggestion in this letter to the President that he does not recommend it to be printed for fear the printer's bill will be charged up to the office of the Secretary of State, and they are rather short in funds up there and did not want to assume that expense, and the Chair was trying to find out what to do with it.

Mr. SULZER. Mr. Speaker, just a word in this connection. This Government is a member of the International Prison Commission, and every year we pay our pro rata share of the expense——

Mr. FITZGERALD. Two thousand dollars.

Mr. SULZER. Yes; and, of course, it is very important, it seems to me, to the people of this country to have the reports of the commission printed, in order that they may know what is being done in prison reform. The taxpayers finally pay for the printing, and it is immaterial which department has it done. In order to get the information the report should be printed.

Mr. MANN. Is not the report of the proceedings of the International Prison Congress already printed by the International Prison Association?

Mr. SULZER. That I do not know.

Mr. MANN. I think it is.

Mr. FITZGERALD. Mr. Speaker, in the deficiency bill now under consideration we carry an item of $2,000 as the subscription of the United States as an adhering member of the International Prison Commission for the expenses of the commissioner, including the preparation of the report. Having done that much, it is somewhat of a presumption for the Secretary of State to endeavor to have printed at the expense of the congressional allotment the proceedings of this prison congress. So far as I am concerned, if it can be avoided, it will not be done at the expense of the congressional allotment.

Mr. SULZER. Mr. Speaker, it is immaterial to me who prints this document. If it is important, it ought to be printed for the benefit of the people of the country, and it will make no difference in the end to the taxpayers whether it is printed by the State Department or printed by the House of Representatives. If it is printed by the State Department, I suppose the State Department would have to send this document out to the various prison associations of the United States and to the various prison officials of the United States. If Congress prints it, then the Members of Congress will get the document, and they can send it out. I think its about as broad as it is long.

Mr. MANN. Is it not a fact that, in effect, this is a request for a deficiency appropriation to help out the expense of this International Prison Congress?

Mr. SULZER. I do not know what the document contains. I want to find out.

Mr. FITZGERALD. I think it is.

Mr. MANN. There was a large fund raised for paying the expenses of the congress—for printing the proceedings and for the actual expenses. If the proceedings have not been printed—I think they have, but I may be mistaken—then they are asking Congress to pay that expense, which was contemplated to be paid by the association.

Mr. SULZER. I will investigate the matter.

Mr. FITZGERALD. I move that the accompanying document lie upon the table.

The SPEAKER. The gentleman from New York moves to lay this accompanying matter on the table, and the gentleman from Illinois suggests it remain on the Speaker's table.

Mr. SULZER. Mr. Speaker, in order to find out what it is and what to do about it, I ask that it be referred to the Committee on Foreign Affairs. We can examine it there.

Mr. HOBSON. May I ask the gentleman from New York what will be the status of the document if laid on the table?

Mr. FITZGERALD. It will not be printed at the expense of the congressional allotment, if printed at all, until we know what is involved.

Mr. MANN. And it will be subject to the control of the House hereafter.

Mr. SULZER. That is so.

Mr. FITZGERALD. If referred to the committee, it will be printed.

The SPEAKER. The gentleman's motion does not go to the message?

Mr. FITZGERALD. No; only to the document.

The SPEAKER. The message and the letter of the Secretary of State will be printed and sent to the Committee on Foreign Affairs. The gentleman from New York [Mr. FITZGERALD] moves that the accompanying papers lie on the table.

Mr. SULZER. Mr. Speaker, until I can look into the matter I have no objection to that course being taken.

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

RETURN OF BILL H. R. 18041.

The SPEAKER laid before the House the following resolution from the Senate.

The Clerk read as follows:

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (H. R. 18041) granting a franchise for the construction, maintenance, and operation of a street-railway system in the district of South Hilo, county of Hawaii, Territory of Hawaii.

Attest:

CHAS. G. BENNETT,
Secretary.
By H. M. ROSE,
Assistant Secretary.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

CORNELIA BRAGG.

Mr. RUSSELL. Mr. Speaker, I ask to take from the Speaker's table the bill (H. R. 25598) and concur in the Senate amendments.

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

The Clerk read as follows:

A bill (H. R. 25598) an act granting a pension to Cornelia Bragg.

