## SENATE.

SATURDAY, *March 16, 1912.*

The Senate met at 12 o'clock m.

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

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

### QUARTERMASTER'S AND SUBSISTENCE DEPARTMENTS (S. DOC. NO. 436).

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a petition of sundry clerks employed in the Quartermaster's and Subsistence Departments of the Army residing in Boston, Mass., praying that the status of clerks in the Quartermaster's and Subsistence Departments under the proposed consolidation of those departments be made the same as that of the Army paymaster's clerks under the act of Congress approved March 3, 1911, which, with the accompanying paper, was referred to the Committee on Military Affairs and ordered to be printed.

### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed a 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, in which it requested the concurrence of the Senate.

### PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a cablegram signed by Jose de Diego, speaker of the House of Delegates of the Legislature of Porto Rico, which was referred to the Committee on Pacific Islands and Porto Rico and ordered to be printed in the RECORD, as follows:

SAN JUAN, P. R., *March 12, 1912.*

PRESIDENT OF SENATE, *Washington:*

Legislature passed a sanitary act perfectly satisfactory with approval of Secretary of War; also enacted election bill securing legislative representation to minority parties, providing secret ballot, and requiring candidates to be residents in their districts; another act establishing bureau of labor; many other excellent laws also passed. House of Delegates did and will make all patriotic efforts and sacrifices to obtain liberal legislation from Congress. In closing its session house unanimously asks highest protection of Congress, President, and Secretary of War to secure kind justice to capacity and loyalty of Porto Ricans.

JOSE DE DIEGO, *Speaker.*

He also presented a petition of sundry citizens of Rhea County, Tenn., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

He also presented petitions of the congregation of the Baptist Church of Augusta, Wis.; of sundry citizens of Mifflintown, Pa.; and of the Farmers' Club of West Brookfield, Mass., praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating liquors, which were referred to the Committee on the Judiciary.

He also presented a petition of members of the Merchants' Exchange of St. Louis, Mo., praying for the ratification of the proposed Nicaraguan and Honduran treaties, which was referred to the Committee on Foreign Relations.

He also presented petitions of Bricklayers' Local Union No. 11659, of Arecibo; of Agricolas Union, No. 11827, of Juncos; and of Local Union No. 1696, United Brotherhood of Carpenters and Joiners, of Juncos, all of Porto Rico, praying that citizens of Porto Rico be permitted to become citizens of the United States, which were referred to the Committee on Pacific Islands and Porto Rico.

He also presented petitions of Bricklayers' Local Union No. 11659, of Arecibo; of the Women Laborers Protective Union No. 12721, of San Lorenzo; of Local Union No. 1301, United Brotherhood of Carpenters and Joiners of America, of San Lorenzo; of the Federal Labor Local Union No. 12967, of San Lorenzo; of the Men's Protective Union No. 1455, of Cabo Rojo; and of Cigarmakers' Local Union No. 333, of San Lorenzo, all of Porto Rico, praying for the creation of a department of agriculture and labor in that Territory, which were referred to the Committee on Pacific Islands and Porto Rico.

Mr. CULLOM presented a petition of the Retail Merchants' Association of Shawneetown, Ill., praying for the establishment of free mail delivery in towns, cities, and villages with a population of over 1,000, which was referred to the Committee on Post Offices and Post Roads.

He also presented resolutions adopted by the Live Stock Exchange of St. Louis, Mo., favoring the repeal of the oleomargarine law, which were referred to the Committee on Post Offices and Post Roads.

He also presented petitions of sundry citizens of Bone Gap, New Haven, and America, all in the State of Illinois, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

He also presented a petition of Local Union No. 474, United Mine Workers of America, of Edgemont Station, East St. Louis, Ill., praying for the passage of the so-called anti-injunction bill, which was referred to the Committee on the Judiciary.

He also presented a petition of Local Union No. 474, United Mine Workers of America, of Edgemont Station, East St. Louis, Ill., praying for the passage of the so-called old-age pension bill, which was referred to the Committee on Pensions.

He also presented resolutions adopted by the Illinois State Dairymen's Association, in convention at Effingham, Ill., remonstrating against the repeal of the oleomargarine law, which were referred to the Committee on Agriculture and Forestry.

He also presented a petition of Local Council, Department of Illinois, United Spanish War Veterans, of Streator, Ill., praying for the enactment of legislation to pension widow and minor children of any officer or enlisted man who served in the War with Spain or the Philippine insurrection, which was referred to the Committee on Pensions.

Mr. BRISTOW presented a memorial of the congregation of the Grace Presbyterian Church, of Wichita, Kans., remonstrating against the repeal of the anticanteen law, which was referred to the Committee on Military Affairs.

He also presented a petition of the congregation of the Grace Presbyterian Church, of Wichita, Kans., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

He also presented a memorial of sundry citizens of Nickerson, Kans., remonstrating against the extension of the parcel-post system beyond its present limitations, which was referred to the Committee on Post Offices and Post Roads.

He also presented memorials of sundry citizens of Great Bend, Scott City, and Hutchinson, all in the State of Kansas, remonstrating against the removal of the duty on raw and refined sugars, which were referred to the Committee on Finance.

Mr. GALLINGER presented a memorial of Local Grange, Patrons of Husbandry, of Plymouth, N. H., remonstrating against the repeal of the oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

Mr. CURTIS presented memorials of sundry citizens of Denton, Russell, Agenda, and Enterprise, all in the State of Kansas, remonstrating against the establishment of a parcel-post system, which were referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the congregation of the Plymouth Congregational Church, of Wichita, Kans., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

Mr. TOWNSEND presented a petition of Local Lodge No. 7, Shipmasters' Association, of Detroit, Mich., praying for the enactment of legislation to increase the salaries of officers in the Steamboat-Inspection Service, which was referred to the Committee on Commerce.

He also presented a petition of Local Grange No. 265, Patrons of Husbandry, of Mason, Mich., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

He also presented a petition of Major John C. Durst Camp, No. 27, United Spanish War Veterans, of Lansing, Mich., praying for the enactment of legislation to pension widow and minor children of any officer or man who served in the Spanish-American War or the Philippine insurrection, which was referred to the Committee on Pensions.

He also presented a petition of members of the Western Michigan Round Table, praying that the increased appropriations asked for by the Commissioner of Education be made in the educational interests of the country, which was referred to the Committee on Education and Labor.

He also presented petitions of sundry citizens of Laurium, Big Rapids, East Saugatuck, Owosso, East Jordan, Sault Ste. Marie, Gaylord, Allenville, Sunfield, Mason, Adrian, St. Johns, and Flat Rock, all in the State of Michigan, praying for the establishment of a parcel-post system, which were referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of sundry citizens of Athens, Mich., remonstrating against the extension of the parcel-post

system beyond its present limitations, which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of Local Grange No. 265, Patrons of Husbandry, of Mason, Mich., and a memorial of sundry citizens of Coleman, Mich., remonstrating against the repeal of the oleomargarine law, which were referred to the Committee on Agriculture and Forestry.

Mr. BROWN presented a memorial of the Retailers' Association of Broken Bow, Nebr., remonstrating against the extension of the parcel-post system beyond its present limitations, which was referred to the Committee on Post Offices and Post Roads.

Mr. OWEN presented a petition of sundry citizens of Keene, Okla., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

Mr. POINDEXTER presented a petition of sundry citizens of Elma, Wash., praying that an appropriation be made to provide for the further dredging of Willapa Harbor, near Raymond, in that State, which was referred to the Committee on Commerce.

He also presented a memorial of the executive board of the Farmers' Educational and Cooperative Union of America for Washington and northern Idaho, remonstrating against the free distribution of seed by the Government, which was referred to the Committee on Agriculture and Forestry.

### IMPROVEMENT OF THE MISSISSIPPI RIVER.

Mr. WILLIAMS, from the Committee on Claims, to which was referred the bill (S. 5683) to confer jurisdiction on the Court of Claims to hear, determine, and adjudicate claims for the taking of private property and damages thereto as the result of the improvement of the Mississippi River for navigation, asked to be discharged from its further consideration and that it be referred to the Committee on Commerce, which was agreed to.

### MISSISSIPPI RIVER BRIDGE.

Mr. CLARKE of Arkansas. I ask unanimous consent that the bill (H. R. 17239) to authorize the Arkansas & Memphis Railway Bridge & Terminal Co. to construct, maintain, and operate a bridge across the Mississippi River, Order of Business 393, be recommitted to the Committee on Commerce.

The VICE PRESIDENT. Without objection, an order is entered recommitting the bill to the Committee on Commerce.

### BILLS INTRODUCED.

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

By Mr. GALLINGER:

A bill (S. 5880) granting pensions to volunteer Army nurses of the Civil War (with accompanying paper); to the Committee on Pensions.

By Mr. BROWN:

A bill (S. 5881) granting an increase of pension to Jacob S. Robey; to the Committee on Pensions.

By Mr. BROWN (for Mr. GAMBLE):

A bill (S. 5882) to extend the time for the completion of a bridge across the Missouri River at or near Yankton, S. Dak., by the Winnipeg, Yankton & Gulf Railroad Co.; and

A bill (S. 5883) to extend the time for the completion of a bridge across the Missouri River at Yankton, S. Dak., by the Yankton, Norfolk & Southern Railway Co.; to the Committee on Commerce.

A bill (S. 5884) to amend section 3 of an act entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January 14, 1889; to the Committee on Indian Affairs.

By Mr. BOURNE:

A bill (S. 5885) supplementing the joint resolution of Congress approved April 30, 1908, entitled "Joint resolution instructing the Attorney General to institute certain suits, etc.; to the Committee on Public Lands.

By Mr. CLARKE of Arkansas:

A bill (S. 5886) for the relief of Calvin G. Linville; to the Committee on Military Affairs.

By Mr. NELSON (for Mr. CLAPP):

A bill (S. 5887) granting an increase of pension to Silas M. Finch (with accompanying papers);

A bill (S. 5888) granting an increase of pension to Eben Kneeland (with accompanying papers); and

A bill (S. 5889) granting an increase of pension to Clement Lovely (with accompanying papers); to the Committee on Pensions.

By Mr. BRADLEY:

A bill (S. 5890) for the relief of the estate of Ben Whitaker, sr., deceased (with accompanying paper); and

A bill (S. 5891) for the relief of the estate of David W. Settle, deceased (with accompanying paper); to the Committee on Claims.

A bill (S. 5892) granting a pension to Elizabeth Polly (with accompanying papers); to the Committee on Pensions.

By Mr. POINDEXTER:

A bill (S. 5893) granting a pension to Elizabeth E. Donaldson; to the Committee on Pensions.

### WITHDRAWAL OF PAPERS—SAMUEL COLE.

On motion of Mr. POMERENE, it was

*Ordered*, That the papers in the case of Samuel Cole (S. 5997, 61st Cong.) be withdrawn from the files of the Senate, no adverse report having been made thereon.

### PUBLIC BUILDING AT DENVER, COLO.

Mr. GUGGENHEIM. I ask unanimous consent for the present consideration of the bill (S. 3974) to increase the limit of cost of the United States public building at Denver, Colo.

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

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

The bill was reported from the Committee on Public Buildings and Grounds with an amendment, in line 9, before the word "hundred," to strike out "five" and insert "four," so as to make the bill read:

*Be it enacted, etc.*, That the limit of cost fixed by the act of Congress approved May 30, 1908 (35 Stats., 545), for the new public building at Denver, Colo., for the accommodation of the post office, United States courts, and other governmental offices, be, and the same is hereby increased $400,000.

The amendment was agreed to.

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

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

### THE INTERNATIONAL HARVESTER CO.

Mr. McCUMBER. I move that the Senate proceed to the consideration of House bill No. 1. I observe that the Senator from Indiana [Mr. KERN] is now present, and he gave notice that he would desire to speak on the bill immediately after the close of the morning business.

Mr. GALLINGER. If the Senator from North Dakota will withhold his motion for one moment, I will state that on yesterday the Senator from Tennessee [Mr. LEA] offered a resolution which I asked might go over. I have examined it and see no objection to it. I presume the Senator from Tennessee may want to have it considered.

Mr. LEA. I ask for the present consideration of the resolution.

Mr. McCUMBER. I withhold my motion until the resolution is disposed of.

The VICE PRESIDENT. The Secretary will read the resolution submitted yesterday by the Senator from Tennessee.

Senate resolution 250, submitted yesterday by Mr. LEA, was read and agreed to, as follows:

Whereas it is reported that there is pending before the Department of Justice a settlement between the United States and the International Harvester Co., by which the so-called Harvester Trust may be permitted to reorganize and to bring its organization and business within the Sherman antitrust law as construed by the Supreme Court: Be it

*Resolved by the Senate of the United States*, That the Attorney General be, and he is hereby, instructed to lay before the Senate all correspondence and information he may have upon this subject, together with any and all correspondence, information, and reports of the Bureau of Corporations relating thereto, from January 1, 1904, to the present time.

### HOUSE BILL REFERRED.

H. R. 21213. An act 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, was read twice by its title and referred to the Committee on Finance.

### SERVICE PENSIONS.

Mr. McCUMBER. I renew my motion.

The VICE PRESIDENT. The Senator from North Dakota moves that the Senate proceed to the consideration of House bill No. 1.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 1) granting a service pension to certain defined veterans of the Civil War and the War with Mexico.

Mr. KERN. Mr. President, I rise to speak in favor of a pension bill that will settle the pension question for all time to come; that will forever put an end to special pension legislation; that will, when once put into operation, enable the Gov-

ernment to dispense with the services of thousands of examiners and special agents, spies and detectives—a measure which has the support of the great majority of the soldiers of the Nation who served in the ranks of the Union Army as privates during the Civil War and who by the thousand are registering their protest against the McCumber or Smoot substitute now under consideration.

Mr. President, the last Democratic State convention of Indiana, held on April 28, 1910, was made up of more than 1,500 delegates representing every township in each of the 92 counties of the State. By a unanimous vote it adopted a platform of principles in which it pledged the honor of the party that the candidates that day nominated should, if successful, carry out and perform, in so far as they were able, the promises therein made. One of those platform declarations was as follows:

We favor the immediate enactment of a pension law by Congress providing for a pension of not less than $1 a day for all Union veterans of the Civil War.

Mr. President, that convention also, by a unanimous vote, nominated me as the party's candidate for the position I now hold. I accepted that nomination, fully advised as to the declaration of principles theretofore made by the convention, and without hesitation or mental reservation agreed that, if elected, I would honestly and faithfully do what I could to carry out my party promises.

That convention was not made up of mere politicians, but was composed for the most part of earnest, serious-minded men from every walk of life, who for the time had left the plow, the anvil, the shop, the office, and the store and assembled to declare their political faith, to express themselves upon public questions, and as patriotic citizens organize their party for the contest for better government and more equal and beneficial laws.

The platform declaration for a dollar-a-day pension was not made as a mere empty promise to catch votes—a promise to be ignored and violated in the event of party success, but an expression of the conscientious conviction of that great body of men that such legislation as that promised was justly due to the survivors of the war not only as a mark of gratitude, but as an act of plain and simple justice to the men who in time of national stress and peril had proved their love of country by offering their lives in its defense.

It was in line with the promise of "generous pensions" made in the last Democratic national platform adopted at Denver in 1908 and with the promises made in the platforms of all political parties since the commencement of the Civil War.

Every delegate in that Indiana State convention at the time he cast his vote for that platform declaration had in mind scores of his neighbors who had served their country in the hour of its distress now grown so old and infirm as to be unable to win bread by their labor and anxious and distressed because of their inability to provide for their necessities.

They knew that the pensions of eight, twelve, and even twenty dollars per month doled out by the Government with sparing and cautious hand to these veterans were utterly inadequate to provide for their actual wants, and recognizing, on the one hand, the great value of the services of these men to their country, and, on the other hand, the vast wealth and great ability of the Nation to deal generously with its defenders, could see no reason why the few remaining years of these men should not be made at least tolerable by granting their request for a pension of a dollar a day.

The Republican State platform of the same year declared with the same unanimity that "we believe the time has come for the enactment of what is known as a dollar-a-day pension plan for the relief of the necessities of Civil War veterans."

It will be seen that in the great central State of Indiana, which contributes its full share of taxes toward the support of the National Government, there is absolute unanimity of sentiment on the question of full and ample justice to the veterans of the Civil War, so that in advocating the Sherwood pension bill here I am representing no party nor faction of a party but the whole people of a great Commonwealth, who, without regard to political differences, demand that the obligations of the Government to its defenders be fully, amply, and generously discharged.

And yet, Mr. President, our people are in favor of economical government, and unalterably opposed to extravagant and needless appropriations of the moneys collected from them by any form of Federal or State taxation. But in Indiana we do not regard any appropriation as extravagant which is necessary to maintain the honor of the State or to discharge its honest obligations.

It has sometimes happened that the burdens of taxation became onerous and oppressive when appropriations were necessary for the payment of our State indebtedness and the interest thereon; but when it was known that the honor of the State was involved there was no murmur of discontent, and no man thought of charging extravagance to the legislature making the appropriation.

Then, again, the taxes levied for the purpose of providing for the care and education of our unfortunate people—the blind, the deaf and dumb, the soldiers' orphans, and others of that class—that their lives might be brightened a little, seemed heavy and burdensome, but they were paid cheerfully, because the common instincts of humanity required it.

And so here, whether the claim of the old soldiers rests upon the contract obligation of the Government or upon the ground of gratitude and common humanity, our people can never be brought to the belief that there can be extravagance in any appropriation of public moneys for the purpose of providing for the necessities of the old men whose services in that great War between the States made disunion impossible and the Union perpetual, and made possible that great development of the material resources of our country which has made us the richest and most powerful of all the nations of the earth.

AN OBLIGATION OF HONOR.

Measured by its dealings with other creditors, this Government has utterly failed to carry out the plain provisions of its contract with the soldiers of the Civil War.

The armies of the Union were made up almost entirely of poor men. Business men, as a rule, remained at home and made money while clerks and employees went to war. Men who owned farms, especially those who owned large farms, operated them with great profit throughout the struggle, while the tenants and farm hands were urged to volunteer. Great fortunes were made by many of those who took no part in the conflict, for the necessities of the Government were great and the opportunities for making money unparalleled. Contractors for supplies of every kind waxed fat, and the manufacturers who were subject to war taxes were given special tariff legislation, enacted for the avowed purpose of offsetting the amounts paid by them for the support of the Government, but for the real purpose of enriching them at the expense of the people.

The Government promised to pay the soldiers $13 per month, which was afterwards increased to $16. The contract was to pay them in dollars. They were paid in currency so depreciated as to be worth on the average less than 50 cents on the dollar, so that instead of receiving the contract price of $13 and $16, they actually received from about $6 to $7 per month. Prices for the necessaries of life were correspondingly high, and as a result the families of the soldiers in many instances were supported largely by public and private charity.

Sir, we heard much in a recent campaign about 50-cent dollars and the infamy of a government that would discharge a contract obligation calling for the payment of dollars with money worth only 50 cents on the dollar. The mere prospect or prophecy that Government creditors would be compelled to receive silver dollars in payment of their claims stirred the financiers of the Nation into frenzied action, and resulted in a great crusade in behalf of the national honor, which was at once grotesque and tragic. On every stump and through the great newspapers it was declared that the payment of a just debt in depreciated money was the acme of national perfidy.

Yet to-day these same financiers, with the same earnestness and zeal with which they shouted for national honor in 1896, are denouncing as a raid on the Treasury a proposition to pay to old soldiers who saved their country for them the pittance of a dollar a day, that they may have food and shelter in their old age, and that some measure of justice be done them because in those dreadful days of civil war they were paid dollars worth less than 50 cents for their heroic work.

Mr. President, during and at the close of that war there were two general classes of Government creditors—the holders of the Government bonds and the men who had given up the best part of their lives on the march, in camp, in prison, and in battle for the restoration of the Union. The first class had remained at home engaged in the pleasant pursuit of money making, while the second class had endured during all those long years all the privations incident to the greatest war of modern times. The bonds issued by the Government were, for the most part, bought with greenbacks. The bonded debt of $2,049,975,700 cost the purchasers of the bonds at the time they were issued only $1,371,424,238 in money of gold value, the kind of money in which they were paid. There was no question but that the bonds for which greenbacks were paid were payable in the lawful money of the country.

John Sherman so held, and the Republican Party of Indiana, then led by Oliver P. Morton, so declared in its State platform in 1868. And yet, sir, the Government was so jealous of its honor that in March, 1869, by the famous coin act, all such

bonds were made payable in coin, thereby giving to the bondholders a clear profit of more than $678,000,000—a naked speculation—something for nothing.

When, a little later, a measure was offered in Congress to protect the national honor by paying to the soldiers the difference between the amounts which the Government agreed to pay them and the amounts actually received by them from the Government, it failed of a respectful hearing, its author being denounced as a demagogue for bringing a proposition so preposterous into the halls of national legislation.

Mr. President, I now call upon all those men who were so solicitous for the national honor in 1896, and whose consciences were so quickened at the mere prophecy of 50-cent dollars, to rally to the support of the Sherwood pension bill to the end that the old soldiers of the Union who made hundred-cent dollars, or dollars of any kind, possible in this country, and who were paid for their gallant services in 40-cent dollars, may have before they die some measure of justice at the hands of a Government penitent for its one act of debt repudiation.

TOO LATE FOR DISCRIMINATION.

It was in June, 1825—mark the date, for it is important—that the cornerstone of the Bunker Hill Monument was laid. The ceremonies were so impressive and imposing that the event has been ever since regarded as one of the most notable in our history. La Fayette, flushed with such a series of welcomes never before or since accorded to any foreigner coming to these shores, was there, the guest of the Nation, participating in the ceremonies. A vast concourse of patriotic people had assembled. The wealth and the learning of New England were present, and so it seemed were all the people. But the seats of honor were occupied by the old survivors of the revolution, the men who had followed Washington and his generals in that war for independence, and some of whom had witnessed with swelling hearts the surrender of Cornwallis. Daniel Webster was the orator of the day. The day, the place, the occasion, the audience, the surroundings! What inspiration for the greatest of all American orators! And Webster rose grandly to the occasion and delivered an oration that will live as long as men and women who love liberty read our language. Who has read his words addressed directly to the venerable men of the revolution, recounting their sacrifices in the cause of liberty, and expressing the everlasting gratitude of the beneficiaries of their valorous deeds, without such emotions as bring the tears unbidden to the eyes?

And the sentiments he expressed touched a responsive chord in every heart in that great audience and in all the land. For these were the men who had offered their lives to the end that this people might be free, and had made possible all the blessings which, under a republican form of government, they enjoyed—the blessings which under the providence of God will be enjoyed by the countless generations which follow them.

Did Webster on that historic day in that hallowed place stop to draw a line of distinction between the old gray-haired veterans, who sat with streaming eyes looking into his face as there poured from his lips those eloquent words of tribute to their valor and sacrifice? There were before him men who had served throughout those seven dreadful years of war. Others there were who, too young for battle at the beginning, had joined the army only a year or perhaps a month before the end at Yorktown. Some had rendered service as scouts on the frontier without participating in important engagements. Doubtless some had been braver than others and had borne more willingly the burdens and dangers of battle. Was reference made to that? No, no; the war had ended 42 years before. It was too late for discrimination then. The time had long gone by for nice discriminations. Webster only saw—the people only recognized this body of survivors in the mass—rapidly diminishing, year by year as death called, and, before it might be too late, all sought to do honor to all lest discrimination might work injustice to some.

Who was there on that historic occasion to sound a note of discord by protesting against the tribute of the great orator because it was paid to all of the survivors? Who, on that great occasion, had it in his heart to say, "No, Webster, you are mistaken. In the rapidly thinning ranks of these old gray-haired soldiers there are men who faltered in the hour of danger—men who served only months instead of years—men who do not deserve to be honored by this people." There was no such thought in any mind, and the harmony of the occasion was not marred by such utterance, and no old soldier who heard that great oration returned to his home that day heavy of heart because of any intimation that he was less deserving than his comrades who had served longer or even better.

Mr. President, the great war for the preservation of the Union ended 47 years ago. The average age of the survivors of the Army of the Republic is five years greater than the average age of the Revolutionary heroes who, at Bunker Hill in June, 1825, heard Webster deliver his immortal utterances.

Almost half a century has elapsed since the armies of Grant and Sherman marched down Pennsylvania Avenue in Washington, passing in grand review before the dignitaries of the Nation.

In those great armies on that day there was every grade of soldier—heroes of an hundred battles and striplings who had, for lack of opportunity, only participated in two or three or perhaps only one. In those ranks were men of sublime courage and others weakened by disease and privation, who did not possess great physical courage. Some had served from Bull Run to Appomattox and others whose service was shorter and of less value, but beneath every blue uniform there beat a patriotic heart, and each in his way and according to his opportunty had served his country and rendered some service in restoring the Union and maintaining the honor of the old flag.

On that proud day of review, in May, 1865, the men of that army were in the vigor of young manhood, full of joy that their efforts for the Union had been crowned with success—full of hope for the future of the Republic for which they had sacrificed so much. Laying aside arms and uniform they returned to the peaceful walks of life and took upon themselves the duties of citizenship.

Forty-seven years have rolled by. Within that time hundreds of thousands of those brave men have answered their last roll call and have been called to their reward. Each day witnesses the final departure of many, and the ranks of the survivors are in this way being broken day by day. Those who remain are bowed beneath the weight of years, for nearly all have reached or passed man's allotted span of three score and ten.

A few years more and the grandest army the world ever saw will have disappeared, and the men who, at Gettysburg, and Antietam, and Chancellorsville, and Lookout, won imperishable glory for themselves and their country will live only in the memories of the younger generations, who will in the years to come enjoy the blessings of a free Government which these old men periled life to maintain.

Mr. President, these venerable soldiers of the Union to whom we owe so much of our greatness and prosperity make no unreasonable demands, for they only demand that the plighted faith of the Nation be kept and that they have just treatment.

In this age of luxury they demand no luxuries, nor do they ask to be indulged in any extravagant tastes. They only ask that out of our abundance they be allowed a sum which will provide humble homes, beds on which to rest and to die, raiment that will protect their aged bodies from the cold, and food sufficient to sustain them in their declining years.

Who will grudge these old veterans a dollar a day? Their days for earning money are past. The road to the grave is a short one.

And the men in or out of Congress who go about with microscope peering into the individual records of the few, to discover a defect here and there—the men on the hunt for excuses to justify them in refusing justice to the great mass, will not command more attention than would a man at Bunker Hill who had tried to break the force of the great oration by reading records showing that a few of the old Revolutionary soldiers before him were unworthy of the tribute which Webster had paid to all.

Sir, in the county in which I was born and reared there was a solitary grave near the roadside, said to have been that of a soldier of the Revolution who had died in the early pioneer days of that county. I remember the veneration in which that grave was held by me and my youthful associates. The question as to whether he had served months or years, whether he had been the best soldier or the worst, never entered our minds. We only remembered that he had worn the uniform of the Continental Army and had contributed something to the cause of American liberty.

Mr. President, I grant freely that there was a time when discrimination would have been proper. During the years immediately following the conflict when the first pension legislation was being enacted for the benefit of the Civil War veterans the pensions should have been graded according to the length and character of service, the extent of disability, and the pecuniary condition of the applicant. The incidents of the war were then fresh in the minds of all and little difficulty would have been experienced in ascertaining the true record of every soldier.

But after the lapse of a half century it is too late. We now can only deal with this rapidy disappearing army as a mass. We can only remember that they wore the uniform and that all did something for the preservation of this matchless governmental fabric. We only see the bent and tottering forms and realize that many of them are in distress, approaching their

near-by graves with hearts made heavy by a Nation's neglect. And then we recall the promises that were made in the hour of national stress and storm to induce them to leave their homes and peril their lives and sacrifice health to the end that the Nation might not perish from the earth, not forgetting the pledge of the Nation made by the immortal Lincoln in his second inaugural address, delivered a month before the fall of Richmond and five weeks before his tragic death, that we would "bind up the Nation's wounds and care for him who shall have borne the battle and for his widow and orphan."

Mr. President, let there be no more delay in caring for those who bore the battle, their widows and orphans. If we have not the desire as patriots to do so, let us as a Christian people have compassion upon them, because they need the Nation's comforting aid.

THE PROPOSED SUBSTITUTE.

Sir, I am opposed to the pending bill, known as the McCumber or Smoot substitute, because it does not meet the just demands of the Union soldiers.

Under its provisions but a few thousand of the surviving veterans could ever receive a dollar a day, and it is so full of inequalities and unjust discrimination that it has received unstinted condemnation at the hands of the soldiers of the country. I desire to quote from Gen. SHERWOOD, chairman of the Invalid Pensions Committee of the House of Representatives, a gallant soldier, who enlisted as a private in April, 1861, participated in 42 battles, and mustered out as a brigadier general, having been promoted to that position by President Lincoln for long and faithful service and conspicuous gallantry at the battles of Resaca, Franklin, and Nashville, a record which entitles his words to consideration. He says:

First, let me call your attention to the fact that no soldier out of the 600,000 called out by President Lincoln in 1862 will ever be able to get the maximum pension of $30 per month under the Smoot substitute should he live to be 100 years old. According to the official roster of the War Office, 421,465 men were mustered into the service under Lincoln's call of July 2, 1862, for 300,000 men. Under the call of August 4, 1862, for 300,000 men 87,588 were furnished; 15,000 militia were called out in May and June, making a total of volunteers furnished in 1862 of 522,053. Of this number 421,465 were mustered into the service for three years—none of them so mustered in until August, 1862. The war closed in April, 1865. All of these regiments were mustered out before they had served three years. Hence, not a man of any of these veteran regiments that fought the greatest and fiercest battles of the bloodiest war in all history could ever get a dollar-a-day pension under the Smoot substitute bill should he live to be 100 years old. * * * I do not believe that over 9,000 soldiers out of the over 511,000 now living would ever be able to draw the maximum pension of $30 per month under this substitute bill.

Let me illustrate the Smoot substitute: It proposes to pension a 90-day man who is 75 years old at $21 per month, while a veteran of 40 battles who enlisted in 1862 at the age of 16 years only gets $15.50 per month, because he was mustered out a few months short of three years on account of the close of the war. The Smoot substitute pensions a 90-day man of 70 years at $18 per month, while a 3-year veteran who served in 36 of the signal battles of the war and is now less than 66 years old and who has a service record at the front of 3½ years with a veteran reenlistment only gets $18 per month.

Let me further illustrate: Here is Samuel Barnhart, Forty-sixth Ohio, who enlisted in 1862, when 16 years old, for three years, and served in 20 battles, mustered out June 4, 1865.

Here is another soldier, David Gillespie, One hundred and seventy-seventh Ohio, who enlisted for 100 days, in August, 1864, at the age of 28 years.

Barnhart is now 65 years old, and under the Smoot substitute would draw a pension of $15.50 per month, while Gillespie, the 100-day soldier, who is now 75 years old, would draw $21 per month.

Here is another specimen: George W. Davis was mustered in Company A, One hundred and thirty-first Ohio, a 100-day regiment, at the age of 27. James C. Reiber, same company, enlisted at 16 years. Davis is now 75 years old and under the Smoot substitute would receive $21 per month, while Reiber, who is now 64, would get only $13 per month. Both rendered the same service and touched elbows in the same company.

He also calls attention to the fact, which must not be overlooked, that the Smoot substitute has no disability clause, and that it contains no provision which will put a stop to the ever-increasing number of private pension bills of which so much complaint has been made upon the floor of the Senate.

Mr. President, I favor House bill No. 1—the Sherwood bill—because it is the nearest approach to a dollar-a-day pension that is attainable and because it settles once and for all this much-mooted pension question.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER (Mr. BROWN in the chair). Does the Senator from Indiana yield to the Senator from Utah?

Mr. KERN. Certainly.

Mr. SMOOT. I simply desire to call the attention of the Senator from Indiana to the language of the Sherwood bill. The soldier with a service of less than six months gets but $15 per month, and under the bill, no matter how long he lives, he does not get an increase. Under the substitute proposed by me he does get an increase, and if he lives to be 75 years of age he gets the full $30 per month.

Mr. KERN. Provided he served a certain length of time.

Mr. SMOOT. Yes; a certain length of time.

Mr. KERN. How long?

Mr. KENYON. Three years.

Mr. SMOOT. Three years.

Mr. KERN. That is the point I was making here.

Mr. SMOOT. But under the substitute if he served only 90 days as his age increases so does his pension increase. In other words, a 90-day man 62 years old gets $12, a 90-day man at 66 gets $15, a 90-day man at 70 gets $18, and a 90-day man at 75 gets $21.

Mr. KERN. No matter what his disabilities may be, whereas under the Sherwood bill——

Mr. SMOOT. No matter what his disabilities are?

Mr. KERN. Yes.

Mr. SMOOT. But wherever there are disabilities the present law provides for them, and special acts have always been passed providing for disabilities such as spoken of by the Senator.

Mr. KERN. We are trying to get away from special pension legislation.

Mr. SMOOT. In my opinion, we never will get away from it, and so far as I personally am concerned I want to say this——

Mr. KERN. I yielded for a question. If the remarks are not too long, I will yield for that purpose.

Mr. SMOOT. I want to say this——

The PRESIDING OFFICER. Does the Senator from Indiana yield further?

Mr. KERN. I yield.

Mr. SMOOT. When an old soldier has arrived at a point where he is utterly helpless and has no means of providing for himself or those dependent upon him, I believe he ought to be taken care of by special pension bill, and I shall always vote for it under such circumstances.

Mr. KERN. There is a radical difference between the Senator and myself on that proposition. I want a pension bill passed now that will settle the pension question for all time to come, and which will make no longer necessary special pension legislation. That I believe——

Mr. SMOOT. Mr. President——

Mr. KERN. I do not yield to the Senator to reply to my speech now, but I will yield for a question. The Senator must remember this is my first speech——

Mr. SMOOT. Just a question, then. Do I understand the Senator to mean that if the Sherwood bill becomes a law that a soldier who served less than six months is never to receive more than $15?

Mr. KERN. Under the Sherwood bill, as I understand it, the total disability of a soldier gives him $30 a month, if he served six months.

Mr. SMOOT. Or if wounded in battle.

Mr. KERN. If wounded in battle or if he served more than six months.

Mr. McCUMBER. The Senator is wrong there. Or unless the disability is of service origin.

Mr. KERN. I have not time to stop and discuss the bill. Senators can read the bill. It speaks for itself.

Mr. SMOOT. I will not further take the time of the Senator from Indiana. As he says, the bill speaks for itself.

Mr. KERN. The purpose of the bill is to determine automatically the status of every soldier in the country, and then we will have no need for a vast army of men in its execution.

Because the pending measure—the Smoot or McCumber substitute—is so full of glaring inequalities, it is satisfactory to but few, and allows the agitation for increase to continue without limit. It continues in operation all the expensive and complicated machinery of the Pension Office, including medical examining boards in every part of the country, while the Sherwood bill, which the great mass of the soldiers demands, working automatically, will dispense with the thousands of examining boards, the hundreds of special agents and spies now employed by the department, will stop all special pension legislation, and at the same time be a distinct and positive proof of the gratitude of the Nation to its defenders.

It has been loosely asserted that the Sherwood bill will add $75,000,000 to the expenses of the Government. This extraordinary statement, coming from the Pension Office, was based upon computations shown to have been utterly without merit. It has been satisfactorily demonstrated by Gen. SHERWOOD, by computations made from the official records of the War Department, that the total increase of expense resulting from the Sherwood bill as passed by the House of Representatives could not exceed $45,000,000, while under the provisions of the original bill as introduced in the House, denying the benefit of its provisions to soldiers having an income of $1,000 per year, the increase of expenditure would not exceed thirty-five millions.

MISPLACED ECONOMY.

The chief objection to the Sherwood bill is based upon the charge that it calls for an extravagant expenditure of public money and violates the promise of economy in the administration of the Government.

I have not been greatly interested in the discussion as to what this or that bill will cost. It is a reflection upon the integrity, the honor, and the financial ability of this Nation to consider a question of that kind in that light.

Sir, I have already shown that to pay an honest debt, or to follow the common instincts of humanity by caring for the defenders of the Republic in their old age, is not an extravagance and violates no pledge of economy in government.

But, sir, this cry of economy in governmental expenditures has a new and strange sound. It has been seldom heard during the past 12 years, while the expenses of government have nearly doubled and climbed up to the enormous figure of a thousand million dollars a year.

It was not heard in connection with the appropriation of hundreds of millions of dollars for the Panama Canal, nor has it been insisted upon during the time that the taxpayers of the Nation have been contributing a half billion dollars or more in carrying out the work of subjugating the Philippine Islands and benevolently assimilating the Filipino people.

It was not urged while 200,000 new offices were being created or while the salaries of all the principal officeholders in the United States were being largely increased because of the high cost of living.

It is a cry that is only heard when the proposition is made to care for the soldiers of the Nation, and is only heard then because they have grown too old to hold official station and because it is thought that on account of old age and decrepitude they can no longer exert great influence in the political affairs of the country.

Distinguished Senators here have, with great labor, added up all the miserable pittances received by each of these old veterans during the past 47 years, and with a horror-stricken air hold up before us the enormous total of nearly $4,000,000,000. When the proposition was made to double the salary of the President of the United States and then add $25,000 per annum for traveling expenses, did anyone take the time to give to the public the total sum of all the moneys paid to all the Presidents since the formation of the Government?

Or when the proposition was made a few years ago to increase the salaries of Senators and Congressmen, was any computation exhibited of the total amount paid to the Members of the two Houses during the century and a quarter of our national life?

The salaries of the postmasters throughout the country are increased steadily year by year, yet we have heard from no source the vast amount of money that has been paid to these patriotic, self-sacrificing officials during the years of the past.

When pork-barrel appropriations are asked and made for costly public buildings at crossroads and county seats and for the improvement of streams too small for flatboat navigation, no Senator has ever thought of undertaking the mathematical feat of calculating the enormous amount of public money that has been thus wasted during the last half century.

These mathematical prodigies of the Senate never let loose their restrained energies except when the heroes of Gettysburg and Antietam, Chancellorsville and Lookout call the attention of the Government to its broken pledges and its inexcusable ingratitude to the men who saved its life.

Mr. President, in the course of the debate here on yesterday, while Senators were suggesting economy in other departments of Government as a means of providing sufficient revenue for liberal pensions, something was said in the way of jest about the free barber shop and free baths in marble rooms provided for Senators.

These are trifling matters, and I shall not consume any time in discussing them. But, sir, when the old soldier and his wife read in the newspapers that Senators and Congressmen are complaining that they can not live respectably in Washington on salaries of more than $20 a day, with free barber shops, free baths, free Apollinaris water, and free office rent—when they read of the Senators riding in free Government automobiles between their offices and the Capitol, only a square in distance, they can not but marvel at the claim made by some of these same gentlemen that the soldier's request for a pension of a paltry dollar a day is an impertinent demand, to grant which would be gross and intolerable extravagance.

This old soldier, who must pay house rent, pay exorbitant prices for everything he eats and wears, and pay for all out of a pension of $15 or $20 per month, with fond remembrance of the beefsteak now only a memory, must sympathize deeply with his unfortunate representatives in Washington, who are compelled to eke out a miserable existence on $625 per month, with all the little accessories furnished by an unsympathetic Government. The distinguished Senator from Ohio impressed us all on yesterday with his fervid declaration that he would be rejoiced to support a measure giving the old soldier a dollar a day if this poor Government could only afford it. How natural it will be for him as a patriotic American to cover back into the Treasury a part of his next month's salary to aid an impoverished Nation in its struggle with adversity.

It is said that our pension list is larger than that of any nation in the world. I have not examined the statistics, but I hope it is. It ought to be. There was no such war in modern times, and no war ever accomplished such beneficent results.

There is no nation in the world so rich as this, nor has any nation so patriotic a people, nor a people so ready and willing to rally to their country's standard in time of danger, or to make sacrifices, if need be, to contribute of their substance for the care and support of its defenders when by reason of service or age they need such care and support.

Mr. GALLINGER. Will the Senator permit me a word?

Mr. KERN. Certainly.

Mr. GALLINGER. The Senator has just suggested that the pension appropriation of this Government is greater than that of any other government in the world. That is certainly true. It goes further than that. A few years ago I took occasion to call through the State Department for the pension laws of all the countries of the world. They are now on file in the office of the Commissioner of Pensions. The fact was revealed that our pension appropriation is larger than that of all the other nations of the world combined. Of course the Senator knows that we do not have an immense standing army such as those countries have and that their expenditure goes in that direction. I think it is better it should go to the ex-soldiers than go to sustaining great armies, as is the case in Europe.

Mr. KERN. The American soldier, who has periled life and sacrificed health for his country, and who can no longer earn a livelihood, still deserves to live—not as an Italian or French or Russian or Turkish peasant, but as an American citizen—and in caring for these veterans we should have in mind the American standard of living, and not that of European or Asiatic countries. Surely those patriotic gentlemen who are clamoring for palatial residences for our ministers and ambassadors abroad, that they maintain our national dignity and prestige, would not advocate a policy respecting the soldiers of the Republic which would place them upon a par with the half-fed and poorly clad people of the world's poorest nations.

Mr. President, I hope I may be permitted to address some words to my brethren of the South, who represent their several States in this body with such distinguished ability.

AN APPEAL FOR JUSTICE.

I know how you venerate the memories of the great leaders of the Confederacy, who with the great leaders of the Army of the Union have crossed the great river and are fraternizing on the farther shore. The differences of the past are happily ended—settled on the basis of fraternity and perpetual union—never more to recur. A common hope, a common destiny, and a common country, with a single flag, bind us in the ties of a common brotherhood.

Your interests are the same as the interests of those of us born under northern skies, and I would subject you to no penalties or burdens which I would not willingly share. My ancestors, even to the first American generation, were born in old Virginia. My father having removed to the North long before the Civil War, was a Douglas Democrat and for the Union, and yet, after the war was over, he so longed for the mountains and valleys of his native State that he returned there, and after a citizenship of 30 years, died at a ripe old age and peacefully sleeps in the bosom of the dear old State that he loved so well.

I state this only to show that in my advocacy of this measure I am prompted by no sectional prejudice nor actuated by any spirit of antagonism.

If you say that you have patiently and uncomplainingly borne the burdens entailed by the war for nearly half a century, I agree with you, but remind you that we have carried our full share of the same burden and at the same time have contributed something to the development of the new South, in every way so marvelous a transformation of a Nation laid waste by war into a rich, prosperous land that blossoms as the rose.

For many years after the Civil War there was widespread distrust of your loyalty in the North—a feeling which, with all my ability, I combated since my boyhood, for I knew you and believed in you and trusted you. But that distrust has been dispelled forever. When the men and women of the North,

who were still poisoned by the spirit of war, saw that Worth Bagley, the gallant young son of North Carolina, was the first to give up his life for the honor of his country in the Spanish-American War, when they witnessed the unequaled heroism of HOBSON, of Alabama, at Santiago, when they read of brave old Joe Wheeler's charge at San Juan, and saw the sons of South Carolina and Massachusetts, the sons of Indiana and Georgia, marching side by side under the old flag in defense of the honor of the Nation, then were all doubts removed, and then the union of hearts and of hands was truly consummated.

The war has been ended so long ago that there are only eight men in this body who participated in the conflict—four who fought with the Confederacy and an equal number who fought beneath the Stars and Stripes—all now engaged in generous rivalry as to who shall render the best service for the country they all love alike.

You have borne your burdens with such cheerfulness and acquiesced in the results of the war so generously and loyally that when we ask you to share with us an additional burden, to the end that the old and broken men who fought for the Republic may have the necessities of life during their few remaining days and that their short journey to the grave may be not altogether a cheerless one, we can not but hope that your generous hearts will respond to our appeal.

If I could carry you with me into some of the homes of the Central West where these old soldiers abide, I am sure your hearts would be so touched that you would agree to the liberal provisions of the Sherwood bill. I have in mind the case of an old white-haired veteran, who served his country faithfully and well, and who, with his old wife, the sweetheart of war times, is waiting for the summons of the Master. They have been always poor, for he has earned his bread with his hands, but has not had the money-making instinct. They can no longer work, but are trying to live on a pension of $16 per month. Half of that sum goes for the rent of an humble cottage; out of the other $8 per month must come food, fuel, clothing, medicines, and medical treatment. The cost of living is such that, of course, they can no longer live on that amount. And the alternative—there are only two places open to them—the soldiers' home for the old soldier and the poorhouse for the sweet-faced old wife, for she is not allowed to accompany him to the home. God forbid that in a rich Nation like this such a tragedy should be possible in the life of any of its defenders.

But there is another alternative, and that is the passage of the Sherwood bill, that will dry the tears in thousands of eyes, bring hope and joy and happiness into scores of thousands of humble homes, and cheer the hearts and quicken the steps of the hundreds of thousands of old soldiers, who during their few remaining years will be living monuments to the generosity of a grateful country, which in the days of its greatest wealth and power did not forget the men whose valor made glorious so many pages of its history.

Mr. MCCUMBER. Mr. President, in every expression made by the Senator from Indiana [Mr. KERN], glorying in the acts of heroism of our soldiers, in every expression concerning the duty of this Government toward those soldiers, he has found a hearty response in the hearts of Senators on both sides of the Chamber. But in belittling the efforts of this Government in behalf of the great Army of the Union in the past years by an unfair comparison of the sentiment of the Government toward the soldiers of the Revolution he does a rank injustice not only to the American people and the American Congress to-day, but a still ranker injustice to historical facts.

As every year I read the resolutions of the Grand Army of the Republic, in which resolutions they express their satisfaction and their gratitude for the generosity of the American people in the granting of pension legislation, I feel that the Senator hardly expresses the sentiment of the soldiers of the American Union when he would have us for a moment understand that the Government has been niggardly in the appropriations that have been given for pension purposes.

That there may be no historical inaccuracy upon this great subject, I desire to call the attention of the Senator from Indiana to the condition of our pension laws on the very day in which Daniel Webster made his famous address to the old soldiers of the Revolution. The Senator says in glowing words that the people of that day drew no fine distinctions as to age, as to poverty, as to length of service, but considered only the single question, Did those old men serve the country in that struggle for independence? Ah, Mr. President, does not the Senator know that at that very time, so many years after the war, in order to draw a pension under the service-pension act of that day the Revolutionary soldier must have served at least 9 months. Ever since 1890 the soldier of the Civil War needed only a service of 90 days.

Does the Senator understand that under the law at the time Webster was making his address the Revolutionary soldier who had served 9 months received only the meager sum of $8 per month, and does he also understand that there was a distinction drawn between the soldier of the rank and the commander or the commissioned officers?

Mr. KERN. Mr. President——

Mr. MCCUMBER. The soldiers of the rank received only $8 per month and a commissioned officer received two and a half times as much, while under the existing general law no distinction whatever is made between the man who made the charge and fought the battle and the man who commanded him to make the charge and to fight the battles of the Union.

I yield to the Senator from Indiana.

Mr. KERN. I only wanted to ask the Senator whether $8 per month pension in those primitive days was not really more than $30 a month would be now?

Mr. MCCUMBER. Scarcely as much as $30 would be now. There is no question but that it would be more than $8 would be now, although for a great many of the things which are common necessities now, if they had been able to purchase them at all, they would have had to pay five or ten times as much as we pay for the same article at the present time. What was a luxury to them is a common necessity for us.

But this is not all, Mr. President. At the time this great address of Webster was made the man who had served in the Revolutionary War must have been in indigent circumstances before he could receive one single dollar. And what was an indigent condition at that time? Our forefathers felt that there would be such a raid made upon the Treasury, in those good old patriotic days referred to by the Senator from Indiana, that just prior to this great meeting in Boston they had enacted a law which cut off from the rolls every man who was not in indigent circumstances, and if he had $150 worth of property he went off the rolls. No man worth over $150 at that time could have drawn any pension whatever under the service act.

I ask the Senator from Indiana in all good faith if he is justified in criticizing the Government of the United States to-day in a comparison of its pension legislation and the generosity that actuates it and actuates the people of the United States with the generosity that actuated the people in 1820 when that legislation was passed?

Again, the Senator says that this will put a stop to private pension bills. Mr. President, I state again, let not our enthusiasm on any proposition run away with our judgment and blind our calculations. As a matter of fact, next year, whether we have this bill or whether we have any other bill, if we find some old indigent soldier who is paralyzed, who requires a constant attendant, the Senator from Indiana will agree with me that $30 a month will not answer his requirements, and he will vote with me to raise it to $50 a month. He knows, Mr. President, to-day that he will do that and that there will be private pension bills in the future as there have been in the past. If he will look at those that are introduced day after day he will be surprised to find the number that call for more than $30 a month.

The Senator from Indiana did not answer the criticism of the Senator from Utah [Mr. SMOOT] when he asked if under the Sherwood bill a soldier who had served less than one year would ever have an increase in his pension. If under that bill, if he served 90 days and less than 6 months, he should get $15, no matter how old he may be, he will never get a cent more, and the Senator from Indiana, whether the Sherwood bill passes this body or whatever bill may become a law, will join with me again in securing the enactment of a private pension bill to give this man a greater sum of money. Under the Sherwood bill the soldier who has served 6 months and less than 9 months will receive $20 per month, and though he live to be 90 years of age he will never receive another dollar from the Government, unless we reach him by a private pension bill; and the Senator from Indiana again will join with me and other Senators in recommending for him, as the exigencies of the case may demand, a higher rate than that provided under the law.

Mr. President, when we passed the law of February 6, 1907, it was stated by many Senators on the floor that if we should pass that bill it would be the end of special pension legislation. I warned them at that time that such a statement was without due consideration, that we should have just as many private pension bills introduced after the act of February 6, 1907, as we had before; and my prophecy has been fulfilled; aye, and fulfilled several times over. Private pension bills will continue to be introduced and will continue to be acted upon so long as the necessitous conditions of a single soldier who fought for the Government in its time of need shall require an amount of pension greater than the general law allows him; and whenever he

has reached an advanced age, has no property, and is unable to take care of himself he will be entitled to receive, and he will receive, from this Government a greater sum of money than is provided in the Sherwood bill.

Under the bill that has been recommended by the committee every soldier will feel that if he lives three or four years longer, as he becomes more feeble he will receive a greater amount of pension. He will know that when he is 66 years old he will receive more than he did when he was 62 years of age; that when he is 70 years of age, by the operation of the act itself, he will receive a greater amount than when he was 66; and that when he is 75 years of age he will receive a greater amount than when he was 70 years of age; but, Mr. President, under the Sherwood bill his status is fixed, not matter what his age, and, instead of there being a decrease of private pension bills, there must necessarily be an increase of private pension bills.

Mr. President, I think the Senator from Indiana agrees with me upon one proposition, namely, that we should reach the $30 limit at least as soon as we can. I stated the other day in my argument that I believed the time was near at hand when any soldier who had served six months and had reached the age of 70 years should receive the maximum of $30 per month by a general law enacted by Congress; but if I can not reach that plane in one step, I am willing to take two steps to attain it. I would prefer, Mr. President, to offer a man who was hungry one loaf of bread and let him have it than to offer him two loaves and pull them back. A year from to-day I may be asking the Senator from Indiana to join me in increasing pensions possibly by another $30,000,000 in addition to what this bill calls for; but at the same time I ask him to do that I will also ask him to join me in raising the funds to meet that requirement. Nowhere in any of the arguments which have been made has any Senator who has spoken in favor of the Sherwood bill indicated how we are going to pay the additional expense of its operation. I can be mighty liberal, Mr. President, with a dollar which I have not got in my pocket; I can say what I would do with it if I did have it; but before I do so much talking of what I am going to do with that dollar I think it is my duty first to earn the dollar and then see whether I will make good my statements as to what I would do with it.

Let us be fair to the soldier, fair to the country, say what we mean, and mean what we say.

I will ask the Senator from Indiana to join me not only in a reduction of the expenses of the Government, but in an increase of the revenue to further increase our pensions; for, Mr. President, we all know that it will require both to be able to meet the Sherwood bill or another bill which a year from to-day may still further add to pension appropriations.

Mr. President, I hope that whatever the final outcome may be, the Senate will attempt to pass a bill that will give satisfaction to the soldiers of the Civil War, that will meet the conditions of advancing age, and at the same time that we shall return to our senses and be able to pass a revenue bill that will raise the necessary funds to meet the expenses that will thereby be incurred.