The Senate amendments were read.

Mr. RUSSELL. Mr. Speaker, I move to concur in the Senate amendments.

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

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills:

H. R. 22111. An act for the relief of the Delaware Transportation Co., owner of the American steamer *Dorothy;*

H. R. 20347. An act to authorize the Dixie Power Co. to construct a dam across White River at or near Cotter, Ark.;

H. R. 22043. An act to authorize additional aids to navigation in the Lighthouse Service, and for other purposes;

H. R. 18033. An act to modify and amend the mining laws in their application to the Territory of Alaska, and for other purposes;

H. R. 24598. An act for the relief of Jesus Silva, jr.;

H. R. 12375. An act authorizing Daniel W. Abbott to make homestead entry;

H. R. 13938. An act for the relief of Theodore Salus;

H. R. 644. An act for the relief of Mary E. Quinn;

H. R. 1739. An act to amend section 4875 of the Revised Statutes to provide a compensation for superintendents of national cemeteries;

H. R. 24699. An act extending the time for the repayment of certain war-revenue taxes erroneously collected.

H. R. 20873. An act for the relief of J. M. H. Mellon, administrator, et al., all of Allegheny County, Pa.;

H. R. 11628. An act authorizing John T. McCrosson and associates to construct an irrigation ditch on the island of Hawaii, Territory of Hawaii; and

H. R. 4012. An act to authorize the exchange of certain lands in the State of Michigan.

AGRICULTURAL CREDIT BANKS (H. DOC. NO. 891).

Mr. HOBSON. Mr. Speaker, I ask to have printed as a House document an article entitled "Agricultural credit banks," published in the Journal of the Institute of Bankers, London, in the month of June.

The SPEAKER. The gentleman from Alabama asks unanimous consent to have printed as a public document an article on agricultural credit banks, published in the Journal of the Institute of Bankers, London, in June. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

ADJOURNMENT.

Mr. FITZGERALD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 25 minutes p. m.) the House adjourned to meet to-morrow, Saturday, July 27, 1912, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bill and resolution were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. ASHBROOK, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 6899) increasing the limit of cost for the erection and completion of a public building in the city of Richford, State of Vermont, reported the same without amendment, accompanied by a report (No. 1069), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. EVANS, from the Committee on the Library, to which was referred the resolution (H. Res. 505) directing the Sec-

retary of the Smithsonian Institution to send to the House of Representatives a complete list of the subscriptions, if any, made by private persons to the Smithsonian Institution or to any of its officers for the expenses in connection with the African hunting trip of ex-President Roosevelt, reported the same without amendment, accompanied by a report (No. 1071), which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. PEPPER, from the Committee on Military Affairs, to which was referred the bill (H. R. 3957) for the relief of Isaac Thompson, reported the same without amendment, accompanied by a report (No. 1068), which said bill and report were referred to the Private Calendar.

Mr. DENT, from the Committee on the Public Lands, to which was referred the bill (H. R. 16604) for the relief of Lewis Montgomery, reported the same without amendment, accompanied by a report (No. 1067), which said bill and report were referred to the Private Calendar.

Mr. PEPPER, from the Committee on Military Affairs, to which was referred the bill (S. 1484) for the relief of Ferdinand Tobe, reported the same without amendment, accompanied by a report (No. 1070), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. COVINGTON: A bill (H. R. 25988) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. RAKER: A bill (H. R. 25989) to equip, build, complete, and furnish water, electric-light, and sewerage systems for the Fort Bidwell Indian School, on the Government reservation at Fort Bidwell, Cal., and for other purposes; to the Committee on Indian Affairs.

By Mr. PRAY: A bill (H. R. 25990) to establish a mining experiment station at Helena, Lewis and Clark County, Mont., to aid in the development of the mineral resources of the United States, and for other purposes; to the Committee on Mines and Mining.

By Mr. LINTHICUM: A bill (H. R. 25991) to amend section 3186 as amended by section 3 of the act of March 1, 1879; to the Committee on Ways and Means.

By Mr. FITZGERALD: Resolution (H. Res. 642) providing for consideration of the disposition of water rights on Schofield Military Reservation, Hawaiian Islands, in connection with the bill (H. R. 25970) making appropriations to supply deficiencies in appropriations, etc.; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred, as follows:

By Mr. ANSBERRY: A bill (H. R. 25992) granting an increase of pension to Franklin Converse; to the Committee on Invalid Pensions.