Mr. SWANSON. Mr. President, there is no legislation pending before this Congress deserving of more serious and thoughtful consideration than that proposed for increased pensions to the Federal soldiers who served in the late War between the States. Its importance arises not only on account of the greatly increased burdens which it necessarily imposes upon the taxpayers, but also from the fact that the enactment of this legislation, carrying a largely increased appropriation, would preclude the Government from undertaking many measures of reform and of betterment, long delayed but badly needed for the progress and prosperity of this Nation. The prospects of many policies of far-reaching consequence and benefits to all sections of this great Republic are absolutely dependent upon the fate of this measure. Fully realizing this, I have overcome the reluctance which a southern man necessarily feels in discussing this matter, and have concluded to present for the consideration of the Senate reasons why I think this legislation should not be enacted. I hope to do this not in a narrow, sectional, or prejudicial spirit, but from a broad and national standpoint.

I believe, sir, that a flag disgraces the sunshine in which it flaunts if it will not make generous provisions for its brave and valiant defenders. I fully recognize this obligation on the part of the Federal Government toward the soldiers who sustained it during the great war extending from 1861 to 1865. This debt of the Government is great and should be discharged graciously and generously. In saying this I voice the sentiments of the people of my section. The gallant Confederate soldier, however great may be his own want and distress, does not begrudge a generous pension to the Federal soldier for loss and injury sustained by him in rendering service to his Government. These are debts of honor, which no nation can fail to discharge without being discredited and disgraced.

Mr. President, conscious of this great obligation, feeling it deeply and sensibly, let us fairly and dispassionately consider the provisions that the Federal Government has already made for the soldiers who served it during the great Civil War, and ascertain whether the Government has not dealt with these soldiers so generously as to obviate the occasion for the greatly increased pensions as proposed in the pending legislation.

In order to obtain volunteers, and to let the soldiers know what they could expect from the Federal Government, Congress passed and the President approved, on July 14, 1862, an act providing pensions for all disabilities which had been incurred since March 4, 1861, or should thereafter be incurred by reason of wounds received or disease contracted while in the service of the United States and in the line of duty. The rates for total disability ranged, according to rank, from $30 to $8 per month. This law applied to Army and Navy alike, including Regulars, Volunteers, Militia, and the Marine Corps. Appropriate pensions were to be allowed in each rank for partial disability. The pensions were to continue during the existence of the disability. On death of husband or father the pension went to the widow, or if there were no widow, to the child or children under 16 years of age. Where the deceased officer or soldier left no widow or legitimate child, but a dependent mother, the mother was given the pension. Where the dependent deceased left neither widow nor child nor mother, but an orphan sister or sisters under 16 years of age who were dependent upon him for support, the pension went to such sister or sisters until they severally attained the age of 16 years.

This act was amended on July 4, 1864, by granting $25 per month for the loss of both eyes and $20 for the loss of both feet. It was further amended on March 3, 1865, by making the loss of one foot and one hand to be rated the same as the loss of both feet. These constituted the pension laws upon which the war was conducted and contained the promises of the Government to its soldiers.

In speaking of the liberality of these laws, Commissioner Barrett, in his report of 1864, says:

> No other nation has provided so liberally for its disabled soldiers and seamen or for the dependent relatives of the fallen.

These laws were the most liberal and generous that any nation had ever before enacted. They were the pledges and promises made by the Federal Government to its soldiers during the continuance of this great conflict. They were all that were expected or demanded by the soldiers in these dark hours of suffering, distress, and sacrifice. The only objections heard to these provisions during these years of war were those often made that they were too liberal and would entail too great an expense upon the Government. Every promise, every obligation contained in these acts have been faithfully and completely fulfilled. No person claims that the slightest promise made by the Government has not been more than discharged. Hence, the Government can not be charged with having broken any of its pledges or promises. The Federal Government stands fully acquitted of any dereliction in this respect. Not only has the Federal Government fulfilled every promise, but, as I shall now proceed to show, has far exceeded it in a most generous and magnanimous spirit.

By act of June 8, 1866, the pension laws were amended so as to include orphan brothers under 16 years of age, as well as sisters, and to include dependent fathers, as well as mothers.

An act was passed July 26, 1866, increasing the pension of widows at the rate of $2 per month for each child of the deceased soldier or sailor under the age of 16 years.

These increases were so generous and liberal that Commissioner Barrett expressed a belief that no important extension of the very liberal pension laws would now be contemplated by Congress.

In 1868 an act was passed allowing pensioners arrears of pensions on account of death, wounds, or disease, provided the application was filed within five years after the date of death or discharge on whose account the pension had been or might be granted.

In 1870 laws were passed granting to every soldier who lost a limb during the war an artificial limb or apparatus once in every five years; or, if he elected, money commutation therefor.

In 1868 Senator Sherman, of Ohio, in speaking in the Senate in opposition to an amendment offered to a bill for an increase in pensions, said:

> At a time when we are endeavoring to lower all expenses of the Government, when we have reduced all our appropriations, when we have thrown off $1,000,000 of taxes, and yet when taxes are still very burdensome on our people, when the pension fund is now $33,000,000 a year,

twice as much as any nation in the world ever paid before, I ask whether it is worth while for us to increase our pension list on the mere amendment of a bill of this kind.

To-day tax burdens are more than twice as heavy as they were at the time Senator Sherman made this speech, and pension appropriations are now more than four times as great; yet we are called upon to increase the present pension appropriation, amounting to $157,000,000, by $75,000,000 more annually. If Senator Sherman were living to-day this progressive pension extravagance would shock and surprise him beyond measure.

On January 25, 1879, was enacted the arrears act, which was amended by an act of March 3, 1879. These acts provided that all pensions which had been granted under the general laws regulating pensions, or which should thereafter be granted in consequence of death from a cause which originated in the United States service during the Civil War, or in consequence of wounds, injuries, or diseases received or contracted in that service, should commence from the date of the death or actual disability of the person on whose account the pension had been or should thereafter be granted. The rate of pension for the intervening time for which arrears were granted was to be that provided in the pension laws in force for this period.

The laws provided that arrears of pensions should be granted where application for the pension had been or should thereafter be filed with the Commissioner of Pensions prior to the 1st day of July, 1880; otherwise the pension was to commence from the date of filing the application. This extraordinary piece of legislation produced immediately an amazing effect. The opportunity thus given the pensioners of receiving at once thousands of dollars stimulated the discovery of disease and disability which had remained dormant and unknown and had not been discovered for almost 15 years. The number of claims filed for pensions in 1878, prior to the enactment of this law, was 26,304. In 1879, after the enactment of this law for that year, there were filed 47,416 new claims. In the single month of June, 1880, just before the limitation upon the allowance of arrears went into effect, there were 44,532 original Civil War claims filed with the Commissioner of Pensions. This arrears act seems to have carried with it a contagion of disease and disability extending from 1861 to June 30, 1880. It seems to have been more disastrous to the health and comfort of the Union soldiers than had been the armies of the Confederacy. The medical history of the world can show nowhere such a sudden and extensive discovery of disease and disability. This interesting fact presents a fertile field for the investigation of the psychologist. The payments occasioned by this act were enormous.

Under date of January 25, 1886, Gen. J. C. Black, Commissioner of Pensions, estimated that up to June 30, 1885, the aggregate of arrears paid under the act of 1879 was $179,400,000. This leaves out of consideration the cost to the Government resulting from the extraordinary stimulus afforded by the arrears act to the presentation of new claims.

The act of March 19, 1886, provided that the pensions of all widows, minor children, and dependent relatives already on the pensions rolls, or who might thereafter be placed upon the pension rolls, should be increased from $8 to $12 per month. The existing allowance of $2 per month for each child under the age of 16 years was continued.

By act of July 7, 1888, the limitation contained in the arrears act of 1879 was repealed so far as widows were concerned, and widows who were already drawing pensions and who should hereafter obtain pensions were given pensions under this act from the date of the death of the husband. This act involved the payment of large arrears of pensions in cases already on the rolls as well as cases to arise in the future. This act enabled widows who had failed to apply for pensions during widowhood and afterwards remarried to receive in a lump sum pensions for the full period of widowhood. The pernicious character of this act is strikingly illustrated by Commissioner Evans in his report of 1898, in which he gives the case of the widow of a captain of volunteer infantry. The commissioner says:

> In 1871 this captain died. He was not a pensioner and never had filed a claim for pension. His widow remained a widow until March 30, 1887, when she remarried, having filed no claim, and, having remarried, had no pensionable status. In 1893, 5 years after the act of June 7, 1888, had passed, 6 years after her remarriage, and 22 years after the death of her soldier husband, she files her claim for a pension as a widow from the date of the death of her soldier husband in 1871 to the date of her remarriage in 1887—16 years—and gets nearly $4,000, practically for the use and benefit of her second husband.

Commissioner Evans, in discussing the evil effects of the arrears pension act, says:

> The records of national cemeteries have been brought into use for the purpose of determining the names and service of those buried there. Women are then hunted up, who are induced to execute applications for pensions on account of the service and death of these soldiers. These women become pliant tools in the hands of the operators. A prima facie case is made out by means of stock witnesses, and the originator of the fraud pockets the amount of the first payment, leaving the fraudulent claimant to reap the benefit of the future payments. Great difficulty is often experienced by this bureau in disproving a marriage or marriage relations alleged to have occurred 30 or 40 years ago.

This criticism emanates from Commissioner Evans, a Republican selected by President McKinley to administer the Pension Office.

Thus Congress had, by continuously increasing favorable legislation, generously provided for every soldier of the Civil War who had received any wound or injury or contracted any disease or suffered any disability while in the service of the United States. It had also generously provided for the widows, children, and dependent mothers, fathers, brothers, and sisters of all dead soldiers. It had paid arrears of pensions for diseases and disabilities, which the pensioners themselves had not felt or discovered in many years. No limitation was or has ever been made when an application may be filed for injury, disability, or disease incurred. Since war was first waged no other Government of the world has even remotely approached in generosity the legislation that the Federal Government has conferred upon the volunteer soldiers of the Civil War. It stands out preeminently as the most liberal in the world's history.

The assertion so often made, that this Government has acted niggardly toward its volunteer soldiers, is an unworthy slander from which I desire to defend it and those who administered its affairs, from President Grant until to-day.

Mr. President, as broad, as liberal as is the legislation which I have already stated that has been enacted in behalf of the volunteer soldiers of the Civil War, it but half measures the extent of the Government's generosity.

On June 27, 1890, was passed an act known as the "dependent pension law." This act did not repeal any of the liberal legislation which I have already pointed out to the Senate. This act provides that all persons who served 90 days or more in the military or naval service of the United States during the Civil War, and who have been honorably discharged therefrom, and who are now suffering or may hereafter be suffering from mental or physical disability of a permanent character, not the result of their own vicious habits, which incapacitates them from the performance of manual labor in such a degree as to render them unable to earn a support, shall receive a pension not exceeding $12 per month and not less than $6 per month, proportioned to the degree of inability to earn a support, the pension to commence from the date of filing the application in the Pension Office and to continue during the continuance of the disability to earn a support. Widows of those who served 90 days during the Civil War and were honorably discharged, and who married the soldier prior to June 27, 1890, and are dependent upon daily labor for support and have not remarried, are granted pensions at the rate of $8 per month without proving the soldier's death to be the result of his Army service. The law also provides for an additional allowance of $2 per month for each child of the deceased soldier under the age of 16 years. If the widow remarries, she forfeits her pension and the pension is paid to any surviving children of the soldier until they reach the age of 16 years. Under this law all that is required for a claimant to prove in order to obtain a pension is that he served 90 days in the Union Army and to furnish adequate medical evidence that he has a physical or mental disability that disqualifies him in whole or in part for earning a support by manual labor. The pension is granted no matter what may be the cause of the disability, provided it is not the result of the claimant's vicious habits.

A rich man may suffer injury by an accident having no connection whatever with his military service, and which renders him unable to earn a support by manual labor, yet he would receive a pension under this law. This act pensions alike the rich and the poor. It grants pensions to widows of soldiers who were born many years after the Civil War had ceased. It grants pensions to thousands of soldiers whose service was mere nominal, who had never been in a battle, had never seen an enemy's flag, had never incurred the slightest danger, and had never suffered the slightest injury or disability. It treated alike the holiday soldiers, with their 90 days' jaunt, and the brave and gallant veterans who fought in hundreds of fierce battles, and whose courage and valor brought success to the Union cause.

No precedent exists in the history of the human race that can exceed this law for its indiscriminate and promiscuous giving, and for the vast amount of money appropriated. This law more than doubled the number of pensions. The number of pensioners under this act continuously increased, and on June 30, 1906, there were 640,756 persons pensioned under it, and the amount of disbursements for the fiscal year ending at that time was in excess of $74,000,000.

On March 15, 1904, an Executive order was issued directing that age should be taken into consideration in determining disability to make a living by manual labor, and that at the age of 62 years the soldier should be considered to be one-half disabled for the performance of manual labor and be entitled to the rate of $6 per month; at 65 years of age, $8 per month; at 68 years of age, $10 per month; and at 70 years of age, $12 per month, the maximum total disability under the law. This order continued in force until, by acts of April 24, 1906, and March 4, 1907, it was provided that at the age of 62 years and over it shall be construed as a permanent specific disability within the meaning of the pension laws. By this law all pensioners at the age of 62 years were paid the maximum. This order and laws increased the pension appropriation about $5,000,000 annually.

By act of February 6, 1907, a pension was granted to persons who served 90 days in the Civil War or 60 days in the Mexican War at the rate of $12 per month for those who were 62 years old, $15 per month to those 70 years old, and $20 per month to those 75 years old. This law added about $15,000,000 annually to the pension appropriation.

By act of April 19, 1908, the widows and minor and helpless children who were pensioned in their own right and who were then on the pension rolls, or who might thereafter be placed on the pension rolls at a lower rate, should receive a pension of $12 per month. This act removed all restrictions as to the amount of income that a widow might possess. Thus wealthy widows under it could become pensioners of the Government. These widows might be born many years after the termination of the Civil War. This act increased the pension appropriation about $12,000,000 annually.

Thus in the last five years legislation has been passed increasing the appropriations for pensions to the large amounts named. The liberality and generosity of the Government in these recent years have, indeed, been marked and striking. During these five years the Government has expended in pensions, in the aggregate, $770,521,427. The census of 1910 shows that all the property—real, personal, money, improvements, crops, railroads, manufactures, and all property of every kind and description—in the State of North Carolina amounted to $681,982,120. Thus in the last five years the Government has given to its pensioners $88,000,000 more than all the wealth possessed by all the people in the great and rich State of North Carolina.

In 1866, immediately following the conclusion of the Civil War, and when deaths, wounds, injuries, and disabilities incident thereto were fresh and numerous, the number of pensioners was 126,722, and the amount appropriated for pensions $15,450,549.88.

In 1911, 45 years after the conclusion of the war, the pensioners numbered 892,098, and the appropriation for pensions amounted to $157,325,160.35.

In 1866 the average paid pensioners was about $122 each annually. In 1911 the average paid each pensioner was $176 annually. The pensioners of 1911 received, per capita, over 40 per cent more than the pensioners of 1866.

Look what a contrast between the pension rolls of 1866 and the pension rolls of 1911. The pension rolls of 1866 consisted of soldiers who had received wounds, injuries, and disabilities in the more than 2,000 battles fought during the great Civil War, and whose valor and courage had been exhibited on many hotly contested fields. Included in these were soldiers who had contracted disease producing disability by service to country. Upon these rolls were the widows who had given a husband to their country's cause, and had experienced all the anxiety, terror, and distress incident to war, with all of its vicissitudes and horrors. Included upon them were fatherless children, mothers, and sisters who had been left dependent and destitute by the death of some soldier who was their main support. Yet the appropriation to this most deserving class of pensioners in 1866 averaged about $122 each annually. The pension rolls of 1911 include, it is stated, about 96 per cent of all the survivors of the soldiers of the Civil War. Upon them are all soldiers 62 years of age who served 90 days in the Army. Upon them are women and children who were born a great many years after the Civil War was terminated. More than half of those receiving pensions under this law never received an injury, never contracted a disease, nor sustained a disability in the Government's service. Upon them is a large part of the 35,987 persons put there by special acts of Congress because they were unable to obtain a pension under the liberal, general pension laws which I have previously stated to the Senate.

By general legislation and special acts many charges of desertion have been removed, and upon them are found many soldiers who failed their country in the hour of battle and need. Upon them are found thousands of soldiers who were never in a battle, never in the slightest danger, and never near nor in sight of an enemy. The pensioners on the rolls of 1911 received an average each of $54 per year more than those most deserving ones on the rolls of 1866, immediately succeeding the war. It is difficult to convince a thoughtful public that the present pensioners, who are receiving 40 per cent more than those contained on the rolls of 1866, are at this time deserving of the proposed great increases.

The pension legislation of 1866 was enacted by the masterful men of the Union side, who successfully conducted the great Civil War and who endeavored to extend proper governmental aid to the deserving and worthy. They were controlled in their measures by patriotic and not political considerations. To denounce their policy as niggardly is to asperse the character and motives of great soldiers and great men who founded and guided the Republican Party and directed the affairs of this Government during four years of storm and stress—men who were devoted to the Union Army and desirous of being liberal and generous to its soldiers.

But, Mr. President, we are told that the present pensioners are poorly and most inadequately provided for. Hence we have pending in the Senate bills providing for greatly increased appropriations to them. We are also told that the time has now arrived for the Government to give some substantial recognition to the demands of the Union soldiers, and that this has already been too long delayed. Despite the fact that in the last five years Congress has passed legislation increasing pensions to the extent of $27,000,000 annually, we have these pending bills proposing to make further great increases. The measure known as the Sherwood bill, which passed the House of Representatives, if enacted into law, the Secretary of the Interior estimates, would increase the present pensions to the extent of $75,651,548 annually. The bill known as the McCumber bill, and which is recommended for passage by a majority of the Committee on Pensions of this body, it is estimated, if passed, would increase the pensions to the extent of $24,112,578. If either of these bills become law, the appropriations necessary to carry them into effect would far exceed the estimates. This has been the experience of every general pension bill yet passed. It will be repeated if either of these bills should become law. I do not purpose to discuss the relative merits of these two measures, each of which has its supporters. Between the two I favor the McCumber bill, as it carries a far less appropriation; but I am opposed to the passage of either. I do not believe there is any occasion at this time for any increased pension appropriations. I believe that the Federal Government has acted so liberally and generously to the Union soldier that no further legislation at this time is needed. The amount that has been already given by the Federal Government to the Union soldiers of the Civil War is unexampled in the world's history.

This Government, since its beginning, has expended in pensions to its soldiers $4,230,381,730.16. Of this amount $3,985,719,836.93 has been expended in pensions on account of the Civil War. The amount expended for the Seven Years' War of the Revolution, in which this country established its independence, was about $70,000,000. Thus we have already given to the Union soldiers over 50 times more than was given to the soldiers who won our independence. We now pay to the Union soldiers twice as much each year as was given to all the soldiers of the Revolutionary War.

The Sherwood bill, if passed, would give to the present pensioners annually increases exceeding what this Government gave in pensions on account of the entire Revolutionary War.

Pensions that have been paid to the soldiers of the Civil War are already eighteen times more than this Government has paid in pensions on account of all of its other wars from 1776 to the present time.

The pensions on account of the Civil War, as previously stated, aggregate about $4,000,000,000. The amount is so large that it is almost beyond the comprehension of the human mind.

Let us endeavor, by comparison, to form an idea of the size of this vast amount and what it could purchase. The census of 1870 shows that the value of all property, real and personal, money, crops, railroads, improvements, and property of every kind and character, in the 11 Confederate States which seceded, consisting of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee, aggregate only $2,686,078,782. Thus, the pensioners of the Civil War have already received about $1,300,000,000 more than all the real and personal property, of every kind and description, contained in the 11 seceded States by the census of 1870. If all the property, real and personal, of every kind and description, in the 2 great and rich border States of Kentucky and Maryland, as shown by the census of 1870, were added to all the property of every kind contained in the 11 seceded States it would not equal what has already been paid to the

pensioners of the Civil War. The value of property had greatly increased in these States from 1866 to 1870. This is not the assessed value, which is far less, but the true value of all property in these States as disclosed by this census. This can give us some conception of the generous aid extended by this Government to the soldiers of the Civil War. It stands without a parallel in the world's history. Not only has the Federal Government appropriated this vast sum in pensions, but it has provided 10 national homes, which are now accommodating about 25,000 survivors, and maintained at the expense of the Government. It has also, by law, given marked preference to soldiers in civil appointments.

With this long record of liberal and generous legislation, it can not be argued that this Government has been in any respect unfair or neglectful of its soldiers. If the Government is deserving of criticism for its past action, it is rather on account of the heavy burdens of taxes which it has imposed upon the people in order to pay these pensions. Our annual expenditures for all purposes now exceed $1,000,000,000. This burden of taxation is so heavy that the people are scarcely able to bear its weight.

The Secretary of the Treasury, in his annual report, estimates that the receipts for the coming year will exceed the ordinary expenditures by only $30,000,000. But the receipts have fallen far below his estimates. If any of the bills for increased pensions should be passed, we would be confronted with a deficit. This would mean an increase of taxes. It is useless for us to close our eyes to this fact. I do not believe the people of this country are willing to be further burdened with taxes in order to give increased pensions. If either of these bills is passed, it means that there can be no reduction, no retrenchment, in governmental expenditures. It means that there can be no reduction in the present exorbitant tariff taxes, which have greatly increased the cost of living and produced great suffering and distress. It means an abandonment of the progressive increase of our Navy, which has become indispensable to national safety and prosperity. It lessens our ability to construct needed public buildings, to improve our rivers and harbors, in order to give increased commercial facilities and opportunities, and to improve our public roads and highways, in order to develop the rural sections of our country.

If the pending legislation is passed, it would be soon followed by other legislation providing for further increases. The rates then given will in a few years be greatly increased. The retired volunteer officers' pension bill is but waiting the enactment of this legislation to make its appearance in Congress, which, when passed, will cost the Government many million dollars. The passage of a general pension bill has always been marked by the claim that it would be the last legislation of this kind and was all that was needed to give relief. Experience has demonstrated that each was but the precursor of others providing for greater increases. If our pension policy of the past, with constant increases, is continued, the day is not far distant when our annual appropriation for pensions will exceed $250,000,000.

Being persuaded that the great mass of American people is now more in need of relief from the heavy burdens of taxes and the high cost of living than are the pensioners in need of greater pensions, I shall vote against the bills now pending proposing an increase in pensions. The whole people is deserving of more consideration than is any special class, and especially when that class has already been and is the present recipient of Government favors unexcelled.

I am opposed to this legislation because I believe its enactment would be prejudicial to the best interests of all sections of this country alike. There is no section of the country in which the burdens imposed by these bills upon the masses would not exceed the benefits derived.

Mr. McCUMBER. I ask that the unfinished business be temporarily laid aside and that the Senate proceed to the consideration of the calendar under Rule VIII.

The PRESIDING OFFICER (Mr. CURTIS in the chair). Without objection, it will be so ordered. The Secretary will announce the first bill on the calendar.

THE CALENDAR.

The bill (S. 2518) to provide for raising the volunteer forces of the United States in time of actual or threatened war was announced as first in order on the calendar.

Mr. GALLINGER. Let that go over.

The PRESIDING OFFICER. It will go over.

Senate concurrent resolution No. 4, instructing the Attorney General of the United States to prosecute the Standard Oil Co. and the American Tobacco Co., was announced as next in order.

Mr. GALLINGER. Let that also go over.

The PRESIDING OFFICER. The concurrent resolution will go over.

The bill (S. 290) to authorize the appointment of dental surgeons in the United States Navy was announced as next in order.

Mr. BRISTOW. I ask that the bill may go over.

The PRESIDING OFFICER. It will go over.

Mr. PERKINS. This bill has been on the calendar for two months, and I should like to have it disposed of, either for or against.

Mr. BRISTOW. Of course we can not take it up and consider it under the five-minute rule.

Mr. PERKINS. Then let it be passed over, retaining its place on the calendar.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 2493) authorizing the Secretary of the Treasury to make an examination of certain claims of the State of Missouri was announced as next in order.

Mr. SMOOT. Let the bill go over.

The PRESIDING OFFICER. It will go over.

The next business on the calendar was Senate resolution No. 176 requesting the President to make certain inquiries of the Governments of Great Britain and France, touching the arbitration of justiciable controversies or disputes.

Mr. GALLINGER. Let the resolution go over.

The PRESIDING OFFICER. It will go over.

PENSIONS AND INCREASE OF PENSIONS.

The bill (S. 4623) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors was considered as in Committee of the Whole.

Mr. GALLINGER and Mr. McCUMBER. The bill has been read.

The PRESIDING OFFICER. The bill has been read and amended.

Mr. SMITH of Georgia. Mr. President, last Saturday when this bill was under consideration the Senator from Kansas [Mr. CURTIS] called attention to certain reductions in the pension pay roll made by the Pension Bureau in 1893. The same day from memory I explained that those reductions were principally due to a decision rendered by the department construing the act of June 27, 1890, and setting aside an order which had formerly been issued by the Pension Bureau which had incorrectly construed the act of June 27, 1890. I was unable to recall the name of the case in which this corrected construction, as I maintained, of the act of June 27, 1890, was rendered, and the Senator from Kansas also was unable to recall it.

On Monday I sent for the decisions, and I find that the case is found in volume 7 of the Pension Decisions, page 1, and it is known as the case of Charles T. Bennett. I have desired since that time to call attention to this case that the case might be embodied in the RECORD, and I wish now to call attention to the case and to ask that it be embodied in the RECORD, and also that a report of the commissioner explaining his conduct under this case be embodied in the RECORD. I will indicate the parts to be inserted.

The VICE PRESIDENT. Is there objection? The Chair hears none.

Mr. SMITH of Georgia. I desire to explain to the Senate very briefly, in connection with embodying this case in the RECORD, the exact point that was under consideration.

The act of June 27, 1890, provided for pensions to certain soldiers who were not injured in the line of service. The prior law provided for pensions for service injuries or service disabilities. Under the prior law, where the disability was one of service origin, specific sums had been fixed for each particular injury and those sums appeared without reference to the ability or lack of ability of the soldier to perform manual labor or to earn a livelihood.

The act of June 27, 1890, expressly limited the pensioners to inability to perform manual labor and to inability to earn a livelihood, or rather the pensions were to be based upon the condition in which the soldier was left with reference to his ability to perform manual labor and with reference to his ability to earn a livelihood.

These provisions in the act of June 27, 1890, upon which the amount of his pension was to be fixed, were not found in the prior law, but were applicable solely to those soldiers whose injuries were not of service origin or whose disabilities were not of service origin. Reading from the act of June 27, 1890, we have—

which incapacitates them for the performance of manual labor in such a degree as to render them unable to earn a support.

And again, the pension was to range from $12 to $6, "proportioned to the degree of inability to earn a support."

For the year ending June 30, 1893, the pension pay roll went up to $156,908,000. For the prior year, ending June 30, 1892,

the pension pay roll was $139,394,000. So the pension pay roll went up for the fiscal year ending June 30, 1893, in round numbers $17,000,000, and under the construction of the act of June 27, 1890, which the bureau had put upon it, it was estimated that the pension pay roll for the fiscal year to end June 30, 1894, would be $165,000,000. In consequence of this Bennett decision and the subsequent procedure by the bureau under this decision the pension pay roll for the year ending June 30, 1894, was $139,394,000, and for 12 years thereafter it averaged about $139,000,000.

The bureau prior to the Bennett decision had confused in its application of the amount to be paid for each disability the rule prescribed in the act of June 27, 1890, and the rule prescribed in the old law, which applied to injuries of service origin, and had practically abolished the provision of the act of June 27, 1890, which required the disability to be one which affected the applicant's capacity to perform manual labor and which fixed the amount of his pension proportioned to his capacity to perform manual labor.

The decision in the Bennett case only required the bureau to come back to the statute as it was drawn by Congress, and it required that the amount to be paid to each pensioner under the act of June 27, 1890, should be that prescribed by Congress and not that prescribed by the bureau, which set aside the act of Congress.

The difference between the two acts and the error of the bureau can be illustrated in the Bennett case. Bennett had two disabilities, a slight deafness in each ear. He could hear a watch tick half an inch from his ear. Under the evidence it did not affect his ability to earn a support at all. It did not affect his ability to perform manual labor. Yet he had been awarded under the act of June 27, 1890, $12 a month which could only go to him under that act for total disability. Under the law applicable to an injury of service origin, slight deafness in either ear was rated at $6, and for partial deafness in both ears it was $12. The bureau applied to this pensioner who was asking a pension under the act of June 27, 1890, the classification of pension provided for under the law fixing injuries of service origin, although his disabilities were in no sense of service origin.

Before the Bennett opinion was filed it was submitted to the Attorney General's Department for approval, and I wish to embody the opinion in the RECORD and also to embody some extracts from the report of the Commissioner of Pensions in the RECORD.

There may have been and there were some other suspensions, but the bulk of the reduction of pensions and the bulk of the suspension of pensions followed this Bennett decision, and were simply for the purpose of bringing the administration of the bureau into complete compliance with the act of June 27, 1890.

The rule in the Bennett case was followed after Judge Lochren ceased to be commissioner and after I ceased to have any connection with the department—at least I understand it was followed; it certainly ought to have been followed, because it was the law. The amount of the pay roll subsequently having remained for years practically at the figures to which Judge Lochren reduced it clearly indicates that the ruling in the Bennett case must have been followed by the successors to Judge Lochren.

The matter referred to is as follows:

ASSISTANT SECRETARY JOHN M. REYNOLDS TO THE COMMISSIONER OF PENSIONS, MAY 27, 1893.

Charles T. Bennett, late private Company F, Thirteenth Indiana Volunteers, filed his original application for an invalid pension under the provisions of the Revised Statutes, on July 5, 1886, alleging that while in the service and in line of duty at Raleigh, N. C., about June 1, 1865, he was prostrated by a sunstroke, from which resulted a disease of the head and loss of hearing.

The claim was rejected by your bureau February 18, 1892, upon the ground that the evidence failed to establish the existence of any disability due to the claimant's Army service.

From said action the claimant appealed March 19, 1892. The evidence shows that the appellant enlisted September 14, 1864, and was discharged June 23, 1865; but the records of the War Department, in evidence, show neither treatment for any disability during said period nor the existence of any disabling cause, but that he was carried on all rolls and returns as "present for duty" from enlistment to discharge.

The affidavits furnished in support of his claim do not satisfactorily establish the origin of the alleged disability, and in the certificate made by the board of examining surgeons at Vincennes, Ind., on November 3, 1886, the following language is found: "This man seems to be in vigorous health, and we discover no evidence of a diseased nervous system, not tremulous, but in good flesh, and looks as if he was never afflicted by any great nervous prostration. * * * We would state that he has slight deafness in both ears, but not of sufficient character to warrant us in making a rating." The rejection of the applicant's claim for invalid pension, for the reasons given, was proper and is affirmed.

This appeal brought up, also, the application made by the same claimant for a pension under the provisions of the second section of the act of June 27, 1890. Under this second section your bureau, on January 29, 1891, granted to the claimant the maximum rating of $12 a month.

The only disability found to exist upon medical examination, as declared by your bureau, was "slight deafness of both ears." This deafness was so slight, according to the certificate of the board of examiners, that he could hear a watch tick in each ear when it was within one-half inch of each.

To entitle the claimant to a pension under the provisions of the second section of the act of June 27, 1890, it was necessary that he should be suffering from a mental or physical disability of a permanent character, not the result of his own vicious habits, which incapacitates him for the performance of manual labor in such a degree as to render him unable to earn a support, in which event he might be entitled to receive a pension not exceeding $12 per month and not less than $6 per month. As the claimant was suffering simply from "slight deafness," according to your finding, which was so slight that he could hear a watch tick one-half inch from each ear, the physical disability clearly failed to come within the requirements of the law. Such "slight deafness," of necessity, could not incapacitate for the performance of manual labor, and yet the claimant was allowed the largest sum provided for under this section of the act of June 27, 1890.

In order to ascertain with certainty the basis upon which this pension was rated, the following communication was addressed to the Commissioner of Pensions:

DEPARTMENT OF THE INTERIOR,
*Washington, D. C., May 23, 1893.*

*To the Commissioner of Pensions:*

SIR: I herewith return to you the papers in the case of Charles T. Bennett, late private, Company F, Thirteenth Indiana Volunteers, certificate No. 533762.

Please furnish me at your earliest convenience the basis of rating in this case, which places "slight deafness" of both ears, under the act of June 27, 1890, at the rate of $12 per month.

Very respectfully,

JNO. M. REYNOLDS,
*Assistant Secretary.*

To which the following answer was furnished through the Commissioner of Pensions:

DEPARTMENT OF THE INTERIOR,
BUREAU OF PENSIONS,
*Washington, D. C., May 23, 1893.*

HON. WILLIAM LOCHREN,
*Commissioner of Pensions.*

SIR: In response to your request that I prepare an answer to the communication of this date addressed you by the honorable Assistant Secretary concerning the basis of rating in this case for a slight deafness of both ears at $12 per month, under the act of June 27, 1890, I have to say that this rate was allowed in accordance with Order No. 164, which directed "that all cases showing a pensionable disability which, if of service origin, would be rated at or above $12 per month, shall be rated at $12 per month." The inability of the applicant to perform manual labor was not taken into consideration.

At the time of the action taken in this claim, January 29, 1891, the schedule rate for slight deafness of both ears was $15; hence the rate of $12 was allowed. Since December 4, 1891, the schedule rate for slight deafness of both ears has been $6, and such cases have been allowed at this rate since the above date. I have recently suspended action in this class of cases.

Very respectfully,

THOS. D. INGRAM,
*Medical Referee.*

The department will now consider whether the method of rating followed in this case is in accordance with the law.

The second section of the act of June 27, 1890, provides as follows: "SEC. 2. That all persons who served 90 days or more in the military or naval service of the United States during the late War of the Rebellion and who have been honorably discharged therefrom, and who are now or who may hereafter be suffering from a mental or physical disability of a permanent character, not the result of their own vicious habits, which incapacitates them for the performance of manual labor in such a degree as to render them unable to earn a support, shall, upon making due proof of the fact according to such rules and regulations as the Secretary of the Interior may provide, be placed upon the list of invalid pensioners of the United States, and be entitled to receive a pension not exceeding $12 per month and not less than $6 per month, proportioned to the degree of inability to earn a support; and such pension shall commence from the date of the filing of the application in the Pension Office after the passage of this act, upon proof that the disability then existed, and shall continue during the existence of the same."

It will be seen that this section only provides for a pension where the applicant has been incapacitated for earning a support by manual labor. Incapacity to perform manual labor, to a degree which produces inability to earn a support, is the basis of pension under this section; yet the report of the medical referee shows that the pension was allowed by your bureau in this case in pursuance of Order No. 164, and the inability of the applicant to perform manual labor was not taken into consideration.

The following is a copy of Order No. 164:

In regard to fixing rates of pensions under act of June 27, 1890.

That all claimants under the act of June 27, 1890, showing a mental or physical disability or disabilities of a permanent character not the result of their own vicious habits and which incapacitate them for the performance of manual labor, rendering them unable to earn a support in such a degree as would be rated under former laws at or above $6 and less than $12, shall be rated the same as like disabilities of service origin; and that all cases showing a pensionable disability which, if of service origin, would be rated at or above $12 per month shall be rated at $12 per month.

GREEN B. RAUM, *Commissioner.*

Approved.

CYRUS BUSSEY, *Assistant Secretary.*

It will be seen that this order required that all cases showing a pensionable disability under the act of June 27, 1890, should be rated as if of service origin.

The law applicable to pensions of service origin is found in the Revised Statutes, and is as follows:

"Any officer of the Army, including Regulars, Volunteers, and militia, or any officer in the Navy or Marine Corps, or any enlisted man however employed in the military or naval service of the United States, or in its Marine Corps, whether regularly mustered or not, disabled by reason of any wound or injury received or disease contracted while in the service of the United States and in the line of duty," etc.

The only requirement to obtain a pension under this act is disability by reason of wound or injury received or disease contracted while in the service and in line of duty.

Incapacity to perform manual labor, which is the foundation to the right to pension under the act of June 27, 1890, fixes an entirely different standard of disability from that just mentioned, contained in the Revised Statutes, covering injuries of service origin. Disabilities incurred while in actual service and incapacity, upon applicant long after service ceased, are made by the law to stand upon an entirely different footing. Those incurred during service and in line of duty are pensionable without regard to capacity to earn a support, and are graded without reference to this condition. Disabilities resulting from causes other than of service origin are only pensionable when incapacity to labor joins with incapacity to earn a support, and the grades of rating are dependent upon these two conditions. When by Order No. 164 it was declared that disabilities under the act of June 27, 1890, should be rated as of service origin, the very principle which governed the rating under the act of June 27, 1890, was displaced and a rule applicable to a different act was substituted.

This case illustrates the effect of the departure by your bureau from the terms of the act of 1890:

1. The applicant was awarded for "slight deafness" not of service origin, $12. The award was made under the act of 1890. It was given by your bureau for "slight deafness," because under an entirely different act, applicable to disabilities of service origin alone, $15 was the lowest rating for "slight deafness."

2. "The inability of the applicant to perform manual labor was not taken into consideration." Yet the act of 1890, under which the applicant sought and was allowed a pension, made inability of the applicant to perform manual labor, in such a degree as to prevent him from earning a support, the foundation of his claim.

It is, therefore, clear that the rating under the Revised Statutes for disabilities of service origin was substituted by Order No. 164 for the rating provided under the act of 1890.

The order having resulted in one error, a second error naturally followed, and the inability of the applicant to perform manual labor was not taken into consideration. In a word, the act of June 27, 1890, was changed and superseded by Order No. 164, as construed by your bureau, and by a practice that neglected to take into consideration the ability of the applicant to perform manual labor.

It is hardly necessary to present argument or to support by authority the proposition that neither the Secretary nor the commissioner can by order or practice supersede an act of Congress. The power of the department, so far as orders and practice are concerned, is limited to an execution of the law; it ceases when an effort is made to supersede the law.

You will, therefore, take such steps as are necessary to reopen this case and to pass upon it in accordance with the provisions of the act of Congress approved June 27, 1890, disregarding any order or practice which is in conflict with the plain letter of the law.

The foregoing decision was approved by the honorable Secretary of the Interior, and was by him submitted to the honorable Attorney General, who also approved it. After this concurrence the following order was made revoking the one dated October 15, 1890, No. 164, referred to therein:

DEPARTMENT OF THE INTERIOR,
*Washington, D. C., May 27, 1893.*

*To the Commissioner of Pensions.*

SIR: Order No. 164, signed, "Green B. Raum, Commissioner of Pensions," and approved, "Cyrus Bussey, Assistant Secretary," of date, October 15, 1890, is hereby revoked.

You will prepare, for approval of the Secretary, new rules and regulations covering the proof of the right to pensions and rates of same in accordance with the provisions of section 2 of the act of Congress approved June 27, 1890.

Your attention is directed to the fact that the disabilities which are pensionable under this section must be of a permanent character, incapacitating for the performance of manual labor to such a degree as to produce inability to earn a support. You will observe, also, that the rate of pension is fixed at not less than $6 nor more than $12 per month, proportioned to the degree of inability to earn a support.

You will have an examination made to determine what pensions have heretofore been allowed under section 2 of the act approved June 27, 1890, in disregard of the terms of said act and in conflict with the ruling of this department in the case of Charles T. Bennett, this day transmitted to you.

Respectfully, HOKE SMITH, *Secretary.*

[From the report of the Commissioner of Pensions for the year ending June 30, 1892.]

ACT OF JUNE 27, 1890.

But recognizing the difficulty of tracing disabilities to service origin after a long lapse of time and the fact that deserving soldiers, who in their advancing years were incurring disabilities not of service origin unfitting them from earning a support by manual labor, were proper objects of the national bounty, the act of June 27, 1890, was passed, providing that all persons who had served in the military or naval service of the United States in that war 90 days or more, and had been honorably discharged therefrom, and who were suffering from a mental or physical disability of a permanent character not the result of their own vicious habits which incapacitates them from earning a support by manual labor, shall be pensioned at not more than $12 nor less than $6 per month, proportioned to the degree of inability to earn a support.

Under this act, aside from the requisite service and honorable discharge, there is but one condition that can give any right to pensions, viz, "a mental or physical disability of a permanent character, not the result of their own vicious habits, which incapacitates them from the performance of manual labor in such a degree as to render them unable to earn a support." But by Order 164, issued October 15, 1890, the commissioner, with the approval of the Assistant Secretary, directed that specific disabilities should be rated in applications under this act as they would have been rated under the schedules then in force, if of service origin, up to $12 per month. The medical referee stated in answer to inquiry that under this order the capacity of a claimant under the act of June 27, 1890, to perform manual labor was no longer even considered in adjudicating his claim, but that his disabilities were rated, up to $12 per month, as if his claim had been made under prior laws for like disabilities of service origin.

It is perfectly clear that under this Order 164 in granting pensions under this act of June 27, 1890, the act itself was set aside and disregarded, with the result of granting pensions not authorized by any law. This was shown in the Bennett case, which called your attention to this order and to the practice under it. There the claimant, applying under this act of June 27, 1890, was pensioned at $12 per month for slight deafness not of service origin. This slight deafness could not interfere with his capacity to perform manual labor, and such a pension has no warrant to sustain it in any law. It is absolutely void. The statement of the medical referee, above mentioned, made it appear probable that under Order 164 many pensions were illegally granted, and, pursuant to your order of May 27, 1893, a board of revision was formed of the ablest and most experienced men of the bureau to examine the cases allowed under that act and cull out such as had no legal basis to rest upon, but with instructions to disturb no case where, by the most liberal construction of the evidence, the right to the pension could be sustained under any law. In cases where it was believed that pension could not be sustained and another medical examination was thought necessary, the payment of the pension was ordered to be suspended pending investigation, according to the practice of the bureau from the beginning; and at the proper time the usual 60-day notice was given the pensioner within which he could ask for a medical examination or supply further evidence of his right to his pension.

This practice of the bureau, always followed, is the correct practice. It is not the withdrawal or taking away of a pension, but the temporary withholding of its payment where it appears to be unlawful, pending a proper inquiry. Upon your suggestion that even this temporary withholding might work hardship where upon the face of the papers it appears that the pensioner is entitled to at least some less rating, the practice has been modified and changed as to the cases under this act so far that suspensions of payment pending the 60 days are only ordered when on the face of the papers it appears prima facie that the pensioner is not entitled to any pension. It is certain that there are many cases like the Bennett case, where persons not entitled to any pension will be removed from the rolls, but the work has not yet proceeded far enough to enable me to forecast the result. Undoubtedly under the system of adjudication which followed the promulgation of Order No. 164 many persons perfectly able to perform manual labor, under the persuasion of claim agents familiar with the effect of that order, applied for and received pension for specific disabilities not of service origin and not properly pensionable under the act of June 27, 1890. This also accounts for the large proportion of late claims under that act, comprising the aftermath in the work of claim agents, which are now being properly rejected.

Mr. CURTIS. Mr. President, I am glad the Senator from Georgia has called attention to the case upon which he based the order. The only regret the friend of the soldier can have is that in rendering that decision or in order to get a case that would be satisfactory the Pension Bureau picked out a case that was perhaps the most unfair case that could be selected in all the bureau. A man had been given a pension, as stated by the Senator from Georgia, upon two disabilities, and I shall read the finding. I desire to comment upon this because it is my purpose to call attention to another decision later on.

As the claimant was suffering simply from "slight deafness," according to your finding, which was so slight that he could hear a watch tick one-half inch from each ear, the physical disability clearly failed to come within the requirements of the law. Such "slight deafness," of necessity, could not incapacitate for the performance of manual labor, and yet the claimant was allowed the largest sum provided for under this section of the act of June 27, 1890.

Upon that decision an order was entered, and my complaint is that they made that order, based upon a case where the man had no disabilities that incapacitated him from the performance of manual labor, apply to some 31,000 cases where perhaps the soldiers had special disabilities that might prevent them from performing manual labor, and a decision based upon this one case was used to take away from eight thousand and over pensioners their pensions and to reduce 23,000 pensions, and that, too, without giving them an opportunity to be heard and without giving a chance to furnish one word of evidence.

Mr. SMITH of Georgia. Let me ask the Senator a question.

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

Mr. CURTIS. Certainly.

Mr. SMITH of Georgia. Was not the suspension for 60 days, and were they not notified and invited to bring up additional evidence?

Mr. CURTIS. Their pensions were taken away immediately afterwards. After their pensions were suspended, they filed evidence, many of them, and had their cases reinstated. To show how unfair the ruling was, I remember having over 100 cases reinstated in the Pension Bureau upon the testimony that was on file when the pensions had been reduced from the fourth Kansas district alone.

I contend that this question was decided before, and it was unnecessary for the Reynolds decision, because Assistant Secretary Bussey had passed upon the same order, No. 164, in a case that was taken before the Secretary.

I want to call the Senate's attention to the langauge used by Assistant Secretary Bussey where he construes this law, and properly construes it. If the Secretary or the commissioner had followed this ruling there would have been no trouble. I read from page 194, volume 6, Decisions of the Interior Department in Appealed Pension Claims, 1892–93:

The basis of rates under the act of June 27, 1890, is inability to earn support by reason of incapacity for manual labor, due to a permanent mental or physical disability not the result of vicious habits. In determining whether an applicant is entitled to a rate under said act for the character of disability aforementioned, the only question is: Is he, from the cause or causes involved—be they one or many—disabled for the performance of manual labor to the extent represented by the fractional rate of six-eighteenths? If so, he is entitled to the minimum rate of $6, and so on, until the maximum rate of $12 is reached.

That was the construction of the law placed upon it by Assistant Secretary Bussey.

Mr. SMITH of Georgia. What was the date of that?

Mr. CURTIS. January 7, 1893. That was the true construction of the law, and if it had been followed there would have been no complaint.

In addition to securing the decision, or having the decision rendered upon the case, that was unfair to the soldier, and after the order was issued under which so many suspensions were made, a new order was issued by the department leaving the ratings in the hands of the medical referee; and surely the distinguished Senator will admit that that order was wrong, because——

Mr. SMITH of Georgia. That order was very promptly modified, was it not?

Mr. CURTIS. I was going to say such a storm of protest went up from one end of the country to the other against the ruling and the action of the department under it that they had to withdraw it.

Mr. SMITH of Georgia. Does the Senator remember how long was that order in force? Was it not withdrawn as soon as it was brought to my attention?

Mr. CURTIS. The Order 225 was issued June 9, 1893, and was withdrawn by Order 241, which was issued September 2, 1893; so Order 225, the one of which I complain, was followed several months. I am very glad to have the Senator state that he had referred the matter to the Attorney General, and that he depended upon the Commissioner of Pensions in this matter; but I say, and I believe the facts justify me in making the statement, that the administration of the Pension Office during Judge Lochren's administration and that of the distinguished Senator from Georgia was unfair to the Union soldier. It was based upon——

Mr. SMITH of Georgia. I should like to ask the Senator a question.

Mr. CURTIS. Certainly.

Mr. SMITH of Georgia. Is it not true that when they first began after the Bennett decision to suspend the cases that had been improperly given pensions under Mr. Raum's erroneous construction of the statute, they suspended them all, but that that lasted only a few days, and that the change took place to simply reducing the size of the pension where they had any evidence in the record to justify any pension. Does not the Senator recall the fact that Judge Lochren in his first report mentions that those complete suspensions only lasted for a few days, and that after conferring with me I requested, if there was any evidence at all to suspend a pension, to leave the pension; and I should like to ask the Senator's attention to the report of Commissioner Lochren in 1893. He is quite familiar with this matter; really he is more familiar with the details, I suppose, than I am; he has kept up with it:

> This practice of the bureau, always followed, is the correct practice. It is not the withdrawal or taking away of a pension, but the temporary withholding of its payment, where it appears to be unlawful, pending a proper inquiry. Upon your suggestion that even this temporary withholding might work hardship where upon the face of the papers it appears that the pensioner is entitled to at least some less rating, the practice has been modified and changed as to the cases under this act, so far that suspensions of payment pending the 60 days are only ordered when on the face of the papers it appears prima facie that the pensioner is not entitled to any pension.

Mr. CURTIS. Mr. President——

Mr. SMITH of Georgia. I just wanted to call the Senator's attention to the language read from the report of Judge Lochren as commissioner.

Mr. CURTIS. I can not agree with the Senator that it was a temporary matter, because I did not arrive in Washington until August, 1893, to attend the extra session of Congress, and the practice was then going on in the department. The order had been issued several months before.

Mr. SMITH of Georgia. What practice do you mean?

Mr. CURTIS. The practice of reducing pensions and of withdrawing pensions without giving the pensioners an opportunity to be heard. So it must have been in existence several months.

Mr. SMITH of Georgia. I should like to ask the Senator if it had not always been the practice in the bureau, where it was found that the evidence submitted did not justify a pension, to suspend it and notify the pensioner?

Mr. CURTIS. I never heard of any such action until the action by the Secretary of the Interior while the distinguished Senator from Georgia was then Secretary.

Mr. WILLIAMS. That was the first term in Congress of the Senator from Kansas?

Mr. CURTIS. It was my first term.

Mr. WILLIAMS. He had never heard of anything until that time.

Mr. CURTIS. I had heard of a good many things before I came to Congress.

Mr. SMITH of Georgia. I should like to ask the Senator another question.

Mr. CURTIS. Certainly.

Mr. SMITH of Georgia. Was not the board of review that Judge Lochren appointed with the approval of the Secretary composed almost exclusively of Republicans and old soldiers?

Mr. CURTIS. I can not agree with the Senator upon that statement. I looked up their record at one time. My recollection is that a majority of them belonged to the other side.

Mr. SMITH of Georgia. But let me ask——

Mr. CURTIS. I do not care who they were, but since the Senator referred to the board, the fact remains that they held up the cases just as long as they could, and they did it against the interest of the soldier. If the distinguished Senator will look over the record he will find, I think it was in 1894 or 1895, there were 104,000 cases examined by that board and they found something wrong to delay action in nearly every case. To be exact, they found cause for delaying action in 103,000 cases. Do you tell me that such conduct as that is fair to the soldier?

Mr. SMITH of Georgia. I wish to ask the Senator a question.

The VICE PRESIDENT. Does the Senator from Kansas further yield to the Senator from Georgia?

Mr. CURTIS. Certainly.

Mr. SMITH of Georgia. Were they not simply enforcing the act of June 27, 1890, and is it not true that records had been made by applicants who were not entitled to pensions under the act of June 27, 1890, and they were misled as to their rights by the erroneous order issued by the bureau under Raum?

Mr. CURTIS. That would not affect the case.

Mr. SMITH of Georgia. One moment. Therefore the record and the evidence they had when examined showed that they were not entitled to a pension under the law.

Mr. CURTIS. That would make no difference if the case had not been allowed, but if the case had been allowed the presumption was in favor of the soldier, and the soldier should have been given an opportunity to file his testimony, as afterwards was permitted by law of Congress. After this order was issued, in December, 1893, Congress enacted a law giving them a chance to be heard before their pensions should be taken away from them, and it was not until that act was passed that the practice was discontinued in the department.

Mr. SMITH of Georgia. Mr. President——

The VICE PRESIDENT. Does the Senator from Kansas yield further to the Senator from Georgia?

Mr. CURTIS. Certainly.

Mr. SMITH of Georgia. Would the presumption be that the record showed that the soldier was entitled to a pension when the whole procedure of the bureau had been under an order by the commissioner utterly disregarding the provisions of the law and changing the law and dispensing with the requirements of the law? Would not the presumption be that the proof did not make a case that entitled the soldier to a pension under the law?

Mr. CURTIS. The difficulty is that the Senator does not state the fact. The truth of it is that as soon as the Bussey decision was rendered the then Commissioner of Pensions continued to pass upon cases under that decision, and it seems as though the new Commissioner of Pensions, after the order was issued by the distinguished Secretary of the Interior, suspended all the cases upon a hasty examination, 23,000 of them, and dropped 8,000 of them. As I said to the distinguished Senator, they must have been careless, because thousands of those cases were afterwards restored to the pension roll upon the papers that were on file when their pensions had been reduced and when their pensions had been taken away. As I said before, I remember in the one district that I had the honor to represent 100 of the men who had had their pensions reduced or taken away had been restored by the bureau upon the evidence that was on file when the former action had been taken by the commissioner, which to me is conclusive evidence.

Let me call the attention of the distinguished Senator to a case I mentioned the other day, the case of an old soldier at Emporia, Kans., where the pension was taken away upon an anonymous letter. I said to the commissioner then, "Are you going to take a man's pension away simply because some man writes a letter to which he has not the manhood to sign his name?" He said, "That soldier is not entitled to a pension"; and they took it away, and I was over three months getting that man back on the pension roll.

Mr. SMITH of Georgia. I have not undertaken, I will say to the Senator, to defend such an order. As I said a moment ago, I have no doubt that there were mistakes made. But I was insisting that the general procedure was in consequence of an utter misconception of the law by the predecessor of Judge

Lochren, and that the difficulty which surrounded the change was due to that misconception of the law or the confusing of the two statutes, and that the bulk of what took place was simply in conformity with bringing the bureau to an administration of the law as Congress had written it.

Mr. CURTIS. My answer to that is that it was at the beginning that the Assistant Secretary, Mr. Bussey, had construed this law, and the Reynolds decision was absolutely unnecessary, and the Reynolds decision was unfair to the soldier. The Reynolds decision was based upon an unfair case, and it should never have been rendered.

Mr. SMITH of Georgia. I desire to ask the Senator from Kansas a question.

The VICE PRESIDENT. Does the Senator from Kansas yield further?

Mr. CURTIS. Certainly.

Mr. SMITH of Georgia. How was the Bennett decision unfair to the soldier?

Mr. CURTIS. I did not mean to that one soldier, but to soldiers at large. I say it was unfair, because the department officials picked out a case to decide where no disability existed which prevented the man from performing manual labor, and taking that unfair case a general order was issued to apply to all cases. As a result of the general order, they reduced the pensions of 23,000 soldiers and took pensions away from over 8,000.

Mr. SMITH of Georgia. I should like to ask the Senator another question.

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

Mr. CURTIS. Certainly.

Mr. SMITH of Georgia. Does the Senator know how many cases there were just as strong as the Bennett case?

Mr. CURTIS. I could not tell that.

Mr. SMITH of Georgia. I should like to ask the Senator one more specific question.

Mr. CURTIS. Certainly.

Mr. SMITH of Georgia. The Senator agrees, does he not, that the rule prescribed by Commissioner Raum was a misconstruction of the act?

Mr. CURTIS. I agree that the officers of the department who passed upon the rule gave it a more liberal construction than the law at that time justified; but I claim, further, that Assistant Secretary Bussey corrected that by rendering his decision in the case to which I have called attention. I might say—because perhaps all Senators know it—that it is an unfortunate practice in the departments that whenever the head of a department indicates that he wants to follow one certain line of decision the employees of the department go to the extreme in that way, and if there is a change made and a new head wants to pursue another course, the officers usually go to the extreme in that way. The Senator knows that to be true. It is the practice in the departments here, and has been ever since I have been in Washington. I regret it, for I think the officers should perform their duty honestly and fairly, regardless of the wishes of the head of the department.

Mr. SMITH of Georgia. I ask the Senator from Kansas what time in January did Assistant Secretary Bussey make his ruling?

Mr. CURTIS. On January 7, 1893.

Mr. SMITH of Georgia. Does the Senator know whether that rule had been put into active operation in the bureau before March 3, 1893, or whether the examiners were merely continuing under the order of Commissioner Raum?

Mr. CURTIS. I will say to the Senator that they were proceeding under this decision, because he passed upon Order 164 in the decision, and naturally, as his opinion controlled and governed the department, it is reasonable to suppose that they proceeded thereafter to construe the order according to that decision.

Mr. SMITH of Georgia. He did not revoke the order of Commissioner Raum, did he?

Mr. CURTIS. It reads as follows:

> It appears, however, that said order, as understood by the department when approving it, may have been misconstrued by your bureau so far as it has been your practice to add the separate nominal and schedule rates allowed for several disabilities in making a rate under this act. * * * It is directed that the views herein expressed be observed in future adjudications of claims under the act of June 27, 1890.

So it was the direct order or decision repealing order 164 and directing the bureau to construe the law as indicated in Assistant Secretary Bussey's decision, as I have shown.

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

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

The bill (S. 4624) 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, was announced as next in order.

Mr. McCUMBER. Mr. President, I understand that certain Senators may desire to have some amendments made to the other private pension bills on the calendar, or, at least, desire to examine them, and therefore I ask that all the private pension bills on the calendar go over.

The VICE PRESIDENT. In the absence of objection, it will be so ordered, and the next bill on the calendar, being a private pension bill, will be passed over. The Secretary will state the next bill on the calendar.

REGULATION OF IMMIGRATION.

The bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States was announced as next in order.

Mr. SMOOT. Let that go over, Mr. President.

The VICE PRESIDENT. The bill goes over.

JOHN L. O'MARA.

The bill (S. 2243) to correct the military record of John L. O'Mara and grant him an honorable discharge was considered as in Committee of the Whole.

The bill had been reported from the Committee on Military Affairs with an amendment to strike out all after the enacting clause and to insert:

> That in the administration of the pension laws John L. O'Mara, late of Company I, Thirteenth Regiment Maine Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said company and regiment on August 16, 1865.

The amendment was agreed to.

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

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

The title was amended so as to read: "A bill for the relief of John L. O'Mara."

AGRICULTURAL ENTRIES ON OIL LANDS.

The bill (S. 3045) to provide for agricultural entries on oil lands was announced as next in order, and the Senate, as in Committee of the Whole, resumed its consideration.

The VICE PRESIDENT. The bill has been heretofore read, and an amendment, which was offered by the senior Senator from Idaho [Mr. HEYBURN], is pending.

Mr. SMOOT. Mr. President, I ask that the amendment proposed by the Senator from Idaho may be stated.

The VICE PRESIDENT. The Secretary will state the amendment proposed by the Senator from Idaho.

The SECRETARY. In section 1, on page 1, line 6, after the word "entry," it is proposed to insert "under the mining laws of the United States and," so as to read:

> That from and after the passage of this act unreserved public lands of the United States, exclusive of Alaska, which have been withdrawn or classified as oil lands, or are valuable for oil, shall be subject to appropriate entry under the mining laws of the United States and under the homestead laws by actual settlers only, etc.

Mr. SMOOT. Mr. President, I will state that under the general withdrawal act of June 27, 1910, that is already provided for. I think, therefore, the amendment is absolutely unnecessary.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. WATSON. I offer the amendments which I send to the desk.

The VICE PRESIDENT. The amendments proposed by the Senator from West Virginia will be stated in their order.

The SECRETARY. In section 1, page 2, line 2, after the word "oil," it is proposed to insert the words "and gas."

Mr. SMOOT. Mr. President, I observe the effect of the amendment is that it reserves gas, and I have no objection to it.

The amendment was agreed to.

The VICE PRESIDENT. The next amendment proposed by the Senator from West Virginia will be stated.

The SECRETARY. In section 3, page 3, line 7, after the word "oil," it is proposed to insert the words "and gas."

The amendment was agreed to.

The VICE PRESIDENT. The next amendment proposed by the Senator from West Virginia will be stated.

The SECRETARY. In section 3, page 4, line 4, after the word "oil," it is proposed to insert the words "and gas."

The amendment was agreed to.

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

Mr. HITCHCOCK. I should like to ask the Senator from Utah to express in a few words the exact effect of this bill.

Mr. SMOOT. Mr. President, in many of the Western States there are certain lands that have been withdrawn from settlement as oil lands, though they are agricultural in their character. This bill simply provides that in the future there may be homestead entries made upon such lands, reserving, however, the right of the Government to the oil and gas underneath. The entries are made with that reservation. It will allow great districts in the western country to be entered under the homestead law, reserving, however, as I have said, the oil and gas to the Government.

Mr. SMITH of Georgia. Will the Senator allow me to ask him a question?

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

Mr. SMOOT. Yes.

Mr. SMITH of Georgia. There has been some work going on in the department, has there not, to perfect a bill which would allow agricultural entries on a considerable class of land?

Mr. SMOOT. A bill has already been passed allowing these same entries upon coal lands withdrawn, and this is following that out exactly.

Mr. SMITH of Georgia. When was that bill passed?

Mr. SMOOT. It was passed some time in 1910; but it was after the withdrawal order of January 27, 1910.

Mr. SMITH of Georgia. Is there not now a bill pending from the department providing a way to make agricultural entries?

Mr. SMOOT. There is none that I know of, Mr. President. This is the only bill of the kind which is now before Congress. This is simply extending the reservation to oil and gas lands, the same as the general law applies to coal lands. I wish to say that the department is in hearty accord with this bill and recommends its passage.

Mr. SMITH of Georgia. Does the bill amply preserve the facilities for the Government, or anyone at the instance of the Government, to bore for oil?

Mr. SMOOT. The bill specifically provides that—

> The reserved oil deposits in such lands shall be disposed of only as shall be hereafter expressly directed by law.

I call the Senator's attention to that provision.

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

Mr. SMOOT. I suggest that the title of the bill should be amended so as to include the word "gas."

The VICE PRESIDENT. The Secretary will state the proposed amendment to the title.

The SECRETARY. After the word "oil" and before the word "lands" it is proposed to amend the title by inserting the words "and gas," so as to read: "A bill to provide for agricultural entries on oil and gas lands."

The VICE PRESIDENT. The title will be so amended.

BILLS PASSED OVER.

The VICE PRESIDENT. The next bill on the calendar, Senate bill 5045, being a pension bill, will be passed over.

The bill (S. 1505) for the relief of certain officers on the retired list of the United States Navy was announced as next in order.

Mr. SMOOT and Mr. BRISTOW. Let that bill go over.

The VICE PRESIDENT. The bill will go over. The two bills which are next on the calendar, being House bill 14918 and House bill 17671, are pension bills, and under the previous order of the Senate they will be passed over.

The bill (S. 180) providing for the celebration of the semicentennial anniversary of the act of emancipation, and for other purposes, was announced as next in order.

Mr. SMOOT. Mr. President, I think the Senator from Kentucky [Mr. BRADLEY], who is not now present, desires to be heard upon that bill, and I ask that it go over on that account.

The VICE PRESIDENT. The bill will be passed over.

The bill (S. 3116) to amend section 1 of the act of Congress of June 22, 1910, entitled "An act to provide for agricultural entries on coal lands," so as to include State land selections, indemnity school and educational lands, was announced as next in order.

Mr. CLARK of Wyoming. I ask that that bill go over for the present.

The VICE PRESIDENT. The bill will be passed over at the request of the Senator from Wyoming.

The bill (S. 2151) to authorize the Secretary of the Treasury to use at his discretion surplus moneys in the Treasury in the purchase or redemption of the outstanding interest-bearing obligations of the United States was announced as next in order.

Mr. GALLINGER and Mr. SMOOT. That bill has been read in full.

The VICE PRESIDENT. The bill has heretofore been read in full, but, without objection, the Secretary will reread the bill, as it has been some little time since it was read.

The Secretary again read the bill.

Mr. BACON. Mr. President, that is a matter of very considerable importance. I do not suppose the Senator in charge of it is prepared to go through the detailed explanation that some of us would desire before the bill is passed upon.

Mr. SMOOT. Perhaps not to-day, and, if the Senator so desires, I will ask that the bill go over.

Mr. BACON. That will be satisfactory to me.

The VICE PRESIDENT. The bill will be passed over at the request of the Senator from Utah.

DISPOSAL OF INDIAN LANDS IN TOWN SITES.

The bill (S. 256) affecting the sale and disposal of public or Indian lands in town sites, and for other purposes, was announced as next in order.

The VICE PRESIDENT. The bill has been heretofore read twice and the amendments reported by the committee have been agreed to. If there are no further amendments, the bill will be reported to the Senate.

The bill was reported to the Senate as amended.

Mr. BACON. Mr. President, if I recollect correctly, that bill embraces exactly the same provisions as those contained in the bill which was reported by the Senator from South Dakota [Mr. GAMBLE] with reference to the withdrawal of certain lands in that State. It provides, as I understand, a general law, giving to communities in former Indian reservations where town sites may be laid off a certain percentage—I have forgotten how much, but a very liberal percentage—of the proceeds of the sale of the lots, and also devoting 10 acres to the purposes of public buildings, parks, and so forth. The Senate, after very elaborate debate, I may say, in the case of the particular bill that I have mentioned, affecting certain lands in South Dakota, determined that that was an injustice to the Indians; that the original enabling act for each of the States affected by the bill was liberal to them in reserving a certain proportion of the public lands to the public education of the State; and that the effect of this further provision would be to take that much more from the Indians. If I recollect aright, I have correctly stated the proposition. The Senate then passed upon it.

Mr. CURTIS rose.

Mr. BACON. I will inquire if this is not of the class of bills to which I refer?

Mr. CURTIS. That is what I was going to ask the Senator.

Mr. BACON. I understand this to be a general bill of that kind.

Mr. ROOT. Mr. President, in conversation with the Senator from South Dakota [Mr. GAMBLE], who had charge of the bill to which the Senator from Georgia [Mr. BACON] refers, after the bill was laid aside I understood him to say that the committee would probably make a change in the bill in accordance with the informally expressed view——

Mr. BACON. That was done.

Mr. ROOT. I think this bill retains that same provision that we expected would be cut out.

Mr. CURTIS. Mr. President——

Mr. BACON. Pardon me a moment, so that I can reply to the Senator from New York. The Senator is correct in that statement, and on that account the bill was defeated in the Senate; but on the motion of the Senator from South Dakota, who changed his vote for the purpose, it was reconsidered; then it was again brought before the Senate with that objectionable feature eliminated, and the bill was passed in that form. If I understand this bill correctly, it would not only restore that feature as to South Dakota, but it would restore it as to all of the States, and I think it has been certainly indicated by the Senate that they thought that would be an injustice to the Indians, and it has been condemned.

Mr. CURTIS. Mr. President——

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

Mr. BACON. Yes.

Mr. CURTIS. I have examined the calendar, and I find that it is the bill to which the Senator from Georgia referred, and does cover the same proposition. I suggest that the bill go over.

Mr. GALLINGER. Let the bill go over.

The VICE PRESIDENT. The bill will be passed over.

BILLS PASSED OVER.

The bill (S. 4762) to amend an act approved February 6, 1905, entitled "An act to amend an act approved July 1, 1902,

entitled 'An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes,' and to amend an act approved March 8, 1902, entitled 'An act temporarily to provide revenue for the Philippine Islands, and for other purposes,' and to amend an act approved March 2, 1903, entitled 'An act to establish a standard of value and to provide for a coinage system in the Philippine Islands,' and to provide for the more efficient administration of civil government in the Philippine Islands, and for other purposes," was announced as next in order.

Mr. GALLINGER. Let that bill go over.

The VICE PRESIDENT. The bill will be passed over, and the next two bills on the calendar, Senate bill 5193 and Senate bill 5194, being pension bills, will be passed over under the previous order.

The resolution (S. Res. 136) directing the Committee on Privileges and Elections to investigate certain charges relative to the election of ISAAC STEPHENSON was announced as next in order.

Mr. SMOOT. Let that go over.

The VICE PRESIDENT. The resolution will be passed over.

ALICE V. HOUGHTON.

The bill (S. 5137) for the relief of Alice V. Houghton was announced as next in order.

Mr. SMOOT. Mr. President, from friends of Miss Houghton I understand that the amount carried by the bill, which I think is $3,500, is not satisfactory, and they would very much prefer to wait until the House of Representatives acts in this particular case. There is a bill now pending in that body for her relief, and from what was told me by her closest friend, I think she desires that bill to be acted upon before the Senate bill is considered. For that reason I ask that it go to the calendar under Rule IX.

The VICE PRESIDENT. Without objection, the bill will be transferred to the calendar under Rule IX.

JAMES ANDERSON.

The bill (S. 1043) to correct the military record of James Anderson was announced as next in order.

Mr. OVERMAN. Mr. President, I ask to have the report read in that case.

The VICE PRESIDENT. The Secretary will read the report of the committee, as requested by the Senator from North Carolina.

Mr. OVERMAN. If any Senator will explain the bill I will not ask for the reading of the report; but it is now 50 years after the close of the war, and I think we ought to be very careful about passing bills of this character. When a man has been dishonorably discharged from the service and after 50 years comes here and asks for a correction of his record, I think some one ought to explain it. I should be glad to hear such an explanation.

Mr. CURTIS. The report is very complete and explains the case fully. The case was examined by the Senator from Arkansas [Mr. CLARKE], and the bill was unanimously reported by the committee. They found that a great injustice had been done to the soldier. I hope the Senator will not object to the consideration of the bill.

Mr. OVERMAN. I will ask that it go over for the present, so that I may examine it.

The VICE PRESIDENT. The bill will go over at the request of the Senator from North Carolina.

SERVICE PENSIONS.

The bill (H. R. 1) granting a service pension to certain defined veterans of the Civil War and the War with Mexico was announced as next in order.

The VICE PRESIDENT. That bill, being the unfinished business, will be passed over.

NORTHERN PACIFIC RAILWAY CO.

The bill (H. R. 17242) to authorize the Northern Pacific Railway Co. to cross the Government right of way along and adjacent to canal connecting the waters of Puget Sound with Lake Washington at Seattle, in the State of Washington, was considered as in Committee of the Whole. It authorizes the Northern Pacific Railway Co., a corporation organized under the laws of Wisconsin, and having authority to construct, maintain, and operate a bridge and approaches thereto across the waterway connecting Puget Sound with Lakes Union and Washington at Seattle, in the State of Washington, at a point at or near the head of Salmon Bay, to cross and occupy the right of way owned by the United States adjacent to and along that waterway, under such terms and conditions as the Secretary of War may deem equitable and fair to the public, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

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

LEWIS F. WALSH.

The bill (S. 3873) for the relief of Lewis F. Walsh was announced as next in order, and the Secretary read the bill.

Mr. OVERMAN. Mr. President, that is one of the bills proposing to correct a military record, and while I do not know that I shall have any objection to it, I should like to have some Senator explain the bill, or I will ask that it go over.

The VICE PRESIDENT. The bill will go over at the request of the Senator from North Carolina.

Mr. WARREN subsequently said: Mr. President, I was necessarily detained from the Chamber and in committee when the bill (S. 3873) for the relief of Lewis F. Walsh came up on the calendar and was passed over. I should like now to call it up. It is a very short military record bill.

Mr. OVERMAN. I merely asked that it be passed over because I wanted to know what are the facts.

Mr. WARREN. It is merely to give a poor widow who has a number of children, the pension that would come to her, her husband being dead, if his record were clear, and the report shows that the record ought to be cleared.

Mr. OVERMAN. Was he a deserter?

Mr. WARREN. He was.

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

Mr. OVERMAN. If that is true why——

Mr. WARREN. I ask unanimous consent that the bill be taken up. I do not care to debate it until it is taken up.

Mr. OVERMAN. I shall not object to its being taken up, but I should like to hear an explanation of it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes: That in the administration of the pension laws Lewis F. Walsh, who was a private in Company C, Third Regiment Michigan Volunteer Cavalry, shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a member of that organization on the 25th day of November, 1864, but that no pension shall accrue prior to the approval of the bill.

Mr. WARREN. As will be seen from the official report of The Adjutant General of the Army, quoted in the committee report on this bill, Lewis F. Walsh was mustered into service September 17, 1861, as a private of Company C, Third Michigan Volunteer Cavalry, to serve three years. He was promoted in the following May to sergeant; later to first sergeant, and then to sergeant major with transfer to the noncommissioned staff. He was captured by the enemy in May, 1863, and after parole rejoined his regiment, received honorable discharge from his first enlistment, and reenlisted as a veteran volunteer. Three months after his second enlistment he was reduced to the ranks on a charge of intoxication and assigned to his former company, C, the rolls of which show him deserted November 25, 1864.

It seems to me that the Government can afford to overlook this soldier's fault at this late date, in view of his long and faithful service throughout almost the entire war and up to a date less than six months prior to the close of the war, and that the triviality of the offense for which the soldier was reduced to the ranks and humiliated, which action was the cause of his quitting the Army without leave, and the privations and sufferings which he endured in Libby Prison, make this an exceptionally appealing case.

The purpose of this bill is to give a pensionable status to the soldier's widow, the mother of his five children, who, with her children, is in destitute circumstances and has no means whatever except her earnings from laundry work. The soldier died in November, 1911, after many years' suffering from paralysis.

To sum up the case, the soldier served throughout almost the entire war under two enlistments. In his first enlistment he rose from the ranks through successive promotions to noncommissioned offices up to sergeant major, and served on the noncommissioned staff. He had been in Libby Prison, and it is probable that the effects of his imprisonment brought about the one fault of an otherwise good soldier—that of becoming intoxicated. He was a high-spirited man, and, having been reduced to the ranks for intoxication, all of his high spirit, which had made him an exemplary soldier, rebelled against the disgrace that had overtaken him, and in anger, suffering from humiliation and the taunts of his comrades, he deserted. But regardless of his long and valuable service to almost the close of the war he received nothing from his country in way of pension, and

the pending bill, if enacted, will simply give a small pension for a few years to his widow.

Mr. OVERMAN. When was he married?

Mr. WARREN. The information that comes to me—and I may say that the family lives in Springfield, Mass.—is that this is an aged woman; that she is obliged to earn her support by doing laundry work.

Mr. OVERMAN. They would not be the soldier's children?

Mr. WARREN. Why not? As a matter of fact, they are his children.

Mr. OVERMAN. They would be over the pensionable age.

Mr. WARREN. They may be over the pensionable age, but if they are unable to support themselves they would have to be supported by her.

Mr. OVERMAN. Would the children be entitled to a pension?

Mr. WARREN. Oh, no.

Mr. OVERMAN. I thought the Senator said "a widow and children."

Mr. WARREN. It is merely to enable her to receive a widow's pension. I did not intend to convey the idea that additional pension would be granted the children.

Mr. OVERMAN. But the Senator spoke of the "widow and children."

Mr. WARREN. I spoke more particularly of her destitution. She is in destitute circumstances. I have nothing further to say about the case.

Mr. OVERMAN. I shall make no objection to the consideration of the bill, but I shall not vote for its passage.

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

BILLS PASSED OVER.

The bill (S. 4778) to correct the military record of John P. Haines was announced as next in order.

Mr. OVERMAN. That is a bill to correct a military record.

The VICE PRESIDENT. Does the Senator from North Carolina desire that bill to go over?

Mr. OVERMAN. Yes.

The VICE PRESIDENT. At the request of the Senator from North Carolina the bill will be passed over.

The bill (S. 1337) authorizing the President to nominate and, by and with the advice and consent of the Senate, appoint Lloyd L. R. Krebs, late a captain in the Medical Corps of the United States Army, a major in the Medical Corps on the retired list, and increasing the retired list by one for the purposes of this act, was announced as next in order.

Mr. NELSON. I should like to have that bill go over.

The VICE PRESIDENT. The bill will be passed over at the request of the Senator from Minnesota.

SALE OF BURNT TIMBER ON PUBLIC LANDS.

The bill (H. R. 9845) to authorize the sale of burnt timber on the public lands, and for other purposes, was considered as in Committee of the Whole.

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

CIVIL GOVERNMENT IN THE PHILIPPINES.

The bill (H. R. 17837) to amend an act approved July 1, 1902, entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," was considered as in the Committee of the Whole.

It proposes to amend section 4 of the act referred to so as to read as follows:

SEC. 4. That all inhabitants of the Philippine Islands continuing to reside therein who were Spanish subjects on the 11th day of April, 1899, and then resided in said islands, and their children born subsequent thereto, shall be deemed and held to be citizens of the Philippine Islands and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain signed at Paris December 10, 1898: *Provided*, That the Philippine Legislature is hereby authorized to provide by law for the acquisition of Philippine citizenship by those natives of the Philippine Islands who do not come within the foregoing provisions, the natives of other insular possessions of the United States, and such other persons residing in the Philippine Islands who could become citizens of the United States under the laws of the United States if residing therein.

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

HOMESTEAD ENTRIES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2194) to amend section 2288 of the Revised Statutes of the United States relating to homestead entries.

The bill had been reported from the Committee on Public Lands with an amendment to insert at the end of the bill the following proviso:

*Provided*, That if such settler shall fail to perfect title to such claim his transferee of any portion thereof shall not by virtue of such transfer be deemed to have acquired any right, title, or interest in the land or right of way across it as against the United States, unless he comply with the laws governing the acquisition of such rights of way upon the public lands.

The amendment was agreed to.

The VICE PRESIDENT. One other amendment has previously been agreed to.

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

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

POINT LOMA LIGHT STATION, CAL.

The bill (S. 5072) to establish a fog signal and additional quarters at Point Loma Light Station, San Diego, Cal., was considered as in Committee of the Whole. It proposes to appropriate $17,500 for establishing a fog signal and additional quarters at Point Loma Light Station, San Diego, Cal.

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

SANTA BARBARA LIGHT STATION, CAL.

The bill (S. 5074) to authorize the improvement of Santa Barbara Light Station, Cal., including a fog signal and a keeper's dwelling was considered as in Committee of the Whole. It proposes to improve the Santa Barbara Light Station, Cal., including a fog signal and a keeper's dwelling, at a cost not to exceed $23,000.

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

PUBLIC BUILDING AT NEWCASTLE, WYO.

The bill (S. 318) to provide for the acquisition of a site and the erection of a public building thereon at Newcastle, Wyo., was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds, with an amendment, on page 2, line 2, to strike out "seventy-five thousand" and insert "sixty-seven thousand five hundred," so as to make the bill read:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, a site, and cause to be erected thereon a suitable building, including fireproof vaults, heating and ventilating apparatus, elevators, and approaches, for the use and accommodation of the United States post office and other governmental offices in the city of Newcastle and State of Wyoming, the cost of said site and building, including said vaults, heating and ventilating apparatus, elevators, and approaches, not to exceed the sum of $67,500.

The amendment was agreed to.

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

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

PUBLIC BUILDING AT THERMOPOLIS, WYO.

The bill (S. 4493) to provide for the purchase of a site and the erection of a public building thereon at Thermopolis, in the State of Wyoming, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment, on page 2, line 2, to strike out "sixty" and insert "sixty-five," so as to make the bill read:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, a site, and cause to be erected thereon a suitable building, including fireproof vaults, heating and ventilating apparatus, elevators, and approaches, for the use and accommodation of the United States post office and other governmental offices, in the city of Thermopolis and State of Wyoming, the cost of said site and building, including said vaults, heating and ventilating apparatus, elevators, and approaches, not to exceed the sum of $65,000.

The amendment was agreed to.

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

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

SITE FOR PUBLIC BUILDING AT VERMILION, S. DAK.

The bill (S. 406) for the purchase of a site and the erection of a public building thereon at Vermilion, in the State of South Dakota, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment, on page 1, line 5,

after the words "a site," to strike out all down to the word "sites," in line 19, on page 2, and insert:

On which to erect a suitable building, including fireproof vaults, heating and ventilating apparatus, and approaches, complete, for the use and accommodation of the United States post office and other Government offices in Vermilion, S. Dak., at a cost not to exceed the sum of $7,500.

So as to read:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, a site on which to erect a suitable building, including fireproof vaults, heating and ventilating apparatus, and approaches, complete, for the use and accommodation of the United States post office and other Government offices in Vermilion, S. Dak., at a cost not to exceed the sum of $7,500.

The amendment was agreed to.

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

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

The title was amended so as to read: "A bill to provide for the acquisition of a site on which to erect a public building at Vermilion, S. Dak."

PUBLIC BUILDING AT MADISON, S. DAK.

The bill (S. 407) to provide for the erection of a public building in the city of Madison, S. Dak., was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment, on page 1, line 11, before the word "thousand," to strike out the words "one hundred" and insert "sixty-five," so as to read:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause to be erected upon the site already selected and purchased by him in the city of Madison, S. Dak., a suitable building, including fireproof vaults, heating and ventilating apparatus, and approaches, for the use and accommodation of the United States post office and other Government offices at the said city of Madison, S. Dak., which said building shall cost, complete, not to exceed the sum of $65,000.

The amendment was agreed to.

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

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

SITE FOR PUBLIC BUILDING AT GILMER, TEX.

The bill (S. 954) for the acquisition of a site on which to erect a public building at Gilmer, Tex., was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment, on page 1, line 9, before the word "thousand," to strike out "ten" and insert "six," so as to read:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, a site on which to erect a suitable building, including fireproof vaults, heating and ventilating apparatus, and approaches, complete, for the use and accommodation of the United States post office in Gilmer, Tex., at a cost not to exceed the sum of $6,000.

The amendment was agreed to.

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

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

PUBLIC BUILDING AT DENTON, TEX.

The bill (S. 3831) to provide for the purchase of a site and the erection of a public building thereon at Denton, Tex., was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment, on page 1, line 8, after the word "cost," to strike out "and site" and to insert "of site and," so as to make the bill read:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, a site and cause to be erected thereon a suitable building for the use and accommodation of the post office and other offices of the Government at Denton, in the county of Denton, Tex., the cost of site and of said building not to exceed $75,000.

The amendment was agreed to.

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

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

PUBLIC BUILDING AT NEW BRAUNFELS, TEX.

The bill (S. 4042) to provide for the erection of a public building at New Braunfels, Tex., was considered as in Committee of the Whole. It directs the Secretary of the Treasury to cause to be erected at New Braunfels, Tex., on the site now owned by the United States, a suitable building for the use and accommodation of the United States post office in that city, the cost of the building, exclusive of site, not to exceed $60,000, which sum the bill appropriates for that purpose.

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

PUBLIC BUILDING AT ASTORIA, OREG.

The bill (S. 1175) to authorize the purchase of a site and erection of a public building at Astoria, Oreg., was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment, on page 1, line 10, before the word "thousand" to strike out "fifty" and insert "eighty-five," so as to make the bill read:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, a site, and cause to be erected thereon a suitable building, including fireproof vaults, heating and ventilating apparatus, and approaches, for the use and accommodation of the United States post office and other Federal offices at Astoria, in the State of Oregon, the cost of same not to exceed $185,000.

The amendment was agreed to.

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

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

PUBLIC BUILDING AT OREGON CITY, OREG.

The bill (S. 1712) to provide for the purchase of a site and for the erection of a public building thereon at Oregon City, Oreg., was considered as in Committee of the Whole. It directs the Secretary of the Treasury to acquire, by purchase, condemnation, or otherwise, a site, and cause to be erected thereon a suitable building for the use and accommodation of the United States post office and other Federal offices at Oregon City, Oreg., the cost not to exceed $75,000.

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

SUBPORTS OF ENTRY IN NORTH DAKOTA.

The bill (S. 4572) to designate Walhalla, Neche, and St. John, in the State of North Dakota, subports of entry, and to extend the privileges of the first section of the act of Congress approved June 10, 1880, to said subports, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Commerce with an amendment to insert as a new section the following:

SEC. 3. That the Secretary of the Treasury is hereby authorized to discontinue the said subports of entry or to withdraw the privileges of the first section of the act of June 10, 1880, therefrom, at any time when he shall be satisfied that the interests of commerce or of the revenue no longer require their continuance.

The amendment was agreed to.

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

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

NORTHERN CHEYENNE INDIANS.

The bill (S. 4004) to authorize the use of the funds of certain northern Cheyenne Indians was considered as in Committee of the Whole.

The bill had been reported from the Committee on Indian Affairs with amendments, on page 1, line 9, after the word "and," to strike out "to pay the same out to the members entitled thereto;" and on page 2, line 2, before the word "stock," to strike out "horses," so as to make the bill read:

*Be it enacted, etc.*, That the Secretary of the Interior is hereby authorized, in his discretion, to withdraw from the Treasury the entire share of the Northern Cheyenne Indians in the permanent fund created under section 17 of the act of Congress, approved March 2, 1889 (U. S. Stats. L., vol. 25, p. 888), and to expend it for the benefit of said Northern Cheyenne Indians in the purchase of stock cattle, or such articles as in his judgment will best advance said Indians in civilization and self-support.

The amendments were agreed to.

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

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

YUMA INDIAN RESERVATION, CAL.

The bill (S. 4488) authorizing the setting aside of a tract of land for a school site and school farm on the Yuma Indian Reservation, in the State of California, was considered as in Committee of the Whole.

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

FRANCIS M. MALONE.

The bill (S. 4999) for the relief of Francis M. Malone, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Military Affairs with an amendment, on page 1, line 7, after the word "pay," to insert "increase of pay," so as to make the bill read:

*Be it enacted, etc.*, That Francis M. Malone shall hereafter be held and considered to have been mustered into the military service of the United States as colonel of the Seventh Regiment Kansas Volunteer Cavalry on September 1, 1865, to have held that grade in the organization mentioned until September 29, 1865, and to have been honorably discharged from service as such on the last-named date: *Provided*, That no bounty, pay, increase of pay, or other allowance shall become due and payable by reason of the passage of this act.

Mr. OVERMAN. I shall not object to the consideration of the bill, although it makes the beneficiary a colonel, inasmuch as there are incorporated in the bill the words "That no bounty, pay, increase of pay, or other allowance shall become due and payable by reason of the passage of this act."

Mr. GALLINGER. This officer had a very distinguished service.

Mr. OVERMAN. I do not object to the consideration of the bill.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Committee on Military Affairs.

The amendment was agreed to.

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

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

PUBLIC BUILDING AT MOUNDSVILLE, W. VA.

The bill (S. 4222) to increase the limit of cost of the public building at Moundsville, W. Va., was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment, in line 6, before the word "thousand," to strike out "one hundred and fourteen" and insert "ninety," so as to make the bill read:

*Be it enacted, etc.*, That the limit of the cost of the public building at Moundsville, W. Va., be, and is hereby, increased from $65,000, as heretofore fixed by Congress, to $90,000.

The amendment was agreed to.

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

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

POST-OFFICE BUILDING AT PLAINFIELD, N. J.

The bill (S. 2698) increasing the cost of erecting a post-office building at Plainfield, N. J., was considered as in Committee of the Whole. It proposes to increase the limit of cost heretofore fixed from $100,000 to $150,000.

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

GEORGE OWENS, JOHN J. BRADLEY, AND OTHERS.

The bill (S. 2014) for the relief of George Owens, John J. Bradley, William M. Godfrey, Rudolph G. Ebert, Herschel Tupes, William H. Sage, Charles L. Tostevin, Alta B. Spaulding, and Grace E. Lewis was read.

Mr. ROOT. I see, looking at the report on this bill, that it appears to have been disapproved of by the Department of the Interior and by the Department of Agriculture. It seems to me there ought to be some explanation of it.

Mr. SMOOT. It has been approved.

Mr. ROOT. I think it had better go over.

The VICE PRESIDENT. The bill will go over.

AFFAIRS OF THE FIVE CIVILIZED TRIBES.

The bill (S. 4753) to amend an act entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April 26, 1906 (34 Stat. L., p. 137), was considered as in Committee of the Whole. It authorizes the Secretary of the Interior to sell the land and timber, together or separately, reserved from allotment under the provisions of section 7 of the act referred to.

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

PUBLIC BUILDING AT EUREKA, UTAH.

The bill (S. 1752) to provide for the erection of a public building at Eureka, Utah, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment, in line 9, before the word "thousand," to strike out "thirty" and insert "sixty," so as to read:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, a site and cause to be erected thereon a suitable building for the use and accommodation of the post office and other offices of the Government at Eureka, Utah, the cost of said site and building not to exceed $60,000.

The amendment was agreed to.

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

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

PUBLIC BUILDING AT SOUTH BETHLEHEM, PA.

The bill (S. 4585) to provide for the erection of a public building on a site already acquired at South Bethlehem, Pa., was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment, on page 2, line 2, after the words "'sum of," to strike out "one hundred and fifty" and insert "eighty-five," so as to read:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to have erected a suitable building for the use and accommodation of the United States post office and other Government offices upon the site heretofore acquired by the United States Government at the corner of Fourth Street and Broadhead Avenue, in the borough of South Bethlehem, county of Northampton, and State of Pennsylvania, the cost of said building, including fireproof vaults, heating and ventilating system, office equipment, and approaches, complete, not to exceed the sum of $85,000.

The amendment was agreed to.

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

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

PUBLIC BUILDING AT SALT LAKE CITY, UTAH.

The bill (S. 4245) to increase the limit of cost of the additions to the public building at Salt Lake City, Utah, was considered as in Committee of the Whole. It proposes to increase the limit of cost from $205,000 to $225,000.

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

PUBLIC BUILDING AT ST. GEORGE, UTAH.

The bill (S. 3716) for the erection of a public building at St. George, Utah, was considered as in Committee of the Whole.

It directs the Secretary of the Treasury to cause to be erected, on a site to be donated to the Government, a suitable building for the use of the United States post office and other Government offices in the city of St. George, Utah, the cost of the building, complete, not to exceed $50,000.

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

PUBLIC BUILDING, FRANKLIN, PA.

The bill (S. 4619) to provide for the purchase of a site and the erection of a public building thereon in the city of Franklin, State of Pennsylvania, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with amendments, on page 2, line 2, before the word "thousand," to strike out "fifty" and insert "twenty-five"; in line 3, before the word "thousand," to strike out "twenty-five" and insert "fifteen"; in line 6, before the word "thousand," to strike out "twenty-five" and insert "ten"; and to strike out all of lines 8 to 17, inclusive, so as to make the bill read:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase or otherwise provide a site and cause to be constructed thereon a substantial and commodious building, with fireproof vaults and suitable fixtures, for the use and accommodation of the United States post office and other Government offices in the city of Franklin, State of Pennsylvania.

The site and building thereon, when completed upon plans and specifications to be previously made and approved by the Secretary of the Treasury, shall not exceed in cost the sum of $125,000, as follows: The sum of $15,000, or as much thereof as is needed, for the purchase of a site for the building, and the balance, $110,000, or as much thereof as is necessary, for the erection of the building.

The amendments were agreed to.

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

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

CATHERINE GRIMM.

The bill (S. 4520) for the relief of Catherine Grimm was considered as in Committee of the Whole. It proposes to pay to Catherine Grimm, of Cleveland, Ohio, mother of Otto B. Grimm, late first lieutenant, Signal Corps, United States Army,

$1,200, in full compensation of all claims or demands of the estate of the late Otto B. Grimm.

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

SITE FOR PUBLIC BUILDING AT CANTON, S. DAK.

The bill (S. 408) to provide for the purchase of a site and the erection of a public building thereon at Canton, in the State of South Dakota, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment, on page 1, line 5, after the words "a site," to strike out down to the word "sites" in line 18, page 2, and to insert in lieu thereof the following:

On which to erect a suitable building, including fireproof vaults, heating and ventilating apparatus, and approaches, complete, for the use and accommodation of the United States post office and other Government offices in Canton, S. Dak., at a cost not to exceed the sum of $7,500.

The amendment was agreed to.

Mr. SUTHERLAND. Lines 1, 2, and 3, on page 3, should be stricken out.

The VICE PRESIDENT. The Senator from Utah offers an amendment which will be stated.

The SECRETARY. It is proposed to strike out the paragraph, on page 3, reading as follows:

The building shall be unexposed to danger from fire by an open space of at least 40 feet on each side, including streets and alleys.

The amendment was agreed to.

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

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

The title was amended so as to read: "A bill to provide for the acquisition of a site on which to erect a public building at Canton, S. Dak."

SITE FOR PUBLIC BUILDING AT MILBANK, S. DAK.

The bill (S. 410) to provide for the acquisition of a site on which to erect a public building at Milbank, S. Dak., was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with amendments, on page 1, line 8, after the word "office," to insert "and other Government offices," and in line 10, before the word "dollars," to strike out "ten thousand" and insert "seven thousand five hundred," so as to read:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, a site on which to erect a suitable building, including fireproof vaults, heating and ventilating apparatus, and approaches, complete, for the use and accommodation of the United States post office and other Government offices in Milbank, S. Dak., at a cost not to exceed the sum of $7,500.

The amendments were agreed to.

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

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

PUBLIC BUILDING AT BELLEFOURCHE, S. DAK.

The bill (S. 876) to provide for the purchase of a site and the erection of a public building thereon at Bellefourche, in the State of South Dakota, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with amendments on page 1, line 5, after the word "site," to strike out all down to and including the word "sites" in line 18, on page 2, and in lieu thereof to insert:

On which to erect a suitable building, including fireproof vaults, heating and ventilating apparatus, and approaches, complete, for the use and accommodation of the United States post office and other Government offices in Bellefouche, S. Dak., at a cost not to exceed the sum of $7,500.

The amendment was agreed to.

Mr. SUTHERLAND. I move to strike out the three lines on page 3.

The VICE PRESIDENT. The Senator from Utah proposes an amendment, which will be stated.

The SECRETARY. It is proposed to strike out lines 1, 2, and 3 on page 3, as follows:

The building shall be unexposed to danger from fire by an open space of at least 40 feet on each side, including streets and alleys.

The amendment was agreed to.

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

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

The title was amended so as to read: "A bill to provide for the acquisition of a site on which to erect a public building at Bellefourche, S. Dak."

GEORGE IVERS, ADMINISTRATOR.

The bill (S. 100) to carry into effect the findings of the military board of officers in the case of George Ivers, administrator, was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims with amendments, on page 1, line 9, after the words "compensation for," to strike out "rent, use, and occupation" and insert "destruction"; in line 10, before the word "appropriated," to strike out "and"; in the same line, after the word "appropriated" to insert "and destroyed"; and in line 12, after the words "Civil War," to strike out the comma and the remainder of the bill and insert a period, so as to make the bill read:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury of the United States not otherwise appropriated, to George Ivers, of Boone, Pueblo County, Colo., administrator of William Ivers, deceased, late of Santa Fe, N. Mex., or his legal representative, the sum of $1,500, in full compensation for destruction of property leased, appropriated, and destroyed by the United States authorities during the Civil War.

The amendments were agreed to.

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

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

RITTENHOUSE MOORE.

The bill (S. 2414) for the relief of Rittenhouse Moore was considered as in Committee of the Whole. It proposes to pay to Rittenhouse Moore $3,650.05, being the amount stated and claimed by him, as set forth in House Document No. 100, Fifty-eighth Congress, second session, for overwidth dredging in the Potomac River below Washington, D. C., and recommended by the Secretary of War, as therein shown.

Mr. SMOOT. I notice in the report Charles J. Allen, lieutenant colonel, Corps of Engineers, makes this statement:

I also think that in case the allowance should be made Mr. Moore on account of this claim of his, he should be required, before being paid, to accept the same as in full for any and all claims against the United States on account of both overwidth and overdepth dredging done by him under the said contract of November 1, 1899, and the said two supplemental contracts thereto.

I remember something of the claim. I am not going to object to the passage of the bill, but I wanted to have the following proviso put in:

*Provided*, That this sum shall be deemed to be and shall be accepted as full and final settlement for any and all claims against the United States on account of both overwidth and overdepth dredging done by the said Rittenhouse Moore under the said contract of November 1, 1899, and the said two supplemental contracts thereto, as stated in the said House document.

Mr. GALLINGER. If the Senator inserts that proviso, I suggest to him that the word "overwidth" ought to be taken out in line 9, before "dredging," and then the proviso provides for both overwidth and overdepth dredging. The Senator will perceive in the body of the bill it is for overwidth dredging. Let that word go out.

Mr. SMOOT. In the claim it is for overwidth and for overdepth.

Mr. GALLINGER. But the Senator will observe that the proviso covers both.

Mr. SMOOT. That is true.

Mr. GALLINGER. I move to strike out the word "overwidth" in line 9.

Mr. SMOOT. Very well; let that amendment be agreed to.

The SECRETARY. On page 1, line 9, before the word "dredging," strike out "overwidth."

The amendment was agreed to.

Mr. GALLINGER. In looking at the bill, I suggest that in line 7 the word "being" should be stricken out and the words in his own statement inserted, "in full settlement for."

Mr. SMOOT. That is true.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 1, line 7, strike out the word "being" and in lieu insert "in full settlement for."

The amendment was agreed to.

The VICE PRESIDENT. Without objection, the amendment offered by the Senator from Utah is agreed to. If there be no further amendments the bill will be reported to the Senate.

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

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

PUBLIC BUILDINGS AT SUNDANCE, WYO.

The bill (S. 317) to provide for the purchase of a site and the erection of a public building thereon at Sundance, in the

State of Wyoming, was considered as in Committee of the Whole. It directs the Secretary of the Treasury to acquire, by purchase, condemnation, or otherwise, a site, and cause to be erected thereon a suitable building, including fireproof vaults, heating and ventilating apparatus, elevators, and approaches, for the use and accommodation of the United States post office and other governmental offices in the city of Sundance and State of Wyoming, the cost of said site and building, including vaults, heating and ventilating apparatus, elevators, and approaches, not to exceed $75,000.

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

UMATILLA INDIAN LANDS IN OREGON.

The bill (S. 3225) providing when patents shall issue to the purchaser or heirs of certain lands in the State of Oregon was considered as in Committee of the Whole. It provides that all persons who have heretofore purchased any of the lands of the Umatilla Indian Reservation, in the State of Oregon, and have made or shall make full and final payment therefor in conformity with the acts of Congress of March 3, 1885, and of July 1, 1902, respecting the sale of such lands, shall be entitled to receive patent therefor upon submitting satisfactory proof to the Secretary of the Interior that the untimbered lands so purchased are not susceptible of cultivation or residence, and are exclusively grazing lands, incapable of any profitable use other than for grazing purposes.

Section 2 provides that where a party entitled to claim the benefits of this act dies before securing a patent therefor it shall be competent for the executor or administrator of the estate of such party, or one of the heirs, to make the necessary proofs and payments therefor to complete the same; and the patent in such cases shall be made in favor of the heirs of the deceased purchaser and the title to said lands shall inure to such heirs, as if their names had been especially mentioned.

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

GEORGE OWENS, JOHN J. BRADLEY, AND OTHERS.

Mr. CHAMBERLAIN. I should like very much to have the Senate return to Senate bill 2014, which was passed over in my absence.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 2014) for the relief of George Owens, John J. Bradley, William M. Godfrey, Rudolph G. Ebert, Herschel Tupes, William H. Sage, Charles L. Tostevin, Alta B. Spaulding, and Grace E. Lewis, which had been reported from the Committee on Public Lands with amendments.

The VICE PRESIDENT. The bill has been read in full within a few moments.

Mr. ROOT. I wanted an explanation of it; that is all.

The VICE PRESIDENT. The amendments will be stated.

The SECRETARY. In section 1, page 3, after line 6, insert:

Parcel No. 10. The south half southwest quarter of section 17, and the north half northwest quarter of section 20, township 25 north, range 11 west.

Mr. CHAMBERLAIN. Mr. President, I understood that the Senator from New York [Mr. ROOT] objected to the bill because there was an adverse report from the Secretary of the Interior, or the Assistant Secretary of the Interior, in reference to the measure.

Mr. ROOT. I did not object to the bill. I felt unwilling to let the bill pass in view of what I saw in the report as coming from the department without some reason being given for overruling the department, and there was no one to explain the bill.

Mr. CHAMBERLAIN. In reference to this particular measure I desire to say that the parties who are named in the bill were, most of them, residents of Oregon. I believe one of them was an officer in the United States Army, Capt. Bradley, stationed at Vancouver Barracks, in the State of Washington. All these parties, at a very large expenditure, took up some lands under the timber and stone act in the State of California. They went down there in compliance with the law and went upon the lands and took them up and completed the payments, and finally a certificate was issued.

Now, it seems that after—possibly before—these entries were made the lands were withdrawn from entry, but instead of sending the notice of withdrawal to the land office in the district where the land was situated, it was sent to another district; and these people, after the withdrawal had been made and after they located the land and paid out this money, still had no notice of it. The Government knew they had filed on it and issued final receipts in accordance with the location. After the final receipts were issued, after they had completed the purchase, they found the notice of withdrawal had been sent to a land office in another district. The locators never had any notice of the withdrawal of the lands for forest-reserve purposes or any other purposes.

The Secretary of the Interior, in making his report on this claim, concedes the justice and equity as to several of the parties, notwithstanding he approved the recommendation of the Secretary of Agriculture that the claims be not approved. The letters here are quite extensive. They show the exact condition of this land and the expenses to which all the parties went. The Public Lands Committee of the Senate were unanimously in favor of reporting the bill favorably, notwithstanding the adverse decision. It is a case which appeals very strongly to the equitable side of any court, because the people not only located on the land, but they paid the money, and the entries had been approved by the Commissioner of the General Land Office, and final receipts were issued.

Mr. BRISTOW. Let me inquire if the amount which is to be paid to each individual is the amount which he paid into the Treasury?

Mr. CHAMBERLAIN. It is not for a payment at all. No method is provided for repayment, as it is simply to allow the location of these people to stand; that is all.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The next amendment was, on page 4, after line 8, to insert:

To Dolly Neely a patent for the parcel designated in the foregoing section as No. 10.

The amendment was agreed to.

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

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

The title was amended so as to read: "A bill for the relief of George Owens, John J. Bradley, William M. Godfrey, Rudolph G. Ebert, Herschel Tupes, William H. Sage, Charles L. Tostevin, Alta B. Spaulding, Grace E. Lewis, and Dolly Neely."

MARY G. BROWN AND OTHERS.

The bill (S. 4734) for the relief of Mary G. Brown and others was considered as in Committee of the Whole.

The bill was reported from the Committee on Indian Affairs with an amendment, in line 4, after the word "appropriated," to strike out:

The following sums to the following persons: To Mary G. Brown, $157; to Thomas Brown, $157; to Lily Brown, $157; to Levina Cordier, $157; to Josephine Cordier, $157.

And to insert:

The sum of $157.40 each, for payment to the following-named persons, said sums being the pro rata shares due said persons in the payment made to the Sisseton and Wahpeton Bands of Sioux Indians, under the provisions of the act of Congress approved June 21, 1906 (34 Stat. L., p. 372), namely: Mary G. Brown, Thomas Brown, Lily Brown, Levina Cordier, Josephine Cordier.

So as to make the bill read:

*Be it enacted, etc.*, That there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of $157.40 each, for payment to the following-named persons, said sums being the pro rata shares due said persons in the payment made to the Sisseton and Wahpeton Bands of Sioux Indians, under the provisions of the act of Congress approved June 21, 1906 (34 Stat. L., p. 372), namely: Mary G. Brown, Thomas Brown, Lily Brown, Levina Cordier, Josephine Cordier. And the Secretary of the Treasury is authorized to pay said sums to said persons, taking their receipts therefor.

The amendment was agreed to.

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

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

SHAWNEE INDIAN CLAIMS.

The bill (S. 459) to adjust and settle the claims of the loyal Shawnee and loyal Absentee Shawnee Tribe of Indians was announced as next in order.

Mr. OVERMAN. Let that bill go over. I should like to examine it.

The VICE PRESIDENT. The bill will go over.

PUGET SOUND COLLECTION DISTRICT, WASHINGTON.

The bill (S. 5255) increasing the compensation of the collector of customs, district of Puget Sound, State of Washington, was considered as in Committee of the Whole.

The bill was reported from the Committee on Commerce with an amendment, in line 5, before the word "thousand," to strike out "seven" and insert "six"; and in line 6, after the word "annum," to insert "which shall be full compensation for all

services rendered and in lieu of all fees and allowances," so as to make the bill read:

*Be it enacted, etc.*, That from and after the passage of this act the compensation of the collector of customs for the district of Puget Sound, State of Washington, shall be $6,000 per annum, which shall be full compensation for all services rendered and in lieu of all fees and allowances.

SEC. 2. That all acts and parts of acts in conflict herewith are hereby repealed.

The amendments were agreed to.

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

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

AGRICULTURE AND MECHANIC ARTS.

The bill (S. 3) to cooperate with the States in encouraging instruction in agriculture, the trades and industries, and home economics in secondary schools; in maintaining instruction in these vocational subjects in State normal schools; in maintaining extension departments in State colleges of agriculture and mechanic arts; and to appropriate money and regulate its expenditure was announced as next in order.

Mr. SMOOT. Let the bill go over.

The VICE PRESIDENT. The bill will go over.

Mr. PAGE. Do I understand that the Senator will object to the reading of the bill? It has not been read.

Mr. SMOOT. It is a long bill and I am positive it can not be passed to-day. There are a number of bills that I should like to get off the calendar to-day, and it is for that reason I have objected.

Mr. PAGE. I had no expectation of the bill being considered to-night, but I did think the Senator would consent to the formal reading. It has not been read as yet.

Mr. SMOOT. It is a long bill; it is now after 4 o'clock, and I should like to get along as far as possible with the calendar.

The VICE PRESIDENT. The next bill will be announced.

Mr. WILLIAMS. What was done with Order of Business No. 348?

The VICE PRESIDENT. The bill went over.

Mr. SMOOT. It just went over.

Mr. WILLIAMS. Why did it go over?

Mr. SMOOT. There was objection to taking it up for consideration under the five minute rule.

Mr. SMITH of Georgia. It is a very lengthy bill.