By Mr. BURKE of South Dakota: A bill (H. R. 25993) granting a pension to Almira M. Meade; to the Committee on Invalid Pensions.

By Mr. CLAYPOOL: A bill (H. R. 25994) granting an increase of pension to Henry Wolf; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25995) granting an increase of pension to Aries Butcher; to the Committee on Invalid Pensions.

By Mr. CRAGO: A bill (H. R. 25996) granting an increase of pension to Rebecca Rice; to the Committee on Invalid Pensions.

By Mr. FRANCIS: A bill (H. R. 25997) for the relief of Joshua Algeo; to the Committee on Military Affairs.

Also, a bill (H. R. 25998) granting a pension to Andrew Crowl; to the Committee on Invalid Pensions.

By Mr. FRENCH: A bill (H. R. 25999) for the relief of the heirs of Lindley Abel, deceased; to the Committee on War Claims.

By Mr. McLAUGHLIN: A bill (H. R. 26000) granting an increase of pension to Hiram E. Staples; to the Committee on Invalid Pensions.

By Mr. OLDFIELD: A bill (H. R. 26001) granting a pension to Harry A. Rhea; to the Committee on Pensions.

By Mr. PATTON of Pennsylvania: A bill (H. R. 26002) granting an honorable discharge to David D. Woods; to the Committee on Military Affairs.

By Mr. RUSSELL: A bill (H. R. 26003) granting an increase of pension to Moses McGinnis; to the Committee on Invalid Pensions.

By Mr. TOWNSEND: A bill (H. R. 26004) granting an increase of pension to Annie Liese; to the Committee on Invalid Pensions.

PETITIONS, ETC.

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

By Mr. CALDER: Petition of the Allied Printing Trades Council of the State of New York, against passage of the Bourne parcel-post bill; to the Committee on the Post Office and Post Roads.

Also, petition of members of the Daughters of Liberty, of Brooklyn, N. Y., favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Fourteenth Street Store, New York City, against passage of the Bourne parcel-post bill; to the Committee on the Post Office and Post Roads.

By Mr. DICKINSON: Papers to accompany bill in support of pension claim of George C. Brill, Troop M, Fourteenth Regiment United States Cavalry; to the Committee on Invalid Pensions.

By Mr. FOSTER: Petition of citizens of Mount Vernon, Ill., favoring the passage of Senate bill 5461, to restrict the number of saloons in the District of Columbia; to the Committee on the District of Columbia.

By Mr. FRENCH: Petition of citizens of the State of Idaho, favoring passage of bill regulating express rates, etc.; to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of the State of Idaho, against passage of the Bourne parcel-post bill; to the Committee on the Post Office and Post Roads.

Also, petition of merchants of Stites, Idaho, against passage of bills changing patent laws; to the Committee on Patents.

By Mr. FULLER: Petition of the Ottawa (Ill.) Business Men's Association, protesting against the passage of the Bourne parcel-post bill (S. 6850) and favoring a parcel-post commission; to the Committee on the Post Office and Post Roads.

By Mr. LINDSAY: Petition of the Workmen's Sick and Death Benefit Fund of America, New York, protesting against the passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. SPARKMAN: Petition of citizens protesting against the passage of a general parcel-post bill; to the Committee on the Post Office and Post Roads.

Mr. SULZER: Petition of the committee of wholesale grocers, New York, favoring reduction of duties on all raw and refined sugars; to the Committee on Ways and Means.

SENATE.

SATURDAY, *July 27, 1912.*

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

The Secretary proceeded to read the Journal of yesterday's proceedings when, on request of Mr. BRANDEGEE and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had agreed to the amendments of the Senate to the bill (H. R. 21480) to establish a standard barrel and standard grades for apples when packed in barrels, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the joint resolution (S. J. Res. 100) authorizing the Secretary of the Interior to permit the continuation of coal-mining operations on certain lands in Wyoming.

The message further returned to the Senate, in compliance with its request, the bill (H. R. 18041) granting a franchise for the construction, maintenance, and operation of a street railway system in the district of South Hilo, county of Hawaii, Territory of Hawaii.