Mr. WILLIAMS. It is a bill of some importance to the country, and most of the other bills are just to give some place a public building. It seems to me the bill might be considered.

MARY J. WEBSTER.

The bill (S. 4839) for the relief of Mary J. Webster was announced as next in order.

Mr. BRISTOW. Let the bill go over.

The VICE PRESIDENT. The bill will go over.

PUBLIC BUILDING AT WENATCHEE, WASH.

The bill (S. 4470) to provide for the erection of a public building at Wenatchee, Wash., was considered as in Committee of the Whole. It directs the Secretary of the Treasury to cause to be erected at Wenatchee, Wash., on the site owned and possessed by the United States, a suitable building for the use and accommodation of the United States post office and other Government offices in the said city, the cost of the said building, including necessary and suitable heating and ventilating apparatus, vaults, and approaches, not to exceed $85,000, which sum is hereby appropriated for that purpose. Plans, specifications, drawings, and detailed estimates for the building shall be made and approved according to law.

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

PUBLIC BUILDING AT WALLA WALLA, WASH.

The bill (S. 2347) increasing the cost of erecting a post-office and courthouse building at Walla Walla, Wash., was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Buildings and Grounds with an amendment, on page 1, line 7, before the word "thousand," to strike out "fifty" and insert "five," so as to make the bill read:

*Be it enacted, etc.*, That the limit of cost heretofore fixed for the erection of a post-office and courthouse building at Walla Walla, Wash., be, and the same is hereby, increased from $140,000 to $305,000.

The amendment was agreed to.

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

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

PENSIONS AND INCREASE OF PENSIONS.

The bill (S. 5493) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors was announced as next in order on the Calendar.

The VICE PRESIDENT. The bill will go over.

JOEL J. PARKER.

The bill (S. 836) for the relief of Joel J. Parker was announced as next in order.

Mr. CHAMBERLAIN. This bill was introduced by me, but I desire to have it go over for the present.

The VICE PRESIDENT. The bill will go over.

CHOCTAW AND CREEK TREATY LANDS.

The bill (S. 3306) to authorize the Secretary of the Interior to investigate the status of the Indian reserves set aside under the Choctaw treaty of 1830 and the Creek and Chickasaw treaties of 1832, for which no patents have been issued and the ownership of which is in question, and appropriating money therefor, was announced as next in order.

Mr. CURTIS. That bill was introduced by the Senator from Alabama [Mr. JOHNSTON] and should pass, but since its report a bill covering the same question has passed the House, and the Committee on Indian Affairs has authorized a favorable report. I believe if the Senator from Alabama were here he would ask to have this bill go over until the House bill is reported. I think it had better go over.

The VICE PRESIDENT. The bill will go over.

THE LAWRENCE (MASS.) STRIKE.

The next business on the calendar was Senate resolution 231, for the investigation and report by the Secretary of Commerce and Labor regarding certain labor conditions in Lawrence, Mass., submitted by Mr. POINDEXTER February 26, 1912.

Mr. GALLINGER. Mr. President, I do not propose to make any factious opposition to this resolution, but I want to say to the Senator from Washington that the Senator from Massachusetts [Mr. LODGE] desires to make some observations about it, and if it is to be seriously considered I have some matter that I desire to put into the RECORD. I will read at this time a letter received from the Secretary of the Department of Commerce and Labor in response to an inquiry I made of him:

DEPARTMENT OF COMMERCE AND LABOR,
*Washington, March 6, 1912.*

Hon. J. H. GALLINGER,
*United States Senate, Washington, D. C.*

MY DEAR SIR: In response to your telegram of to-day inquiring if the Bureau of Labor is now investigating the Lawrence strike; and if so, how thorough the investigation will be, I beg to say that the Commissioner of Labor, with several assistants, left Washington for Lawrence on February 28 for the purpose of making an investigation into the conditions surrounding the strike in that city. In a matter of this kind it is, of course, impossible to make in advance of the actual investigation an outline of the matters to be covered, but it is expected that the Commissioner of Labor will make his inquiry a thorough one. Definite information will doubtless be secured regarding the wages, hours of labor, and other conditions of employment of the operatives in the mills, as well as information as to their standard of living and the cost of the principal items of their cost of living.

Very truly, yours,

CHARLES NAGEL, *Secretary.*

Now, Mr. President——

Mr. POINDEXTER. Mr. President——

The VICE PRESIDENT. Does the Senator from New Hampshire yield?

Mr. GALLINGER. Just an additional word, Mr. President. In view of this letter from the Secretary of the Department of Commerce and Labor, which informs the Senate that an investigation is now going on, and in view of the further fact that the strike is practically ended in Lawrence and the operatives are returning to their work with increased wages, it seems to me we ought not to agitate the matter further. That is my impression.

Mr. POINDEXTER. It is not my desire, Mr. President, to agitate the matter further at all. The fact disclosed by the letter which has been read by the Senator from New Hampshire seems to me simply to add an additional reason why the resolution should be adopted. If this investigation has been made, whatever expense is attached to it has already been incurred; and what objection there could be to reporting the result of it to the Senate is beyond conception. The effect of the resolution would be, substantially, if the investigation has already been made, simply to call upon the Secretary of Commerce and Labor to transmit the results of that investigation here.

The matter has been discussed several times. There are a great many things that might be said about the conditions which justified the Senate in having this information, but it seems to me unnecessary to say them. Some amendments have been offered, and if they are presented, I have no objection to

either one of the pending amendments. I think the amendments and the resolution could be passed without affecting anyone's rights or calling for anybody's presence, or discussion.

Mr. GALLINGER. In view of the fact that the senior Senator from Massachusetts is interested in this matter, I ask that the resolution may go over until he is present.

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). The resolution will go over.

ISOLATED TRACTS OF PUBLIC LAND.

The bill (H. R. 19342) to amend section 2455 of the Revised Statutes of the United States, relating to isolated tracts of public land was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Lands with an amendment, on page 2, line 8, after the word "owns" to insert "lands," so as to make the bill read:

*Be it enacted, etc.*, That section 2455 of the Revised Statutes of the United States be amended to read as follows:

"SEC. 2455. It shall be lawful for the Commissioner of the General Land Office to order into market and sell at public auction, at the land office of the district in which the land is situated, for not less than $1.25 an acre, any isolated or disconnected tract or parcel of the public domain not exceeding one quarter section which, in his judgment it would be proper to expose for sale after at least 30 days' notice by the land officers of the district in which such land may be situated: *Provided*, That any legal subdivisions of the public land, not exceeding one quarter section, the greater part of which is mountainous or too rough for cultivation, may, in the discretion of said commissioner, be ordered into the market and sold pursuant to this act upon the application of any person who owns lands or holds a valid entry of lands adjoining such tract, regardless of the fact that such tract may not be isolated or disconnected within the meaning of this act: *Provided further*, That this act shall not defeat any vested right which has already attached under any pending entry or location."

The amendment was agreed to.

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

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

The bill was read the third time, and passed.

AMENDMENT OF PRINTING LAWS.

The bill (S. 4239) to amend, revise, and codify the laws relating to the public printing and binding and the distribution of Government publications, was announced as next in order.

Mr. SMOOT. For the same reason that I asked that Senate bill 3 be passed over I ask that this bill may also go over.

The PRESIDING OFFICER. The bill will go over.

WHITE RIVER BRIDGE, ARK.

The bill (H. R. 16680) to authorize the board of county commissioners of Baxter County and the board of county commissioners of Marion County, in the State of Arkansas, acting together for the two counties as bridge commissioners, to construct a bridge across the White River at or near the town of Cotter, Ark., was considered as in Committee of the Whole.

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

MISSISSIPPI RIVER BRIDGE AT GRAND RAPIDS, MINN.

The bill (H. R. 18155) authorizing the town of Grand Rapids to construct a bridge across the Mississippi River in Itasca County, State of Minnesota, was considered as in Committee of the Whole.

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

CHOCTAW AND CREEK TREATY LANDS.

Mr. JOHNSTON of Alabama. Mr. President, I was out of the Senate attending a meeting of a committee when Order of Business 356, being Senate bill 3306, was passed over. That bill has been reported unanimously from the Committee on Indian Affairs.

The PRESIDING OFFICER. The Chair has that bill marked as having been passed over.

Mr. JOHNSTON of Alabama. I suppose it was passed over because I was absent.

Mr. SMOOT. I will state that the Senator from Kansas [Mr. CURTIS] made a statement to the Senate that a similar bill had already been passed by the other House, which was expected over here in a day or two, and that if the Senator from Alabama [Mr. JOHNSTON] were present, no doubt he would ask that the bill go over.

Mr. JOHNSTON of Alabama. The House bill is here. It is practically the same bill, and I want to ask that that bill be substituted for the Senate bill and be now considered and passed.

Mr. SMOOT. That is all right.

The PRESIDING OFFICER. The Senator from Alabama asks unanimous consent for the present consideration of Senate bill 3306, the title of which will be stated.

The SECRETARY. A bill (S. 3306) to authorize the Secretary of the Interior to investigate the status of the Indian reserves set aside under the Choctaw treaty of 1830 and the Creek and Chickasaw treaties of 1832, for which no patents have been issued and the ownership of which is in question, and appropriating money therefor.

The PRESIDING OFFICER. As the Chair understands, the Senator from Alabama offers an amendment to that bill in the nature of a substitute.

Mr. JOHNSTON of Alabama. I have moved that House bill 16661, which is in language almost the same and in effect exactly the same as Senate bill 3306, be substituted for that bill.

The PRESIDING OFFICER. The Senator from Alabama asks unanimous consent that the House bill as passed by the House be substituted for the Senate bill named by him.

Mr. GALLINGER. And that it now be considered.

Mr. JOHNSTON of Alabama. Yes; and that it now be considered.

The PRESIDING OFFICER. The Secretary will state the House bill by title.

The SECRETARY. A bill (H. R. 16661) to relinquish, release, remise, and quitclaim all right, title, and interest of the United States of America in and to all the lands held under claim or color of title by individuals or private ownership or municipal ownership situated in the State of Alabama which were reserved, retained, or set apart to or for the Creek Tribe or Nation of Indians under or by virtue of the treaty entered into between the United States of America and the Creek Tribe or Nation of Indians on March 24, 1832.

The PRESIDING OFFICER. The Secretary will read the bill.

The Secretary read the bill.

The PRESIDING OFFICER. The Chair is informed that this bill passed the other House on the 4th instant and was referred to the Senate Committee on Indian Affairs. If the Senator from Alabama should offer that as an amendment, it would still be a Senate bill and have to be returned to the other House.

Mr. JOHNSTON of Alabama. I move that the committee be discharged from further consideration of the bill.

The PRESIDING OFFICER. The Senator from Alabama moves that the Committee on Indian Affairs be discharged from further consideration of the bill just read.

Mr. CLARK of Wyoming. Mr. President, I desire the attention of the Senator from Alabama for a moment. I suppose he seeks to accomplish the same purpose by both bills; and I want to suggest the inqury to him whether the Senate bill does or does not cover a larger ground than the House bill? I notice the Senate bill refers to all the lands set apart and allotted to Indians under two treaties.

Mr. JOHNSTON of Alabama. Yes.

Mr. CLARK of Wyoming. One by the Choctaw treaty of September 27, 1830, and the other the Creek treaty which is mentioned in the House bill. The House bill seems to carry but one. Of course, if the Senator from Alabama is satisfied, all right.

Mr. JOHNSTON of Alabama. The House bill strikes out the lands that were conveyed to the Choctaw Nation and limits them to the Creeks.

Mr. SMOOT. Mr. President——

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

Mr. JOHNSTON of Alabama. I do.

Mr. SMOOT. The Senator from Kansas [Mr. CURTIS] is necessarily detained from the Chamber for a few moments, and has just sent word that he would like this bill to be considered when he is present. I trust the Senator from Alabama will consent to it going over until the Senator from Kansas arrives.

Mr. JOHNSTON of Alabama. Certainly; let the bill go over under the circumstances.

Mr. CURTIS subsequently said: Mr. President, when the bill (S. 3306) to authorize the Secretary of the Interior to investigate the status of the Indian reserves set aside under the Choctaw treaty of 1830 and the Creek and Chickasaw treaties of 1832, for which no patents have been issued and the ownership of which is in question, and appropriating money therefor, was reached on the calendar the Senator from Alabama [Mr. JOHNSTON] was absent, and I asked that the bill go over, believing that he would desire to have substituted and passed a bill which has passed the House on the same subject. With the permission of the Chair and the Senate, I will say that I am directed by the Committee on Indian Affairs, to which was referred the bill (H. R. 16661) to relinquish, release, remise, and quitclaim all right, title, and interest of the United States of America in and to all the lands held under claim or color of title by individuals or private ownership or municipal ownership situated in the State of Alabama which were reserved, retained, or set

apart to or for the Creek Tribe or Nation of Indians under or by virtue of the treaty entered into between the United States of America and the Creek Tribe or Nation of Indians on March 24, 1832, to report it with an amendment and to submit a report (No. 490) thereon.

The PRESIDING OFFICER. The committee having reported the bill, the Chair assumes that the Senator from Alabama will not press his motion to discharge the committee from the further consideration of the House bill.

Mr. JOHNSTON of Alabama. I withdraw that motion and ask unanimous consent that the bill be now considered.

The PRESIDING OFFICER. The Senator from Alabama asks unanimous consent for the present consideration of the House bill just reported.

Mr. JOHNSTON of Alabama. The bill, as I understand, has been reported with an amendment.

Mr. CURTIS. I suggest that the Secretary read only the substitute.

The PRESIDING OFFICER. The Secretary a few moments ago read the House bill.

Mr. CURTIS. The committee has reported a substitute for the House bill, which is the Senate bill.

Mr. GALLINGER and Mr. OVERMAN. That has been read.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Indian Affairs with an amendment to strike out all after the enacting clause and insert:

That the United States hereby relinquishes all of its right, title, and interest in and to the lands set apart or allotted to the Indians under the Choctaw treaty of September 27, 1830, and the Creek treaty of March 24, 1832, and the Secretary of the Interior is authorized to issue patents, without awaiting applications therefor, to those shown by the records of that department to be entitled thereto: *Provided*, That this act shall not be construed to affect any right of the original Indian owners of said land or their heirs.

The amendment was agreed to.

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

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

The bill was read the third time and passed.

Mr. JOHNSTON of Alabama. I move that the Senate bill on the calendar on the same subject, being Calendar No. 356, Senate bill 3306, be indefinitely postponed.

The motion was agreed to.

### PUBLIC BUILDING AT FRANKLIN, N. H.

Mr. GALLINGER. I ask unanimous consent for the present consideration of the bill (S. 4655) to provide for the purchase of a site and the erection of a public building thereon at Franklin, in the State of New Hampshire.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Hampshire?

Mr. BORAH. What is the necessity for skipping a part of these measures on the calendar, Mr. President?

Mr. GALLINGER. Of course the Senator from Idaho can object.

Mr. BORAH. I do not desire to object.

Mr. GALLINGER. One purpose I had in view was, thinking we had been here long enough to-day, to move to adjourn.

Mr. BORAH. For fear the Senator might move to adjourn after he gets his bill through, I think it would be better for us to run along a little further in order that we may get some other measures through.

Mr. GALLINGER. That is all right, if the Senator objects.

Mr. BORAH. I do not desire to object, if the Senator will not move to adjourn until we pass other bills on the calendar.

Mr. GALLINGER. I certainly will not if the Senator from Idaho desires that other bills shall be passed.

Mr. OVERMAN. Before I agree to such an arrangement, I should like to know how far down on the calendar is the bill of the Senator from New Hampshire?

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Hampshire to proceed to the consideration of the bill named by him?

Mr. BORAH. I do not object.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 4655) to provide for the purchase of a site and the erection of a public building thereon at Franklin, in the State of New Hampshire.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment, on page 2, line 3, after the words "sum of," to strike out "one hundred" and to insert "ninety," and in line 4, after the word "dollars," to strike out "which said sum of $100,000 is hereby appropriated for said purpose out of any money in the United States Treasury not otherwise appropriated," so as to read:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, a site and cause to be erected thereon a suitable building, including fireproof vaults, heating and ventilating apparatus, elevators, and approaches, for the use and accommodation of the United States post office and other Government offices, in the city of Franklin and State of New Hampshire, the cost of said site and building, including said vaults, heating and ventilating apparatus, elevators, and approaches, complete, not to exceed the sum of $90,000.

The amendment was agreed to.

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

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

### SENATOR FROM DELAWARE.

The resolution (S. Res. 230) authorizing and directing the Committee on Privileges and Elections to investigate certain charges against HENRY ALGERNON DU PONT, a Senator from the State of Delaware, was announced as next in order.

Mr. SMOOT. Let that go over, Mr. President.

The PRESIDING OFFICER. The resolution goes over.

### PROTECTION OF VALDEZ, ALASKA.

The bill (S. 5272) appropriating $75,000 for the protection of Valdez, Alaska, from glacial floods was considered as in Committee of the Whole.

The bill had been reported from the Committee on Commerce with an amendment, on page 1, line 3, after the words "sum of," to strike out "seventy-five" and to insert "fifty-five," so as to make the bill read:

*Be it enacted, etc.*, That the sum of $55,000, or so much thereof as may be necessary, be, and it is hereby, appropriated, out of any funds in the Treasury of the United States not otherwise appropriated, to be expended under the direction of the War Department for the protection of Valdez, Alaska, and adjacent territory from glacial floods.

The amendment was agreed to.

Mr. HITCHCOCK. Mr. President, I notice that this bill comes from the Committee on Commerce. It appears to have been originally for the purpose of protecting property belonging to the United States, but in the report from the Adjutant General the statement is made that it is not deemed necessary for the protection of property belonging to the Government of the United States. It seems to me we ought to have some kind of a statement as to the necessity for this work. We are appropriating, through the Committee on Military Affairs, a sum of $125,000 a year for the development of Alaskan roads; we are appropriating, through the Committee on Territories, I believe, annually something like $120,000 or $130,000 of the Alaskan revenues for the same purpose; and here is an appropriation apparently for the protection of the town of Valdez, not of Government property, but for the protection of town property. As I understand, those towns have their own revenues and their own means of looking after matters of this kind. This is not for navigation; it is purely for the protection of a town from a local danger. If we once set the precedent of beginning to use money in the Treasury for the protection of a town, I do not know where we are going to end.

Mr. BOURNE. Mr. President, for the information of the Senator from Nebraska I will state that this is a bill which, as I recollect, was prepared in the War Department and presented at their request before the Committee on Commerce. There is a printed report accompanying the bill. There is a specific statement in a letter from the Secretary of War to the effect that the appropriation is desired for the preservation of a number of public buildings at Valdez.

Mr. HITCHCOCK. I should like to read to the Senator the letter from The Adjutant General, in which he states:

"DEAR SIR: I have the honor to invite your attention to the inclosed report made by Maj. J. B. Cavanaugh, Corps of Engineers, United States Army, with reference to the protection of the town of Valdez from damage due to glacial flood waters, and also to the indorsements thereon by Lieut. Col. Richardson, president Board of Road Commissioners for Alaska, the Acting Chief of Engineers, and the Quartermaster General. While the necessity for this protective work appears to be clearly shown, the interests of the War Department involved do not warrant an application to Congress for the necessary funds. It has occurred to me that you might care to personally take up this matter with a view to securing an appropriation, in which event the department would be glad to render assistance in carrying out any project that might be undertaken."

There is an abstract of Maj. Cavanaugh's report, but not a full copy of it, on file in this office.

HENRY P. MCCAIN,
*Adjutant General.*

FEBRUARY 23, 1912.

That seems to me to indicate that, so far as the Government is concerned, there is no necessity for this work; that it is purely for the benefit of that town, which has its own revenues.

Mr. POINDEXTER. Mr. President, I should simply like to suggest to the Senator from Nebraska that the same condition with relation to the Federal Government does not obtain in

Alaska which obtains in any other Territory of the United States. Consequently the objection to aid by the Federal Government in a case of this kind that might apply to any State or to any Territory does not apply there.

The remarkable condition exists there that, although it is an American population of intelligent pioneers, they have never been allowed any degree whatever of self-government, and they have no opportunity to raise taxes to protect themselves against conditions of this kind. Alaska is an appanage of the United States, absolutely subject and tributary to the United States in every way, and the obligation, I think, rests upon the United States to assume the responsibilities which go with the government of a Territory.

The town of Valdez is situated immediately in front of a glacier. It is a comparatively old town, having been in existence for a long time, and the buildings, the institutions, and the settlement there have become permanent. The danger from this glacial stream can be avoided by the expenditure of a reasonable amount of money, and it seems to me the appropriation is a perfectly proper one.

Mr. NELSON. Mr. President——

The PRESIDING OFFICER. Des the Senator from Oregon yield to the Senator from Minnesota?

Mr. BOURNE. With pleasure.

Mr. NELSON. I call attention to page 2 of the report, where it is stated:

> On August 3, 1911, Maj. Richardson was directed by telegraph to report specifically and in detail what he would recommend for protection of the public interests. He replied August 5, giving the location and situation of the public buildings—Signal Corps buildings and terminals of telegraph line and road, district court and Federal jail buildings and post office—and setting forth the work done from time to time by the citizens for their protection against floods. He expressed the opinion that permanent protection could be given to public buildings and property at an expenditure not to exceed $50,000 or $60,000.

Valdez is situated at head of Valdez Bay, which is a tributary of Prince William Sound. It is at the foot of a great big glacier—Valdez Glacier. The Government has a military post there, and it is the terminus of the military road leading from there to Fairbanks on the Tanana River. It is, as I have said, right at the foot of a glacier, which is continually thawing. The town and the public buildings, the telegraph office, the post office, the signal station, and other buildings there are threatened and in danger. I might say that Valdez is also a terminal station of the telegraph-cable system of Alaska. The whole telegraph and cable service in that country is under the control of the Federal Government, and not in private hands. This case comes clearly under the claim of protecting property of the United States. The committee have reported that the amount be reduced from $75,000 to $55,000, as recommended by the Government officers.

Mr. GALLINGER. I wish to ask the Senator from Oregon, as well as the Senator from Minnesota, if it would not be well to put in the body of the bill the words "public buildings" or the words "public property of the United States." When I read this bill I inquired of myself, naturally, why we should be making an appropriation of this kind for a town in Alaska any more than we would make an appropriation for a town anywhere else where there happened to be a flood. Now, if after the words "to be expended under the direction of the War Department for the protection of," there should be inserted the words "public property at," I think it would improve the bill.

Mr. BOURNE. That is perfectly satisfactory.

Mr. GALLINGER. I move that amendment.

The PRESIDING OFFICER. The Secretary will state the amendment proposed by the Senator from New Hampshire.

The SECRETARY. In line 7, after the words "protection of," it is proposed to insert "public property at," so as to read:

> That the sum of $55,000, or so much thereof as may be necessary, be, and it is hereby, appropriated, out of any funds in the Treasury of the United States not otherwise appropriated, to be expended under the direction of the War Department for the protection of public property at Valdez, Alaska, and adjacent territory from glacial floods.

Mr. OVERMAN. Mr. President, I notice in reading the letter of The Adjutant General, as set forth in the report, beyond the point where the Senator from Minnesota read, that Maj. Richardson recommended that an engineer of the War Department be sent there to acquaint the department with the facts and ascertain whether the department would be warranted in sending a recommendation to Congress. So Maj. Cavanaugh went there, investigated the situation, and made a report to the War Department, and the War Department does not recommend this bill. I therefore think that we ought not at this late hour on Saturday evening take up this matter, for if the War Department has not reported in favor of this bill and is really not in favor of it, but against it, the bill ought to go over.

Mr. ROOT. Mr. President, before the bill goes over let me say a word. After what the Senator from Washington [Mr. POINDEXTER] has said. I dare say the Senator from Nebraska [Mr. HITCHCOCK] will realize that there is a great difference between our action regarding this town in Alaska and our action generally. Not only is there Government property at Valdez, not only are the telegraph and the cable lines there under the control of the Government, but we are the legislature for that Territory. The people there have not a self-government; we are their government. Alaska is the property of the United States, regarding which we are to make rules and regulations. We built the cable. Congress for a series of years made liberal appropriations to build the cable to this point; to build the land telegraph line; and to build the military road which comes down to Valdez; and this is nothing more than an additional appropriation, following the settled policy of the Government for the development of that unorganized Territory of the United States, which is without any Territorial government, and following the recognized and established policy for the development of that region, and insuring communication.

I think the position taken by the War Department was not justified. I think the interests of the War Department—that is, the interests that have long been under the charge of the War Department—called upon them to ask for this appropriation. The Assistant Secretary expressed his approval of the measure, only he wishes the Delegate for Alaska to make the application, rather than that the War Department should do so.

Mr. OVERMAN. But he declined to send the estimate. Maj. Richardson requested him to send an estimate to the appropriate committee for this purpose, but he declined to do so. I take it for granted, therefore, that the Secretary of War, from Maj. Cavanaugh's report, has ascertained that the public buildings at Valdez are not in danger, and that this appropriation is really needed to protect the town rather than to protect public property.

Mr. ROOT. What he says is this:

> While the necessity for this protective work appears to be clearly shown, the interests of the War Department involved do not warrant an application to Congress for the necessary funds.

Mr. OVERMAN. Yes; clearly showing that the appropriation is sought for the protection of the people of the town and not to protect the Government's interests.

Mr. ROOT. Then he goes on:

> It has occurred to me that you might care to personally take up this matter with a view to securing an appropriation, in which event the department would be glad to render assistance in carrying out any project that might be undertaken.

Mr. BROWN. In other words, the War Department is in favor of the appropriation.

Mr. ROOT. It is in favor of the appropriation, but it does not consider—and very likely it is correct—that the buildings at Valdez are so under its control that it is a part of the business of the War Department to send in an estimate for the purpose indicated. Probably it was not; but Congress has from time to time, as it has wanted to do things in Alaska, directed the War Department to do them, each piece of business by itself. It directed the War Department to build a cable, and under the Signal Corps the cable was constructed; it directed the War Department to build a land telegraph line, and it directed it to build the military road coming down to Valdez; but, nevertheless, the War Department is not charged by law with taking care of the buildings in the town of Valdez, and therefore——

Mr. BROWN. Such as the post office.

Mr. ROOT. The post office and other buildings—and therefore they do not consider that they ought to send in an estimate, but that they approve of the money being spent.

Mr. OVERMAN. But they declined to send an estimate.

Mr. ROOT. Yes.

Mr. OVERMAN. I object to the bill.

The PRESIDING OFFICER. Objection being made, the bill will be passed over.

Mr. POINDEXTER subsequently said: Mr. President, referring again to the bill (S. 5272) appropriating $75,000 for the protection of Valdez, Alaska, from glacial floods, I move that that bill be taken up and considered, notwithstanding the objection which has been interposed by the Senator from North Carolina [Mr. OVERMAN].

I should like to say in that connection that the impression that would be gained from the statement of the Senator from North Carolina that the War Department was unfavorable to this measure is not justified by the War Department's report. On the contrary, the report of the War Department indicates that it is favorably disposed toward the appropriation. In some correspondence—probably in some controversy with the Delegate from Alaska, probably because of some feeling between the War Department and the Delegate as to which

should act in this matter—the War Department declined to take the initiative and insisted on the Delegate from Alaska taking it. That was all the expression of the War Department amounted to.

Mr. OVERMAN. Will the Senator from Washington yield to me for a moment?

Mr. POINDEXTER. Certainly.

Mr. OVERMAN. I desire to say that if we get full information from the War Department, which we have not—the report does not even tell us what the engineer's report was—and if I am satisfied this money is needed for the protection of any interest of the Government, I shall not object to the bill. But it can not pass this evening. So there is no use to take any further action about it now.

The PRESIDING OFFICER. The bill has gone over on the objection of the Senator from North Carolina. A motion to proceed to the consideration of the bill, notwithstanding the objection, is not now in order, because the Senate is now, by unanimous consent, proceeding under Rule VIII with the consideration of unobjected matters on the calendar. This bill is objected to.

Mr. POINDEXTER. So far as that is concerned, I will not insist upon the motion I have made, but my understanding is that a motion to proceed to the consideration of a bill, notwithstanding objection, is in order.

The PRESIDING OFFICER. The Senator from Washington is mistaken. A motion to proceed to the consideration of a bill, notwithstanding objection, is not in order when the Senate is proceeding, by unanimous consent, to consider unobjected matters on the calendar under the five-minute rule. There is objection to this bill, and a motion to proceed to its consideration, notwithstanding the objection, is not in order at this time.

### GRAND ARMY ENCAMPMENT AT PULLMAN, WASH.

The joint resolution (S. J. Res. 77) authorizing the Secretary of War to loan certain tents for the use of the Grand Army of the Republic encampment, to be held at Pullman, Wash., in June, 1912, was considered as in Committee of the Whole.

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

### STEAMER "OCEANA."

The bill (S. 5207) to provide an American register for the steamer *Oceana* was considered as in Committee of the Whole.

The bill had been reported from the Committee on Commerce with an amendment, to insert at the end of the bill the following:

*Provided*, That said steamer shall not have the right to engage in the coastwise trade or enjoy the tolls in the use of the Panama Canal that may be limited by law to American-built ships engaged in the coastwise trade: *Provided further*, That all repairs or alterations made upon the said vessel shall be made in the United States.

The amendment was agreed to.

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

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

### JAMES W. CHRISMAN.

Mr. GALLINGER. I move that the Senate adjourn.

Mr. CLARK of Wyoming. Will the Senator from New Hampshire withhold the motion for a moment.

Mr. GALLINGER. I will for a moment.

Mr. CLARK of Wyoming. I ask him to withhold it in order to afford me the opportunity to call up the bill (S. 5198) to authorize the issuance of patent to James W. Chrisman for the southeast quarter of the northeast quarter, the southeast quarter, and the southeast quarter of the southwest quarter of section 13, and the north half of the northeast quarter of section 24, township 29 north, range 113 west of the sixth principal meridian.

Mr. GALLINGER. I withhold the motion for that purpose.

Mr. CLARK of Wyoming. I ask unanimous consent for the present consideration of the bill I have indicated.

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

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

### HENRY R. DRAKE.

Mr. GALLINGER. The Senator from Nebraska [Mr. HITCHCOCK] a moment ago asked me to withhold the motion that he might call up a bill, and I do so.

Mr. HITCHCOCK. I should like to call up the next order on the calendar.

Mr. BRISTOW. If we are going ahead, let us go ahead in order.

Mr. HITCHCOCK. It is the next in order.

Mr. BRISTOW. If we are going to adjourn, let us adjourn. If not, let us take up the calendar and complete it in order.

Mr. HITCHCOCK. I will say to the Senator from Kansas that it is the next order of business.

Mr. BRISTOW. All right.

The PRESIDING OFFICER. The Senator from New Hampshire withholds the motion to adjourn only by unanimous consent.

Mr. GALLINGER. Certainly; and I desire, when I have the opportunity, to change it to a motion to proceed to the consideration of executive business. Immediately after the disposition of the matter which the Senator from Nebraska has called up I will move that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER. The Senator from Nebraska asks unanimous consent for the consideration of the following bill.

The SECRETARY. Calendar No. 366, a bill (S. 4663) to authorize and empower the Secretary of War to locate a right of way for and to grant the same and the right to operate and maintain a line of railroad, telephone, telegraph, and electric transmission lines through Vancouver Barracks and Military Reservation, in the State of Washington, to Washington-Oregon Corporation, its successors and assigns.

Mr. HITCHCOCK. I am in error. My bill is not the next in order. It is the next but one.

The SECRETARY. Calendar No. 367, a bill (S. 3917) for the retirement of Henry R. Drake, captain, Philippine Scouts.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. ROOT. Mr. President, I think the bill involves some inequality of treatment compared with some other bills relating to the officers of the Scouts.

Mr. HITCHCOCK. If the Senator from New York will permit me to make a statement, I think the whole matter can be cleared up.

This is a bill which was introduced by the Senator from Massachusetts [Mr. LODGE] for the retirement in a very extraordinary case of a man who has been in the military service something like 27 years. He was the victim of an accident and later of malpractice. He has been continuously in the hospital for two years. He is crippled for life.

The Committee on Military Affairs was unanimous in the opinion that it presents an extraordinary case warranting his retirement at the rank provided in the bill. He is now a captain in the Philippine Scouts. His retirement as a captain in the Regular Army, I think, is unusual, but it is also an unusual case.

He was injured and taken to the hospital with a broken hip, and the bandages or the splints were prematurely removed. Under order of the surgeon he was subjected to X-ray treatment, which instead of being 30 seconds in length was 25 minutes, the result being severe burns, which have necessitated several operations within the period of two years. His hip is fractured for life, and he is still in the hospital at San Francisco.

If the Senator from New York still desires to object to the consideration of the bill after these statements, I leave the matter with him.

Mr. ROOT. Mr. President, I think the treatment of the officers of the Philippine Scouts is a pretty large subject, and I dislike very much to have any steps taken which may seem to confer upon those officers a right or lead them to think they have a right to retirement on the same basis as officers of the Regular Army. Some bills, I believe, have been reported and perhaps passed providing for the retirement of officers of the Scouts as of a lower grade than the commissions which they hold in the Scouts, and I think the subject ought to be taken up with an idea of producing equality. I prefer to have the bill go over in order that that kind of consideration may be given to it.

The PRESIDING OFFICER. The bill goes over.

### EXECUTIVE SESSION.

Mr. GALLINGER. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session, the doors were reopened, and (at 4 o'clock and 47 minutes p. m.) the Senate adjourned until Monday, March 18, 1912, at 2 o'clock p. m.

## HOUSE OF REPRESENTATIVES.

SATURDAY, *March 16, 1912.*

The House met at 12 o'clock noon.

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

Almighty God, our heavenly Father, be graciously near to us as we thus enter upon a new congressional day that these Thy servants may be inspired and guided in the way of righteousness, truth, and justice; that their enactments may be in consonance with Thy holy will; that the dignity of law may be respected and upheld by the people, and lawlessness disappear; that life and property may be rendered more secure; in the spirit of the Lord Jesus Christ. Amen.

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

### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 458. An act for the relief of the Turner Hardware Co.;

S. 2427. An act for the relief of the legal heirs of A. G. Strain;

S. 4913. An act to enable the Indians allotted lands in severalty within the boundaries of Little River drainage district No. 1, in Pottawatomie County, Okla., to cooperate with the officials of said State in the protection of their lands from overflow, and for other purposes; and

S. 5659. An act to supplement and amend an act entitled "An act to authorize the New York & New Jersey Bridge Cos. to construct and maintain a bridge across the Hudson River between New York City and the State of New Jersey," approved June 7, 1894.

The message also announced that the Senate had passed without amendment bill of the following title:

H. R. 17119. An act granting the courthouse reserve at Pond Creek, Okla., to the city of Pond Creek for school and municipal purposes.

### SENATE BILLS REFERRED.

Under clause 2, Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 458. An act for the relief of the Turner Hardware Co.; to the Committee on Indian Affairs.

S. 2427. An act for the relief of the legal heirs of A. G. Strain; to the Committee on the Public Lands.

S. 4913. An act to enable the Indians allotted lands in severalty within the boundaries of Little River drainage district No. 1, in Pottawatomie County, Okla., to cooperate with the officials of said State in the protection of their lands from overflow, and for other purposes; to the Committee on Indian Affairs.

S. 5659. An act to supplement and amend an act entitled "An act to authorize the New York & New Jersey Bridge Cos. to construct and maintain a bridge across the Hudson River between New York City and the State of New Jersey," approved June 7, 1894; to the Committee on Interstate and Foreign Commerce.

### ENROLLED BILL SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title; when the Speaker signed the same:

H. R. 17119. An act granting the courthouse reserve at Pond Creek, Okla., to the city of Pond Creek for school and municipal purposes.

### THE ISTHMIAN CANAL.

Mr. ADAMSON. Mr. Speaker, I have placed in the box in the usual way a report (No. 423) upon the bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Isthmian Canal and the sanitation and government of the Canal Zone. I understand that several members of the committee wish to present minority views (H. Rept. 423, pt. 2). I ask unanimous consent that five legislative days be allowed for that purpose.

The SPEAKER. The gentleman from Georgia [Mr. ADAMSON] asks unanimous consent that the minority of the Committee on Interstate and Foreign Commerce have five legislative days in which to present their views on the bill referred to. Does the gentleman desire to have the bill and report printed in the RECORD?

Mr. ADAMSON. I should like to print the bill and the report in the RECORD, if there be no objection.

The SPEAKER. Does this include the printing of the views of the minority in the RECORD?

Mr. ADAMSON. They can ask that when they present the views of the minority, which have not yet been presented. I have no objection.

The SPEAKER. The difficulty is that the views of the minority will be presented through the box.

Mr. ADAMSON. Yes; but I have no objection to the printing in the RECORD.

The SPEAKER. The gentleman from Georgia [Mr. ADAMSON] asks unanimous consent that the bill and report be printed in the RECORD. Is there objection?

Mr. KNOWLAND. Reserving the right to object, is it understood that there will be no objection to the printing of the views of the minority in the RECORD also?

Mr. ADAMSON. There is no objection at all.

The SPEAKER. The gentleman from Georgia [Mr. ADAMSON] asks unanimous consent that the Panama Canal bill, together with the report of the majority and the views of the minority, be printed in the RECORD, and that the minority have five legislative days in which to file their views. Is there objection?

There was no objection.

The bill and report are as follows:

A bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone.

*Be it enacted, etc.*, That the zone of land and land under water of the width of 10 miles extending to the distance of 5 miles on each side of the center line of the route of the canal now being constructed thereon, which zone begins in the Caribbean Sea 3 marine miles from mean low-water mark and extends to and across the Isthmus of Panama into the Pacific Ocean to the distance of 3 marine miles from mean low-water mark, excepting and excluding therefrom the cities of Panama and Colon and their adjacent harbors located within said zone, as excepted in the treaty with the Republic of Panama dated November 18, 1903, but including all islands within said described zone, and in addition thereto the group of islands in the Bay of Panama named Perico, Naos, Culebra, and Falmenco, and any lands and waters outside of said limits above described which are necessary or convenient or from time to time may become necessary or convenient for the construction, maintenance, operation, sanitation, or protection of the said canal or of any auxiliary canals, lakes, or other works necessary or convenient for the construction, maintenance, operation, sanitation, or protection of said canal, the use, occupancy, or control whereof were granted to the United States by the treaty between the United States and the Republic of Panama, the ratifications of which were exchanged on the 26th day of February, 1904, shall be known and designated as the Canal Zone, and the canal now being constructed thereon shall hereafter be known and designated as the Panama Canal. The President is authorized ot acquire by treaty with the Republic of Panama any additional land or land under water not already granted, or which was excepted from the grant, that he may deem necessary for the operation, maintenance, sanitation, or protection of the Panama Canal, and may, in like manner, exchange any land or land under water not deemed necessary for such purposes for other land or land under water which may be deemed necessary for such purposes, which additional land or land under water so acquired shall become part of the Canal Zone.

SEC. 2. That all laws, orders, regulations, and ordinances adopted and promulgated in the Canal Zone by order of the President for the government and sanitation of the Canal Zone and the construction of the Panama Canal are hereby ratified and confirmed as valid and binding until Congress shall otherwise provide. The existing courts established in the Canal Zone by Executive order are recognized and confirmed to continue in operation until Congress shall otherwise provide.

SEC. 3. That the President is authorized to declare by Executive order that all land and land under water within the limits of the Canal Zone is necessary for the construction, maintenance, operation, sanitation, or protection of the Panama Canal, and to extinguish, by agreement when advisable, all claims and titles of adverse claimants and occupants. Upon failure to secure by agreement title to any such parcel of land or land under water the adverse claim or occupancy shall be disposed of and title thereto secured in the United States and compensation therefor fixed and paid in the manner provided in the aforesaid treaty with the Republic of Panama, or such modification of such treaty as may hereafter be made.

SEC. 4. That when in the judgment of the President the construction of the Panama Canal shall be sufficiently advanced toward completion to render the further services of the Isthmian Canal Commission unnecessary the President is authorized by Executive order to discontinue the Isthmian Canal Commission, which, together with the present organization, shall then cease to exist; and the President is authorized thereafter to complete and operate the Panama Canal or cause it to be completed and operated through a governor of the Panama Canal and such other persons as he may deem competent to discharge the various duties connected with the completion, care, maintenance, sanitation, operation, and protection of the canal. The governor of the Panama Canal shall be appointed by the President, by and with the advice and consent of the Senate, commissioned for a term of four years, and until his successor shall be appointed and qualified. He shall receive a salary of $10,000 a year. Vacancies shall be filled in the same manner, except that in the recess of the Senate the President may make an ad interim appointment. All other persons necessary for the completion, care, management, maintenance, sanitation, and operation of the Panama Canal shall be appointed by the President, removable at his pleasure, with salaries to be fixed by him. That upon the completion of the Panama Canal the President shall cause the same to be officially and formally opened for use and operation.

SEC. 5. That the President is hereby authorized to prescribe, and from time to time change, toll charges for the use of the Panama Canal by all vessels, except those belonging to the Government of the United States (including those of the Panama Railroad Co.) and the Government of the Republic of Panama, which excepted vessels shall be charged no tolls. Charges may be based upon gross or net registered tonnage, displacement tonnage, or otherwise, and may be based on one form of tonnage for warships and another for ships of commerce, but the tolls shall not exceed $1.25 per ton, based upon net registered ton-

nage for ships of commerce, nor be less than the estimated proportionate cost of the actual maintenance and operation of the canal: *Provided, however,* That under regulations prescribed by the President a vessel paying toll going through the canal in ballast shall, on its return trip through the canal laden with cargo, be entitled to receive a rebate of 50 per cent of the tolls just previously paid going through in the opposite direction without cargo. No preference shall be given nor discrimination shown, directly or indirectly, to the vessels of any nation, its citizens or subjects, other than vessels belonging to the Government of the United States (including those belonging to the Panama Railroad Co.) and the Government of the Republic of Panama, observing the rules and regulations of the Panama Canal. The toll for each passenger shall be not more than $1.50. The President is authorized to make, and from time to time amend, regulations governing the operation of the Panama Canal and the passage and control of vessels passing through the same or any part thereof, including the locks and approaches thereto, and all rules and regulations affecting lighting, pilots, and pilotage in the canal or the approaches thereto through the adjacent waters.

Such rules and regulations shall expressly deny and forbid the use of the Panama Canal to all the classes of vessels the passage of which through the Panama Canal, or any part thereof, is made and declared unlawful by section 11 of this act.

Such regulations shall provide for prompt adjustment by agreement and immediate payment of claims for damages which may arise from alleged injury to vessels, cargo, or passengers from the passing of vessels through the locks under the control of those operating them under such rules and regulations. In case of disagreement, suit may be brought in the district court of the Canal Zone against the governor of the Panama Canal. The hearing and disposition of such cases shall be expedited and the judgment shall be immediately paid off without proceeding to execution. All such claims, whether by agreement or after judgment, shall be paid out of any moneys appropriated or allotted for canal operation.

SEC. 6. That the President is authorized to cause to be erected, maintained, and operated, at suitable places along the Panama Canal and the coast adjacent to its two terminals, in connection with the operation of said canal, such wireless telegraphic installations as he may deem necessary for the operation, maintenance, sanitation, and protection of said canal. If it is found necessary to locate such installations upon territory of the Republic of Panama, the President is authorized to make such agreement with said Government as may be necessary, and also to provide for the acceptance and transmission, by said system, of all private and commercial messages, and those of the Government of Panama, on such terms and for such tolls as the President may prescribe: *Provided,* That the messages of the Government of the United States and the departments thereof, and the management of the Panama Canal, shall always be given precedence over all other messages. The President is also authorized to establish, maintain, and operate dry docks, repairs shops, yards, docks, wharves, warehouses, storehouses, and other necessary facilities and appurtenances for the purpose of providing coal and other materials, labor, repairs, and supplies for its own vessels, and, incidentally, for supplying such at reasonable prices to passing vessels, in accordance with appropriations hereby authorized to be made from time to time by Congress as a part of the maintenance and operation of the said canal. Moneys received in the ordinary course of business from the conduct of said business may be expended and reinvested for such purposes without being covered into the Treasury of the United States; and such moneys are hereby appropriated for such purposes, but all deposits of such funds shall be subject to the provisions of existing law relating to the deposit of other public funds of the United States, and any net profits accruing from such business shall annually be covered into the Treasury of the United States. Monthly reports of such receipts and expenditures shall be made to the President by the persons in charge, and annual reports shall be made to the Congress.

SEC. 7. That the governor of the Panama Canal shall, in connection with the operation of such canal, have official control and jurisdiction over the Canal Zone and shall perform all duties in connection with the civil government of the Canal Zone, which is to be held, treated, and governed as an adjunct of such Panama Canal. Unless in this act otherwise provided all existing laws of the Canal Zone referring to the civil governor or the civil administration of the Canal Zone shall be applicable to the governor of the Panama Canal, who shall perform all such executive and administrative duties required by existing law. The President is authorized to determine or cause to be determined what towns shall exist in the Canal Zone and subdivide said Canal Zone into subdivisions, to be designated by name or number, so that there shall be situated one town in each subdivision, and the boundaries of each subdivision shall be clearly defined. In each town there shall be a magistrate's court with exclusive original jurisdiction coextensive with the subdivision in which it is situated of all civil cases of every character in which the principal sum claimed does not exceed $300, and all criminal cases wherein the fine that can be imposed could not exceed $25, imprisonment could not exceed 30 days, or both, and all violations of police regulations and ordinances and all actions involving possession or title to personal property or the forcible entry and detainer of real estate, and all other matters and proceedings which are now within the jurisdiction of the municipal judge or the municipal courts. Such magistrates shall also hold preliminary investigations in charges of felony and commit or bail in bailable cases to the district court. A sufficient number of magistrates and constables, who must be citizens of the United States, to conduct the business of such courts, shall be appointed by the governor of the Panama Canal for terms of four years and until their successors are appointed and qualified with salaries to be fixed by the President. The rules governing said courts and prescribing the duties of said magistrates and constables, oaths and bonds, the times and places of holding such courts, the disposition of fines, costs, forfeitures, enforcements of judgments, appeals therefrom to the district court, and the disposition, treatment, and pardon of misdemeanor convicts shall be established by order of the President. The governor of the Panama Canal shall appoint all notaries public, prescribe their powers and duties, their official seal, and the fees to be charged and collected by them.

SEC. 8. That there shall be in the Canal Zone one district court with two divisions, one including Balboa and the other including Cristobal; and one district judge of the said district, who shall hold his court in both divisions at such time as he may designate by order, at least once a month in each division. The rules of practice in such district court shall be prescribed or amended by order of the President. The said district court shall have original jurdisdiction of all felony cases and of all causes in equity and admiralty and all cases at law involving principal sums exceeding $300 and of all appeals from judgments rendered in magistrates' courts. The jurisdiction in admiralty herein conferred upon the district judge and the district court shall be the same that is exercised by the United States district judges and the United States district courts, and the procedure and practice shall also be the same. The district judge shall also have jurisdiction of all other matters and proceedings not herein provided for which are now within the jurisdiction of the Supreme Court of the Canal Zone, of the Circuit Court of the Canal Zone, or the District Court of the Canal Zone, or the judges thereof. Said judge shall provide for the selection, summoning, serving, and compensation of jurors from among the citizens of the United States, to be subject to jury duty in either division of such district, and a jury shall be had in any criminal case or civil case at law originating in said court on the demand of either party. There shall be a district attorney and a marshal for said court. It shall be the duty of the district attorney to conduct all business, civil and criminal, for the Government, and to advise the governor of the Panama Canal on all legal questions touching the operation of the canal and the administration of civil affairs. It shall be the duty of the marshal to execute all process of the court, preserve order therein, and do all things incident to the office of marshal. The district judge, the district attorney, and the marshal shall be appointed by the President, by and with the advice and consent of the Senate, for terms of four years each, or until their successors are appointed and qualified, and during their terms of office shall reside within the Canal Zone, and shall hold no other office nor serve on any official board or commission nor receive any emoluments except their salaries. The district judge shall receive the same salary paid the district judges of the United States, and shall appoint the clerk of said court, who shall receive a salary to be fixed by the President. The district judge shall be entitled to six weeks' leave of absence each year with pay. During his absence or during any period of disability or disqualification from sickness or otherwise to discharge his duties the same shall be temporarily performed by any circuit or district judge of the United States who may be designated by the President, and who, during such service, shall receive the additional mileage and per diem allowed by law to district judges of the United States when holding court away from their homes. The district attorney and the marshal shall be paid each a salary of $5,000 per annum.

SEC. 9. That the records of the existing courts and all causes, proceedings, and criminal prosecutions pending therein as shown by the dockets thereof, except as herein otherwise provided, shall immediately upon the organization of the courts created by this act be transferred to such new courts having jurisdiction of like cases, be entered upon the dockets thereof, and proceed as if they had originally been brought therein, whereupon all the existing courts, except the Supreme Court of the Canal Zone, shall cease to exist. The President may continue the Supreme Court of the Canal Zone and retain the judges thereof in office for such time as to him may seem necessary to determine finally any causes and proceedings which may be pending therein. All laws of the Canal Zone imposing duties upon the clerks or ministerial officers of existing courts shall apply and impose such duties upon the clerks and ministerial officers of the new courts created by this act having jurisdiction of like cases, matters, and duties.

All existing laws in the Canal Zone governing practice and procedure in existing courts shall be applicable and adapted to the practice and procedure in the new courts.

The Circuit Court of Appeals of the Fifth Circuit of the United States shall have jurisdiction to review, revise, modify, reverse, or affirm the final judgments and decrees of the district court of the Canal Zone and to render such judgments as in the opinion of the said appellate court should have been rendered by the trial court in all actions and proceedings in which the Constitution, or any statute, treaty, title, right, or privilege of the United States, is involved and a right thereunder denied, and in cases in which the value in controversy exceeds $1,000, or which involves the title or possession of real estate exceeding in value the sum of $1,000, to be ascertained by the oath of either party, or by other competent evidence, and also in criminal causes wherein the offense charged is punishable as a felony. And such appellate jurisdiction may be exercised by said circuit court of appeals in the same manner, under the same regulations, and by the same procedure as nearly as practicable as is done in reviewing the final judgments and decrees of the district courts of the United States.

SEC. 10. That after the Panama Canal shall have been completed and opened for operation it shall not be lawful for any person to go, be, or remain upon or pass over any part of the Canal Zone without the permission of the governor of the Panama Canal, except United States soldiers, sailors, and marines and their officers, and the employees operating the Panama Canal. Any person violating this provision shall be guilty of a misdemeanor, and on conviction in the magistrate's court of the subdivision in which the violation occurred shall be punished by a fine not exceeding $500 or by imprisonment not exceeding one year, or both, in the discretion of the court. It shall be unlawful for any person, by any means or in any way, to injure or obstruct, or attempt to injure or obstruct, any part of the Panama Canal or the locks thereof or the approaches thereto. Any person violating this provision shall be guilty of a felony, and on conviction in the District Court of the Canal Zone shall be punished by a fine not exceeding $10,000 or by imprisonment not exceeding 10 years, or both, in the discretion of the court. If the act shall cause the death of any person within a year and a day thereafter, the person so convicted shall be guilty of murder and shall be punished accordingly.

SEC. 11. That section 5 of the act to regulate commerce, approved February 4, 1887, as heretofore amended, is hereby amended by adding thereto a new paragraph at the end thereof, as follows:

"From and after the 1st day of July, 1913, it shall be unlawful for any railroad company or other common carrier subject to the act to regulate commerce to own, lease, operate, control, or have any interest whatsoever (by stock ownership or otherwise, either directly, indirectly, through any holding company, or in any other manner) in any common carrier by water with which said railroad or other carrier aforesaid does or may compete for traffic; and in case of the violation of this provision each day in which such violation continues shall be deemed a separate offense."

That section 6 of said act to regulate commerce, as heretofore amended, is hereby amended by adding a new paragraph at the end thereof, as follows:

"Within three months after the taking effect of this act any common carrier subject to the provisions of the act to regulate commerce which, alone or in connection with any other common carrier, transports passengers or property in connection with a water carrier to or from a foreign country from or to any State or Territory of the United States or the District of Columbia and makes or participates in joint through rates for such transportation, shall, upon the request of any water carrier engaged in the lake, river, or coastwise trade of

the United States, including trade through the Panama Canal, provide like port facilities, connections, and joint through rates from one State or Territory of the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia for and in connection with such water carrier; and the charge for such share of such joint through rate shall be no greater sum of money than such common carrier alone, or in connection with any other common carrier, receives for the same service for transportation of passengers or property in connection with any water carrier to or from a foreign country from or to any State or Territory of the United States or the District of Columbia."

SEC. 12. That all laws and treaties relating to the extradition of persons accused of crime in force in the United States, to the extent that they may not be in conflict with or superseded by any special treaty entered into between the United States and the Republic of Panama with respect to the Canal Zone, and all laws relating to the rendition of fugitives from justice as between the several States and Territories of the United States, shall extend to and be considered in force in the Canal Zone, and for such purposes and such purposes only the Canal Zone shall be considered and treated as an organized Territory of the United States.

SEC. 13. That in time of war in which the United States shall be engaged, or when, in the opinion of the President, war is imminent, such officer of the Army as the President may designate shall, upon the order of the President, assume and have exclusive authority and jurisdiction over the operation of the Panama Canal and all of its adjuncts, appendants, and appurtenances, including the entire control and government of the Canal Zone, and during a continuance of such condition the governor of the Panama Canal shall, in all respects and particulars as to the operation of such Panama Canal, and all duties, matters, and transactions affecting the Canal Zone, be subject to the order and direction of such officer of the Army.

SEC. 14. That this act shall be known as, and referred to as, the Panama Canal Act.

[House Report No. 423, Sixty-second Congress, second session.]

Mr. ADAMSON, from the Committee on Interstate and Foreign Commerce, submitted the following report, to accompany bill H. R. 21969:

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation and government of the Canal Zone, having considered the same, report thereon with a recommendation that it pass.

The Panama Canal is unique in all respects, and at every stage presents novel problems. Its initiation involved intricate questions, requiring skillful diplomacy and tactful legislation. Its construction encountered untried difficulties and invented original methods and processes without the aid of model or previous suggestion. Likewise, legislation to operate and govern the gigantic institution, with its adjuncts and incidents, must, in the absence of precedent, rely upon basic principles, with analogy and reason as the only guide.

As there was no available route for the construction of the canal through our own territory, and under the terms of the Clayton-Bulwer treaty were prevented from constructing a Government-owned canal at public expense for use of the Government, we were compelled, first, to secure a modification of the treaty, which authorized us, under stipulated conditions, to arrange with some Central American Government for the route and terms of constructing such a canal. Then Congress passed the canal act, pursuant to which the Canal Zone was acquired through a treaty establishing the mutual and reciprocal rights and obligations to obtain between the United States and the Republic of Panama, mentioning and adopting the essential features of our modified treaty with Great Britain.

Section 1: This section of the bill describes and names the Canal Zone and the Panama Canal in accordance with the aforesaid treaties and the canal act, and also authorizes the President to acquire, by treaty, jurisdiction over any additional territory which may be found necessary to effectuate the purposes of the original grant. This may be necessary in connection with the harbor lines about Colon and the boundaries between Colon and the Canal Zone, Colon having been exempted from the grant.

Section 2: This section is intended to ratify and confirm existing laws and organizations under which the Canal Zone is governed and the canal is being constructed. The existing judicial system is likewise recognized and confirmed. While not regarded as absolutely essential, all this is deemed appropriate for the reason that at the end of the Fifty-eighth Congress, in default of renewed legislation, the law for the temporary government lapsed, and the President not only preserved the status established under the temporary provision but also extended and continued the exercise of all necessary authority and functions of government de facto in so far and whenever necessary authority was found not to have been conferred by the canal act and various subsequent acts of Congress. The committee approves of the course pursued by the Executive and recommends legislative approval thereof as appropriate.

Section 3: This section provides for acquiring title and possession of all lands in the Canal Zone not already acquired by the United States. It is not thought advisable for sanitary purposes to permit any permanent population in that part of the Canal Zone between the two dams which make the summit level, nor is it safe to permit unfriendly or uncertain population in the neghborhood of the canal. Very little land suitable for habitation or cultivation will be left unflooded when the lakes and the summit level are filled with water. In fact, there will be no more available land than may be required for barracks, exercise and drill grounds, and other purposes connected with maintaining such military police as may be necessary. It should be observed that our authority and qualified sovereignty over such canal is limited by the canal act and by treaty to such territory as is necessary to the construction, sanitation, maintenance, operation, and protection of such canal. If we now have or should hereafter acquire authority and deem it wise to colonize the zone, we at least have the right in all events to acquire the property rights and possession and hold all the lands until we open the canal and put it in operation. Then we can be guided by developments in determining our policy in the premises.

Section 4: We now come to the second division of the bill. As the canal nears completion the working force is gradually decreased. In order to secure the best results it is wise to select, retain, and train for the operation of the canal those employees who may be found best suited therefor. By that means a competent force to man the locks and operate the canal will be present and available when the canal is ready to be opened and all the other employees shall have been discharged and returned to their homes. To this end the President is authorized, when in his opinion advisable, to discontinue the Isthmian Canal Commission and relieve from duty the present organization. It is not contemplated by the committee that this will involve the separation from the service before the canal is finished of any of the eminent engineer heads of divisions nor the illustrious head of the sanitary department nor the very efficient chief subsistence and commissary officials. In fact, we have reason to believe that all these illustrious officials are acceptable to the administration, that their services are desired, and will not be dispensed with though the commission should be abolished. While we deem it wise to vest the operation of the canal in a single responsible head and make the President himself responsible for the conduct of affairs, it is believed that Congress should retain control over the appointment, conduct, and term of office and salary of the governor of the Panama Canal by requiring the advice and consent of the Senate to the selection of that officer and providing a definite tenure of office. In a subsequent section a similar provision is applied to the district judge, the district attorney, and the marshal. It seems to be the opinion of experts familiar with the subject who appeared before the committee that it is not only safe and expedient but also essential to securing the best results that plenary authority over the appointment, salary, service, and removal of all other employees of every degree be vested in the President. This section also provides that upon the completion of the canal the President shall cause it to be officially and formally opened for use and operation, the details of which are left to his discretion.

Section 5: This section authorizes the President to fix and change toll charges, not to exceed $1.25 per ton based on net registered tonnage nor be less than the proportionate part of the estimated cost for maintenance and operation. As to vessels of war, tolls may be based on a different form of tonnage, but it is intended that a substantial equivalent shall be fixed for the tolls. Under rules to be prescribed by the President, who is vested with authority to provide all regulations, a ship in ballast paying tolls may, on its return laden with cargo, be refunded 50 per cent of the tolls paid when empty. The tolls for each passenger shall be not more than $1.50. The President is also authorized to prescribe regulations as to lighting, pilots, and pilotage in the canal or the approaches thereto. This section requires that tolls shall be imposed and operate uniformly without preference of discrimination upon all vessels of all peoples and all nations, except vessels belonging to the Government of Panama and the Government of the United States, which include those of the Panama Railroad, all the stock of which is owned by the Government of the United States. These exceptions are made because the "United States enjoys all the rights incident to construction as well as the exclusive right of providing for the regulation and management of the canal." As such it is entitled to all the benefits and profits resulting from ownership and operation thereof. As tolls paid out of the common Treasury would instantly return to the same common Treasury, such performance would be entirely useless, and in the exercise of common sense will be omitted. We charge other vessels because it is our canal and our service. We pass those belonging to our own Government free because the canal belongs to the Government. The ship and the tolls also belong to the Government. The exemption covers the ships belonging to the Government of Panama because, under the facts and the terms of the treaty with her, which by our treaties with Great Britain we were authorized to make, she became a quasi party to the construction and operation. The canal traversing that Republic we could construct only by making terms with the Republic of Panama with conditions imposed in terms, which render her situation akin and analogous to a constructor of the canal. Without her consent it could not have been done, and the exemption of her Government-owned ships conforms to both treaties, and fairly and rightly so.

While many members of our committee believe that by the terms of our treaties with Great Britain we are prevented from allowing preferential or free tolls to ships of American registry, either coastwise or foreign, the majority of the committee voting for uniform tolls authorize, and request the statement—positive, plain, and unequivocal—that no language of this section was chosen or used for the purpose of foreclosing discussion and differing opinions on that question. They authorize the express affirmation that this provision is adopted for present use, disclaiming all intention to declare in this section any construction of the language of the treaty or to establish any precedent or permanent legislative policy or to bind any future Congress should it be deemed expedient or adjudged competent to adopt a different basis. This statement of the committee may be clearly understood by reference to the original and committee prints of the bill, from which the committee adopting this section eliminated all reference to treaties. The language beginning on page 6 with the words "No preference shall be given," etc., which has been criticized as an attempt to construe the treaty and thereby estop us from future consideration of the question, was not quoted from the treaty at all, but was taken from bills introduced by advocates of free or preferential tolls. One containing the same language has been introduced by the leading champion and signer of the minority views. Not deeming it necessary at this time nor for this purpose to make a legislative declaration as to the construction of that part of the treaty, the majority of the committee recommend uniform tolls for reasons which they regard as good and sufficient. First, the financial success of the canal is of prime importance, and its operation is the main object of this bill. Financial returns in the beginning are in doubt. The operation of the canal will be not only experimental, but the patronage and revenues are conjectural. We know it will require $4,000,000 or $5,000,000 a year to maintain and operate the canal and administer its adjuncts. English capitalists are large stockholders in the Suez Canal, and also in the leading ships and ship lines belonging to English subjects. Some of them are directors in the canal and ship companies. The same is true of several other leading European countries. It is therefore taken for granted that time, distance, and cost of operating being anything like equal, most of the ships of those countries will adopt the Suez route.

There is prospect of very little traffic within the competitive or twilight zone. To reduce the level of tolls low enough to secure that traffic might forfeit more revenue certain to be derived from territory naturally belonging to the Panama traffic. Much of that competitive traffic, unless unreasonably low tolls are fixed, will take the route by the Cape of Good Hope or through Magellan or around Cape Horn, thus avoiding tolls entirely. If the maximum toll rate is prescribed it will be about 6 cents per ton under the Suez rate, but the Suez rate will probably soon be reduced to $1, which we will have to meet. There will undoubtedly be some shipping through the canal between our Atlantic coast and the Orient, and some between Europe and the Pacific coast, as well as occasional vessels between Europe and various Pacific ports not touching at American ports at all. Our own coastwise ships and Canadian coastwise ships may constitute the great body of that Panama traffic which is at all certain. The majority of the committee believe that for the first few years we will need the tolls of all these ships and that it is right and just to open the canal and demonstrate

what the financial returns will be and what success we will realize in securing and handling traffic before taking up the question of exempting any vessels. We also believe that in opening so vast an enterprise we have that right in order to justify its construction and existence by operating it for awhile untrammeled and unshackled by any other issues and interests. We love the American flag and desire the prosperity of American shipping. Most of us disapprove of the methods by which our foreign shipping was driven from the ocean, but Congress is here always and can adopt methods to restore the shipping without hampering the canal operation with that problem. If American ships need the aid of Government, either in foreign or coastwise trade, it ought to be considered as an independent proposition, entirely divorced from the canal subject, so as to avoid all embarrassment in the management of that great project. It is neither fair nor wise to attach the proposition as a condition of canal operation, when separate bills can deal with the matter at any time, expressing the will of Congress much more fairly and distributing the assistance provided by extending it to all coastwise ships rather than by limiting it to the small per cent of them which will go through the canal. We found from the hearings that the coastwise ships which will pass through the canal do not need the remission of the tolls.

Some promoters and speculators, tickling the cupidity of financiers who wish to finance new enterprises, are willing to build new ships provided the Government in advance will assure them bounty or subsidy to the amount of the tolls. Not satisfied with that and the advantages of an exclusive monopoly of the coastwise business, they suggest still other concessions and gratuities from the Government, and have sent out flashing prospectuses of the immense profit promised by the operation of their new ships by the grace of the Government through preferential tolls, and solicit subscriptions for stock with assurances of tremendous dividends. Several companies are already doing an extensive coastwise business with a large number of ships, and some of them building additional ships. They are all prosperous. Many of their ships will use the canal to the full extent justified by the traffic, and there will never be wanting ships to do the business if traffic invites. The shortening of distance and time of voyages will insure such reduction in coast-to-coast freight rates as to render the small toll charges we authorize immaterial as affecting competition by the transcontinental railroads or by the Magellan or Cape Horn route unless the coastwise ships themselves keep up the freight rates through the canal. In that event the tolls would alike be immaterial. The operators of coastwise ships and ship lines are very shifty and discreet. They have an eye ever open to the main chance, just like foreign ships and interstate railroads. Of course, it is purely by accident and through inadvertence that they never get in one another's way. Although human, they would scorn combinations. In fact, combinations are unnecessary as well as bad. But these ship companies somehow contrive that lines grow up between certain ports and other lines grow up between other ports, each route between two ports being served by a different line of ships from those running between two other ports, so that it is very rare that any two ports are embarrassed by having to choose between two lines or two ships competing for their business. It is even said that sometimes an irresistible longing arises, spontaneous, it is true, but almost as unerring as if by compulsion, to limit the patronage of the business men of a port to a particular line without encouraging any other. These companies frankly admit that the same courtesy and prudence will be observed among them as to running ships through the Panama Canal.

We further believe that, whether a governmental gratuity is considered as a charity to an unprofitable and dying business or as a bounty to prosperous shipping, the Government should in fairness treat all of the same class alike. All interstate coastwise ships are important. The cities of the Atlantic coast interchange more business with one another than will ever go through both the Panama and the Suez Canals. More business now passes through the Soo Canal between the Great Lakes than will ever patronize both the Panama and the Suez Canals. The coastwise traffic between the Pacific coast cities that will never pass through the canal at all is very important. Ninety per cent of the coastwise ships, busy all the time in interstate business, will never approach the canal at all. Less than 10 per cent of all these coastwise ships will use the canal, making longer journeys, charging correspondingly more freight and passenger rates, and making infinitely more money, yet it is selfishly demanded that those few ships (for only a few will be needed) shall be given their tolls in the interests of interstate trade, while the 90 per cent rendering service just as valuable in interstate commerce would not participate in the contribution. When we go to voting away the Government's money and credit to special interests, we prefer some method more fair and equitable. This small shipping interest has secured indorsements and recommendations from some trade organizations in various coast cities of the country on the erroneous theory that shippers would secure the benefits of the remitted tolls through reduced freight rates. This is a delusion, pure and simple, as we have already shown It is also demonstrated by history, observation, and experience. But suppose the shippers did secure the benefit of the remitted tolls. They would not and could not pass it to their customers. It would be impossible of division, apportionment, and distribution among them. Being impossible, it is admittedly never attempted. Only a small per cent of the American people will ship freight in considerable quantities through the canal. It is a catchy phrase, plausible, sophistical, and misleading, that "we can use our canal for our own benefit," which is the slogan of the small special interest demanding preferential tolls.

In principle and theory the Government and the people are identical and their interests the same. But the 1 per cent or less of our population financially interested in ships can hardly be regarded as identical with the whole people nor the sole beneficiaries of the Treasury. All the people own the Treasury, and the Treasury may be replenished by compulsory contributions from all the people. We may rightfully appropriate from the Treasury for the benefit of all the people, but giving public funds to special interests would be an unauthorized diversion, and in politics and morals amount to a misappropriation of the people's money. But it is said that it is so easy just to remit the tolls before they go into the Treasury. It amounts to the same thing as taking it out of the Treasury, where all the tolls belong, and we should not divert any from going in. It is different from prohibitory tariff protection which establishes a condition for transacting business. It is different from excluding foreign competition from the coastwise trade, practiced, not for the reason that, incidentally, it helps to enrich shipowners, but in the interests of sound public policy, not always, however, realized, that aliens should not operate in our domestic commerce and become familiar with our internal affairs. That exclusion also stops with making a condition for highly profitable business. But the remission or refunding of tolls means taking money already ascertained to belong to all the people and giving it to a favored few. It is also urged that remission should be allowed because it is apprehended that some foreign nations may pay tolls for their ships. We can not understand how that can affect the coastwise ships at all, inasmuch as no foreign ship can participate in the coastwise trade. At once the most plausible and most erroneous contention is that the canal being an American waterway it would be a departure from our traditional policy of free waterways if we should charge tolls for coastwise ships. Based on false premises, that argument proves too much. If the canal is a purely domestic waterway we should not charge tolls to any vessel. There is no discrimination in the use of American waterways. Ships of all nationalities may use them alike. As shown in the beginning of this report, the Panama Canal is in a foreign country, our authority to construct and operate the canal with certain limitations and conditions was secured by treaties with two foreign countries, and we must act within those limitations and conditions.

There are two other canals which we use under treaty stipulations with our neighbor to the north—the Welland Canal, built and operated by Canada, and the Soo Canal, built and operated by us. Those two canals are on the line between the two countries. No tolls are charged on either; not because they are American canals or Canadian canals, but because mutual and reciprocal treaty stipulations provide that both shall be free. If the Panama Canal is an American waterway, so is the Soo; and it is equally true that the Welland is a Canadian waterway. The use of all depends on treaties. There is nothing in our treaty, however, to forbid universal remission of all tolls; but under the existing circumstances it would be an unwise thing to do and could hardly be expected to receive the approval of the American people. While they wish to be fair and honorable, they do not feel called upon to operate the Panama Canal as an eleemosynary institution. While the majority of the committee based action favoring universal tolls upon economic reasons and financial necessity, expressly disclaiming any purpose or attempt to construe the toll references in the treaty, yet the terms of the treaty remain of force and must be remembered and regarded until modified or set aside. It is urged that the stipulations for equality do not prevent preference for coastwise ships, because they are not in competition with foreign ships, which can not enter coastwise trade. In effect, the argument is that, being already protected against competition, one discrimination in their favor demands another. Being protected against all competition, they would be also exempt from tolls and place in their coffers the amount saved thereby. We think the treaty stipulations for equality of treatment mean treatment at the canal and nothing else. It is limited to "conditions and charges of traffic," which "conditions and charges of traffic shall be just and equitable." By that stipulation we are bound to levy such charges and establish and maintain such conditions of traffic at the canal as in those respects only will maintain it "free and open without discrimination in these respects."

We are not permitted to consider discrimination made in other respects and elsewhere in connection with the shipping of any country, but are bound by the language and intent of the treaties to preserve fairness and equality without discrimination in respect of "conditions and charges of traffic" at the canal; therefore, the case of Olsen *v.* Smith (195 U. S., 332), relied on by the advocates of preferential tolls, can have no application to the situation with which we are dealing. Whether two ships of diverse nationality are treated alike or differently in the home ports of either can have no effect or bearing on our treaty obligations to treat them both alike at the canal as to charges and conditions of traffic.

We are neither required nor authorized to use the canal nor its operation as a pretext to attempt the regulation of the commerce of the world nor meddle with any details or conditions of trade away from the canal. There are other methods of dealing with all other subjects. The highest authorities among the advocates of Government aid to domestic ships have recognized that fact by recommending that tolls be collected and refunded, and bills have been introduced for the purpose of refunding its tolls. Let those bills be considered as separate propositions. The only parties as yet to the treaties under which the canal is being constructed are Great Britain, the Republic of Panama, and the United States. If, under the treaty, our ships can be allowed preferential tolls, the other two parties to the treaties will claim similar consideration. If, as we believe, the treaties do not permit such treatment, it is highly probable that both England and Panama would consent to such modification as would permit it. The territory of Panama, as that of Canada, extends from coast to coast, just as in our own case, and both Canada and Panama have coastwise trade and coastwise vessels. With such a modification it would be possible, if our Government wished to inaugurate such an unfair system—that is, unfair to our own citizens—to adopt preferential tolls on such terms as may be provided by the modified treaty. Then the great majority of the ships of the world could and would, easily and promptly, enter the coastwise trade of Canada, the United States, or Panama. As coastwise ships are not prohibited from extending their activities into the foreign trade, the ships of these three countries would immediately monopolize the use of the canal and it would automatically become a free canal. There would be no competing ships to pay the tolls. It may be interesting to note that when the Hay-Pauncefote treaty was pending in the Senate, December 13, 1900, the following amendment was proposed:

"Strike out article 3 and substitute 'The United States reserves the right in the regulation and management of the canal to discriminate in respect of the charges of traffic in favor of vessels of its own citizens engaged in the coastwise trade.'"

The amendment was rejected on roll call—yeas 27, nays 43.

Those who demand this preference make protestations of patriotism and love for the flag both loud and profuse, but those professions are all that they offer for the largess demanded, and experience demonstrates that they would do business under a foreign flag just as readily if more profits were guaranteed thereby. No quid pro quo in the shape of valuable consideration is tendered in return for the concession claimed. There is no offer to carry free for the Government its men or supplies or munitions of war or any kind of freight or passengers. For all that full pay, if not more, is expected from the Government. The only pretense at offering a return for the preference demanded is that in case of war the Government would have the option to buy the subsidized vessels at a high price. If the Government refused to pay the price demanded, arbitration would be relied on to fix a price high enough to satisfy the most aggravated cupidity. As all the optimistic doctrinaires and publicists prophesy a long period of peace, and in view of the fact that the most modern and up-to-date ships go out of fashion and become obsolete in a few years, this proposition offers little inducement for intelligent and faithful Representatives to vote tolls away from the Treasury. It is not probable that the United States will ever find itself in such emergent condition that with the cash it can not purchase such ships, both chief and auxiliary, as it may need—ships fully adapted to its purpose and in sufficient numbers. The demand for discrimination in favor of American ships presents a square

issue between a small fraction of the coastwise shipping interests and the entire population of the United States. The question which our committee decides in the negative, practically and substantially stated, is, Shall we, as representatives of the people, take from them, without consideration, return, or recompense, their money and give it to the small special interests operating but a small per cent of the coastwise trade, who have no right to the money and do not need it, as their business is prosperous—certainly do not need it more than the other 90 per cent of the coastwise trade against whom the discrimination in refusing to divide the subsidy with them would be as gross as the discrimination claimed against the people who in the aggregate are as patriotic as those few claiming preference?

Reference is had in this section to prescribing rules for the enforcement of section 11, which will be further discussed in connection with that section. It is also provided in section 5 that the rules prescribed shall permit and require prompt adjustment and settlement for injuries sustained by vessels which the canal management will take in charge and carry through the locks. It is absolutely necessary for the safety of the locks, as well as of the vessel, that it should be under the entire control and handled exclusively by the canal authorities through the locks. It is only right that, in case the canal authorities should commit any injury an ample and adequate arrangement should be provided for prompt reparation. If accord and satisfaction fail to adjust the case, the claimant may sue the governor of the Panama Canal in the district court, which must expedite the proceedings to an early conclusion.

Section 6: This section authorizes the President to install necessary wireless stations and is drawn in accordance with the desire of the Government and the departments chiefly concerned in the wireless installation. This section also authorizes the President to establish and operate dry docks, repair shops, docks, wharves, warehouses, storehouses, and other facilities for accommodating commerce and navigation and supplying material, labor, and repairs, and all kinds of ship stores, primarily, of course, for the use of our own vessels, but incidentally to supply, at reasonable prices, passing vessels. It being absolutely necessary to provide for the necessities of our own ships, it is regarded as an excellent inducement to entice travel and traffic to use the Panama route. We already have valuable plants for supplying a great many of these facilities. To abandon them and rely upon other methods of supplying our own ships would entail great loss, and we might suffer great inconvenience in securing supplies. If we should utilize that facility and convenience to make the Panama route attractive to vessels of commerce and of war, the supply must be certain and reliable. The quality must be good and the prices known to be reasonable. Furnishing those facilities will present an instance illustrating what the treaty means by conditions of traffic. If one of the conditions of traffic through the canal is to be furnishing supplies and repairs, they must be furnished to all vessels alike on demand, without discrimination or preference. This section also prescribes the manner of bookkeeping, making reports, reinvesting funds, and depositing the net profits.

Section 7: With section 6 the bill might appropriately end, as it will probably be three years and several sessions of Congress will convene before the canal is put in operation, but for the necessity of transforming and reducing the present force into a small and efficient operating force and the fact that the present organization, including the Canal Commission, is to be discontinued, which will carry out of existence the civil government and judicial system, therefore it is not premature at this time to prescribe the method of transition from the existing régime to the new system of management, civil control, and judicial courts and procedure. Accordingly, we provide in this section that when, in the fullness of time, the change is made from the present organization to the new that the new system shall be in shape ready for the transition of conditions and the changed organization and system. It is not intended that there shall be much population in the Canal Zone, and it shall be of a high order. American citizens of high character employed to operate the canal, with their families, together with soldiers, sailors, and marines, and their officers, will be the only constant residents. Authorized tourists and visitors will also be people of good character. So it is confidently believed that the civil government and judicial system may be of a simple, limited, and economical kind. In order to secure homogeneous authority and uniform administration, we recommend that the governor of the Panama Canal shall exercise all authority as governor of the Canal Zone, which is declared to be merely an adjunct thereof. The section also provides for the subdivision of the Canal Zone into territorial jurisdictions of magistrates' courts, which shall have jurisdiction of all minor offenses and of civil cases in sums not exceeding $300, with right of appeal. It provides for the appointment of constables; defines the duties and jurisdiction of the magistrates and constables; gives the magistrates jurisdiction of possessory warrants, trover cases, forcible entry and detainer, and preliminary trials. The magistrates and constables must be citizens of the United States, and the President shall prescribe the rules of the court, oaths, bonds, times and places of holding court, disposition of fines, costs, forfeitures, enforcing judgments, appeals therefrom, and the disposition, treatment, and pardon of misdemeanor convicts. It also provides for the appointment of notaries public.

Section 8: This section would establish a district court in the Canal Zone, to be held in two divisions, one at each terminal of the canal, and defines the jurisdiction of the court, the powers, duties, and salary of the judge thereof, which include appeals from the magistrates' courts, and all cases, civil and criminal, above the jurisdiction of the magistrate's court. It is expected, however, that the principal business before the district court and the district judge will be causes in equity and admiralty. A clerk, marshal, and district attorney are provided for this court by this section. The rules of practice are to be prescribed by the President, but the district judge shall make provision for juries in said court. In addition to his other duties the district attorney will advise the governor of the Panama Canal on all legal questions touching the operation of the canal and the administration of civil affairs. The district attorney and marshal as well as the district judge are to be appointed by the President, by and with the advice and consent of the Senate, for terms of four years each. They must reside within the Canal Zone and hold no other office nor receive any other emoluments than their salaries. The section fixes for the district judge the same salary received by district judges in the United States and the salaries of the district attorney and the marshal at $5,000 each. Provision is made for six weeks' leave of absence each year for the judge and for the discharge of his duties during his absence, disability, or disqualification. A jury may be had on the demand of either party in any criminal case or case at law. The admiralty jurisdiction conferred and the procedure and practice shall be the same as that in force before the district judges and district courts of the United States.

Section 9: This section provides for the transfer of the records of existing courts, with all pending causes, proceedings, and criminal prosecutions, to the new courts created by this act as soon as they are organized, and abolishes all existing courts, except the supreme court of the Canal Zone, which the President may permit to exist until all pending causes are disposed of. Jurisdiction is given to the Circuit Court of Appeals of the Fifth Circuit of the United States to review certain cases, actions, and proceedings determined by the district court of the Canal Zone under certain limitations and restrictions.

Section 10: This section provides necessary protection for the canal itself, and its importance can not be overestimated. It excludes from the Canal Zone all persons having no permission from the governor of the Panama Canal except United States soldiers, sailors, and marines and their officers, and the employees of the United States operating the canal. It likewise defines and prohibits injuring or obstructing or attempting to injure or obstruct any part of the Panama Canal, the locks thereof, or the approaches thereto, and provides adequate punishment for each of such crimes.

Section 11: Believing that the function of the canal management to maintain equality and fairness in respect of conditions and charges of traffic is limited to the operation and supply and must be applied at the canal itself, and there only, without attempting to adjust inequalities or equalize conditions in different countries of the world, the committee nevertheless recognizes that the coast-to-coast business through the canal, under existing navigation laws, will be a part of our coastwise trade. It is competent in this or an independent bill to legislate concerning coastwise traffic. It would not be fair to discriminate among our coastwise vessels, all of which are important. The apprehension of railroad-owned vessels driving competition from the canal may or may not be exaggerated, but it is certain that the evil, which is only anticipated there, already exists in the coastwise trade on both coasts, as well as on our lakes and rivers. The evil is prevalent, recognized, and complained of. The proper function of a railroad corporation is to operate trains on its tracks, not to occupy the waters with ships in mock competition with itself, which in reality operate to the extinction of all genuine competition. In answering demands for the exclusion of railroad-owned ships from the canal, which in this bill or any other would simply amount to an amendment of the act to regulate commerce, the committee thinks it wise, just, and opportune to broaden the amendment so as to serve the higher, wider, more pressing, and more necessary purpose of excluding the railroads from operating vessels in competition with their tracks anywhere in the coastwise trade generally or in the lakes and rivers. This section also provides for the connection of railroads in through routes and joint rates with water carriers in all domestic traffic in accordance with their practices in connection with vessels engaged in the foreign trade. By that means the benefits of the canal can be distributed through the interior and enable the entire country to enjoy some good therefrom. Instead of competing with themselves by running vessels through the canal the railroads can perform the more noble and valuable service of connecting on either coast with coastwise vessels passing through the canal, and by joint rates and through routes afford convenient schedules and fair rates and conditions of commerce to the people living many hundreds of miles inland from both coasts.

Section 12: This section makes adequate provision for extradition of criminals and fugitives from justice.

Section 13: This section provides for the transfer of authority and jurisdiction over the Panama Canal with all its adjuncts, appendants, and appurtenances to Army officers to be designated by the President upon the approach of war, and during the war, or when war is imminent the canal shall be operated and all affairs administered according to the order of such Army officer.

Section 14: This section denominates this act as the Panama Canal act.

The Committee on Interstate and Foreign Commerce has labored unremittingly for a long time to work out the problems involved, and to present legislation adequate to meet the requirements of all conditions, existing or anticipated in connection with the maintenance, sanitation, and operation of the canal and the incidental civil administration. The important question of protection belongs to the jurisdiction of another committee. We have visited the Isthmus several times at the various stages of progress in constructing the canal. We have provided and reported necessary legislation at different times during the period of its construction. At various times we have had hearings concerning different phases of the subject. During the past three months we have heard expert witnesses in every line of life, and in every learned profession, and in every line of business, commerce, and navigation who in any wise could be interested in the construction and operation of the canal or were able by their information to throw light upon the questions involved. As a result we have acquired for the use of Congress and the public through those hearings several volumes of valuable if not exhaustive information covering the canal subject in all its phases, origin, stages, progress, and future. We trust that the results of our labors now laid before the Congress may prove of some value in assisting Congress to enact adequate legislation for the successful operation of this great and glorious enterprise and the satisfactory government and administration of all its adjuncts and appurtenances.

Respectfully submitted, by order of the committee.

## COTTON.

Mr. STEDMAN. Mr. Speaker, I ask unanimous consent to address the House for 15 minutes.

The CHAIRMAN. The gentleman from North Carolina [Mr. STEDMAN] asks unanimous consent to address the House for 15 minutes. Is there objection?

There was no objection.

Mr. STEDMAN. Mr. Speaker, it is not my purpose to address the House at length. I only desire to make a statement, correcting a false and scandalous report recently made, emanating from the Bureau of Commerce and Labor, founded on a so-called investigation of one of its agents, a report not justified by facts as they exist, which reflects injuriously upon the management of cotton mills located in the immediate section in which I live and which does great injustice to those who earn their daily bread by work in those mills. It has been my wish for some days to call attention to this report. I have not done so hitherto, because of the great pressure of public and important business demanding the attention of this House. But I

can not allow this libel to longer go unchallenged. The conclusions in the report to which I allude have as their basis a so-called investigation of the condition of 21 families of cotton-mill workers in the South. Ten of these families live in or near Atlanta, Ga., six just outside of Greensboro, N. C., my home, and five near Burlington, N. C., a town in my district, only a few miles from Greensboro. In this report, amongst other statements, will be found the following, which, by permission, will be printed with my remarks:

The opportunities offered the people to improve their condition are limited. They rarely have a choice as to the kind of house they must live in. Overcrowding is as likely, or even more likely, to occur in a family with a large income than with one with a small income, for a large income usually means a large family, always a large number of workers. Certain other factors, less tangible, perhaps, have a bearing upon the prevailing standard of living. These may be referred to as limitation of ideals. Often where the income is large the home is most unattractive, with bare floors and a few necessary articles of furniture. Nothing appears comfortable, nothing beautiful. The casual observer would say that the family was living in poverty, yet they might have plenty of good food, plenty of fire, and the children might be well dressed. The explanation for this state of affairs is simple. It is not that these mill girls and boys are vain, extravagant creatures, thinking only of personal adornment. Most of them have never seen a well-furnished house. Their friends live as they do. There is no shame in inviting them to a house that is bare. They see, however, in the shop windows and on the people they pass in the street a display of clothing that sets for them a higher standard as regards clothing than they have in other respects. One other important feature enters into the lives of most of these people. Relatively few of them live in large cities. In a city there are a great many things that enrich the poor man's life that he does not have to pay for directly out of his income. There are parks and playgrounds, baths, libraries, art galleries, public lectures, etc. But the cotton-mill family has none of these.

Falsehood travels fast and its journeys are long. Yesterday I received a newspaper containing a marked copy of this libel. I have also received recently a paper in which is published a letter from three worthy young women who for five years have worked in the weaving room of the Proximity Manufacturing Co., representing one of the four mills near Greensboro, N. C. The letter reads as follows, and by permission will also be printed with my remarks:

We have read the article which was published in the papers a few days ago on Southern cotton-mill life and hereby denounce the statements as false and wish to state them as they really are.

We 3 have worked in the cotton mills for 8 or 10 years and have worked for the Proximity Manufacturing Co. for about 5 years in the weaving room.

We have nice, kind overseers and make good wages, averaging from $1.32 to $2.64 per day. We work only 10 hours each day up to Saturday, when we quit work at 11.40 o'clock. We are never made to work when we are unable. After our expenses we are able to save from $15 to $20 per month.

Mr. Cone, the owner of the Proximity mill, has provided for us two nice churches, a good school, and a hall, in which our fraternal orders may meet; also an assembly hall, in which we may give receptions or entertainments. He has employed for us teachers of sewing and cooking, so that the ladies of the village may become acquainted with the art of domestic science. We also have a nice library at the school, where we can get books to read through the summer. He has provided for us a large picnic ground, where the inhabitants of the three villages—Proximity, Revolution, and White Oak—assemble on the Fourth of July to celebrate and have a good time generally. Refreshments and good things to eat are served throughout that day, while the textile band furnishes enlivening music. Mr. Cone bears all these expenses, and we feel that he gives this to show his love for his employees.

In the spring he furnishes every home with flower and grass seeds, and then on the Fourth of July he awards prizes for the most beautiful yards and neatly kept premises. And then on Christmas he presents each family with a nice fat turkey. What more could anyone want?

The article which was published in the paper on Southern cotton-mill life stated that our daily fare consisted of corn bread and sirup and that the mothers wear the discarded dresses of their daughters. We say this is absolutely false. There are, perhaps, some very few who live very poorly, but the majority are in very good circumstances. They have plenty to eat and nice clothes to wear.

And we wish to say in the end that we are improving every day. Electric lights are now being placed in the homes and on the streets. This is an example of a Southern cotton mill. We hope none of them are as bad as they are reported by some people.

What matters; on that great day to come we will not be judged by what we eat and wear, but we will all be judged alike, rich or poor. We hope this will show the author of the article concerning Southern cotton mills of his mistake.

Anyone wanting proof of these statements which we have made can get our names at the office of the Daily News, and we will stand good for any of them.

THREE PROXIMITY MILL GIRLS.

It is a complete and truthful statement of the general conditions existing amongst the families who work in three of the four mills near Greensboro controlled by Mr. Cæsar Cone, who is the gentleman alluded to in the letter just read. I have a personal knowledge of many of the methods and means adopted by Mr. Cone to enhance the happiness and prosperity of those who labor in the mills of which he is the master spirit. It is my good fortune to know him intimately. I do not think I have ever met any man whose heart is more imbued with the spirit of humanity. Wherever there is distress, and the knowledge comes to him, he is ever ready to render assistance to all who deserve it. In very many instances his help has been given to persons entirely unknown by him. A man of the highest order of business ability with a heart so kind would never allow the conditions to exist as represented in the report to which I have alluded. Neither squalid poverty nor vice with its hideous mien finds a resting place amongst families working for him. I know that he regards himself not only as their employer but as the trustee for their prosperity and advancement in life. I am not personally cognizant of the condition existing in the fourth mill located near Greensboro, N. C., but I know well those who control it. They are kind, humane, and honorable men, who would never tolerate such a state of affairs as set out in the report heretofore alluded to. I can say the same as to conditions in the mills near Burlington, N. C. I believe that I know their true status, not of my own personal knowledge but from information derived from those with whom I have been acquainted for many years and whose words are entitled to full and absolute credit.

I know nothing whatever of my own personal knowledge of the conditions existing in the mill settlement near Atlanta, Ga.; but taking the false statements made as to conditions near Greensboro, N. C., and Burlington, N. C., as a guide, I assume, and think I have a right to do so, that the statements in the report as to conditions near Atlanta are also false. In truth and in fact, I am morally certain that no such conditions exist in any mill settlement anywhere in the South as are described in this report. [Applause.]

Mr. BARTLETT. Will the gentleman yield?

Mr. STEDMAN. Certainly.

Mr. BARTLETT. The gentleman can, with equal assurance, make the same statement with reference to the mills not only in Atlanta, but in the State of Georgia also, because, if the gentleman will permit me, this very report in its details shows that these mill operatives, by the menu that they publish for each meal, fare better in many instances and in most instances than do people at the boarding houses in the city of Washington.

Mr. ADAMSON. Will the gentleman from North Carolina yield?

Mr. STEDMAN. I will.

Mr. ADAMSON. I have the honor to represent a district that produces a great deal of cotton, and manufactures more than it produces, and while I have not read the report carefully to find what slander, if any, is leveled against the people of that particular district, I want to say that every factory village in the district that I represent is a model community. The people who work in the factories have good houses, good churches, good schools, all necessary opportunities and facilities for entertainment and recreation; every form of vice is debarred; the people live well and receive good wages. The best Fourth of July barbecues, some of the best home dinners I have ever enjoyed I partook of with these good mill people. I want to say, as my friend the gentleman from Georgia, Judge BARTLETT, has just said, that I had rather risk getting a good wholesome meal with any of these people than I would in Washington at the ordinary boarding house or American-plan hotel.

Mr. TRIBBLE. Will the gentleman from North Carolina yield?

Mr. STEDMAN. If the gentleman will excuse me, I have but a few minutes remaining.

The agent who is responsible for this report, for it must have had as a basis his so-called investigation, is unfortunate in one of the reasons he gives for the conditions described, when he attributes the dreary hours passed by these employees and their lack of opportunity for enjoyment and pleasure to the fact that few of them live in large cities. He, perhaps, has learned something if he attended the hearings recently had before the Committee on Rules of this House with reference to conditions existing amongst mill operatives who work in cities far from the southern section of this great country.

When this agent is better informed he will know that whilst the life near great cities has some advantages, at the same time it has also disadvantages. Many of the anxieties and vices incident to city life are unknown to the happy and contented people who dwell in agricultural districts.

In conclusion, Mr. Speaker, in describing the forlorn condition of one of the families working in a mill near Greensboro, N. C., this wonderful investigating agent says: "Their chief diversion is going to preaching and Sunday school." This habit of "going to preaching and Sunday school" belongs not to this family alone but from time immemorial to all who have dwelt in North Carolina. It has formed the basis of the character of the great people amongst whom I live and whom I have the honor in part to represent. It has impressed them with a supreme sense of duty. It has made the men of North Carolina renowned in war as well as illustrious in the brighter and happier days of peace. [Applause.]

I urge the agent of the Bureau of Commerce and Labor to cultivate this habit of the family near Greensboro, to whom he

has given so much publicity. If for "diversion" any time he should happen to be present at "preaching" or "Sunday school," I trust it may so happen that his especial attention may be directed to the divine command which he will find in the twentieth chapter of Exodus—"Thou shalt not bear false witness against thy neighbor." [Applause.]

PLACING NAMES OF MANUFACTURERS ON MANUFACTURED ARTICLES.

Mr. CAMPBELL. Mr. Speaker, I ask unanimous consent for a reprint of the bill (H. R. 16844) requiring manufacturers to place their names on articles they manufacture. The print of the bill has been exhausted, and there are many demands for the bill.

The SPEAKER. The gentleman from Kansas asks unanimous consent for a reprint of the bill H. R. 16844. Is there objection?

There was no objection.

GOOD-ROADS CONVENTION.

Mr. SABATH. Mr. Speaker, I ask unanimous consent to print in the RECORD a short article which pertains to the good-roads convention.

The SPEAKER. The gentleman from Illinois asks unanimous consent to print in the RECORD a short article respecting the good-roads convention. Is there objection?

There was no objection.

The article referred to is as follows:

OFFICIAL CALL FOR A WOMEN'S STATE GOOD-ROADS CONVENTION AT THE AUDITORIUM HOTEL APRIL 3 AND 4, 1912.

At the recent Illinois State good-roads convention, on Lincoln's birthday, it was unanimously resolved to seek the aid of the women of Illinois for the great movement for good roads and streets.

An Illinois woman's good roads convention is hereby called to meet at the Auditorium Hotel on April 3 and 4 for the promotion of a more general interest among women in the good-roads movement.

The importance of this movement for good roads is being recognized as never before, and it is felt that when the women of the State add their influence to that of the press and clergy a victory will have been won, greater and more far-reaching in effect than any other within a generation. For it is a matter of tremendous import that in the United States bad roads are directly responsible for the loss of a billion dollars a year, and the saving of this stupendous sum surely constitutes an economic question of vast importance.

When the agricultural production alone of the United States for the past 11 years totals more than $70,000,000,000, a sum to stagger the imagination, and it cost more to take this product from the farm to the railway station than from such station to the American and European markets, and when the saving in cost of moving this product of agriculture over good roads instead of bad would have built a million miles of good roads, the incalculable waste of bad roads in this country is shown to be of such enormous proportions as to demand immediate reformation and the wisest and best statesmanship.

Great as is the loss to transportation, mercantile, industrial, and farming interests incomparably greater is the loss to women and children and social life, a matter as important as civilization itself, and the truth of the declaration of Charles Sumner 50 years ago, that "The two greatest forces for the advancement of civilization are the schoolmaster and good roads," is emphasized by the experience of the intervening years and points to the wisdom of a union of educational forces for aggressive action for permanent roads and streets.

Women who are interested are urged to be present from every town and county in the State.

THE ILLINOIS STATE GOOD ROADS ASSOCIATION.
ARTHUR C. JACKSON, *President.*
DAN NORMAN, *Treasurer.*
MAUDE E. JONES, *Secretary.*

—

CONSTITUTION OF THE ILLINOIS STATE GOOD ROADS' ASSOCIATION.

ARTICLE 1. The name of this organization shall be the Illinois State Good Roads' Association.

ART. 2. Its objects shall be to secure good roads and streets in Illinois, and cooperate with the National Good Roads' Association and the National Good Roads' Congress in the promotion of the objects of those organizations.

ART. 3. The official headquarters shall be in Chicago, Ill., and such other places as the board of directors may determine.

ART. 4. Only residents of Illinois who are members of the National Good Roads' Association or the National Good Roads' Congress are eligible for membership in this association, and all such are members by virtue of such membership without further fees, dues, or obligations of any kind.

ART. 5. The association shall meet annually on the second Wednesday of November at the offices of the association in Chicago, Ill., for the purpose of electing officers and for the transaction of any other business in the interest of the association. All classes of members—honorary, life, or annual—may vote upon all questions at all meetings of the association, in person or by proxy, and those present shall constitute a quorum. The president may call special meetings at any time or place, and may appoint a vice president, secretary, treasurer, consulting engineer, and organizer for each county of the State, with a view of securing a more extended and perfect organization of the association in all the counties of the State and to secure the affiliation of all possible organizations and interests, which appointments shall continue for the calendar year for which they are severally appointed.

ART. 6. The elective officers of the association shall be a president, two or more vice presidents, a secretary, a treasurer, and one other from each of the 102 counties of the State, who, with the foregoing, shall constitute the board of directors. They shall be elected by the association at the annual meeting by ballot and shall hold their respective offices for one year, or until their successors are duly elected and qualified. All vacancies may be filled by the board of directors. The president, first and second vice presidents, secretary, and treasurer shall constitute the executive committee.

ART. 7. The board of directors and executive committee shall aggressively promote the objects of the association by every means in their power. The president shall preside at all meetings of the association, the board of directors, and executive committee, sign all certificates of membership and all warrants for the disbursement of the funds of the association, name all committees not otherwise provided for, and be ex officio chairman of the same. The secretary and assistants shall make and keep on file at the offices of the association an accurate record of all members, meetings, and transactions of the association. The treasurer shall be the custodian of the funds of the association and make disbursements only for accounts properly vouchered and by warrants signed by the president, and shall give bonds for the faithful discharge of the duties of the office in such amount as the board of directors may determine. A meeting of the board of directors or executive committee may be called at any time by the president upon notice to all members, and when not so called meetings of each shall be held, when possible, on the first Tuesday of each month at the association offices. Those present shall constitute a quorum. The president, secretary, and treasurer shall each submit written reports to the association at its annual meeting, covering the transactions of their respective offices.

ART. 8. These articles may be amended only at the annual meeting herein provided for the election of officers. If a proposed amendment be published by the president and secretary in an official call for the annual meeting, a majority vote shall adopt, but any amendment not so published may only be adopted by a three-fourths vote.

ARTHUR C. JACKSON, *President.*
MAUDE E. JONES, *Secretary.*

—

CHICAGO, ILL., *March 14, 1912.*

Hon. A. J. SABATH,
*House of Representatives, Washington, D. C.:*

Please personally urge upon Speaker CLARK the importance of his addressing women's good roads' convention April 3 or 4.

ADELA PARKER KENDALL,
*Chairman Program Committee.*

THE EXCISE-TAX BILL.

Mr. UNDERWOOD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for 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 individuals and copartnerships. Pending that motion, I desire to ascertain if I can reach some agreement with the gentleman from New York [Mr. PAYNE] with reference to the time to be allowed for general debate and the consideration of the bill.

Mr. PAYNE. Mr. Chairman, I will say to the gentleman from Alabama that, so far as I know, gentlemen upon this side desire between five and six hours of general debate.

Mr. UNDERWOOD. Would the gentleman be willing to debate the bill to-day, and if we can get an agreement to transfer the business in order on Monday to Thursday to continue general debate on Monday, and at 4 o'clock Monday to take up the bill for consideration under the five-minute rule?

Mr. MANN. I suggest that we take it up on Tuesday.

Mr. UNDERWOOD. The reason I ask is that there are a number of gentlemen who desire to leave the city on Tuesday, and I would like to accommodate them if I can.

Mr. MANN. I suggest to the gentleman that Monday will probably be celebrated quite extensively as St. Patrick's day, and a good many Members will be away on that day on that account.

Mr. UNDERWOOD. To-morrow, Sunday, is St. Patrick's day, but I suppose it will be celebrated on Monday.

Mr. MANN. Yes; and I think a number of gentlemen from both sides of the House will be away on account of that celebration.

Mr. UNDERWOOD. Then the gentleman is not willing to take it up for consideration under the five-minute rule at 4 o'clock on Monday?

Mr. MANN. As a matter of convenience to Members I do not think it would be well to do that.

Mr. UNDERWOOD. My request is that we close general debate on Monday at 4 o'clock and then take it up for consideration under the five-minute rule.

Mr. PAYNE. Mr. Speaker, if in the meantime we can get in 10 hours of general debate, by meeting, say, at 11 o'clock on Monday, if the gentleman is in a hurry to get a vote, perhaps that would be satisfactory. Let us say that we take five hours and a half to-day, up until 6 o'clock, and then take up the bill at 11 o'clock on Monday, if he desires to close general debate on Monday.

Mr. MANN. Mr. Speaker, there are a good many gentlemen going away on account of the celebration of St. Patrick's day on Monday. They have made engagements to speak.

Mr. UNDERWOOD. Mr. Speaker, I would ask gentlemen on the other side whether they desire to consider the bill under the five-minute rule or will they be willing to offer a substitute for the bill?

Mr. MANN. I think gentlemen would wish to consider it under the five-minute rule for a short time, probably.

Mr. PAYNE. Mr. Speaker, I will say to the gentleman from Alabama that I am not anxious to consider the bill under the

five-minute rule, because it is simply a perfunctory matter of offering amendments. Still, there may be some gentlemen who are unable to speak in the time allotted for general debate who would like to get in for a while under the five-minute rule. I think some little time might be spent in that way in debate under the five-minute rule.

Mr. UNDERWOOD. Mr. Speaker, I will make this proposition to gentlemen: That business which is in order on Monday be transferred to Thursday; that this bill shall be debated under general debate to-day and on Monday; and that on Tuesday *morning*, immediately after the reading of the Journal, it shall be taken up under the five-minute rule for amendments and be debated for two hours, at the end of which time the committee shall rise and report the bill to the House with amendments, if any, and that the previous question shall then be considered as ordered on the bill and amendments to final passage.

Mr. PAYNE. That is, after two hours of debate under the five-minute rule on Tuesday?

Mr. UNDERWOOD. Yes.

Mr. PAYNE. I see no objection to that, with the understanding that the time is to be used on this bill to-day and on Monday in general debate, and that we are not to have something else intervening to take the place of it.

Mr. JAMES. That is the proposition.

Mr. UNDERWOOD. Of course, that is the understanding, and that the time shall be equally divided between the gentleman from New York and myself.

Mr. PAYNE. I am content with that.

Mr. UNDERWOOD. Then, Mr. Speaker, I make this request: That business which is in order on Monday next shall be transferred to Thursday; that this bill—H. R. 21214—shall be taken up when we go into the committee for general debate to-day and on Monday; that the general debate shall close when the House adjourns on Monday, and that the bill shall be considered for two hours under the five-minute rule on Tuesday; that at the expiration of those two hours the committee shall rise and report the bill to the House with any pending amendments that are adopted; and that the previous question shall then be considered as ordered on the bill and amendments to final passage.

The SPEAKER. The gentleman from Alabama asks unanimous consent that the business in order on Monday next be transferred to Thursday; that when the House resolves itself into the Committee of the Whole House on the state of the Union on the bill H. R. 21214, general debate shall run to-day and on Monday; that general debate shall close Monday evening, the time to be controlled on one side by himself and upon the other by the gentleman from New York [Mr. PAYNE]; that on Tuesday, after the reading of the Journal, debate upon the bill under the five-minute rule shall continue for two hours, at the end of which time the committee shall rise and report the bill to the House with amendments, if any, with the further agreement that the previous question shall then be considered as ordered on the bill and amendments to final passage. 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 Alabama that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 21214.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 21214, the excise tax bill.

The SPEAKER. The gentleman from Tennessee [Mr. MOON] will take the chair.

Mr. MOON of Tennessee assumed the chair amidst general applause.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

A 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.

*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, etc.

Mr. UNDERWOOD. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent that the first reading of the bill be dispensed with. Is there objection? [After a pause.] The Chair hears none.

Mr. UNDERWOOD. Mr. Chairman, a number of months ago the gentleman from Tennessee [Mr. HULL] introduced the first draft of this bill and is entitled to much and most of the credit for its authorship. The present bill does not conform entirely to the lines introduced by the gentleman, but in the main it does.

I therefore yield one hour to the gentleman from Tennessee [Mr. HULL] to present the bill to the House. [Applause.]

Mr. HULL. Mr. Chairman, whenever it is proposed to modify our existing system of class taxation and to add or substitute in part an honest and wholesome method, we are always met with that old cry of privilege, that the method proposed is unconstitutional or inoperative or unproductive. I desire to discuss this bill and these stock objections that have been urged against it.

Mr. Chairman, in addition to revenue the prime purpose of the pending measure is to secure justice in taxation. I therefore favor the excise tax proposed as a bona fide means of raising adequate revenue and equalizing existing tax burdens. There is no sounder rule than to require the citizen annually to pay a tax, measured by a fair and just proportion of his net gains. This golden rule of taxation has been written as nearly as possible in the measure now under consideration. This bill assumes that every American citizen is honest enough and patriotic enough to willingly bear his fair share of the tax burdens. It is expected, therefore, that this measure will encounter the opposition of those who, claiming and enjoying all the benefits of government, would shirk its burdens. The blessings and the burdens of government go hand in hand. No good citizen will invoke the one and evade the other.

Mr. Chairman, the gross inequality of our present system of taxation constitutes a severe reflection on the intelligence and the fairness of the American people. That system, unequal as it is indefensible, is the mightiest engine of oppression imposed upon an honest yeomanry since the feudal ages. The chief burden of all tariff and local taxes now falls upon the middle and poorer classes. Only those more able to pay escape it. The people of small annual earnings, not exceeding $1,500 to $2,000, including the small landowner, pay the great bulk of our local and customhouse taxation. The manner in which those of large means escape even local tax burdens is well shown in the report of the special tax commission of New York in 1907, headed by ex-Senator Warner Miller, in part as follows:

First. That the assessed value of all personal property is (in New York State) approximately $800,000,000.

Second. That the value of all personal property owned by citizens of this State is not less than $25,000,000,000.

Third. That the richer a person grows the less he pays in relation to his property or income.

Fourth. Experience has shown that under the present system personal property practically escapes taxation for either local or State purposes.

Mr. Chairman, it may be safely said that this condition exists in the State and local tax systems, in relative proportion, throughout the Union. Most large owners of real estate and concealed personalty pay nominal taxes in proportion to their ability.

Turning again to our Federal taxes, it may be said that while our internal-revenue taxes are not subject to criticism, our system of high protective-tariff taxation is an outrage in its operation and effects. It is conceived upon the idea that the people should be taxed according to their needs and practically according to their poverty. [Applause.] It is the personification of avarice and selfishness. Under it the manufacturer "taxes the masses to the limit of his ability to extort or of their ability to pay." No civilized or humane people can longer tolerate this system of diabolical extortion. In contributing $314,000,000 to the Federal Treasury, the American consumer is compelled at the same time to hand over at least $1,500,000,000 to those individuals given special favors by the high protective tariff tax. The excise tax proposes to displace customhouse revenues to the extent of at least $60,000,000, shift the burden to those having annual net profits exceeding $5,000, and, at the same time, save to the people the relative sum of $300,000,000 now collected as toll by the manufacturer for the privilege of payment by the people of high protective tariff taxes.

Edmund Burke said:

You can tax the shirt off a man's back by indirect tariff taxation without serious complaint on his part.

[Applause.]

This system has yielded fortunes to the few, but it has imposed great hardships and privations upon the many. Whichever way the middle and the poorer classes turn they are confronted with the unjust distribution of wealth and tax burdens. This system places a high premium on wealth and a severe penalty on poverty. Everywhere the complaint goes up that

the masses are burdened with Federal, State, county, and municipal taxation far beyond their just proportion and their ability to pay, while those of larger means continue to augment them with little or no disturbance from the tax gatherer. We thus have presented not alone a question of popular unrest and discontent, but of rankest injustice.

Mr. Chairman, what is the remedy? Congress should lop off all the inequalities and injustices in the present system of high-protective tariff taxation, placing it on a sound revenue basis, imposing maximum rates on luxuries and minimum rates, or none at all, on necessities, and in the absence of power to lay a comprehensive income tax impose a general excise tax on the doing of business, measured by annual net income. [Applause.] This latter method will take care of the revenue and, more nearly than any other available remedy, will equalize tax burdens.

In 1909, when the Payne bill was drafted, revenue necessities moved the Republicans to add a tax on tea, coffee, and inheritances. The tax on inheritances reached the Senate. While the Payne bill was pending there it was discovered that the adoption of a general income-tax amendment was imminent. Thereupon, in some haste, the corporation-tax amendment was brought in and adopted in lieu of the proposed tax on inheritances and incomes.

Mr. LONGWORTH. Will my colleague yield for a question?

Mr. HULL. I hope the gentleman will allow me to proceed a little further first.

Mr. LONGWORTH. Just on that question to which the gentleman is referring.

Mr. HULL. I am familiar with the statement that the gentleman made as to this in his speech two years ago.

The pending bill merely extends and makes more complete and equitable the corporation-tax law. It may be here remarked that in 1911 customs revenues fell off $19,000,000 from those of the previous year, and thus far in the fiscal year 1912 they show a still further decline of nearly $9,000,000.

Mr. Chairman, I desire to discuss the proposed excise tax, not as a tax by itself, but as a permanent part of our whole revenue system. No one method of taxation should be considered singly, but as a part of a complete system which all taxes combine to form. For the purposes I have stated, this, or a similar method of taxation, has been adopted and made a permanent part of the fiscal system in almost every other civilized government of the world. The tax which this bill proposes contains no doctrine nor method new to this country. It contains the principle and really the method embraced in the present corporation-tax act and section 27 of the excise-tax act of 1898. Each essential feature of this bill is taken almost bodily, either from the excise act of 1898 or from the present corporation-tax law, or both. The Supreme Court has, in all respects, upheld the doctrine of both acts, as well as the validity of their administrative features, in the cases of Spreckels Sugar Refining Co. against McClain (192 U. S.) and Flint *v.* Stone Tracy Co. (220 U. S.). No one can successfully attack the validity of the proposed tax without first having secured a reversal of the two decisions I have named. Congress has no right to assume or fear that the Supreme Court would reverse or even modify either of these decisions as they affect the proposed tax. For, in the language of Mr. Justice Brown in the income-tax cases—

> Congress ought never to legislate in raising the revenues of the Government in fear that important laws like this shall encounter the veto of this court through a change in its opinion or be crippled in great political crises by its inability to raise a revenue for immediate use.

The question, and the only question, that might be raised against the validity of this tax is of easy determination in the light of recent Supreme Court decisions. Those who seek the defeat of indirect-tax measures usually offer the stereotyped objection that the tax proposed is a direct tax and therefore comes within the rule of apportionment, under the decision in the case of Pollock *v.* Farmers' Loan & Trust Co. (157 and 158 U. S.). But the court, in the Spreckels and the Flint cases, clearly differentiated and distinguished between this excise tax and the taxes held invalid without apportionment in the Pollock case. The Spreckels case clearly established the principle that a tax such as this bill proposes is an excise tax upon the doing of business and not a direct tax on property or its income, and therefore within the power of Congress to impose without apportionment according to population. In this decision the Supreme Court, after citing a number of cases in point, said:

> In view of these and other decided cases we can not hold that the tax imposed on the plaintiff expressly with reference to its "carrying on or doing the business of refining sugar," and which was to be measured by its gross annual receipts in excess of a named sum, is other than is described in the act of Congress, a special excise tax and not a direct one to be apportioned among the States according to their respective numbers. This conclusion is inevitable from the judgments in prior cases, etc.

Mr. Chairman, this excise tax avoids the Pollock decision and in its effects, closely approximates a general income tax. The applicable provisions of the Constitution of the United States in this connection are found in Article I, section 8, clause 1, and in Article I, section 2, clause 3, and Article I, section 9, clause 4. They are, respectively:

> The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States.
>
> Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers.
>
> No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

From the decision of the Supreme Court in the case of Hylton *v.* United States (3 Dall), in 1796, down to the decision in the Pollock case in 1894, it had been uniformly held that under the Constitution there were only two kinds of direct taxes, namely, a capitation or poll tax and a tax on land. In 1894 Congress enacted a law imposing a tax on the net annual income of all persons and corporations. The validity of this act was involved in the Pollock case. The Supreme Court held certain provisions of the act invalid and disposed of the remaining provisions in the following language:

> We have considered the act only in respect of the tax on income derived from real estate and from invested personal property, and have not commented on so much of it as bears on gains or profits from business, privileges, or employments, in view of the instances in which taxation on business, privileges, or employments has assumed the guise of an excise tax and been sustained as such. (158 U. S., 635.)

And as to the excise taxes, the Chief Justice said:

> We do not mean to say that an act laying by apportionment a direct tax on all real estate or personal property, or the income thereof, might not also lay excise taxes on business, privileges, employments, and vocations. (P. 637.)

I may say here that I do not consider the decision in the Pollock case sound. I believe the weight of reasoning is in the dissenting opinions. But the proposed tax in nowise conflicts with the Pollock decision in the light of subsequent holdings of the court. In this decision the court merely held for the first time that, in addition to the two kinds of direct taxes I have named, there are two other kinds, viz, a tax on incomes derived from real estate and a tax on incomes derived from invested personalty. Furthermore, the language I have just read clearly conveys the understanding that those provisions of the Wilson law which levied a tax on incomes derived from businesses, trades, professions, employments, privileges, and vocations were considered free from constitutional objection. In harmony with this view the court has also held that a tax on the income of business—which is property in a sense—was an excise and not a direct tax, in the following cases:

> Pacific Insurance Company *v.* Soule (7 Wall., 433).
> Railroad Company *v.* Collector (100 U. S., 595).
> United States *v.* Erie Railroad Co. (106 U. S., 327).
> Springer *v.* United States (102 U. S., 586).

It must be conceded that, since a tax on the income of business, as above held, is not a direct tax, a tax on business itself is still further removed from the field of direct taxation.

In the license-tax cases (5 Wall.) and in the Flint case the Supreme Court thus defines the taxing power of Congress:

> Congress can not tax exports, and it must impose direct taxes by the rule of apportionment and indirect taxes by the rule of uniformity. Thus limited, and thus only, it reaches every subject and may be exercised at discretion.

In the case of Knowlton *v.* Moore (178 U. S.) the court referred to the Pollock decision, holding a tax on incomes derived from real estate or invested personalty to be direct, and then proceeded to draw a clear line between the field of direct and indirect taxation as the latter relates to this bill in the following language:

> These conclusions, however, lend no support to the contention that it was decided that duties, imposts, and excises, which are not the essential equivalents of a tax on property generally, real or personal, solely because of its ownership, must be converted into direct taxes, because it is conceived that it would be demonstrated by a close analysis that they could not be shifted from the person upon whom they first fall.

Under its excise power, as more definitely defined in the Pollock case, Congress in 1898 imposed an excise tax upon the doing of either of three designated businesses by persons, firms, or corporations, the tax to be measured by a percentage of the earnings derived from the business carried on. Construing this act in the Spreckels case the Supreme Court not only said this was a tax on "the doing or carrying on of business," and not a tax on the income derived therefrom, but that the tax was not payable unless there was a carrying on of business as designated. It is important also to note the holding of the court in this case that the measure of such tax may be the income from the business, although a part of the income is derived from real estate, which is nontaxable without apportionment, either in itself or as to its income.

It will be seen, also, that this excise act of 1898 laid an excise tax simply on "the doing or carrying on of business," without regard to the capacity in which it might be carried on, alike on all persons, companies, and corporations. Mr. Chairman, the pending bill contains the identical language of section 27 of the act cited as to the subject of the tax, viz, "The doing or carrying on of business." In the act of 1898 Congress desired to limit the subject of the tax, with the result that it provided a basis of classification by designating the doing of three kinds of business on which the tax should fall. Since this tax applied to "every person, firm, or corporation," without exemption of either, no basis of classification as to the persons taxed was necessary, and the addition of the words "doing business in a corporate capacity" after the word "corporations" would have been surplusage. This ferm was properly used in the corporation-tax act, however, as a basis for classifying corporations for taxation and thereby exempting individuals and firms.

Mr. Chairman, Congress may lay an excise tax on business by almost innumerable methods both as to the subject of the tax and the person taxed. This tax might be applied to one designated business, or to a limited number of designated businesses, or to all kinds of business without special designation of either. The tax might likewise be applied to all persons, firms, and corporations, or to either, or to certain classes of either.

In the Flint case the Supreme Court said:

> In levying excise taxes the most ample authority has been recognized from the beginning to select some and omit other possible subjects of taxation, to select one calling and omit another, to tax one class of property and to forbear to tax another.

The court went on to cite 14 decisions upholding as many different excise-tax levies by Congress. In the Pollock case it was agreed by both counsel and the court that Congress had the unquestioned power to tax corporations and individuals in the same manner and at the same rate. Nothing to the contrary was even intimated by either the court or counsel in the Spreckels and Flint cases; in fact, it was assumed.

In the Flint case the court held that this tax could be measured not alone by the net income derived from a particular business source but from all sources, including net income from real estate or State and municipal bonds. Yet, I repeat, Congress has no power to levy a tax on either real estate or the net income therefrom without apportionment; and it has no power to levy a tax at all directly or indirectly on State or municipal bonds nor the income therefrom.

Mr. Chairman, to further discuss the validity of the proposed bill largely involves a repetition of the legal controversies, now settled, which were had with respect to the validity of the excise acts of 1898 and 1909, and I shall therefore proceed to discuss other phases of the bill. The controlling purpose of many countries in adopting this or a similar tax has been to equalize the tax burdens by reaching those paying the least taxes but most able to pay. In no other way has it been found possible to keep down the rising tide of popular discontent, unrest, and criticism due to tax systems which, like ours, imposed grossly disproportionate burdens upon the people. I insist that this or an income tax is the only efficient method of equalizing taxation in this country. Republicans in the main, obeying the behest of the protected and other special interests, have long looked with disfavor upon such a tax. They now do. [Applause on the Democratic side.] They support a measure tending in this direction only when writhing under the lash of public sentiment or as a means of defeating a like measure more comprehensive. In their zeal to perpetuate their system of high protective tariff taxation and the trusts, most Republicans contend that a general excise or income tax ought not to be levied save in times of great emergency and that it should be only a temporary tax. President Taft in various utterances has indicated this view. In other words, the Republican doctrine is that our present high taxes on food, clothing, shelter—on all the prime necessaries of life—should be made permanent, but that all taxes measured by the great incomes derived from colossal wealth should be very temporary. [Applause.] The gentleman from Massachusetts [Mr. MCCALL] stated the stock argument of privilege always made against this kind of indirect taxation when he wrote in his minority report on the sugar bill that this proposed tax was "a direct tax and probably unconstitutional." But since this view has proven so untenable, the opposition falls back upon the plan of attempting to discredit this bill by the plea that its scope is not broad enough to apply to that class of persons possessing large wealth and income. This objection is not based upon a desire to see this tax reach the few persons to whom this bill will not apply, but it springs from an overweening desire to discredit this entire method of taxation. Every device that privilege could conjure up has always been thrown in the way of this and income taxation. Many opponents of this and the income method of taxation now urge against this measure the sinister plea that it is invalid and inoperative and that it is necessary indefinitely to delay this wholesome legislation until the ratification of the pending income-tax amendment. At the same time others most active in their opposition to the income-tax amendment say that Congress already has practically the same power and facility of taxation, viz, the excise tax. On page 26 of the memorial presented to the New York Legislature in 1910 by Joseph H. Choate, John G. Milburn, William D. Guthrie, Francis L. Stetson, and others, protesting against the ratification of the income-tax amendment, I find this language:

> The corporation tax law of 1909 is an income tax on the business of corporations and is not apportioned, because an excise, and it will ultimately produce a very large revenue. Every business, every source of production can be similarly reached. A competent commission, such as would be appointed in England, would in a few months devise a complete and equitable system of excise taxation, provided, of course, political considerations did not paralyze them.

We see that when one of these kindred methods of taxation is proposed the opponents of both methods play the other against it as the best available means of defeating both. I say the proposed legislation will hasten the ratification of the income-tax amendment.

Mr. Chairman, the scope of the application of the proposed tax must necessarily be determined by the comprehensiveness of the term "business" as defined in the act. The Supreme Court has laid down its tax-meaning definition as follows:

> Everything about which a person can be employed; all activities which occupy the time, attention, and labor of persons for the purpose of a livelihood or profit.

How could this definition be more comprehensive? The Supreme Court thus wrote into the Flint decision the broadest meaning of the term "business" for the purpose of making it the subject of an excise tax. No definition of business given in any other sense is so wide in its scope. First, it embraces "everything about which a person can be employed"; second, it embraces all activities engaged in by a person "for the purpose of a livelihood or profit." All the court decisions and textbook writers say that the term "business," as correctly defined in this bill "in its broadest sense includes nearly all the affairs in which either an individual or a corporation can be actors." (Cyclopedia of Law and Procedure and citations therein, vol. 6, p. 260.)

In ascertaining whether the proposed tax applies to a person the only inquiry is whether that person is engaged in such activities as come within the phrase "carrying on or doing business." If so, he is liable for the tax whether such activities are few or many, frequent or infrequent, narrow or broad, or relate to real estate or invested personalty which can not be taxed in itself or as to its income. Whether a person is "doing business" must depend on the special facts of each case. I agree that the mere ownership of property unaccompanied by any activities in the sense above defined would not bring such owner within the application of the proposed law. However, the most casual reflection must convince one that the number or class of persons who would thus escape taxation would be remote.

The opposition to this bill—deliberately disregarding the plain holding of both the Spreckels and the Flint cases—seem to contend that this tax is in legal effect an income tax and can not therefore be measured by incomes derived from real estate and invested personalty, because the Pollock decision held that a tax could not be laid directly upon such incomes, and because the court held, in the case of Zonne *v.* Minneapolis Syndicate (220 U. S.), that under the particular facts of that case a realty corporation was not liable for an excise business tax. This view entirely overlooks the fact that in the Minnesota case the court merely held that since the corporation was not performing a single activity in respect to the real estate to which it merely held title, nor a single business activity in any other respect, the company, therefore, was not "doing business" and so not subject to any tax. If, entirely apart from its ownership of this real estate, this corporation had been engaged in any other kind of business activities within the meaning of the term "business," the tax would have applied and been measured by the income from all sources, including the real estate in question. This latter rule would apply to all persons merely owning real estate or invested personalty and performing no activity in respect thereto, but at the same time performing business activities entirely disconnected therefrom. This Minnesota case does not embrace those large holders of real estate, mortgages on realty and personalty, bonds, and other securities who devote their activities in person or through numerous agents and employees, or both, to the work of looking after and managing their property and guarding their mortgage and other rights

and collecting interest or other compensation with respect thereto.

It can not be conceived that when the Supreme Court in the Pollock case removed from the field of income taxation, except by the utterly impractical method of apportionment, that great class of wealth embraced in the terms "real estate and invested personalty," the court intended thereby to place the bulk of the country's wealth beyond the efficient taxing power of Congress. That decision, in the light of the Spreckels and Flint decisions, necessarily contemplated that there still rests in Congress the undoubted power to accomplish practically the same revenue purposes by other feasible methods of taxation and which is now well established, including an excise tax on business. In applying this tax we must also keep in mind the fact that under our modern industrial, financial, and commercial conditions an individual may limit his personal business activities to a very narrow scope, employing only at occasional intervals but little of his time, attention, or labor, and yet that person may, by means of his wealth, by general direction or supervision, be a tremendous factor or agency in placing or keeping in operation immense business activities.

To be engaged in business under this bill it is not necessary that one should in his physical person, or in a strictly official capacity, be immediately and proximately connected with the business carried on. To better illustrate: The bondholders of corporations are not subject to the corporation tax. The bonded debt of a corporation is a part of its capital, even more so than the stock at times, because the latter is often watered. Interest on such bonds is usually preferred in payment to the dividends to stockholders. The bondholder is interested in keeping his bonds at a fair market value and in the certain payment of proper interest thereon. The result is that they are usually given, or at least they exercise, authority to maintain, in an organized or other capacity, a general supervision over the conduct and management of the corporate business, although they are neither officers nor stockholders therein. The time, attention, and labor thus bestowed would clearly subject such bondholders to this tax. This business fact should also be applied to the holders of mortgages on realty and personalty and considered in connection with their other activities, including those of loooking after and protecting their property and collecting interest thereon. Furthermore, when we consider the ramifications and complexities of modern business, the innumerable forms of wealth and its countless uses, the close business relationship and connection existing between the large holders of mortgages, bonds, and other securities and those actively conducting great business enterprises, their interdependency of interests, and their frequent and continuing business cooperation, and so forth, it would, in my judgment, be difficult to find but a limited number of the former to whom this tax would not apply.

Mr. Chairman, it is admitted that in a case where an owner of real estate, for a fixed rental, leases the same for a long term of years, and thereby parting with the entire control, care, and management of the same, and ceasing to perform any activity in respect thereto, merely receiving the rentals, this tax, in the absence of other business activities, would not apply. However, these exceptions would not embrace that large field of activities consisting of short-term leases of realty under such terms or conditions as that the owner continues a factor, directly or indirectly, or in a general way, either in furnishing supplies, equipments, or repairs during or at the beginning of each rental period, or in the care, management, or general supervision or control of the same.

Mr. CANNON. Will the gentleman allow me right there to ask him a question? I am following him with much interest.

Mr. HULL. I yield to the gentleman.

Mr. CANNON. If a man has an income on a lease of one year or five years or any number of years of $5,000, that would not come, according to the gentleman's contention, within the provisions of the act and be liable to a tax, provided he was doing nothing else? Is that the gentleman's statement?

Mr. HULL. I will say to the gentleman from Illinois that I am undertaking to set out what I consider the general rules applicable to the different phases of the operation of this bill. There are 10,000 business conditions existing in this country. I am undertaking to use here terms that are well settled both in the court decisions and in the law books. As to the application of the rules which this proposed legislation embodies, that is a matter that would naturally be left to the administrative officials. I am about to make a further statement in connection with the inquiry of the gentleman which will shed some more light.

Mr. CANNON. If the gentleman will allow me just there, I am not controverting his conclusions, but I wanted to see what they were. I would be glad to know if a man has $6,000 worth of income on a lease, running for a number of years, and is doing nothing else in the world, if the gentleman is inclined to the opinion that that would not be subject to taxation under the proposed law, but if he was making a hundred dollars keeping a candy shop or doing anything else that would bring him within the law and make the $6,000 of rent taxable? In making up the statement is the $100 or the $1,000 he might have from an activity wholly dissociated from the income from the leasehold?

Mr. HULL. That statement that when the tax once lodges on any business it is measured by the income from all sources is correct, and it would be true in nine-tenths of the cases, in my judgment, that income from a lease, as the gentleman suggests, would be embraced in measuring the tax, even though it should be true in some instances that no business activities were engaged in with respect to the use of such property, but in other respects.

Passing to another phase, Mr. Chairman, this bill would reach all the individual bondholders and practically all the individual stockholders of holding corporations in this country. The corporation-tax law exempts from its provisions all "amounts received by a corporation as dividends upon stock of other corporations subject to the tax." This practically exempts all holding companies from the corporation tax, for the reason that virtually all their stock is invested in their subsidiary companies. Many States prohibit the organization of these holding companies on grounds of public policy. In the Northern Securities case the Supreme Court held one great holding corporation illegal. The purpose of many large holding companies is to control and monopolize production in different lines. In the circumstances both their stock and bond holders can well afford and ought to pay this tax.

Mr. Chairman, the conclusion is therefore inevitable that when we consider the laws, rules, methods, and conditions of modern business, but a limited number of the holders of great wealth would escape this tax.

As I stated to the gentleman from Illinois [Mr. CANNON] a few moments ago, in 9 cases out of 10 it would be found that that same person, even if he is not performing a single business activity with respect to that property, is engaged in business in the sense of this bill with respect to other property or in some other respect as defined by the term "business."

The gentleman from Massachusetts [Mr. MCCALL] in his report on the sugar bill makes the following statement concerning the proposed bill:

> It would treat the right to work and its necessity as a franchise, the exercise of which should be taxed.

If this statement emanated from any other source less high and respectable I should characterize it as pure buncombe, the sole purpose of which is to divert attention from the real facts and merits of this bill. This is the same objection, differently phrased, that has so long done service for privilege against an income tax. Since Congress can not tax all incomes, it becomes necessary, in order to accomplish the same revenue purposes, to lodge the tax elsewhere and measure it by the income. In determining the merits of this tax the people will look at the results. Besides, this tax confers no right or privilege as to business which does not otherwise exist. The people know that all Government taxes fall on them. Of what concern to them is the name of a particular tax or of any tax? Their sole concern is that all taxes shall be for revenue and shall be imposed justly and fairly and according to ability to pay.

Let us compare for a moment the proposed tax with the present unspeakable Republican high-tariff tax. Our Republican tariff tax, for the benefit of the Sugar Trust, the Steel Trust, the Beef Trust, the Woolen Trust, and hundreds of other favored and fattened creatures of privilege, ruthlessly exacts of every citizen, including the millions who are in a state of poverty and hunger, a tax upon every bite of food he eats and upon every garment of clothing he wears. According to the logic of the gentleman from Massachusetts, the Republican high-tariff tax treats the right to "eat" and to "wear clothes" as a franchise and places a heavy tax on its exercise, thereby creating the present high cost of living. [Applause on the Democratic side.]

On the other hand, the pending measure does not tax poverty or want; does not tax any human being unless he is "doing business" and has net annual earnings exceeding $5,000. This amount, when capitalized at the current rate of interest, is equivalent to property of more than $80,000. This method of tax lightens the burdens of those now so greatly overburdened by displacing pro tanto the odious protective tariff tax I have just described.

Mr. Chairman, I now desire briefly to discuss the administrative features of this bill. In drafting its administrative provisions the most desirable and practical features of similar tax

laws were utilized. Under it no person becomes subject to any tax unless there is a remainder of his annual earnings left after deducting necessary expenses incurred in carrying on his business, all interest paid within the year on existing indebtedness, all national, State, county, school, and municipal taxes, all 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 warranted to be worthless, and also $5,000. Suitable and adequate provisions are contained in this measure requiring the making of returns in all proper cases; likewise suitable and adequate remedies in case of the making of false or fraudulent return by any person or an inadequate return. This act conforms to the corporation-tax law as to the time of making assessments, tax returns, and collections thereon. In addition to the remedies of both the Government and the taxpayer contained in this bill, the general law relating to the assessment and collection of internal revenue will be in force wherever applicable. Section 3167, for example, prohibits, under severe penalty, the divulging or making known in any manner not provided by law any phase of the business or other affairs of a taxpayer as set forth or disclosed in his tax returns, or in other manner. Notwithstanding these features which are intended to reduce the inquisitorial provisions to the minimum of annoyance or objection on the part of the taxpayer, it is contended by the opposition to this tax that its inquisitorialness constitutes a fatal objection to the tax.

I challenge a comparison of the methods of assessing and collecting this tax with those relating to both our State and National taxes. The inquisitorial features of our State tax laws are most rigid. They require the taxpayer to disclose, under both civil and criminal penalties, every kind and item of property possessed, even including heirlooms, trinkets, and jewelry belonging to members of the taxpayer's family. In many States these tax returns are made public and kept open for public inspection, notably in New York, Connecticut, Maryland, Pennsylvania, and New Hampshire. The right of personal search and seizure prevades our customs system of taxation, and the machinery of assessment and collection is necessarily intricate and exacting in a high degree.

I here call attention, Mr. Chairman, to section 3064 of the Revised Statutes, giving ample warrant for personal search and seizure:

> The Secretary of the Treasury may from time to time prescribe regulations for the search of persons and baggage and for the employment of female inspectors for the examination and search of persons of their own sex, and all persons coming into the United States from foreign countries shall be liable to detention and search by authorized officers and agents of the Government under such regulations.

Under this statute the newspapers of March, 1911, contained an account of the personal seizure and search of an American lady of the highest standing and character. Similar cases often arise. It seems that some irresponsible person in Europe wired an American customs agent that this lady was suspected of bringing in a diamond necklace. The following newspaper extract discloses the method of dealing with cases based upon such information. I omit the name:

> After the five trunks had been ordered sent away, Mrs. ——— was asked by Special Agent Wilson if she had a diamond necklace, and she declared that she knew nothing about any necklace. Wilson thereupon ordered a woman inspector to take Mrs. ——— and her daughter into a stateroom and search them thoroughly. Mrs. ——— said later, with tears, that she had been compelled to remove even her stockings. The search brought forth nothing dutiable.

I challenge the opposition to this tax to point out any features relating to its collection which compares with the workings of our customs-tax law with respect to inquisitorialness, search, and seizure. [Applause in the Democratic side.]

Furthermore, no honest person has a right to complain about reasonable regulations designed to prevent dishonesty. Neither have dishonest persons a right to make such complaint. I do not believe the proposed law would to a material extent increase dishonesty or falsehood in making tax returns, as opponents of this tax charge. Until the contrary is proven, I consider this intimation a slander against the possessors of large incomes in this country. I believe they now realize the wisdom and necessity, if they do not concede the justice, of bearing their fair share of burdens. However, if the objection offered be true in any measure it should not militate against the enactment and enforcement of this tax. To any dishonest taxpayer there should be applied the thumbscrews of the law. I both despise and pity those who place selfishness above morality, greed above honesty, and perjury above patriotism. [Applause on the Democratic side.]

Mr. Chairman, the chief difficulty originally experienced in the enactment of excise or income tax laws has been in their administration. However, other countries during recent years have developed the administrative features to a most satisfactory extent.

Mr. JACKSON. Mr. Chairman, will the gentleman permit a question?

The CHAIRMAN. Does the gentleman from Tennessee yield to the gentleman from Kansas?

Mr. HULL. If the gentleman will let me make this statement I will be glad to yield to him later.

The proposed law contains in its administrative provisions a new feature known as "collection at the source." This method of levying and collecting the income tax resulted in doubling the revenue in England the first year after its adoption. England collects nearly $200,000,000 from an income tax. The law with its modernized administrative features works admirably.

The chief reason for its splendid success is its justice as a tax and the system of collection at the source. Its inquisitorial features are thus minimized and afford little cause for complaint. Under this stoppage at the source plan more than two-thirds of this tax is collected in England. It may be said that there is a vast difference between the antiquated income-tax machinery formerly in operation in this country and that contained in the pending bill by reason of the stoppage at the source feature.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. UNDERWOOD. Mr. Chairman, I yield to the gentleman 10 minutes more.

The CHAIRMAN. The gentleman from Tennessee [Mr. HULL] is recognized for 10 minutes more.

Mr. HULL. This provision of collection at the source is based upon the fact that all persons receive an income from some source. It is therefore provided that, wherever possible, the payer of the income shall withhold the tax due thereon and make payment to the Government. As to all incomes by which the tax is thus measured and paid the individual taxpayer is not required to make personal return. For example, the Government, corporations, copartnerships, and persons paying annual earnings to employees or other persons in excess of $5,000 would deduct and withhold the tax and pay to the Government. This method would likewise apply to mortgagors and lessees of real or personal property. By this method the taxpayer would not come in contact with a revenue official, nor would he have the opportunity or temptation to make a false or inadequate return of his income. This largely obviates the objection of inquisitorialness. As I have stated, comparatively little intangible personalty is reached and assessed for taxation. This stoppage-at-the-source method intercepts income therefrom. In my judgment, three-fourths of the tax derived under the proposed law would thus be collected. The United States affords excellent conditions for the successful operation of this system of collection. Unlike Great Britain and France, most of our wealth is kept at home. And the great number of firms, corporations, and other large business agencies peculiarly adapt this country to the easy collection of this excise tax at the source.

Mr. JACKSON. Mr. Chairman, will the gentleman now permit a question?

The CHAIRMAN. Does the gentleman from Tennessee yield to the gentleman from Kansas?

Mr. HULL. Yes.

Mr. JACKSON. This law does adopt, does it not, the general machinery for the collection of our present excise or internal revenue?

Mr. HULL. I just stated that, so far as they are applicable, the features of the general administrative internal revenue would be brought into use.

Mr. JACKSON. Does not the gentleman think that the severity of some of those methods compare very favorably with those of the internal-revenue machinery and with the processes that he has just described in the carrying out of the proposed law?

Mr. HULL. Well, Mr. Chairman, in answer to the gentleman from Kansas, I do not know whether he is opposed to this kind of taxation or not, but I will be candid in saying to him that under the proposed measure, in my judgment, at least three-fourths of the taxes would be collected at the source of the income, so that the taxpayer would not even see an assessment or a revenue official.

And there is another provision which, under the most severe penalties, prohibits any Government official from disclosing any kind or character of information relative to the facts embraced within the tax returns of those officials. Ample provision is made for appeal in all cases from the decision of the lower revenue officials to the higher ones. Objections of a captious nature can be offered to any tax law when applied to the taxpayer who is undertaking to avoid the payment of his full taxes.

Mr. JACKSON. I wanted to call the attention of the gentleman, if he will permit, to one phase of the corporation-tax

law. That law, as the gentleman will remember, provided for the same exemptions that this proposed law does, and the collector held that all corporations were compelled to report, and then he dug down and found a statute which permitted him to compromise penalties, and under these two provisions he has collected a penalty of from $15 to $35 from every corporation in the country which failed to file its report before the 1st of March. What I want to know of the gentleman is, Would not that same provision apply to this proposed law?

Mr. HULL. This bill provides that no person shall make an income return unless his income is over $4,500. There is no such exemption of corporations.

Mr. JACKSON. It was conceded that these corporations were not within the exemption.

Mr. HULL. I hope the gentleman will pardon me for not yielding further.

In conclusion, Mr. Chairman, I wish Congress now had the power to enact a comprehensive graduated income tax with lower rates on earned and higher rates on unearned income. In the absence of such power Congress can only seek by a similar enactment to approximate that much-desired end. The present bill is not as I should have drafted it as an original proposition; but it was deemed wise, if not necessary, that in its terms it should conform to the corporation-tax law. This bill would impose just instead of unjust, honest instead of dishonest, taxation. More than any other agency it would equalize the burdens of Government, State, county, and municipal taxation. The tax is productive, cheap of collection, and the fairest and least burdensome of all taxes. This bill should become a law. The minds of the people are made up. They have determined to have fiscal reform in this country. In this behalf they propose to go on record next November. I have recently said in this House, and I repeat it now:

This country is approaching a tax revolution. The defenders of privilege, so long triumphant, can not turn back the tide of fiscal reform. Their opposition is a challenge to the civilization and representative government of our twentieth century. [Applause on the Democratic side.] Is our present hideous, monstrous system of taxation to go down in history as the culmination of centuries of Anglo-Saxon legislation? No. Some Pitt or Cobden, some Peel or Gladstone, will rise up and engage its champions in a battle to the death. And their ardent followers will constitute the best manhood and patriotism of this country—the type of citizenship that wrought out this Government, that has safely guided it through the trials and vicissitudes of more than 100 years, that has been its mainstay in the past and will be its glory in the future. [Applause on the Democratic side.]

Mr. PAYNE. Mr. Chairman, I yield one hour to the gentleman from Ohio [Mr. LONGWORTH].

The CHAIRMAN. The gentleman from Ohio [Mr. LONGWORTH] is recognized.

Mr. LONGWORTH. Mr. Chairman, we have just emerged from a battle in which the foes of protection are for the moment triumphant, and two great American industries lie bleeding in the dust.

But that is not all. Had the damage stopped there it would have been bad enough, but in the wake of the carnage follows also the destruction of one-fifth of our customs revenues. Sixty million dollars of the annual income of the Treasury has been thrown away, and it is the bill before us to-day that its proponents say is expected to make it up.

This is the twin, Mr. Chairman, that was born on the same day and conceived by the same brains as its brother, which has just emerged from its swaddling clothes so far as this House is concerned.

Can this bill do the work for which it was designed? That is the question which confronts us. By so much as it shall fall short of making good, by so much must it be adjudged a failure. If it shall not succeed in making good in any respect, then it were better that it had never been born.

I do not know, Mr. Chairman, who is entitled to the laurel wreath as the victor of this battle. Of course, if the gentleman from Alabama [Mr. UNDERWOOD] should lay claim to it, there is no one on that side, I assume, who would dispute him. But I can not help thinking that free sugar tastes more bitter than sweet to the gentleman from Alabama, and if he shall not claim the crown of victory, then the title of another gentleman on that side of the House is clear.

I doubt not that the gentleman from Alabama [Mr. UNDERWOOD] views with some complacency the high tribute paid to him the other day by a distinguished ex-Senator of the United States. It falls to the lot of a few men nowadays to hear themselves likened to Napoleon. But possibly this ex-Senator may have been wrong. It is clear to me that the gentleman from Georgia [Mr. HARDWICK] in this case is entitled to call himself not only in fact but in theory "the Little Corporal." He has run over the gentleman from Alabama. He has forced him to abandon every principle that he has stood for since the gentleman from Alabama became chairman of the Committee on Ways and Means.

Up to this time the gentleman from Alabama has opposed free trade constantly and consistently. He has maintained that practically every import should bear a duty for revenue purposes. He would not allow even pepper to remain on the free list, where it rightfully belongs, and where it has been since the Republican Party has been in control of legislation in this House. But when he came to sugar the gentleman from Georgia [Mr. HARDWICK] and his cohorts overwhelmed him, and all his plans for revenue duties have been swept away.

Not again in this Congress can the gentleman from Alabama maintain his former position. If it is unjust to tax sugar for revenue purposes, where is the justice in taxing pepper and other articles that have an equal place with sugar on the table of the average American citizen? The gentleman from Alabama voted for a duty of 29 per cent on wool, as did his followers on that side of the House. If a revenue duty on sugar is unjust, if it is unjust to tax some of the poor man's food, is it not equally unjust to tax his clothing? Every civilized country considers sugar as a legitimate revenue-producing article. Every other country but this, if this bill should be enacted, would still have a duty on sugar.

No country but this imposes a duty on raw wool. Does the majority of the Ways and Means Committee intend to bring in a bill to place wool on the free list? If not, why not? If this alleged excise income tax has the powers that you say it has of producing revenue, if it is going to pay for free sugar, why should you not make it pay for free wool? If, as you say, this excise tax of 1 per cent will raise $60,000,000, why not make the rate 2 per cent and raise $120,000,000? Then you can put on the free list wool and most articles of daily necessity, and perhaps we could even induce you to remove the duty on pepper. Why not make it 3 per cent or 4 per cent or 5 per cent, at which point you could afford to abolish the customhouses of this country altogether?

Gentlemen, why do you not make this tax higher if by doing so you can produce a revenue sufficient for the purposes I have named? It is because in your hearts you know that it will not raise the revenue you say it will or even a small fraction of it. You are not treating the American people fairly in this case, gentlemen. This bill is introduced purely for political purposes, and so far as the production of $60,000,000 revenue is concerned it is a fake pure and simple. The American people have intrusted you with control of legislation upon the floor of this House. They are entitled to expect at least serious constructive effort from you. This bill is not serious constructive effort. It is a farce upon its face, and it is a farce that may turn out in your case, gentleman, to be a tragedy.

The gentleman from Tennessee [Mr. HULL] who has just taken his seat made a very plausible and able argument upon the constitutionality of this bill. But did any one of you hear him say a word about the figures upon which estimates of the majority were based? Not one word or figure appears in their report to show that this bill will raise the revenue they say it will. It is pure guesswork and it is bad guesswork. In our report we have given you the figures and the facts to prove the figures. We have laid our cards face up on the table. Why do you not do likewise? It is because you know that an investigation of this question by any fairly intelligent man will prove beyond any conceivable shadow of doubt that if your bill is constitutional in every single respect, which it is not, you could not raise 1 cent more than $20,000,000 a year. And when you eliminate the evidently unconstitutional features of this bill, those features admitted by the gentleman from Tennessee [Mr. HULL] to be unconstitutional, you will not raise more than ten, or at the outside fifteen, millions dollars under this bill.

Mr. KITCHIN. The gentleman from Tennessee [Mr. HULL] is not here, having just stepped out. I do not recall his admitting that there was any unconstitutional feature in this bill.

Mr. LONGWORTH. The gentleman from Tennessee in his speech admitted that the tax upon the income received from real estate was not constitutional.

Mr. KITCHIN. Oh, no. He made an argument exactly to the contrary and showed that the Supreme Court had decided in the Flint and other corporation tax cases that any income from any source, real estate or otherwise, would be taxable, and he read the language of the Flint case, in which it declared that the point made as to the unconstitutionality of an income tax from real estate was not sound, and that we could tax incomes from real estate of corporations, although the real estate was not employed in the business at all. That is one of the main points decided by the Supreme Court.

Mr. LONGWORTH. I regret that the gentleman from Tennessee [Mr. HULL] is not here, as I should dislike very much to misrepresent him, but I heard the gentleman quote with approval the decision of the Supreme of the United States in the Zonne case, in which the court held specifically that a corporation organized for the purpose of receiving rents from real estate and distributing them among its stockholders was not doing business within the terms of the act.

Mr. KITCHIN. I beg the gentleman's pardon. The Supreme Court does not hold that at all. The Supreme Court declared in the very case cited by the gentleman from Ohio, the Zonne case, that a corporation organized for the purpose of owning and renting real estate would be taxable as to its income from such real estate; but that case went off on the point that the corporation had surrendered its corporate powers by amended charter, and had conveyed its property to individuals, and the court held it was no longer a corporation under the meaning of the act of 1909, because it had "wholly parted with control and management of the property"—these are the words of the court—of this source of income; that "the corporation had practically gone out of business with respect to the property and had disqualified itself by the terms of reorganization from any activity in connection with it," having conveyed it to individuals or trustees, and therefore the individuals or trustees were holding and renting it, and that the income from such real estate could not be taxed as income of a corporation.

Mr. LONGWORTH. I will have to ask the gentleman not to take up quite so much time.

Mr. KITCHIN. The gentleman from Tennessee [Mr. HULL] is not here, and I wanted to keep the gentleman straight as to his contention and argument. I know the gentleman does not want to misrepresent the gentleman from Tennessee, and would not do it.

Mr. LONGWORTH. Of course not.

Mr. KITCHIN. I think the gentleman has not misrepresented him, but has misconstrued his position.

Mr. PAYNE. Now, the gentleman from North Carolina takes up more time to apologize for what he took up before.

Mr. KITCHIN. I will yield to the gentleman from Ohio some of my time, then.

Mr. LONGWORTH. Under the decision quoted with approval by the gentleman from Tennessee [Mr. HULL] it was held that a corporation which received rents from real estate and distributed them among its stockholders was not doing business as contemplated by the act. How much more would that be true of an individual? How could you tax an individual under this act one cent upon his income received from real estate? The Supreme Court has held specifically that this is not "business" when done by a corporation. How much less could it be construed as "business" in the case of an individual?

Why, Mr. Chairman, in their own report the majority of this committee say that idle wealth held by idle persons will escape taxation under this bill. No man can be taxed one cent upon the income he receives from a mortgage or a bond or a ground rent. I do not care whether you call it "business" income or what you call it; that is idle wealth in the hands of idle persons, and is exempt from taxation according to the report of the majority.

Now, I had not intended to discuss at this point the constitutionality of this bill. Before doing so I want to say a word about the revenue features of it. The constitutionality of this bill is not the most important question to be decided by this House. If this bill can not raise the revenue made necessary by the passage of the sugar bill, it makes little difference whether it be constitutional or not. If this bill can not raise over $20,000,000 revenue why should we pass it, whether it is constitutional or not? I challenge any gentleman upon that side of the House to show in any way, by any figures, that this bill will raise at the most as much as $20,000,000 a year. The mere supposition that there would remain in this country incomes, after eliminating the incomes specifically exempted, like those received from corporations netting more than $5,000 a year, incomes from State, municipal, and county bonds sufficient to raise this $60,000,000 is utterly and absolutely absurd.

Think of it for a moment, Mr. Chairman. You are forced to presuppose, and this bill presupposes, that there are in this country incomes, not including the income of anyone who has less than $5,000 a year, not including any incomes received from State, county, and municipal bonds, not including incomes received from stock in corporations that net more than $5,000 a year, amounting to the terrific total of $6,000,000,000.

Mr. KITCHIN. Would it interrupt the gentleman to read the case that the gentleman cited a little while ago, or about five lines of it?

Mr. LONGWORTH. I will be glad to do so a little later.

Mr. YOUNG of Michigan. Will the gentleman permit a suggestion right there?

Mr. LONGWORTH. Certainly.

Mr. YOUNG of Michigan. Has not the gentleman forgotten one other exception, and a very large one—and that is those incomes derived by individuals from corporate stock that he did not mention?

Mr. LONGWORTH. I included in the statement I have just made incomes received by persons having investments in stock of corporations which earn more than $5,000 a year. I certainly intended to do so, and think that I did.

To state the proposition in another way: If this bill is expected to reach incomes amounting to $6,000,000,000 a year we are forced to suppose that there is wealth in this country not touched by the corporation tax, not specifically exempted by this bill, that amounts to $150,000,000,000.

The immense amount of property owned by railroads, mining corporations, and the like; all the vast accumulations of wealth owned by individuals through any form of corporate organization; the total debt of all States, counties, and municipalities; every dollar's worth of property owned by any American citizen who has a "business" income of less than $5,000 a year—all these forms of wealth must be eliminated from our calculations of the sources from which the tax provided in this bill must be derived.

Is the proposition that there still remains $150,000,000,000 worth of property, producing on an average a net income of 4 per cent, to be taken seriously?

The last complete census figures I have been able to find show that the total national wealth of this country in 1904 was $107,000,000. The highest limit that I have heard placed upon our national wealth to-day is $130,000,000. Bear in mind that this includes every form of property owned by corporations as well as individuals, every form of property owned by individuals having incomes of less than $5,000 a year as well as those who are more prosperous.

And yet we are asked by the proponents of this bill to believe that the total wealth that will be reached by it, with all of its exemptions, exceeds the total wealth of the country by $30,000,000,000.

The majority of the Ways and Means Committee, in making their revenue estimate, say in the report:

Due consideration has also been taken of the results of the experience of other countries in raising revenue from similar taxes.

A few moments ago the gentleman from Tennessee [Mr. HULL] said that the British income tax produces nearly $200,000,000 a year. As a matter of fact, he slightly swelled the figures. The largest amount ever raised under the British income-tax law was $180,000,000 a year. But he neglected to state that the rate in Great Britain is 6 per cent and not 1 per cent, and that all incomes are taxed which exceed $800 a year and not $5,000 a year, as in this bill.

I have taken the pains to calculate the amount that this tax would raise if applied to Great Britain. The gentleman from Tennessee has told us of the marvelous machinery that Great Britain has for determining the incomes of her citizens in such a way that "no guilty man may escape."

Let us take the case of Great Britain. Let us see what revenue would be produced there under the tax proposed in this bill. The total incomes of Great Britain in 1910 from all sources amounted to £1,000,000,000, in round numbers, or $5,000,000,000. Of that one billion, $400,000, or about 28 per cent, was income from real estate; $240,000,000, or 5 per cent, was income from Government securities, foreign and domestic; and $3,340,000,000, or 67 per cent, was income from business corporations, professions, employments, and so forth, the sort of income that this bill seeks to tax.

The figures are not available to show what deductions can be made in the incomes between $800 and $5,000 in relation to real estate, but they are available as relates to all other incomes in Great Britain. They show that the total income of persons having not less than $800 a year and not over $5,000 a year was $400,000,000. The total income of firms was $75,000,000; of officials, $5,000,000; and employees, $625,000,000. In addition to this sum of $105,000,000 we must also deduct the income from corporations having more than $5,000 a year. That amounts to $1,275,000,000, so that there is remaining, of incomes in Great Britain which would be subject to this tax, $960,000,000, on which this tax would raise a revenue of $9,600,000 a year. Adding the amount which could reasonably be expected from the remaining 33 per cent, including incomes from real estate and Government securities, we would have then a total sum upon which this tax could be assessed of $1,400,000,000, on which this tax would raise a total revenue of $14,000,000 a year. Can it be reasonably supposed that the

tax proposed in this bill will raise more than four times as much here as it would in Great Britain? Merely to state the proposition is to show its absurdity. Mr. Chairman, this $60,000,000 of revenue is a pipe dream. When we see in the colored supplements of the papers to-morrow pictures illustrating Little Nemo's adventures in Slumberland, we shall not see anything more absurd than these figures.

"The jabberwock," which, "with eyes of flame
Went whiffling through the tulgy wood and burbled as it came,"

was no more a figment of a vivid imagination than these $60,000,000 a year are. [Applause on the Republican side.]

Let us take another example of the utter farcicality of the estimates of the majority of the Committee on Ways and Means. If we are to assume that $6,000,000,000 a year is the income upon which this tax could be levied, we would have to assume that the number of individuals having an income of $10,000 a year was 1,200,000. Is there anyone that would not laugh if it was said seriously to him that there were 1,200,000 people in this country—one-ninetieth or more of our population—who have incomes of $10,000 a year each? We would have to assume that there are 133,000 people who have an income of over $50,000 a year; that there are 6,000 American citizens who have an income of over a million dollars a year, or that there were 600 persons in this country who had an income of $10,000,000 a year.

Mr. POWERS. Mr. Chairman, will the gentleman yield for a question?

Mr. LONGWORTH. Yes.

Mr. POWERS. If under the terms of this bill it will not raise more revenue than $14,000,000, who is the bill going to hurt, if passed?

Mr. LONGWORTH. Mr. Chairman, I am sorry the gentleman does not apprehend the argument I am making a little better than that. I am not talking about who it is going to hurt. I am talking about whether it is going to help the country. I am arguing against the advisability of passing such legislation as this to make up a deficit in the revenues of $60,000,000 a year.

Mr. POWERS. I would like to ask another question, if the gentleman will yield?

Mr. LONGWORTH. I will tell the gentleman, though, whom it will hurt. It will hurt simply the active, energetic men of this country who by their brains and energy are making a livelihood for themselves and for their families. It will not hurt any single idle holder of idle wealth, whether Mr. Carnegie, Mr. Rockefeller, or Mr. Astor, or whoever he may be, who is living on the income of his invested capital. It will not hurt them, if that is what the gentleman wants to know.

Mr. POWERS. I am seeking information, and I would like to have the gentleman's reasons for failing to increase the excise tax from 1 per cent to 2 per cent. He has based his argument largely upon the proposition that a tax of 1 per cent is not sufficient to raise sufficient revenue to justify the bill. I would like to have some argument produced showing that the excise tax in itself is a wrong principle.

Mr. LONGWORTH. Mr. Chairman, I am coming to that later, if the gentleman will wait. I ask not to be interrupted any more for the present. We have proved, and we have proved beyond the shadow of a doubt, and nobody has denied it, and nobody is going to deny it, I think, that this bill will not, even if constitutional in every respect, raise over $20,000,000 a year. That is on the assumption that the Supreme Court would uphold the tax on every income that it assumes to impose. From that sum must be eliminated what will go through the loopholes of this bill, and there are many loopholes. I shall not take time to go into that question except to ask that gentlemen read the letter from the Commissioner of Internal Revenue, which is quoted on page 5 of the minority report, and which I append here. The tables to which Mr. Cabell refers are to be found in the minority report.

TREASURY DEPARTMENT,
*Washington, March 9, 1912.*

Hon. NICHOLAS LONGWORTH,
*House of Representatives, Washington, D. C.*

MY DEAR MR. LONGWORTH: Referring to our conversation this morning relative to the Democratic caucus bill extending the provisions of the excise-tax law to all individuals, firms, etc., engaged in business, I beg to state that I have read this bill with considerable care and great interest.

This office had its first information relative to the bill in the newspaper reports announcing its adoption, and I have made considerable efforts to locate any data based on which the receipts from the bill could be estimated. After making inquiry from every source that I could think of, I have reached the conclusion that there is no very comprehensive data in existence. I had certain persons who are experienced in work of this nature make estimates from the data obtainable as to the probable tax-producing properties of the bill, without raising any question as to probable exemptions, exceptions, defects in language, apparent opportunities afforded to evade the tax, etc. I inclose herein a memorandum giving a brief synopsis of these estimates. You will note that the largest amount believed possible to be collected under this measure is $26,500,000 a year. If the bill is adopted in its present language, this possible amount appears certain to be reduced very greatly; in my judgment, below $20,000,000 per annum.

My principal criticisms of the language of the bill would be that the definition of the word "person" is not sufficiently embracive; the language would appear to except trusts, trustees, and associations, and then, most important of all, it does not embrace families. Taken in connection with a later paragraph of the bill, which states that no person receiving less than $4,500 need make a return, this definition would permit a man to divide his income, unless it were in the shape of a salary or something which attached purely to himself personally, among all of the members of his family, each receiving less than $4,500, and no one of these members would be required to make a return. He himself then would only have to report what would be left over and would be allowed a deduction of $5,000 from that. I am of opinion that this would afford an open door through which probably 25 per cent of the tax, which would otherwise be collected, would slip out.

Again, it is provided that the question of tax liability, or liability to make a return, shall be determined by the deputy collector or collectors, and it would appear that a decision in favor of a taxpayer by a deputy collector would be binding and final. I am of opinion that any provision such as this would make any law incapable of satisfactory administration.

If the proposed measure is to be enacted into law, I am of opinion that provision should be made for each "person" liable thereunder to make the return at the close of the fiscal year of the business conducted by such person rather than at the close of the calendar year.

There are numbers of other matters in the bill of more or less importance that appear to be subject to criticism, but I am giving you only what I consider the most vital administrative propositions, not touching at all the many interesting and complicated legal questions involved in this proposed legislation.

With highest regards, I am,
Respectfully, R. E. CABELL, *Commissioner.*

Mr. Chairman, I am not prepared to discuss, and I do not intend to discuss at any length, the constitutionality of this measure. I am not prepared to say it is unconstitutional in every respect, though I think a fair argument could be made to show that it is, but I do claim that so much of it as levies a tax, call it a business tax or by whatever other name you wish, upon the income derived from real estate or from invested capital is unconstitutional. The Zonne case, to which the gentleman from North Carolina [Mr. KITCHIN] referred, was a case where a corporation originally was chartered for the purpose of improving and holding real estate and erecting buildings thereon. Subsequently it leased the property to trustees and reserved merely the right to collect that income and distribute it among its stockholders.

Mr. LITTLETON. The lease ran for 130 years.

Mr. LONGWORTH. Yes; for 130 years. The court held that that corporation was not doing business in a way that would bring it under the provisions of the corporation-tax law. Without going at any length into this question I desire to refer to a case decided by the Supreme Court of Alabama, which is precisely in point. That is the case of State *v.* Anniston Rolling Mills (125 Ala., 121).

The rolling mill company was organized to manufacture and deal in iron products. It leased its plant to another corporation. It still collected rent, paid taxes, loaned money, and collected interest, and did certain other things looking to the preservation of its property. It was held by the court not to be liable to a license tax, upon the theory that it was not doing business, and the court said:

Not one of the several acts of the corporation done by it in the year 1897, as shown by the record, constituted a doing of the business or any part of the business for which it was created, and were incidents to the preservation of its property.

Mr. MADDEN. Would the lessees be liable for the tax in that case?

Mr. LONGWORTH. I do not see how they could be under this bill.

Mr. LITTLETON. That was an occupation tax by a license.

Mr. LONGWORTH. Yes. I quote it only as showing what a proper definition of the term "business" is. I do not think that anyone will claim that under this law the receipt of income from a ground rent would be taxable. Take a case where a man leases real estate perpetually, or for some stated period under a lease which provides that the lessee shall pay the taxes, assessments, and so forth. Will anyone claim that under this bill his income from the lease could be taxed? That is the kind of investment that many persons make when they retire from business. It is a form of investment which men leave to their families.

The income from this sort of investment would amount to many million dollars a year, and under this law such incomes would be absolutely exempt from taxation. So that if the courts should hold, as we think they undoubtedly would, that incomes from real estate and permanent investments can not be taxed under this bill, a large deduction would have to be made from even the comparatively paltry sum that any reasonable estimate will show its revenue-producing powers to be. The more carefully we examine the figures the more the revenues shrink. It is doubtful whether this bill, after being submitted to the

scrutiny of the courts, would yield as much as $15,000,000 a year, and it is not beyond the bounds of reasonable probability that the whole fabric might fall to the ground.

Mr. MANN. The gentleman speaks of income from real estate. Did not the Supreme Court hold in the rehearing in the Pollock case that the same rule was to be applied on income from real estate as income from personal property? At the rehearing they made no distinction.

Mr. LONGWORTH. The gentleman is correct.

Mr. MANN. The question would be in every case whether the person was transacting business.

Mr. LONGWORTH. If he was actually transacting business he would probably be taxed under this bill. If he was not transacting business he could not be taxed under this bill.

Mr. MANN. Under the corporation-tax case, if he is transacting business he might be taxed on his total income, whatever the sources of the income might be. The question, then, is, What is the transaction of business? Has the gentleman gone into that? Is collecting interest due him on a loan, business? Is living in a house, business? Is living on earth at all, business?

Mr. LONGWORTH. I put a case to a gentleman on the other side a few days ago who believed that the receipt of income from real estate was doing business. He claimed that the opening of an envelope that contained a check constituted a doing of business in real estate. I put to him this case, "Supposing a woman secures a divorce from her husband and is allowed under the decision of the court $10,000 a year alimony, is she to be compelled to pay a tax under this bill for doing business; and, if so, what business?" The answer was vague. [Laughter.]

Mr. SHACKLEFORD. Well, the question was vague. [Laughter.]

Mr. LONGWORTH. At the very best, and assuming that this bill is all that its proponents claim it is, far as revenue producing is concerned, it is foreordained to failure. And while I dislike to say anything disagreeable or sarcastic about any measure brought in here by my colleagues of the majority of the Ways and Means Committee, whom I regard and respect most highly, I feel absolutely justified in saying that this bill is a total and absolute fraud.

Mr. CANNON. Yes; but will the gentleman allow me to say that, admitting that to be true——

Mr. LONGWORTH. And as the gentleman does admit, I hope.

Mr. CANNON. I think so. But take the other side of the House—the majority—do you not think that they think it is "a good enough Morgan until after the election"? [Laughter.]

Mr. LONGWORTH. Without answering the gentleman specifically, I think there is some politics in this bill.

Mr. SHACKLEFORD. Is it not likely to be "a good enough Morgan after the election" for some who vote against it?

Mr. LONGWORTH. I would be quite willing that the only issue between the two parties should be this bill. If it were, we would not see the gentleman from Missouri [Mr. SHACKLEFORD] here after the election.

Mr. ALEXANDER. I hope the gentleman will not conclude without answering the question asked by the gentleman from Kentucky [Mr. POWERS].

Mr. LONGWORTH. I am about to come to that feature of the discussion, which I think I can answer to the satisfaction of the gentleman from Missouri [Mr. ALEXANDER]. While the majority say this measure is not on its face an income tax, the whole burden of their argument is to prove that it is one in effect, and that it will lead up to a perhaps more carefully considered income-tax law so soon as the necessary number of States shall have ratified the constitutional amendment submitted to them by the last Congress.

But what kind of an income tax do they mean? For what sort of a law can this be regarded as a precedent? Is it the intention of the majority to pass a law which shall exempt from any share in the taxation 95 per cent of the American people and include in that exemption the rich, who live in idleness upon their income from invested property? Is it intended that only those who are using their energies and brains shall pay the tax and that the drones and the idlers go free?

Mr. SHACKLEFORD. Mr. Chairman, I would like to ask the gentleman if that is not precisely what the Payne-Aldrich bill did with reference to the corporations?

Mr. LONGWORTH. Not at all. There are very few corporations worth considering which have an income less than $5,000 a year, as the returns show; but there are thousands of people in this country who have incomes of less than $5,000 a year. Now, I am coming to that precise point in just a moment.

Mr. BARTLETT. Will you allow me a question?

Mr. LONGWORTH. The gentleman will pardon me for a moment. I am going to speak first about the precedent for the exemption of incomes, and then I will be glad to yield.

This bill exempts incomes of $5,000 a year and under. Gentlemen speak with praise of the income tax in Great Britain and of its fairness and effectiveness in that and other countries in producing revenue. There is not another civilized country in the world, Mr. Chairman, that exempts incomes of more than $1,000 a year.

In Australia the exemption is $1,000; in Great Britain, $800; in Germany, $750; in India, $666; in Denmark, $214; in Japan, $150; and in Switzerland, which many speak of as the ideal Republic, the exemption is $120 a year. In other words, it has been found just in those countries which have tried the income tax that a fair share of the population should be called upon to pay it. In my judgment, an exemption as high as $5,000 is essentially unrepublican and undemocratic. I believe that the mass of the people in any Republic, or a large portion of them at least, should have a direct interest in keeping down the expenditures of their Government. I do not mean to say that I believe that the small man should pay as much as the big man, even proportionately. I would tax those who receive large incomes at a higher rate than those who receive small incomes, but I would not exempt incomes of a reasonable size from all taxation whatever. In my judgment, an exemption of as high as $5,000 a year is essentially class legislation.

Mr. LITTLETON. I would like to ask a question for information. Did you find out how many corporations there were that did not report under the corporation act? I could not find out.

Mr. LONGWORTH. Under our corporation tax?

Mr. LITTLETON. Yes.

Mr. LONGWORTH. No; but I think it is believed that practically every corporation of any size made report. The total of reports last year showed an income of $3,336,000,000, if I rightly remember.

Mr. LITTLETON. They paid on that?

Mr. LONGWORTH. The tax collected was something over $29,000,000, showing that those not taxed were corporations that were exempt for one reason or another, either for holding real estate or having incomes less than $5,000. The amount was relatively insignificant.

But gentlemen say that a high exemption will be "popular." Of course, the higher you put the exemption, the more popular the tax will be.

Any tax is always popular with those who do not have to pay it, and it is unpopular in a certain sense with those who do have to pay it. But, following the logic of that argument, it would be wiser and more popular to exempt incomes of $10,000 a year, or $15,000 a year, and so on up. But that is not the kind of popularity that a statesman should seek to attain for an income tax or any other tax. The test should be not popularity, but fairness. I do not believe that the average American citizen objects to paying his fair share of the burden of supporting his Government. He does not ask to be entirely exempted. He simply asks to be fairly treated. He does not ask for charity; he asks for a square deal.

Now, there is another feature of this bill to which I have as serious objection as I have to the size of the exemption, and that is the quality of the exemption. I mean the proposition that energy and enterprise are to be taxed and that idleness is to go free. In many enlightened countries a substantial distinction is made between earned and unearned incomes. In Great Britain professional incomes, incomes that are earned by activity, pay a tax 25 per cent less than unearned incomes or incomes derived from invested property.

In Australia the difference is even greater. I find that in Australia the taxation on incomes derived from "personal exertions" is only one-half that on incomes derived from investments. That is a proper and just distinction, and should be made in any income tax law, in my judgment. The man who earns his income by the exercise of his brains or by the sweat of his brow is all the time exhausting his capital. In the nature of things his earning capacity is limited by the fund of energy upon which he must draw, and at some time or other that fund must become depleted and eventually entirely exhausted. On the other hand, the man whose income is derived from property, comes to him without any energy or activity on his part, and does not impair his capital, which in some cases not only does not decrease, but increases in value. It is not fair that he should not pay more from his annual income than his neighbor, whose earning power may be soon exhausted.

This bill adopts precisely the opposite policy. Not only does it not distinguish in favor of the earner, as against the idler, but it actually penalizes him. It taxes the earner and lets the

idler go free. Under this bill not a cent of tax could be collected from a man who has inherited property and lives on the income derived from it. Not a cent of tax could be collected from the man who has retired from business and is living on the income from his invested gains.

What can be said in favor of a tax law which lets the Rockefellers and the Carnegies and the Astors go free, but which taxes the man who in the full maturity of his powers is devoting his best energies to the service of his Government, like, for instance, the honored Speaker of this House; which taxes the men who are devoting their lives to the preservation of the integrity and honor of their country, like the officers of the Army and Navy; which taxes the lawyer and the physician and the clergyman and every man who is earning his bread by his brains or the sweat of his brow?

I see no justification for the passage, either as a revenue measure or for any other purpose, of a law which makes such unjust discriminations as does this bill.

I am opposed to this bill, and I am opposed to any proposition for which it might be regarded as a legitimate precedent. If we are to have an income tax, let us have one that is modeled——

The CHAIRMAN. The time of the gentleman has expired.

Mr. PAYNE. Mr. Chairman, I yield the gentleman five minutes' additional time.

The CHAIRMAN. The gentleman from Ohio [Mr. LONGWORTH] is recognized for five minutes more.

Mr. LONGWORTH. If we are to have an income tax, Mr. Chairman, let us have one that is modeled on the laws of other countries, where it is an integral part of their revenue system, and where it has been shown by experience to be fair and just. Let us in the meantime oppose such measures as this, invented upon the spur of the moment, brought in for political reasons only, evidently not effective to carry out the purposes for which it was intended, and which from any point of view is unjust, unfair, and inequitable. [Applause on the Republican side.]

Mr. Chairman, I yield back the balance of my time, and ask unanimous consent to be allowed to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Ohio [Mr. LONGWORTH] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. UNDERWOOD. Mr. Chairman, I yield 20 minutes to the gentleman from Missouri [Mr. DICKINSON].

Mr. DICKINSON. Mr. Chairman, it was not my purpose to speak so early on this bill, but opportunity having been given me by the majority leader [Mr. UNDERWOOD] to speak this afternoon rather than later in the debate, I desire to say that I am heartily in favor of this bill, which seeks "to extend the special excise tax now levied with respect to doing business by corporations to persons, so 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," and I hope that the bill will be permitted to become a law and that it will stand the test in the courts, and that before very long the general income tax amendment will be adopted and a general income tax become a part of the law of the land.

In orderly society, secured by well-organized government and just laws, peculiar benefits come to those possessed of large means and incomes flowing therefrom. The peculiar benefits that government secures to wealth are in addition to those benefits that are common to all the people, who are supposed to enjoy under the law equal protection as to life, liberty, and pursuit of happiness. Great property interests are especially favored, and a large proportion of the expenses of government is for the protection of property owned and controlled by the wealthier classes, who invest their surplus means at home and abroad, understanding that the strong arm of the Government will be used to protect their property interests and investments wherever situate, and it is not unreasonable to insist that a fair share of the burdens of government shall be borne by the wealth of the country, and a moderate tax levied upon large incomes is both fair and just, and should be paid without complaint by those who reap and enjoy the greatest benefits of government.

This country stands almost alone among the so-called civilized nations in failing to tax incomes for the support of the Government. In the year 1908—and I have not before me later figures—the amount of income tax collected was, in round numbers, $413,000,000. In this respect England stands at the head of the list with $165,000,000. Other countries stood as follows:

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|---|---|
| Prussia | $88,000,000 |
| Italy | 50,000,000 |
| Spain | 18,000,000 |
| Japan | 13,800,000 |
| Saxony | 12,275,000 |
| Austria | 12,000,000 |
| Holland, India, Norway, each nearly | 7,000,000 |

England reached the sum of $180,000,000. However, it seems the per cent was greater, and levied upon sums exceeding a smaller amount, than named in this bill—so moderate in its exactions that none ought to complain.

In 1866 corporations paid more than one-eighth of the whole income tax, under the last existing income-tax law of the United States, which was repealed nearly 40 years ago.

In 1910 a 1 per cent tax on corporations yielded $27,000,000. If the proportion between individual and corporate wealth Later, the amount of revenues raised by tax on incomes in were substantially the same now as then, a Federal income tax of 1 per cent might be expected to yield $200,000,000. Yet I doubt the proportion being the same in 1910 and now as in 1866, corporations having multiplied more rapidly in later years.

How enormous is the wealth of this country, and untaxed for support of the Federal Government, and more than half of this wealth owned by a very small per cent of the population of the country enjoying large incomes free from taxation for Federal purposes.

The advocates of a general income tax have hoped that the day was not far distant when three-fourths of the States of the Union would ratify the proposed income-tax resolution, thereby amending the Constitution of the United States so that a law might be enacted by Congress whereby a general income tax might become the law of the land and whereby the burdens of taxation would be more evenly distributed. With a changed attitude on the part of the President toward income-tax legislation in time of peace, the adoption by the States of the income-tax amendment is discouraged by the very utterances of the President, finding active response among the leaders of his party in the several States, even going so far as to attempt to reverse the prior action of the State of New York, the wealthiest of all the States, and thereby, if successful, to prevent, possibly, any further progress toward the amendment of the Constitution of the United States for income-tax purposes.

I will quote a press dispatch:

RESCINDS INCOME-TAX VOTE—NEW YORK ASSEMBLY NOW REVERSES APPROVAL OF A YEAR AGO.

ALBANY, N. Y., *March 13.*

The assembly to-day, by a vote of 85 to 58, passed the Hinman bill, rescinding New York State's action of last year advocating a Federal income tax.

Arguments closely followed those of a year ago, when the legislature went on record as favoring the proposed constitutional amendment.

It takes three-fourths of the States of the Union, acting through their legislatures, to amend the Federal Constitution. Progress had so far been made in the States toward the adoption of this income-tax amendment that it required affirmative action of only 5 more States prior to the admission of Arizona and New Mexico into the Union of States, and by reason of their admission into the Union at this time it will now require 6 more States to ratify this amendment before it can be adopted as a part of the Constitution of the United States. Prior to their admission there were 46 States, and it was necessary that 35 States adopt the amendment in order to have the necessary three-fourths. The legislatures of 30 States have acted affirmatively. Sixteen States had either rejected the amendment or had failed to act. Mexico and Arizona admitted into the Union increases the number of States to 48 and increases the number of States which have not adopted the amendment to 18. Thirty-six States now constitute three-fourths of all the States. If 6 of these 18 States shall ratify the amendment, it will make the necessary three-fourths of 48, or 36 to 12.

The adoption of this constitutional amendment would hasten the beginning of a new fiscal policy—a policy of gradual reduction of tariff taxation made possible by resorting to income taxation. It will end the high protective-tariff system of this country and give to the people lower tariff laws and ultimately a tariff for revenue only—the goal of Democratic effort—and the country will readily understand why the highly protected interests seek to defeat income-tax legislation, and why Republican advocates of the high protection policy join hands with special interests in their efforts to postpone the day of the adoption of a general income-tax law as a permanent part of our fiscal policy.

The President of the United States, by his more recent utterances, lends his great voice and the influence of his administration to the delay in the adoption of this constitutional amend-

ment. Such is the action of those who control the policies of the Republican Party. A large standing Army on land, and a fleet of monster battlements plow the waters of the seas, all in time of peace, costing annually hundreds of millions of dollars, to protect the property and wealth of those who would swell the annual appropriations for their protection, and yet not willing to bear a reasonable income tax in time of peace—this Republic standing alone of the civilized nations of the world in avoiding the levying an income tax.

We are preparing for war in time of peace, and why should not this annual burden of preparation for war be borne in part by those who admittedly should help bear the burden in time of peace?

The Democratic Party, now in control of the House of Representatives, wearied with long waiting, anxious to hasten the day for lower taxation, anxious to make an honest effort to balance the weight of taxation on consumers of the country, who have heretofore borne all the burdens of taxation, seeks now to so extend the present corporation tax to persons, firms, and copartnerships that there may shortly be raised revenue from large incomes, while at the same time an effort is made to give cheaper sugar to all consumers of this great necessity that enters into the daily consumption of every household in the land. And this income tax should not be opposed as class legislation, but rather indorsed as an effort to equalize the burdens of Government.

I have called attention to the recent action of the New York Assembly, seeking to reverse the prior action of the legislature of that State in 1911 in adopting the income-tax amendment. I desire to say in this connection that when the State of New York, in 1911, ratified that amendment, the legislature was Democratic, and that the present assembly, or lower house, of the legislature of that State is Republican, and one of its first acts was the introduction of a resolution seeking to rescind the former action by a Democratic legislature. It has been understood that a vote against ratification does not preclude a ratification at a later date, but that a vote in favor of ratification is final and can not be recalled or rescinded; and that there is no limit upon the period within which an amendment to the Constitution may be ratified, and that it is beyond the power of Congress to recall an amendment which has once been submitted to the States.

As against this doctrine that a vote in favor of ratification is final, and can not be recalled or rescinded, in January, 1912, a concurrent resolution rescinding the action of the New York Legislature of 1911 in ratifying the proposed income-tax amendment to the Federal Constitution was introduced by Assemblyman Hinman, chairman of the judiciary committee. It asked the Federal Secretary of State to return the copy of last year's resolution now on file in Washington, and recites, that as the amendment has not been ratified by three-fourths of the States, it has not become part of the Constitution. The resolution declares there is no emergency calling for the immediate passage of the proposed amendment. Mr. Hinman says that an investigation of precedents for rescinding of action reveals the fact that there has never been a real test in court.

On March 6 the Hinman resolution rescinding New York State's approval of the Federal income-tax resolution was reported favorably by the assembly judiciary committee, and Mr. Hinman issued a statement saying that there was no precedent against rescinding which can be said to have determined that a State has no such right—and further says Congress can not decide this question, nor can the secretary of state, by the adoption of a resolution, declare that New York has irrevocably given its assent or by any kind of promulgation, that it is not a political question but a judicial one for the court. Such is the recent utterance of this Republican leader in the Republican Assembly of the State of New York. And on March 13—three days ago—the Hinman resolution passed the assembly by a vote of 85 to 58.

Mr. BARTLETT. Will my friend permit an interruption?

Mr. DICKINSON. Yes.

Mr. BARTLETT. The gentleman doubtless recalls the historical fact that when the fourteenth and fifteenth amendments were up for ratification by the States, the States of Ohio and New Jersey ratified the amendments and then withdrew that ratification, and the Secretary of State and Congress refused to recognize such later action of the legislatures of the two States.

Mr. DICKINSON. Mr. Chairman, I am familiar in part with that history. I recollect when I came here, nearly two years ago, being over in the other body and listening to a distinguished Senator, now an ex-Senator, from Mississippi, Senator Money, in an address before the Senate, in which he referred to that fact while discussing a joint resolution directing the Attorney General to submit to the Supreme Court all information available bearing on the validity of the fourteenth amendment to the Constitution of the United States, seeking to test whether the fourteenth amendment was adopted according to the requirements of the Constitution and whether or not this is a judicial question. By the action of the New York Assembly they seek to bring that question anew before the courts of the land for the purpose of taking New York out of the list of those States that have ratified the income-tax amendment.

So, while the party of which I am an humble member is seeking, with a percentage of the Republicans of the country, to press forward the enactment of an income-tax amendment and to secure the ratification of this amendment by three-fourths of the States of this Union, an effort is being made in at least one State, the wealthiest of all, to recede from that position, thereby, if successful, retarding and delaying the time, if not preventing the time from ever coming, when an income-tax-amendment resolution shall become a part of the fundamental law of the land.

There are to-day in this country two great contending forces, the masses on the one hand, the overwhelming majority of the people, who are pressing forward the thought that an income tax ought to be a part of the law of this Republic, as in all other of the most civilized countries of the world; but the thought has been in my mind, and doubtless in the minds of some of you at least, that the time, perhaps, is far distant when three-fourths of the States possibly will ratify this amendment to the end that it will become a part of the Constitution of the United States. When they do, then litigation will come, and the question raised in New York may be before the courts for judicial determination. The question is even suggested in a letter that I received this morning from the Secretary of State, when I inquired as to the number of States and the names of those that had ratified this amendment. I have here his letter naming 29 States, out of which the State of Kentucky is left, on the idea that there is some doubt about its having legally adopted it.

Mr. WITHERSPOON. Kentucky or New York?

Mr. DICKINSON. Kentucky. The question arose, with which this House is somewhat familiar, that in the State of Arkansas the governor saw fit to veto the action of the legislature; though I will say that in the list furnished me by the Secretary of State the State of Arkansas is included as one of the 29 States. I do not believe that any lawyer in this body has any reasonable doubt but that the action of the legislature is the final and only necessary action required for the purpose of ratifying the income-tax amendment or other amendment to the Constitution and not subject to the veto of the governor.

If the President of these United States has less interest in the adoption of an income-tax amendment to the Constitution than he had prior to his election, it is a source of regret; but it is significant that only a few months ago he declared that he does not favor the enactment of an income tax except for raising revenue in time of war; that he is opposed to the collection of an income tax in time of peace. In this position the President is not in accord with the majority sentiment of the country.

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

Mr. DICKINSON. I will.

Mr. TOWNER. I should like to ask the gentleman to give his idea as to what would likely be the effect upon the States that have not yet ratified the constitutional amendment should Congress pass the law which is now under consideration?

Mr. DICKINSON. What would be the legal effect?

Mr. TOWNER. No; what would be the likely effect on the States that have not yet acted?

Mr. DICKINSON. I was about to reach that question. I thank the gentleman for asking it. I was about to congratulate the majority members of the Ways and Means Committee for having brought forward this measure at this time when the country is becoming wearied by reason of the fact that the general income-tax amendment proposition is lagging because of inaction on the part of some of the States. [Applause on the Democratic side.] I have reached the conclusion in my own mind that the action of this House and of this Congress in pressing forward as far as they can, by reason of the limitations resulting from the decision of the Supreme Court, and attempting to extend the excise tax to persons as well as corporations, will renew again the interest of all the people favoring a general income tax, and will tend to quicken action in the several States that have not yet acted, to the end that a sufficient number of them will more speedily, through their legislatures, ratify this amendment, so that three-fourths will ratify more quickly than if this Congress showed no interest in pressing forward in favor of levying taxes upon incomes. [Applause on the Democratic side.]

I believe that the action of Congress on this bill will quicken the interest of the people everywhere, and a renewed demand will be made for an early ratification of the general income-tax amendment, so that the large incomes from every source may be reached, some of which can not be reached by this proposed law, by reason of the decision of the Supreme Court of the United States declaring unconstitutional a general income-tax law.

Mr. TOWNER. If the gentleman will permit me——

Mr. DICKINSON. I will yield to the gentleman.

Mr. TOWNER. Does not the gentleman think that really encouraging progress is being made when he realizes that during the year 1910 nine States ratified, and during the year 1911 20 or 21 more States have ratified that constitutional amendment? Does not the gentleman think it is commendable progress in that direction?

Mr. DICKINSON. Yes; we are making progress; but I have always believed that the progress toward the end would be so slow, the opposition in several States would be so strong, that it might take a longer time to gain the last half dozen States than it did to gain the 30 that have ratified it. I have believed that by reason of the opposition of the great interests, and those in high authority losing their interest in favor of the enactment of the proposed income-tax amendment, that the delay would be increased. I want to say here, from the history of this present law now upon the statute books, that it was understood that the corporation-tax law was brought forward and enacted into law primarily for the purpose of defeating the general income-tax law sought by Democrats to be enacted at that time, and I shall print with my remarks a partial history of the passage of said law.

Such were the utterances of a distinguished leader in the Senate of the United States when this was being discussed; such was the frank admission of Republican leaders at that time.

Mr. BOWMAN. But this bill was not brought forward for that purpose?

Mr. DICKINSON. I am talking about the law now on the statute books, the corporation-tax law, which we are seeking to extend to persons. A law passed as a temporary measure, with the hope of its advocates that it would be adandoned after a brief while, though stated by others at the time that if this corporation-tax law went on the statute books, it was there to stay. The action of the Democratic Party in this House emphasizes the thought that it will not be abandoned, but that the law will be extended by levying a tax upon the net incomes over $5,000 of persons, as well as corporations, and remain as the law, at least, until a general income tax can be enacted. We are pressing forward here and before the country the idea that the Democratic Party is in favor of taxing large incomes, and this legislation is brought forward now because a general income-tax law has not been ratified by a sufficient number of States, and the tax sought to be taken off of sugar is sought to be put on incomes—taken off of the stomachs of the people and placed on large incomes, and easily paid.

Mr. CAMPBELL. Will the gentleman yield?

Mr. DICKINSON. I do yield.

Mr. CAMPBELL. Does the gentleman find any opposition in his State to the levying of an income tax, either upon corporations or individuals, by the General Government?

Mr. DICKINSON. I suppose there is opposition in every State, but my views are so well known on the subject of income taxes that no one has seen fit to express this opposition to me. There are always those who do not want to pay taxes. Nobody is anxious to pay taxes. Those enjoying large incomes, as a rule, doubtless prefer exemption from taxation and that the burden be upon consumers, but those who enjoy the protection of the Government and just laws should be willing to pay reasonable taxes, whether by reason of the property they own or by reason of protection of life and liberty.

Mr. CAMPBELL. I have had much objection along this line, if the gentleman will permit me. There is a great demand in our State for improvement in roads and for pensions and all that sort of thing, and all sources of taxation are being resorted to that are possible. They have protested against the corporation tax and against our appropriating an income tax. They want to levy that income tax for the State as a source of revenue.

Mr. DICKINSON. That may be true in a measure in the State of Kansas, but I do not believe there is very much difference on this subject between your State and mine. Both Missouri and Kansas have ratified the general income-tax amendment, and I believe that the large majority of the people in both States favor the levying of an income tax upon both corporations and persons by the General Government.

Those who seek to avoid a Federal income tax by appealing to the States to reserve to themselves the exclusive right of income taxation know full well how easily those enjoying large incomes can escape State taxation, and know that the Federal Government would have a distinct advantage in that, the tax being uniform throughout the United States, there would be no escape from it by moving from one State to another, and a collection of it be more thorough and efficient; and so much of the business of importance transcends States lines that collection from such business would be more effective by the General Government, which is now compelled to rely almost exclusively upon customs and excises for its revenues. It needs income taxes if it would reduce excessive custom duties and more equally distribute the burdens of taxation. The appeal to the States is a selfish appeal by those seeking to avoid all taxation of such wealth as they can place beyond the reach of the tax collector.

The Democratic Party favors a general income-tax law, as shown by its national platform and by the record of its representatives here and elsewhere.

I have spoken of the changed attitude of President Taft regarding a general income tax, which logically would interfere with high-tariff laws. When Mr. Taft accepted the nomination for President, he declared his belief that an income tax properly drawn would be declared constitutional by the Supreme Court of the United States and that in his judgment an amendment to the Constitution for an income tax was not necessary.

We sincerely hope that this bill, proposed by the Democratic majority of the Ways and Means Committee and indorsed by the Democratic caucus, will be passed by so large a majority vote in both Houses of the Congress that the President will sign the bill, so that it may become a law.

In the magazine known as The Outlook, in its issue of December 2, 1911, appears an authorized interview with President Taft, given out at the Virginia Hot Springs, where he had gone for a rest after his notable tour of the West, lasting "49 days, with 306 speeches to his credit." In this interview President Taft was asked the following question:

> Now that you have launched your project for a constitutional amendment, you probably have in mind some particular form of general income tax to recommend to Congress when it is free to act?

To which question he replied:

> In a way; yes. I believe, on principle, in a general income tax. The only good arguments against it are that it is inquisitorial and that it offers a temptation to perjury. But I would not resort to the ordinary income tax except in an emergency like war, when I would have it graduated, so that those citizens who had most at stake should bear a correspondingly large share of the burden of the common defense. In time of peace I would avoid temptation to perjury and would confine the Government to taxes that do not involve such inquisitorial methods in their collection.

Fresh in the recollection of the American public is another and far different utterance by Mr. Taft when asking for the confidence and suffrages of the American people in the presidential campaign of 1908. After his nomination for President by the Republican national convention, June 18, 1908, which made no mention of the income tax in its platform, the Democratic national convention, held at Denver in July, 1908, adopted the following plank:

> We favor an income tax as part of our revenue system, and we urge the submission of a constitutional amendment specifically authorizing Congress to levy and collect a tax upon individual and corporate incomes, to the end that wealth may bear its proportionate share of the burdens of the Federal Government.

In his speech of acceptance at Cincinnati, July 28, 1908, President Taft expressed the same idea as follows:

> The Democratic platform demands two constitutional amendments, one providing for an income tax and the other for an election of Senators by the people. In my judgment an amendment to the Constitution for an income tax is not necessary. I believe that an income tax, when the protective system of customs shall not furnish income enough for governmental needs, can and should be devised which, under the decisions of the Supreme Court, will conform to the Constitution.

This was his utterance before election, speaking to the American people.

In his inaugural address, however, President Taft made the following recommendation:

> Should it be impossible to do so (secure sufficient revenue) from import duties, new kinds of taxation must be adopted, and among these I recommend a graduated inheritance tax as correct in principle and as certain and easy of collection.

It was in accordance with this recommendation that the Ways and Means Committee reported an inheritance-tax law as part of the Payne tariff bill, and this was subsequently passed by the House and sent to the Senate for concurrence.

On June 16, 1909, President Taft transmitted a special message to Congress from which the following is an extract:

I recommend a graduated-inheritance tax as correct in principle and as certain and easy of collection. The House of Representatives has adopted the suggestion and has provided in the bill it passed for the collection of such a tax. In the Senate the action of its Finance Committee and the course of debate indicate that it may not agree to this provision, and it is now proposed to make up the deficit by the imposition of a general-income tax in form and substance of almost exactly the same character as that which, in the case of Pollock *v.* the Farmers' Loan & Trust Co. (157 U. S., 429), was held by the Supreme Court to be a direct tax, and therefore not within the power of the General Government to impose unless apportioned among the States according to their population.

The decision in the Pollock case left power in the National Government to levy an excise tax which accomplished the same purpose as a corporation income tax, but is free from certain objections urged to the proposed income-tax measure. I therefore recommend an amendment to the tariff bill imposing upon all corporations and joint-stock companies for profit, except national banks (otherwise taxed), savings banks, and building and loan associations, an excise tax measured by 2 per cent on the net income of such corporations. This is an excise tax upon the privilege of doing business as an artificial entity and of freedom from a general partnership liability enjoyed by those who own stock.

As a result of this special message the present corporation-tax law was enacted, which provides for a tax rate of 1 per cent levied on the net income of certain corporations, as follows:

An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes, provided that certain corporations, joint-stock companies, and insurance companies should be subject to pay annually a special excise tax with respect to carrying on or doing business by such corporation, joint-stock company or association, or insurance company equivalent to 1 per cent upon the entire net income over and above $5,000 received by it from all sources during such year.

I desire and ask leave to insert here as a part of my remarks an extract from Kennan's work on Income Taxation, commencing on page 279 and ending on page 282 of said work:

Early in the history of the Payne tariff bill Senator BAILEY, of Texas, introduced an amendment which provided for a general income tax. This amendment followed very closely the income-tax law of 1894, except that it provided for a fixed rate of 3 per cent on all incomes in excess of $5,000, and contained special provisions for a corporation tax, an inheritance tax, and a tax on gifts, devises, and bequests.

At the same time Senator CUMMINS, of Iowa, presented an amendment proposing a graduated tax upon all incomes over $5,000 a year. The scale of rates proposed by him was as follows:

On incomes not exceeding $10,000, 2 per cent.
On incomes not exceeding $20,000, 2½ per cent.
On incomes not exceeding $40,000, 3 per cent.
On incomes not exceeding $60,000, 3½ per cent.
On incomes not exceeding $80,000, 4 per cent.
On incomes not exceeding $100,000, 5 per cent.
On incomes of more than $100,000, 6 per cent.

These two amendments were eventually consolidated, mainly in the form of the Bailey bill, and strenuous efforts were made to secure the adoption of the "Bailey-Cummins amendment" before proceeding to revise the tariff. It was urged that if there was a prospect of raising $150,000,000 or $200,000,000 by a tax on incomes much larger reductions could be made in the tariff schedules. The Republican leaders, however, took alarm at this plan as involving a menace to the whole protective system, and succeeded in postponing action on the income-tax amendments until the revision of the tariff should be completed and the amount of the resulting deficit definitely known.

The position taken by the administration forces of the Senate is shown by the following colloquy which occurred June 29, 1909, between Senator Clay, of Georgia, and Senator Aldrich, of Rhode Island:

"Mr. CLAY. I want to ask the Senator a question. If we are to raise $50,000,000 per year by a tax on corporation dividends, does the Senator think that such a tax is a vicious assault upon the protective system; and, second, if this bill as it stands will produce enough revenue to support the Government and we adopt the corporation tax raising $50,000,000, does not the Senator think we ought to take up some of the other schedules and reduce the duty in proportion to the amount that we raise by the corporation tax?

"Mr. ALDRICH. Does the Senator from Georgia want an answer?

"Mr. CLAY. I would not have asked the question if I did not.

"Mr. ALDRICH. I shall vote for the corporation tax as a means to defeat the income tax.

"Mr. CLAY. I think that is an honest statement.

"Mr. ALDRICH. I will be perfectly frank with the Senator in that respect. I shall vote for it for another reason. The statement which I made shows a deficit for this year and for next year. This year I estimated $69,000,000. It will be $60,000,000. And next year I estimate a deficit of $45,000,000. I am willing that that deficit shall be taken care of by a corporation tax. That corporation tax, however, at the end of two years, if my estimate should be correct, should be reduced to a nominal amount or repealed. It can be reduced to a nominal amount, and the feature of the corporation tax that commends it to many Senators and a great many other people is that the corporation tax, if it is adopted, will certainly be very largely reduced, if not repealed at the end of two years.

"So 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."

So you will understand that the corporation-tax law was brought forward and enacted into law primarily for the purpose of defeating a general income tax, and President Taft readily assented to this proposition, and then only to be abandoned after a brief while, the main purpose being to do nothing that would interfere with high tariff laws.

A different view as to the probable permanency of the law was entertained by Senator Flint of California, who said:

"If the amendment is adopted by Congress it will remain permanently on the statute books until such time as the people of this country, through their legislatures, shall ratify the constitutional amendment, and then there will be added to it an income tax."

Senator ROOT of New York, in his speech advocating the passage of the corporation-tax amendment, expressed himself as follows:

"Gentlemen may say I am for the corporation tax to beat the income tax. I care not. I am for the corporation tax because I think it is better policy, better patriotism, higher wisdom than the general income tax at this time and under these circumstances. I wish to beat the income-tax provision because I think it is unwise, and I wish to pass the corporation-tax provision because I think it is wise."

These extracts will, perhaps, suffice to show that the corporation tax was not proposed and passed as an important and desirable addition to our fiscal system; nor was any attempt made to justify it from an economic or scientific standpoint. The avowed purpose of its advocates was to defeat the general income tax and incidentally to raise money to meet a temporary deficiency. This was fully understood by the Democrats, but they were in a position where they could not oppose the bill without seeming to favor the corporations and to be acting in opposition to an income-tax law. When the vote was taken on Senator BAILEY'S motion to substitute the income-tax amendment for the corporation-tax law there were 28 yeas and 47 nays, 17 not voting. There were only 5 Republicans, namely, Senators BORAH, BRISTOW, CLAPP, CUMMINS, and LA FOLLETTE, who voted for the income tax and no Democrats who voted against it.

Review of Reviews (vol. 40, p. 136, Aug. 1, 1910), referring to the corporation-tax law, says:

Its coming into being is one of the most remarkable of recent legislative events. It was not discussed during the campaign; it was not mentioned in President Taft's inaugural; it was not proposed in the compact and deliberate program laid down by the President in his message at the opening of the special session, nor was it brought forward as any part of the pending revenue measure by any Member of Congress.

I desire to insert here another quotation, taken from LA FOLLETTE, is my recollection:

During the campaign the President had said that "in my judgment an amendment to the Constitution for an income tax is not necessary. I believe that an income tax * * * can and should be devised which, under the decisions of the Supreme Court, will conform to the Constitution." An amendment to the tariff bill providing for such an income tax was prepared and approved by the best constitutional lawyers in both parties. In a recent authorized interview the President said:

"There was strong pressure from the Democrats and some of the Republicans, including all of the 'insurgents,' for the revival of the old income tax on the principle that the personnel of the Supreme Court had been changed since its decision that the act of 1894 was unconstitutional. * * * I have always been in favor of an income-tax-laying power, because it may some time be needed to save the Nation, but I did not think this the proper way to secure it, having a due regard for the prestige of the Supreme Court. * * * I did not wish to see it placed in the position of reversing itself as long as there was another way of reaching the desired end by a constitutional amendment." Senator Aldrich objected to the income tax and joined with the President in substituting for it the corporation tax. The President reversed himself on the income tax.

The constitutional amendment submitted is as follows:

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

And it has been ratified by 30 States.

When the income-tax amendment was first presented to the New York Legislature, ratification by the assembly was defeated by a close vote, and one of the explanations offered against its adoption was:

The reason the amendment failed was because a majority of the assemblymen were unwilling to have the great wealth of the State of New York taxed for the benefit of the South and West, whose Congressmen are in the majority and whose people would bear but little of the burden.

In the State of Virginia where ratification failed in the house, as charged by reason of the opposition of the speaker, it was claimed by the speaker that the proposed amendment—

is a voluntary invitation to the Federal Government to invade and occupy the innermost citadel of what remains of the reserved rights of the States.

In the State of Louisiana the income-tax amendment has not been ratified, though the lower house on July 2, 1910, by a vote of 77 to 31 voted for ratification. Gov. Sanders opposed the amendment, and it failed to pass the senate, and in his race before the people for United States Senator that fact was used against him and he was defeated.

High protective laws are doomed, and the growth of sentiment in favor of income taxation will compel the enactment of income-tax laws. It is said that no foreign country which has adopted an income tax within the past 25 years has seen fit to abandon it. It was the failure of President Taft to make good his pledges for tariff reduction, his failure to use his influence in behalf of an honest tariff revision, his surrender to the high-tariff interests, and his indorsement of the Payne-Aldrich tariff bill that helped to weaken him before the country and to bring defeat to his party in 1910.

It has very recently been charged in the opposition Republican press that an income-tax measure would have been written into the tariff of 1909 but for the President's combination with the Aldrich-Cannon forces to prevent it, as a result of which the income tax was kept out of the law and the corporation tax substituted, the Democrats with some insurgents

trying to put an income-tax amendment onto the bill, as shown earlier in my remarks, and thereby prevented a general income-tax measure being put up again to the Supreme Court, for the reasons heretofore stated.

The income tax, which had been held constitutional by the Supreme Court for a hundred years, by a sudden change of vote by one judge was held unconstitutional, nullified, and set at naught though it had passed by a nearly unanimous vote of both Houses of Congress, and had been approved by the President and voiced the will of the people. The decision was by a divided court of five to four. This decision, brought about by the vote of one judge changing his opinion, the four dissenting judges have denounced it in vigorous language, excerpts from which I will here insert.

Mr. Justice Harlan said:

This decision may well excite the gravest apprehension—it may provoke a contest in this country from which the American people would have been spared if the court had not overturned its former adjudications and had adhered to the principles of taxation under which our Government has always been administered. It can not be regarded otherwise than as a disaster to the country.

And, concluding, says:

If the decision of the majority had stricken down all the income-tax sections, either because of unauthorized exemptions or because of defects that could have been remedied by subsequent legislation, the result would not have been one to cause anxiety or regret; for, in such a case, Congress could have enacted a new statute that would not have been liable to constitutional objections. But the serious aspect of the present decision is that by a new interpretation of the Constitution it so ties the hands of the legislative branch of the Government that without an amendment of that instrument, or unless this court at some future time should return to the old theory of the Constitution, Congress can not subject to taxation—however great the needs or pressing the necessities of the Government—either the invested personal property of the country, bonds, stocks, and investments of all kinds, or the income arising from the renting of real estate, or from the yield of personal property, except by the grossly unequal and unjust rule of apportionment among the States. Thus, undue and disproportioned burdens are placed upon the many, while the few, safely intrenched behind the rule of apportionment among the States on the basis of numbers, are permitted to evade their share of responsibility for the support of the Government ordained for the protection of the rights of all.

I can not assent to an interpretation of the Constitution that impairs and cripples the just powers of the National Government in the essential matter of taxation and at the same time discriminates against the greater part of the people of our country.

The practical effect of the decision to-day is to give to certain kinds of property a position of favoritism and advantage inconsistent with the fundamental principles of our social organization, and to invest them with power and influence that may be perilous to that portion of the American people upon whom rests the larger part of the burdens of the Government, and who ought not to be subjected to the dominion of aggregated wealth any more than the property of the country should be at the mercy of the lawless.

Mr. Justice Brown concluded his dissenting opinion in the following language:

It is difficult to overestimate the importance of these cases. I certainly can not overstate the regret I feel at the disposition made of them by the court. It is never a light thing to set aside the deliberate will of the legislature, and in my opinion it should never be done except upon the clearest proof of its conflict with the fundamental law. Respect for the Constitution will not be inspired by a narrow and technical construction which shall limit or impair the necessary powers of Congress. Did the reversal of these cases involve merely the striking down of the inequitable features of this law, or even the whole law, for its want of uniformity, the consequences would be less serious; but as it implies a declaration that every income tax must be laid according to the rule of apportionment, the decision involves nothing less than a surrender of the taxing power to the moneyed class. By resuscitating 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. Even the specter of socialism is conjured up to frighten Congress from laying taxes upon the people in proportion to their ability to pay them. It is certainly a strange commentary upon the Constitution of the United States and upon a democratic government that Congress has no power to lay a tax which is one of the main sources of revenue of nearly every civilized state. It is a confession of feebleness in which I find myself wholly unable to join.

While I have no doubt that Congress will find some means of surmounting the present crisis, my fear is that in some moment of national peril this decision will rise up to frustrate its will and paralyze its arm. I hope it may not prove the first step toward the submergence of the liberties of the people in a sordid despotism of wealth.

As I can not escape the conviction that the decision of the court in this great case is fraught with immeasurable danger to the future of the country and that it approaches the proportions of a national calamity, I feel it a duty to enter my protest against it.

Mr. Justice Jackson, in dissenting, concludes as follows:

The practical operation of the decision is not only to disregard the great principles of equality in taxation, but the further principle that in the imposition of taxes for the benefit of the Government the burdens thereof should be imposed upon those having most ability to bear them. This decision, in effect, works out a directly opposite result in relieving the citizens having the greater ability, while the burdens of taxation are made to fall most heavily and oppressively upon those having the least ability. It lightens the burden upon the larger number in some States subject to the tax and places it most unequally and disproportionately on the smaller number in other States. Considered in all its bearings, this decision is, in my judgment, the most disastrous blow ever struck at the constitutional power of Congress. It strikes down an important portion of the most vital and essential power of the Government in practically excluding any recourse to incomes from real and personal estate for the purpose of raising needed revenue to meet the Government's wants and necessities under any circumstances.

Mr. Justice White, now Chief Justice of the United States, dissenting, says of the majority opinion:

The injustice of the conclusion points to the error of adopting it. It takes invested wealth and reads it into the Constitution as a favored and protected class of property, which can not be taxed without apportionment, whilst it leaves the occupation of the minister, the doctor, the professor, the lawyer, the inventor, the author, the merchant, the mechanic, and all other forms of industry upon which the prosperity of the people must depend, subject to taxation without that condition. A rule which works out this result, which, it seems to me, stultifies the Constitution by making it an instrument of most grievous wrong, should not be adopted, especially when, in order to do so, the decisions of this court, the opinions of the law writers and publicists, tradition, practice, and the settled policy of the Government must be overthrown.

And concluding his able dissenting opinion says:

It is, I submit, greatly to be deplored that, after more than 100 years of our national existence, after the Government has withstood the strain of foreign wars and the dread ordeal of civil strife, and its people have become united and powerful, this court should consider itself compelled to go back to a long repudiated and rejected theory of the Constitution, by which the Government is deprived of an inherent attribute of its being, a necessary power of taxation.

The patriotic utterances of the dissenting judges in the income-tax decision will live in the minds and hearts of the American people, and in my judgment at an early date their opinions will be regarded as the law and the majority opinion will be discarded and set aside as the mistaken judgment of this high court.

Judge Walter Clark, chief justice of the Supreme Court of North Carolina, one of the ablest judges of the South and of the country, in an address to the law department of the University of Pennsylvania, April 27, 1906, in discussing the action of the Supreme Court in declaring acts of Congress unconstitutional, says:

Such power does not exist in any other country and never has. It is therefore not essential to our security. It is not conferred by the Constitution; but, on the contrary, the convention, as we have seen, after the fullest debate, four times, on four several days, refused by a decisive vote to confer such power. The judges not only have never exercised such power in England, where there is no written constitution, but they do not exercise it in France, Germany, Austria, Denmark, or in any other country which, like them, has a written constitution.

A more complete denial of popular control of this Government could not have been conceived than the placing of such unreviewable power in the hands of men not elected by the people and holding office for life. The legal-tender act, the financial policy of the Government, was invalidated by one court and then validated by another, after a change in its personnel. Then the income tax, which had been held constitutional by the court for a hundred years, was again so held, and then by a sudden change of vote by one judge it was held unconstitutional, nullified, and set at naught, though it had passed by a nearly unanimous vote both Houses of Congress, containing many lawyers who were the equals, if not the superiors, of the vacillating judge, and had been approved by the President and voiced the will of the people. This was all negatived (without any warrant in the Constitution for the court to set aside an act of Congress) by the vote of one judge; and thus $100,000,000 and more of annual taxation was transferred from those most able to bear it and placed upon the backs of those who already carried more than their fair share of the burdens of government. Under an untrue assumption of authority given by 39 dead men one man nullified the action of Congress and the President and the will of 75,000,000 of living people, and in the 13 years since has taxed the property and labor of the country, by his sole vote, $1,300,000,000, which Congress, in compliance with the public will and relying on previous decisions of the court, had decreed should be paid out of the excessive incomes of the rich.

In England one-third of the revenue is derived from the superfluities of the very wealthy by the levy of a graduated income tax and a graduated inheritance tax, increasing the per cent with the size of the income. The same system is in force in all other civilized countries. In not one of them would the heriditary monarch venture to veto or declare null such a tax. In this country alone the people, speaking through their Congress and with the approval of their Executive, can not put in force a single measure of any nature whatever with assurance that it shall meet with the approval of the courts; and its failure to receive such approval is fatal, for, unlike the veto of the Executive, the unanimous vote of Congress (and the income tax came near receiving such vote) can not prevail against it. Of what avail shall it be if Congress shall conform to the popular demand and enact a "rate-regulation" bill and the President shall approve it if five lawyers, holding office for life and not elected by the people, shall see fit to destroy it, as they did the income-tax law? Is such a government a reasonable one, and can it be longer tolerated after 120 years of experience have demonstrated the capacity of the people for self-government? If five lawyers can negative the will of 100,000,000 of men, then the art of government is reduced to the selection of those five lawyers.

A power without limit, except in the shifting views of the court, lies in the construction placed upon the fourteenth amendment, which passed, as everyone knows, solely to prevent discrimination against the colored race, has been construed by the court to confer upon it jurisdiction to hold any provision of any statute whatever "not due process of law." This draws the whole body of the reserved rights of the States into the maelstrom of the Federal courts, subject only to such forbearance as the Federal Supreme Court of the day or in any particular case may see fit to exercise. The limits between State and Federal jurisdiction depend upon the views of five men at any given time, and we have a government of men and not a government of laws, prescribed beforehand.

At first the court generously exempted from its veto the police power of the several States. But since then it has proceeded to set aside an act of the Legislature of New York restricting excessive hours of labor, which act had been sustained by the highest court in that great State. Thus labor can obtain no benefit from the growing humanity of the age, expressed by the popular will in any State, if such statute does not meet the views of five elderly lawyers, selected by influences naturally antagonistic to the laboring classes and whose training and daily associa-

tions certainly can not incline them in favor of restrictions upon the power of the employer.

The vast political power now asserted and exercised by the court to set aside public policies, after their full determination by Congress, can not safely be left in the hands of any body of men without supervision or control by any other authority whatever. If the President errs, his mandate expires in four years, and his party as well as himself is accountable to the people at the ballot box for his stewardship. If Members of Congress err, they, too, must account to their constituents. But the Federal judiciary hold for life, and though popular sentiment should change the entire personnel of the other two great departments of government, a whole generation must pass away before the people could get control of the judiciary, which possesses an irresponsible and unrestricted veto upon the action of the other departments—irresponsible because impeachment has become impossible, and if it were possible it could not be invoked as to erroneous decisions unless corruption were shown.

The control of the policy of government is thus not in the hands of the people, but in the power of a small body of men not chosen by the people and holding for life. In many cases which might be mentioned, had the court been elective, men not biased in favor of colossal wealth would have filled more seats upon the bench, and if there had been such decision as in the Income Tax case, long ere this, under the tenure of a term of years, new incumbents would have been chosen, who, returning to the former line of decisions, would have upheld the right of Congress to control the financial policy of the Government in accordance with the will of the people of this day and age, and not according to the shifting views which the court has imputed to language used by the majority of the 55 men who met in Philadelphia in 1787.

It may be that this power in the courts, however illegally grasped originally, has been too long acquiesced in to be now questioned. If so, the only remedy which can be applied is to make the judges elective and for a term of years, for no people can permit its will to be denied and its destinies shaped by men it did not choose and over whose conduct it has no control, by reason of its having no power to change them and select other agents at the close of a fixed term.

As far back as 1820 Mr. Jefferson had discovered the "sapping and mining," as he termed it, of the life-tenure, appointive Federal judiciary, owing no gratitude to the people for their appointment and fearing no inconvenience from their conduct, however arbitrary, in the discharge of such office. In short, they possess the autocratic power of absolute irresponsibility. "Step by step, one goes very far," says the French proverb. This is true of the Federal judiciary. Compare their jurisdiction in 1801, when Marshall ascended the bench, and their jurisdiction in 1906. The Constitution has been remade and rewritten by the judicial glosses put upon it. Had it been understood in 1787 to mean what it is construed to mean to-day, it is safe to say not a single State would have ratified it.

As was said by a great lawyer lately deceased, Judge Seymour D. Thompson, in 1891 (25 Am. Law Review, 288): "If the proposition to make the Federal judiciary elective instead of appointive is once seriously discussed before the people, nothing can stay the growth of that sentiment, and it is almost certain that every session of the Federal Supreme Court will furnish material to stimulate that growth."

Great aggregations of wealth know their own interests, and it is very certain that there is no reform and no constitutional amendment that they will oppose more bitterly than this. What, then, is the interest of all others in regard to it?

For my part, I believe in popular government. The remedy for the halting, halfway popular government which we have is more power to the people. When some one observed to Mr. Gladstone that the "people are not always right," he replied, "No; but they are rarely wrong." When they are wrong their intelligence and their interests combine to make them correct the wrong. But when rulers, whether kings or life judges, or great corporations, commit an error against the interests of the masses, there is no such certainty of correction.

The time may not be ripe when the election of supreme Federal judges should be written in the Federal Constitution, but the time has come when the Constitution of the United States should be so amended as to forbid the appointment of Federal judges for life and a limitation be put upon their tenure of office; and at least the judges of the inferior or district Federal courts should be either elected or appointed for a limited term of years. If the public is in that condition of mind in which it is ready to strike down life tenure in office, that condition is due in a large measure to appointments of men whose leanings are toward corporate wealth rather than the public will, and to the arbitrary abuse of power by Federal judges.

Is it any wonder that there is a growing prejudice among the masses of the people against life tenure in office and against Federal courts, when by them the laws of the States and of the Nation are so readily set aside and declared null and void, ofttimes at the instance of great corporate interests that in their greed for gain forget the public welfare and bid defiance to the popular will? The unrest in the country is the outgrowth of accumulated wrongs unredressed. A change is demanded. A political revolution is abroad in the land. The conscience of the Nation has been quickened. A mighty protest against further domination by special interests is heard in all sections of the country. The rule of privilege is doomed. The day of the reactionary is drawing to a close, and the appeal for progressive and constructive legislation is finding a response in the halls of legislation. The cry of the masses for relief against the burdens of taxation, unequally distributed, is being heard and heeded by that party which alone can and will restore as an actual fact a government of the people, for the people, by the people.

The Republic must be preserved by Democratic effort or socialism, the logical result of Republican misrule, will try its hand and new and untried doctrines and mere experiments in government be thrust to the front, and individual responsibility and self-reliance will give place to communism with all its attendant confusion. But if Democratic effort fail, the dawn of socialism will not be so forbidding as the further rule of selfish privilege. Corporate domination must end or Government ownership of all public utilities will come. Before we go from one extreme to the other let us restore to power that party whose great history gives evidence and confidence to the country that in the triumph of Democratic principles lies the safety of the Republic.

Mr. UNDERWOOD. Mr. Chairman, I will ask the gentleman from New York to use some of his time.

Mr. PAYNE. Is the gentleman from Alabama going to use the balance of this hour he has entered upon?

Mr. UNDERWOOD. I have no one on the floor now that cares to go on, and I prefer that the gentleman from New York should use some of his time.

Mr. PAYNE. I have some difficulty in keeping my orators on the floor, but I will yield one hour to the gentleman from Iowa [Mr. PROUTY].

Mr. PROUTY. Mr. Chairman, this is not a political question, or, at least, it is not a partisan question. I apprehend that every man will find his alignment in this matter determined very much by his early surroundings, his natural sympathies, and his early education. I am going to discuss this question for the time that has been allotted to me freely, frankly, as I see it, without any reference to what anybody else thinks or without reference to what criticism it may bring to me.

Now, as I said, the alignments in this case will rest very largely on our early surroundings. I remember when a boy my father and myself used to saw logs in the timber, and when we got ready to go home at night we put the tools in a sack and strung them on a handspike and carried them home. I always noticed that my good old father gave me the long end of the handspike, and I honor to this day his memory for that thing. There are people in this world who, when they find that one man is a little bit weaker than another, insist on giving him the short end of the handspike and make him carry the heavier part of the load. I am not in favor of that policy.

Taxes are the involuntary contribution made by the citizens to their government for the protection of their persons and their property. All agree that these contributions should be in proportion to the protection received, and every humane man will concede that it ought to bear some relation to the ability to contribute. A rich man ought to contribute more than a poor man, because he has more property to protect and is better able to contribute.

Keeping these propositions clearly in mind, let us analyze our system of national taxation.

There are two systems of taxation in general use in this country and in foreign countries. One is known as direct taxation, in which men are taxed either in proportion to the property they own or the income they receive; the other, an indirect or consumption tax. When our forefathers were shaping our Constitution they chose, in a general way, the indirect method of taxation for the Federal Government and gave to the States the direct method. This was done at the time largely on account of the fact that indirect taxes can be collected without knowledge by the donor of the amount that he is paying, and hence it can be collected usually without friction, while by the direct method of taxation the taxpayer knows the amount and usually pays it all at a time, and therefore feels its burden. And this method is apt to create friction and irritation. As the Federal Government had not then been formed, and as it was feared the people would not have the same loyalty toward the new Federal Government that they had toward their State government, it was deliberately designed that this indirect method of taxation should be largely preserved for the Nation. It was thought that the people would not feel heavily the burden of this taxation. So wisely did they choose and so successfully has this propaganda been taught that many have now been led to believe that this method of taxation enriches instead of impoverishes. It may as a protection but never as a revenue measure.

I might as well say here, for the benefit of my Democratic friends, that there is no possible application of their theory of a tariff for revenue only which can relieve itself from the criticism that it is nothing in the world but a burden, without any benefit in return for it. My Republican friends on this side, while admitting, I think, as freely as I do the burden of this taxation, at the same time, by their very ingenious and wise method of making it a protection to the man who pays it, make it, in a sense, an equation that is at least tolerable.

It is true that under the Constitution the Federal Government has power to levy direct taxes, provided they are distributed among the States in proportion to population. But the inevitable inequalities resulting from such a plan of taxation are so gross and flagrant as to absolutely debar any use

whatever of that method. So practically the only taxing power the Federal Government has is that allowing it to collect duties, imposts, and excises. Practically all the money collected by the Government is from two sources—custom duties and internal revenue. These taxes are paid by the individual, not in proportion to his property nor in proportion to his ability to pay them, but, barring negligible quantities and a few exceptional instances, they are paid in direct proportion to the amount consumed by the taxpayer and those dependent upon him. The poor man pays as much as the rich man if he uses as many of the taxed goods, and he pays more if he uses more. I know there are those who claim the consumer does not pay the tax, and there are a few instances in which that is true, but, on the whole and as a general rule, the man who consumes the article pays the tax, and there is not a writer on political economy who does not now both recognize and announce this rule. It is easily demonstrable both as to our income and our duty tax. Take, for instance, the internal revenue on cigars.

The man who makes the cigars, after computing the cost of material and labor, adds the Federal revenue tax and then sells them to the wholesaler at enough to equal these items and a reasonable profit to himself. It is true he pays the tax in the first instance, but when he sells them to the wholesaler he gets it back. It is true, then, that at that time the wholesaler pays it, but when he sells them to the retailer he gets his money back, and then the retailer has paid it. The retailer then sells them to the consumer, and he gets his money back, so the retailer has not paid it.; it is passed on to the consumer. When he smokes the cigar he has nobody to get the tax back from, and he is the man who has finally paid the tax.

And this is true of every article upon which an internal-revenue tax is levied. This is equally true of customs duties.

We have just been discussing the sugar schedule on which there is a tariff duty of $1.95 outside of that coming from Cuba. When the importer brings this sugar into this country he has to pay this tax, and for the time being it may be said that he has paid it, but when he sells it to the wholesaler he includes this item in the price and gets it back, so, then, he hasn't paid the tax, but the wholesaler has. The wholesaler then sells it to the retailer, including this item in the price. Then the wholesaler gets back the tax, and the retailer has paid it. The retailer then sells it to the consumer, and he includes this tax in the price. Then he gets back the taxes he has paid when the consumer has paid him. But the consumer and his family eats up the sugar and they have got no one from whom they can get back the tax they have paid. And, therefore, the ultimate consumer is the one who has actually paid the tax.

Mr. COX of Ohio. The gentleman should direct his remarks to the other side of the House.

Mr. PROUTY. No; my good friends on the Democratic side of the House, some of them, need it just as badly as they do on the other side. When you levy a tax based upon revenue, you are collecting in the same proportion from the rich and the poor as do these gentlemen on the Republican side, so far as that is concerned.

Take, again, the imported cloth in a suit of clothes. The importer brings it in and pays the duty or tax; he sells it to the wholesale merchant and includes in the price the duty. He has then got back the tax and has not paid it. He is out nothing on account of the tax. The wholesaler sells it to the merchant tailor, and in the sale includes the duty. He has got the tax back and is therefore out nothing, but the merchant tailor has paid it. The merchant tailor makes a suit of clothes, and in the price of the suit he figures in the cost of the cloth, the duty included. So, he has got back his money and has not paid the tax. The fellow that has bought the suit of clothes has paid it, and as he wears out the clothes he has no one from whom he can be reimbursed, and he therefore pays the tax.

And this is true of pepper and every other item upon which a tariff is levied, whether for revenue or protection, barring, of course, a few negligible quantities and phenomenal cases.

From this it will be seen that so far as the Federal Government is concerned its vast revenues are gathered in from the people who finally consume the articles upon which an internal or tariff duty is levied. And that, too, without the slightest reference to the ability to pay or to the protection of the property owned.

I assert that on the whole the moderately poor of the country pay more per capita for the support and defense of this Government than do the opulent rich. Why? The opulent rich seldom have big families. The moderately poor usually raise large families and therefore are the larger consumers. I assert that this method of taxation is grossly unfair and unjust, and I am quite surprised that my Democratic friends desire to perpetuate this system, when its sole and only purpose, according to their doctrine, is the collecting of revenue. It is the most unjust, unfair, and inequitable system that has ever been devised by mortal man. It was apparently designed to collect the expenses of the Government off of the poor without letting them know it.

I hold in my hand the names of 51 multimillionaires, with the amount of their reputed wealth, as follows:

*List from Munsey's Scrap Book of June, 1906, presenting the property owned by 51 of the very richest persons of the United States.*

| Rank. | Name. | How made. | Total fortune. |
|---|---|---|---|
| 1 | John D. Rockefeller | Oil | $600,000,000 |
| 2 | Andrew Carnegie | Steel | 300,000,000 |
| 3 | W. W. Astor | Real estate | 300,000,000 |
| 4 | J. Pierpont Morgan | Finance | 150,000,000 |
| 5 | William Rockefeller | Oil | 100,000,000 |
| 6 | H. H. Rogers | do | 100,000,000 |
| 7 | W. K. Vanderbilt | Railroads | 100,000,000 |
| 8 | Senator Clark | Copper | 100,000,000 |
| 9 | John Jacob Astor | Real estate | 100,000,000 |
| 10 | Russell Sage | Finance | 80,000,000 |
| 11 | H. C. Frick | Steel and coke | 80,000,000 |
| 12 | D. O. Mills | Banker | 75,000,000 |
| 13 | Marshall Field, jr | Inherited | 75,000,000 |
| 14 | Henry M. Flagler | Oil | 60,000,000 |
| 15 | J. J. Hill | Railroads | 60,000,000 |
| 16 | John D. Arebbold | Oil | 50,000,000 |
| 17 | Oliver Payne | do | 50,000,000 |
| 18 | J. B. Haggin | Gold | 50,000,000 |
| 19 | Harry Field | Inherited | 50,000,000 |
| 20 | James Henry Smith | do | 40,000,000 |
| 21 | Henry Phipps | Steel | 40,000,000 |
| 22 | Alfred G. Vanderbilt | Railroads | 40,000,000 |
| 23 | H. O. Havemeyer | Sugar | 40,000,000 |
| 24 | Mrs. Hetty Green | Finance | 40,000,000 |
| 25 | Thomas F. Ryan | do | 40,000,000 |
| 26 | Mrs. W. Walker | Inherited | 35,000,000 |
| 27 | George Gould | Railroads | 35,000,000 |
| 28 | J. Ogden Armour | Meat | 30,000,000 |
| 29 | E. T. Gerry | Inherited | 30,000,000 |
| 30 | Robert W. Goelet | Real estate | 30,000,000 |
| 31 | J. H. Flagler | Finance | 30,000,000 |
| 32 | Claus Spreckels | Sugar | 30,000,000 |
| 33 | W. F. Havemeyer | do | 30,000,000 |
| 34 | Jacob H. Schiff | Banker | 25,000,000 |
| 35 | P. A. B. Widener | Street cars | 25,000,000 |
| 36 | George F. Baker | Banker | 25,000,000 |
| 37 | August Belmont | Finance | 20,000,000 |
| 38 | James Stillman | Banker | 20,000,000 |
| 39 | John W. Gates | Finance | 20,000,000 |
| 40 | Norman B. Ream | do | 20,000,000 |
| 41 | Joseph Pulitzer | Journalism | 20,000,000 |
| 42 | James G. Bennett | do | 20,000,000 |
| 43 | John G. Moore | Finance | 20,000,000 |
| 44 | D. G. Reid | Steel | 20,000,000 |
| 45 | Frederick Pabst | Brewer | 20,000,000 |
| 46 | William D. Sloane | Inherited | 20,000,000 |
| 47 | William B. Leeds | Railroads | 20,000,000 |
| 48 | James P. Duke | Tobacco | 20,000,000 |
| 49 | Anthony N. Brady | Finance | 20,000,000 |
| 50 | George W. Vanderbilt | Railroads | 20,000,000 |
| 51 | Fred W. Vanderbilt | do | 20,000,000 |
| | Total | | 3,295,000,000 |

These men own in the aggregate about $3,500,000,000 of property, and it is said that they control about $35,000,000,000. The report of the Bureau of Commerce and Labor of the same date showed that the approximate wealth of the United States was $107,000,000,000, so these 51 people own and control practically one-third of the entire wealth of the United States. Now, I will venture the statement that these men, with their vast wealth, do not pay the Federal Government for its support and for its defense of their persons and vast properties as much as an equal number of section hands on the Pennsylvania Railroad, who are heads of families.

Take the first man on the list—John D. Rockefeller, at that time reputed to be worth $600,000,000, with a reputed income of $60,000,000 a year.

I have living near me at home a section man that has eight children with an actual income of $504 a year. Now, I will wager everything I have that this section man pays more for the support of the Federal Government than does John D. Rockefeller.

Now, let us analyze for a minute. Where do our taxes come from to support the Federal Government? From internal revenue and tariff duties.

Now, what are the items from which we collect internal-revenue duties principally? Spirits, tobacco, and oleomargarine.

Now, my friend, Rockefeller does not smoke, he does not chew, he does not drink, he does not take snuff, and he does not eat oleomargarine, and therefore he does not pay a cent to the Federal Government on its internal-revenue tax. I am sorry to say that my section hand friend uses a small amount of all of those items and therefore pays the tax on them.

Mr. BURLESON. I do not know about that. What is the gentleman's authority for his statement? Oleomargarine is one of the most wholesome and nutritious food products which is being manufactured.

Mr. PROUTY. I am glad to find somebody on that side of the House who is ready to stand up here and defend the Oleomargarine Trust. I am not.

Mr. BURLESON. The gentleman will find an overwhelming majority on this side who are ready to defend untaxed oleomargarine——

Mr. PROUTY. I have already learned, to my sorrow, that I may expect anything from the stupendous majority of that side of the House.

Mr. BURLESON. Which will be largely supplemented by votes on your side of the Chamber.

Mr. PROUTY. That may be prediction only. I have seen men on that side make predictions that failed to come true.

Mr. BURLESON. This particular one will be justified, however, and that, too, in the near future.

Mr. FOWLER. Will the gentleman yield?

Mr. PROUTY. Just as soon as I finish the sentence I will yield to the gentleman.

Mr. BOWMAN. That is one reason why he is there.

Mr. PROUTY. There are fellows who do not do any of those things who are just as poor.

Mr. BOWMAN. Not many that I know of.

Mr. PROUTY. You live in a mighty prosperous country, if that is true.

Mr. BOWMAN. I surely do.

Mr. PROUTY. I live in a country where very few men partake of one of the articles which I have named.

Mr. CANNON. Will the gentleman yield there?

Mr. PROUTY. Certainly.

Mr. CANNON. The statistics show that the gentleman's State has a larger per capita wealth than any other State in the Union.

Mr. PROUTY. I agree with you on that, sir, and yet the same statistics, I am sorry to say, show that the average income of the people of my State is only a little over $600. And yet I am prepared to say that the people of my State, with an average income of $600 a year, pay more per capita than does John D. Rockefeller for the support of this great Government that lends its entire power in the support of his vast property. The Armies and Navies of the United States are always held in readiness to defend his holdings in every quarter of the globe.

Now, I am going to take up the other proposition.

Mr. DYER. I would like to ask the gentleman how he figures that the people of his State pay so much more than the average of the Federal revenue tax?

Mr. PROUTY. I have not said that. I said that they paid more on an average than John D. Rockefeller did. That is all I said. I am going to stand on that proposition until somebody knocks me down with a hard fact. [Laughter.]

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

Mr. PROUTY. Certainly, but do not take too much of my time.

Mr. POWERS. Do you not favor the tax on whisky, and tobacco, and oleomargarine, and is not the tax on those articles levied, for one reason, to discourage their use because of the fact that they are detrimental to morals and health?

Mr. PROUTY. I am not going to turn from this discussion in order to deliver a temperance lecture, although I can. I am discussing a revenue policy, pure and simple, and not temperance.

Now, take the articles upon which tariff duties are levied. There is sugar. I venture the assertion that my section hand and his family use 10 pounds of sugar to 1 used by the dyspeptic Rockefeller and his good wife, and therefore he pays 10 times as much tax to the Federal Government. And this is true of pepper and every other article of food on the tax lists, and this is largely true of wearing apparel.

My section man and his good wife and eight boys and girls wear out more boots and shoes, more hats, more pants, more coats, more dresses, more neckties, more collars than does my peripatetic friend J. D. and his good wife. If the reports in the newspapers are to be credited, J. D. has most of his clothes made for himself and his wife in Paris, which he brings in duty free; and I saw by the papers that the last time he was in Paris he bought wigs enough to last him the rest of his life. [Laughter.]

Now, I will yield to the gentleman from Illinois.

Mr. FOWLER. Mr. Chairman, I desire to ask the gentleman whether, in making the comparison of the section hand with John D. Rockefeller, wherein he makes the section man pay more for the support of the Government than John D. Rockefeller—I want to know if he means to say that the difference is brought about because the section man that he speaks of chews and drinks? [Laughter.]

Mr. PROUTY. Everything that he consumes and eats and drinks on which there is a duty or revenue tax.

Mr. FOWLER. Now, I ask if it is not a fact that the section man pays more because of what he eats and wears to the General Government for its support than John D. Rockefeller?

Mr. PROUTY. Oh, I have just covered that point. If the gentleman does not understand it I can not afford to take time to repeat it.

Mr. FOWLER. Yes; but you wound up with his chewing and smoking in making the distinction. I want to separate them. [Laughter.]

Mr. PROUTY. Well, take your time and separate them. Do not take that out of my time. [Laughter.]

Mr. FOWLER. Now, if the gentleman will vote as he talks, he will be all right. [Laughter and applause.]

Mr. PROUTY. The gentleman should not undertake to make a speech in my time.

So I repeat the statement that I made a few minutes ago, that J. D. Rockefeller does not pay to the Federal Government for his own protection, or the protection of his vast properties, as much as does this poor section man with his big family. John D. Rockefeller does not pay as much out of his income of $60,000,000 as does this man out of his income of $504.

Mr. JACKSON. Will the gentleman yield?

The CHAIRMAN. Does the gentleman from Iowa yield to the gentleman from Kansas?

Mr. PROUTY. Certainly.

Mr. JACKSON. Of course the gentleman from Iowa does not include the corporate tax paid under the last Republican law?

Mr. PROUTY. Yes; I do.

Mr. JACKSON. The gentleman would not contend that the scheme——

Mr. PROUTY. Oh, I have not time to let the gentleman make an argument. The gentleman can get as much time for himself as I have.

Mr. JACKSON. Oh, the gentleman need not be uneasy about his position——

Mr. PROUTY. I am not. Take for example the case of John D. Rockefeller. Practically every bit of money that he gets—all his income—has been tithed first for the revenue tax on the corporate income before it reaches him. In other words, take the Standard Oil Co.; before he gets his dividends the company has been compelled to pay a revenue tax. Where did that company get the money with which to pay not only his dividends but the tax? I answer, from the people that used his coal oil. [Applause.]

Mr. JACKSON. Yes; but the gentleman surely——

Mr. PROUTY. Pardon me, Mr. Jackson. I can not afford to stop in order that you may make an argument, but I will yield for a question.

Mr. JACKSON. The gentleman will not let me ask him a question. The gentleman should be fair enough to admit that Mr. Rockefeller's revenues are diminished by the amount of the tax given to the Federal Government?

Mr. PROUTY. No. His amount is not diminished by the tax. Any man who has been watching this matter can see easily that if it is from Standard Oil enough is collected from the people that use oil to cover expense, tax, and dividends. Having as they do a practical monopoly, they do not allow the tax to interfere with dividends. They just raise the price to the consumer enough to equal the tax. If the dividends are from railroad stocks or other public-service corporations it is just as true. The public pays the fares that cover the tax to the Government and the dividend to Rockefeller. If there was no tax the fares could be less. The public therefore pays the corporation tax—not Rockefeller.

Mr. MADDEN. Mr. Chairman, will the gentleman let me ask him a question?

The CHAIRMAN. Does the gentleman from Iowa yield to the gentleman from Illinois?

Mr. PROUTY. Yes; I will yield for a question.

Mr. MADDEN. Does this bill provide that an individual drawing dividends from a corporation which pays the corporation tax shall be exempted from the tax provided to be collected under the bill?

Mr. PROUTY. Oh, if the gentleman has followed me correctly, he will have noticed that I am not either criticizing or championing this bill. I am discussing the principles upon which we should base an income tax and the reasons why it should be done.

Mr. MADDEN. I am asking you whether the bill itself so provides.

Mr. PROUTY. Oh, I have not stopped to consider that.

Mr. MADDEN. Then you have not read the bill?

Mr. PROUTY. Oh, yes; I have. But it would take me half an hour to go over the authorities and decisions of the Supreme Court of the United States to give you a fair discussion on that; and I have not the time for that.

Mr. MADDEN. Does not the bill now under discussion say this——

Mr. PROUTY. No; I have answered the gentleman's question. I can not stop for a debate. What I said was this——

Mr. JACKSON. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Iowa yield to the gentleman from Kansas?

Mr. PROUTY. No; I can not stop, Mr. JACKSON. I know you can never stop asking questions; otherwise I would yield. [Laughter.]

Now, what I was trying to say is this: That we ought to have a system that would enable the Congress to pass a law that would distribute the burdens of taxation with some reference and some relation to the amount of property that a man has, or at least the amount of protection he has received from the Government, and, according to my theory, in accordance with his ability to bear the burdens of the Federal Government. [Applause.]

Mr. BOWMAN. Now, you are getting down to bedrock.

Mr. PROUTY. Now, when our forefathers started on this system it was not a bad one. Our people were none of them very poor and none of them were very rich. But with the advancement of our civilization, with the vast accumulations of property, with the enormous incomes that some have, with the corresponding poverty brought to others, the present system is made practically intolerable, whether you found it upon the basis of a protective tariff or upon the basis of a tariff for revenue only. [Applause.]

Mr. MCCALL stated on the floor of the House the other day that the per capita tax for the Federal Government was about $7. That is about correct. This makes my section hand pay $70 per year as taxes for the support of the Federal Government. My friend J. D. possibly pays $14, but I seriously doubt that. If we had an income tax of 1 per cent on incomes above $5,000, J. D. would pay $599,950, which I submit is not out of proportion to the protection received for his vast properties. But not a dollar of this comes out of his necessities or even luxuries. But when you take $70 out of the meager income of the poor man, with his large family, you take it out of the necessities of life. It means privation and want. It means children poorly fed and thinly clad. It means children going to school with holes in their shoes, holes in their stockings and in their pants fore and aft. It means the taking of the children out of school at tender years and crowding them into the factory to help splice out the family living. It means sick children and no doctor. It means that the wan, gaunt specter of dread and want accompanies the holy stork. It means real pinching, poverty, and distress.

Such a system as that is intolerable and indefensible as a just system of collecting a revenue. It violates every principle of equity and equality. It puts the burdens upon those least able to bear them and practically relieves those who are best able to carry them. And I am simply shocked at the statements so frequently made on that side of the Chamber that they are going to convert this system of tariff duties into a pure revenue measure. I, for one, am prepared to say that when this system is no longer needed to protect American labor against competition from the cheap labor of Europe and Asia, when it is no longer needed to protect American industries from the ruinous competition of the Old World, when it is no longer needed to protect American manhood and womanhood and American standard of living, when it is no longer needed to prevent American labor from becoming "Japanesed" or "Chinesed," I am prepared to abolish it and substitute a system that will approximate justice—one that will levy burdens with some reference, at least, to the benefits received and the ability to pay.

Now, what is the system that will approximate these conditions? In my opinion a well graduated income tax levied on the excess above a fair living income. Such a tax would be just.

First. Because it only requires the payment of a small per cent of that portion of the income above that which is fairly necessary for the support of oneself and family.

Second. The effect of such a tax is to levy it upon every man substantially in proportion to the amount of his productive property.

Third. It places the burden of taxation upon the shoulders of those best able to bear them.

No one can feel seriously the burden of taxation when he is only required to pay into the Federal Treasury a small per cent of the amount of his income above a fair living price. Under our system now, the poor man has to take from the necessities of life to pay his share to the support of the Federal Government. Under the income tax suggested, no man would have to pay any tax until his necessities were fairly provided for. If I have an income of $10,000 a year, and myself and family can live comfortably and respectably on $5,000 a year, what possible harm can it do me or my family to pay a part of that $5,000 to the support of the Government that furnishes me and my property protection?

How different would be the burden imposed upon John D. Rockefeller if he had to pay 1 per cent on $60,000,000, which would be $600,000, to that of the section man who now pays out $70 out of his $504. John D. Rockefeller would still have left to live on during the whole year the sum of $59,400,000, while the section hand would only have $434 with which to feed, clothe, educate, and care for his family of 10. I repeat that no man can be oppressed with a fair income tax. If he does not make $5,000 a year he can not be compelled to pay anything. If Providence and his country are so good to him as to enable him to make more, it can not possibly be a burden to him to pay part of it in support of his Government.

But this brings us to the legal question. Some believe that under the Constitution and the decisions of our Supreme Court that Congress has no power to pass a revenue measure like the one now under consideration, and that the only way that this matter can be reached is by an amendment to the Federal Constitution, expressly conferring that authority on Congress. There are others, however, who believe there is room under the Constitution, as interpreted by our Supreme Court, to allow Congress to levy a tax of this character, and I understand our distinguished President to be one of that number. In his letter of acceptance of July 28, 1908, he said:

> The Democratic platform demands two constitutional amendments, one providing for an income tax and the other for the election of Senators by the people. In my judgment an amendment to the Constitution for an income tax is not necessary. I believe that an income tax, when the protective system of customs and the internal-revenue tax shall not furnish income enough for governmental need, can and should be devised which, under the decision of the Supreme Court, will conform to the Constitution.

In the case of Pollock against The Farmers' Loan & Trust Co., decided in the One hundred and fifty-seventh United States, page 429, the Supreme Court of the United States held the income tax of 1904 invalid and unconstitutional, because, as they construed it, it levied a direct tax on the rents or income of real estate, and because it levied a tax upon the income derived from municipal bonds. At that hearing the court was equally divided, four and four, upon the question as to whether Congress could levy an income tax derived from other sources.

Subsequently attorneys for the appellants filed a motion for a rehearing in that case for the final determination of the unsettled questions. And the Government, through the Attorney General, Mr. Olney, entered an appearance and asked that the whole case be reopened and reargued, not only upon the points undecided, but upon the whole question, which petition for a rehearing was granted on the part of the Supreme Court.

In the meantime the vacancy in the court had been filled by the recovery of Justice Jackson, making the full bench of nine members present. As the court had stood four to four in the first decision, it was generally supposed that Justice Jackson would be the controlling factor in the decision. And while in the final case he voted with Harlan, White, and Brown to support the constitutionality of the tax, one of the judges that had formerly voted with them turned over and voted with Chief Justice Fuller, thus making the court stand five for the unconstitutionality and four for the constitutionality of the act.

The opinions in this case appear in One hundred and fifty-eighth United States Reports, beginning on page 601 and ending on page 715. These pages, including, as they do, the briefs of counsel, the opinion of Chief Justice Fuller, and the dissenting opinions of Harlan, White, Brown, and Jackson, constitute, in my opinion, a record of the greatest legal battle that was ever fought in American jurisprudence. It was a battle of legal giants.

In that struggle, as he always did, Justice Harlan put upon the Constitution such a construction as he believed would protect the rights of the masses of people against the force and advantage of accumulated wealth. On page 684–685 he says:

> But the court takes care to say that there is no question as to the validity of any part of the Wilson Act, except those sections providing for a tax on incomes. Thus something is saved for the support and maintenance of the Government. It nevertheless results that those parts of the Wilson Act that survive the new theory of the Constitution evolved by these cases are those imposing burdens on the great body of the American people who derive no rents from real estate and who are not so fortunate as to own invested personal property, such as the bonds or stocks of corporations that hold within their control almost the entire business of the country.

Such a result is one to be deeply deplored. It can not be regarded otherwise than as a disaster to the country. The decree now passed dislocates—principally, for reasons of an economical nature—a sovereign power expressly granted to the General Government and long recognized and fully established by judicial decisions and legislative actions. It so interprets constitutional provisions originally designed to protect the slave property against oppressive taxation as to give privileges and immunities never contemplated by the founders of the Government.

If the decision of the majority had stricken down all the income-tax sections, either because of unauthorized exemptions or because of defects that could have been remedied by subsequent legislation, the result would not have been one to cause anxiety or regret, for in such a case Congress could have enacted a new statute that would not have been liable to constitutional objections. But the serious aspect of the present decision is that by a new interpretation of the Constitution it so ties the hands of the legislative branch of the Government that without an amendment of that instrument, or unless this court at some future time should return to the old theory of the Constitution, Congress can not subject to taxation, however great the needs or pressing the necessities of the Government, either the invested personal property of the country, stocks, bonds, and investments of all kinds, or the income arising from the renting of real estate, or from the yield of personal property, except by the grossly unequal and unjust rule of apportionment among the States. Thus undue and disproportioned burdens are placed upon the many, while the few, safely intrenched behind the rule of apportionment among the States on the basis of numbers, are permitted to evade their share of the responsibility for the support of the Government ordained for the protection of the rights of all.

I can not assent to an interpretation of the Constitution that impairs and cripples the just powers of the National Government in the essential matter of taxation and at the same time discriminates against the greater part of the people of our country.

The practical effect of the decision to-day is to give to certain kinds of property a position of favoritism and advantage inconsistent with the fundamental principles of our social organization and to invest them with power and influence that may be perilous to that portion of the American people upon whom rests the larger part of the burdens of the Government and who ought not to be subjected to the dominion of aggregated wealth any more than the property of the country should be at the mercy of the lawless.

Under the interpretation given the Constitution by the decision of the majority of the court, a man might own a million acres of productive real estate, or a thousand business blocks and skyscrapers, and yet could not be made to pay a cent for the support of the General Government by the application of any practical method. He might own all the stocks and bonds of all the railways of the United States; he might own all the bonds—State, county, and municipal—of the United States, and yet under that interpretation could not be made to pay a cent to the support of the Federal Government. I thought then, and I think now, that the decision of the majority of the court was wrong, and that the dissenting opinions of Harlan, Brown, White, and Jackson were right.

Justice Brown, in his dissenting opinion, says:

Even the specter of socialism is conjured up to frighten Congress from laying taxes upon the people in proportion to their ability to pay them. * * * While I have no doubt that Congress will find some means of surmounting the present crisis, my fear is that in some moment of national peril this decision will rise up to frustrate its will and paralyze its arm. I hope it may not prove the first step toward the submergence of the liberties of the people in a sordid despotism of wealth.

Justice Jackson, in his dissenting opinion, on page 705, says:

The practical operation of the decision is not only to disregard the great principle of equality in taxation, but the further principle that in the imposition of taxes for the benefit of the Government the burdens thereof should be imposed upon those having the most ability to bear them. This decision, in effect, works out a directly opposite result in relieving the citizens having the greater ability, while the burdens of taxation are made to fall most heavily and oppressively upon those having the least ability to pay.

Justice White, in his dissenting opinion, on page 712, said:

The injustice of the decision points to the error of adopting it. It takes invested wealth and reads it into the Constitution as a favored and protected class of property which can not be taxed without apportionment.

Mr. BARTLETT. May I interrupt the gentleman?

Mr. PROUTY. I will yield to the gentleman from Georgia.

Mr. BARTLETT. The gentleman will find the report of that case where one of the judges, now the chief justice of the court, declared that that decision of the Supreme Court was an additional amendment to the Constitution of the United States.

Mr. PROUTY. Yes; that runs through all the dissenting opinions. That decision, however, ended the efforts of the Federal Government to reach that class of property for taxation until 1909, when Congress inserted in the Payne-Aldrich bill section 38, providing for an income tax on corporations. This act was attacked in the same manner and for the same reasons as the act of 1894.

But the Supreme Court, in the case of Flint *v.* The Stone-Tracy Co., reported in the Two hundred and twentieth United States Reports, page 107, sustained the constitutionality of that section. It is now claimed by supporters of this bill that the Supreme Court in that case laid down a rule broad enough to support the income provision of this bill. I wish that I could concur in that opinion, but I can not after a most careful study of the case.

It is true that the Supreme Court in the Flint case holds that section 38 levies an income or occupation tax, and does not sustain the tax on the ground that it is a franchise tax.

Mr. HULL. Will the gentleman yield?

Mr. PROUTY. Will the gentleman from New York give me 10 minutes more time?

Mr. PAYNE. I suppose so if the gentleman is going to yield it all away.

Mr. PROUTY. Well, I will yield to the gentleman from Tennessee; I like to discuss legal questions.

Mr. HULL. Did the gentleman read the Spreckels decision in connection with the suit on which it was based and also in connection with the Flynt case?

Mr. PROUTY. Yes; I have read them.

Mr. HULL. The basis of the doctrine on which this bill is predicated was the holding in the Spreckels case.

Mr. PROUTY. There is where lawyers will disagree, as they seem to in the Pollock case. But in the Pollock case the court held that the income-tax law was invalid largely because it was a tax upon property owned, the income from owned property.

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield?

Mr. PROUTY. Certainly.

Mr. GREEN of Iowa. Has not the Supreme Court always held that an occupation tax was valid?

Mr. PROUTY. Yes; a pure occupation tax; but anyone who will candidly study this bill can hardly say it is a pure occupation tax.

If you will turn again to page 161 of the same report you will find the distinction clearly and accurately made. The court says:

The thing taxed is not the mere dealing in merchandise—

As is undertaken to be done in this case—

in which the actual transactions may be the same, whether conducted by individuals or corporations, but the tax is laid upon the privileges which exist in conducting business with the advantages which inhere in the corporate capacity of those taxed, which are not enjoyed by private firms or individuals.

Mr. HULL. Mr. Chairman, will the gentleman yield?

Mr. PROUTY. Yes; for a question.

Mr. HULL. I want to ask the gentleman if the court, in saying that, was not simply combating the contention of the complaining party to the effect that the classification was a harsh and arbitrary one which imposed this tax on corporations, while it exempted individuals and copartnerships doing the same business in the same manner, and the Supreme Court answered by saying that Congress found the basis of classification and wrote it into the statute.

Mr. PROUTY. Pardon me, but I can not submit for a speech. I will answer the gentleman's question by referring down to a latter part of the same paragraph, from which I read:

In the Pollock case, as we have seen, the tax was held unconstitutional, because it was in effect a direct tax on the property solely because of its ownership.

I am not going to discuss whether the Supreme Court, in the Flint case, was right or wrong.

On page 150 the Supreme Court says:

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.

Then, again, on page 151, the court says:

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

I am wholly unable to understand how any lawyer can claim that the language of the Supreme Court in the case of Flint *v.* the Stone-Tracy Co. would uphold the provisions of the present bill. But I am nevertheless in favor of the passage of the bill and putting it squarely up to the Supreme Court again. Chief Justice White is now the only one upon the bench who was on the bench at the time of the hearing of the Pollock case. There are eight new members now on that bench, and I do not believe that it would be judicial sacrilege to express the hope, or even the belief, that enough of those new members of the court entertain the broad views so forcefully expressed by Justices Harlan, White, Brown, and Jackson, and would gladly unite with Chief Justice White in "restoring to the Constitution its old-time interpretation," giving Congress power to levy burdens with some reference to ability to bear them. But in the meantime I profoundly hope the States will ratify the constitutional amendment now proposed. That would clothe Congress with power to pass a law reaching all classes of incomes. The present bill does not reach fully the situation. Hampered by the

decision of the Supreme Court in the Pollock case, even as limited by the Flint and Spreckels cases, the framers of this bill have been compelled to leave untouched for taxation the individual incomes derived from real estate, municipal bonds, and other fixed investments. I hope soon to be able to vote for a bill that will tax all incomes from whatever source derived.

Mr. GARRETT. Mr. Chairman, I desire at the outset to congratulate my distinguished friend and colleague, the gentleman from Tennessee [Mr. HULL], the author of this bill, upon the excellence of the work which by patient toil and profound study he has wrought and laid before this House. It marks a distinct advance in the use of the taxing power of the Federal Government. It is true progressiveism, moving along intelligent, conservative, and well-defined lines.

It is not surprising that we find many of those on the Republican side of the Chamber standing in opposition to this method of taxation. In so doing they are entirely consistent with their party's course throughout its history. They are thoroughly in line with their platform of 1888, wherein that party declared that before it would trench upon the protective tariff system of the country it would reduce the excise tax upon dealing in tobacco and intoxicating liquors.

It is proper to say, I think, that different motives control the Republican Members who are in opposition to this measure.

Some of them are opposed to it because it is abhorrent to them to tax wealth, but, I think, the great majority of those who are opposed to the bill are opposed to it because it threatens the protective tariff system which their party has nurtured so long.

Mr. Chairman, it is not strange that the question of taxation has always been a central one throughout our Government's history. The question of taxation—the taking of the substance accumulated by the people in order to sustain and support organized society—is and must be the chief concern of the members of that society.

The taxing function of a government is at once its most delicate and its most tremendous power. The Democratic Party has stood consistently by the principle that this delicate, dangerous but essential power was given for one purpose and one only—that is to enable the Government to live. We believe that it may justly collect from the citizen in return for the protection it assures him such of his substance (equality with his fellows in benefits and burdens to be maintained) as is essential to sustain the Government and enable it to perform those duties necessary to the preservation of his rights and liberties and the promotion of his well-being under the law and the Constitution, but not one penny more. The Republican Party has taught, and wrought into law the teaching, that this power may be so manipulated as not only to collect revenues for the Government, but also insure profits to individuals.

The Republican Party organized as a sectional party, and gaining control of the country as such became early in its history the subservient agent of special interests and dedicated itself to their service. That party was the direct descendant of the Whig and Federal organizations. The Whig Party was its father; the Federal Party was its grandfather. It has developed few of the virtues of its father, and in its very infancy it showed an inheritance of all the vices of its grandparent. It seized the taxing power of the Government, and to an extent far greater than its forbears dared to go it has exercised that power, not primarily to raise just sufficient revenue to sustain and support an economically administered Government, but in order to enable a few men to gather into their private coffers the substance of many.

Mr. Chairman, it was the custom of ancient Rome to "farm out" the taxes imposed upon those who were subject to her imperial sway. For so much paid into her coffers an individual was granted the right to collect and retain the taxes of a province, and he in turn would sell to others the rights to this subdivision, and to that and behind these tax gatherers was thrown the force of Roman law and the power of Roman arms to grind from subject peoples the fruitage of their labor. Through long centuries she spread her sway and wrought her iron will, but the time came when she sought to cross the Rhine and bring beneath the Roman eagles the tribute of the tribes of ancient Germany. The world knows the result. To the north of the Lippe that proud Germanic race lured the legions of Varus and destroyed them utterly. They broke the force of Roman power and brought her prestige to the dust. They would not pay to a satrap of even mighty Rome.

Those men who in the depths of the German wilderness spurned Rome and all her glory, humbled her pride, and broke the circle of her world-engulfing power were the progenitors of the mighty race which has builded and peopled this Republic. And yet to-day we see a great political party committed to the doctrine of farming out the taxes, as it were, of exerting the taxing power for the benefit of individuals, and we see that party supported by intelligent, honest men.

Mr. Chairman, the protective-tariff system has had behind it the most ingenious and insidious influences that ever backed a cause. No political principle, no economic policy, no religious creed has ever drawn into the arena of debate and disputation nimbler, keener, or more incisive intellects than has this.

When the Nation was young and but an agricultural country—it having been England's policy to discourage manufactures in the colonies for the sake of her own trade—it was said that the Nation must stimulate its manufactories and that the people could well afford to make the sacrifices required in order to develop her resources as a war measure. This was the soundest basis, let it be said, upon which the system ever rested, but long, long ago that ceased to be a reason. Then came the plea of minority.

The people were told that they must protect infant industries; that the Government must be ward for newborn babes. This was plausible for a time, but at length they began to see whiskers creeping out from beneath the swaddling clothes. The infants had become careless about shaving, and there was no infant's clothing to be seen hanging out on the wash line. A gentle hint was given to the powers that were that the public did not feel called upon to support these industries through a second childhood. [Applause on the Democratic side.]

Then the ingenuity of Republican leadership developed another idea, and we were gravely informed that the protection was costing us nothing; that the foreigner paid the tax. Why, I remember when every Republican orator in the land taught that, asserting it with a gravity and a seriousness that was astounding. No one thinks of teaching that to-day. The man who would make that statement to an intermediate class in the public schools of the country would be laughed to scorn.

When the utter nonsense of this had become apparent there was developed the beautiful theory that by reason of prohibiting foreign importations our domestic production would be so stimulated that competition among the home manufacturers would reduce prices to the home consumer. The people listened and pondered; they said, "Now, that seems reasonable; that is assuredly economic wisdom; at last the touchstone has been located; the economic truth of the ages has been discovered; the secret of the sphinx is ours." They voted the Republican ticket, the Republican leadership smiled and hoisted the tariff some more. The masters of the Republican Party chuckled in their glee. The people settled down to await the coming competition, the farmer plowed and the carpenter drove his nails, the shoemaker plied his awl and the blacksmith wrought his daily task while the mothers of the land chanted their babies to slumber and to dreams with the new-found melody of—

Bye o' baby, don't you cry,
The tariff'll cheapen things by and by.

The days passed and the years went by, and the consumer began to get impatient; he began to look about him. Some things were cheapened indeed, but when he compared them with world prices he found they had not cheapened enough. He sought for that promised competition and suddenly awoke to the fact that there was none. The day of the trust had come, and we were informed that the old aphorisms about competition were antiquated and absurd in this modern day of Republican economics. "Why," they said, "competition is ruinous; combination is the only hope of industrial integrity."

Given a tariff high enough to prevent the influx of foreign-made goods, the domestic producers proceeded to organize themselves into divers corporations; then these corporations proceeded to organize holding corporations and transfer the stock, which in most instances was pumped full of water, to these latter, in trust, and the "trustees" fixed the prices, often at both the buying and selling ends of the line, and with competition at home checked and foreign competition shut out by the tariff wall, the consumer stood "at the mercy of Tiberius."

Not only this, but the consumer awoke to another fact—that is, that the producer, whom he was taxing himself to favor, had one price upon his products for home folks, whose taxes he was getting, and a lesser price for that foreigner who once—in his dreams—paid the tax.

His indignation began to creep up to the danger point, and once again the ingenious spirits in the Republican Party turned to their splendid imaginations for inspiration. It came. "'Tis true," they said, with an affectation of candor, "that the tariff is no longer necessary as a war measure; 'tis true that the infant industries are full-grown bearded men; 'tis true we were mistaken about the foreigner paying the tax; ''tis true, 'tis pity, and pity 'tis 'tis true' that we were deceived as to the

efficacy of domestic competition; but, O citizens of the Republic, we must maintain the tariff for the benefit of American labor."

I heard of an American laborer who sought to buy a machine and wrote to an American manufacturer for the price. A stupid clerk by mistake sent him the export instead of the domestic price list. He did not notice this, and was surprised and delighted to find that he could obtain it cheaper than his neighbors had purchased by almost half. He sent in his order, and by return mail was advised of the error, and the domestic price was quoted nearly twice as great as that which it was proposed to charge the man abroad. Quite naturally he was puzzled, and he went to his protectionist Representative in Congress for an explanation. "Why is this?" he said. "Why should I be compelled to give twice as much labor—for my labor is my sole purchasing power—for that machine as the foreigner gives?" And his Representative responded, "Why, my dear fellow, you must do that to protect American labor." [Laughter.]

When Madame Roland was being led to the scaffold she gazed about her, and, divining the sordid and selfish ambitions which, in the name of liberty, were sending her and others to their deaths, exclaimed, "O Liberty! Liberty! how many crimes are committed in thy name!"

Looking around us at the sordid selfishness and grasping greed which has held this Republic with a strangle hold for near half a century, are we not tempted to copy her pathetic remark and exclaim, "O American Labor! American Labor! how many crimes are committed in thy name!" [Applause on the Democratic side.]

The grim humor of the situation began to dawn upon the American consumer, and the masters, quick to catch the first note of alarm, took up the American-labor cry, the full-dinner-pail argument, and to cap it all cried out in anguish: "Oh, men, think of all these things and think then of that awful panic of 1891, induced by the Democrats going into power two years after that, in 1893!" I am waiting with some interest to see how long it will be after the Democratic victory, which is coming this year, before Republican orators will be charging the Democratic Party with responsibility for the Roosevelt panic of 1907. [Applause and laughter.]

"You shall have relief," they said. "We can not touch the tariff, it is true, because of labor, but rely upon the Republican Party. We will find a way. Assuredly, oh, most assuredly! A new figure has arisen in this world; within him are blended all the virtues and all the wisdom of the ages. Constitutions are nothing in his sight; before his tread all barriers fall; at his behest the rivers will run from the seas; the laws of supply and demand be restored or discontinued, as he may choose; the sun will stand still while he fights the battles of the Lord, and within four brief years you shall see the millennium; it is believed that T. Roosevelt may himself hold the proxy of the Messiah and represent him at the second coming. Who knows but that he is himself the Messiah reincarnated? He has not denied it. [Laughter.] At any rate he will punish these cruel malefactors of great wealth who have been guilty of exercising the business opportunities which our laws, by their favoritism, have offered them. Will you not, Teddy?" "Will I," said Teddy, "will I? Watch me; I shall be delighted." [Laughter.]

We have observed, of course, that Mr. T. Roosevelt, amid all his multitudinous activities, did not touch the tariff. Mr. Roosevelt was a wise man in his day and generation. He was able to assail "My dear Harriman," but the tariff barons—not he. He unloaded the tariff proposition upon the expansive shoulders of the good-natured gentleman whom he selected to succeed him—for one term.

Mr. Taft having been informed by Mr. Roosevelt that he was to take his place laughed in his good-natured way and went forth to make some speeches in 1907. The mutterings of the people had become a rumble. "There must be a revision of the tariff in the interest of the consumers," they said. "Why certainly," responded the wise men of the East. "Why certainly," responded the leaders of the Republican Party. The gentleman from New York, Mr. SERENO E. PAYNE, was then the chairman of the Committee on Ways and Means, to which tariff bills are referred in the House. He is not now, but he was then. [Laughter and applause on the Democratic side.] "Why certainly," said Mr. PAYNE, "we will revise the tariff"; and sometimes I think he really meant it. The distinguished Senator from Rhode Island, Mr. Nelson W. Aldrich, was then the chairman of the Committee on Finance, to which tariff bills are referred in the Senate. He is not now, but he was then. Under the Constitution revenue measures must originate in the House, but the Senate can amend them. I can not positively vouch for it, but I have no doubt that Mr. Aldrich looked over the Senate and carefully took note of those who had been and were sure to be elected as Senators to the Sixty-first Congress, and then, "Why certainly," said Mr. Aldrich, "there must be a revision—a revision—of the tariff; strange I had not thought of that before; why certainly," and he smiled. He met Mr. Taft and they talked awhile, and they both smiled. I imagine, also, that Mr. SMOOT, of Utah, not then, but soon to go, upon the Senate Finance Committee, met them and they all three smiled. "Why certainly, certainly; Calpurnia hath had her sweeter dreams, and we must revise the tariff."

Mr. Taft, as I have said, went forth to make some speeches, and in the very heart of New England indicated that he favored revision downward. New England smiled and smiled and smiled.

The Republican convention met and adopted a platform. Had the voters read it in the light of past experiences I do not believe they would have permitted themselves to have been again deceived by campaign promises and stump-speech platitudes. When I was a schoolboy and studied logic I remember something of a figure or a principle called "reductio ad absurdum." The Republican Party's platitudes often reminded me of it, but never was it brought as forcibly home to me as when I read the tariff plank of the Republican platform of 1908. If it had been serious it would have been ridiculous; being not serious, it was a criminal trifling with the hopes and aspirations and rights of a generous and patient people. It declared for a revision, but with no promise of reduction. It said the protective principle must be maintained, and that it could be best maintained by laying a duty sufficient to equal the cost of production at home and abroad and maintain a reasonable profit to the American producer.

For sheer absurdity, among all the utterances of political platforms since parties began, I am committed to that.

Difference in the cost of production at home and abroad, forsooth! Why, gentlemen, Mr. Charles Emery, of that famous Tariff Board upon which the President relies, speaking at a banquet of the American Association of Woolen and Worsted Manufacturers in New York some time ago, is reported to have said:

> There are certain things that are very difficult to get, and one thing that, according to the platform of the Republican Party—and, incidentally, that does not mean anything to me except that I have been given the job according to that platform—is to try to get the cost of production. I thank you all, gentlemen, that you did not laugh. I frankly say right here that this idea of settling things on cost alone is all nonsense.

If cost could be obtained, what country would you take as the standard for the cost abroad in order to calculate the difference? Germany, Japan, China, India, with all their different standards of labor? And, having settled upon a country, what factory in that country and in this would you make the basis? What elements are to be considered?

And a guaranty of "reasonable profits," indeed! What right, legal or ethical, has a party to take this Government of a whole people and pledge itself to use its taxing power so as guarantee to individuals a reasonable profit? [Applause on the Democratic side.] And yet I know some Republicans who smile at the Socialist as a dreamer or a crank.

I claim no powers of divination, but I am going to venture one prophecy, and that is that in the Republican platform to be adopted at Chicago this year you will not find that expression about guaranteeing "a reasonable profit." The gentleman from New York [Mr. PAYNE] on yesterday had an opportunity to present that expression of the platform to this House in a legislative way. He made a motion to recommit the sugar bill with instructions, and the instructions were:

> To report the same back to the House amended so as to eliminate from the sugar schedule the Dutch standard color test, the differential on refined sugar—

Which two things, by the way, he might have eliminated in the Payne-Aldrich bill, but did not—

> provide for a tariff on sugar that shall measure the difference between the cost of production at home and abroad.

But not one word did the gentleman from New York have in his motion about guaranteeing the "reasonable profit."

Has the gentleman from New York [Mr. PAYNE] in this short time deserted his party platform of 1908?

But I digress. In 1908 the people trusted them once more. Mr. Taft and his party were triumphant, a special session of Congress was called, and the farce began. The history is so recent I need not repeat it.

The farce ended August 5, 1909, when the President attached his signature to the Payne-Aldrich bill and accompanied that signature with a public apology to the people of the United States. The people accepted the bill because they had to, but they declined to accept the apology. Congress adjourned, and the President started shortly afterwards on that first funeral march to the western coast. He stopped long enough at Winona,

Minn., to apologize again. I have not his exact words before me, but I can quote them in substance. He said the bill was the best tariff bill ever written. He did not smile. Neither did the people. They ha-haed, and when November, 1910, came, the earliest opportunity presented, the worm turned and a mighty people arose in their wrath and swept from power in the only positions they could then reach—the House of Representatives and certain seats in the Senate—that party which had deceived them so often with its hypocritical cant and its disingenuous pretensions.

Mr. Taft said something else in that Winona speech. I give him credit for being a candid, honest man. Discussing the woolen schedule, he frankly admitted that it failed to measure up to the platform promises of his party, and he made the astounding statement that when an effort was attempted to give the people relief from the exactions of the woolen tariff that it was found that the interests in the Republican Party brought about by a combination of woolgrowers and woolen manufacturers in 1867 was so strong that his party could not stand against it; that they dictated terms to it and compelled the woolen tariff to stand, with the alternative of no legislation at all if they touched it. [Applause on the Democratic side.] How pitiful! The party of Abraham Lincoln held up with a sandbag and forced to stand and deliver! This upon the authority of the first citizen of the United States. Forced to violate its plighted faith, forced to disregard its solemn word.

Mr. Chairman, I am a believer in Democratic principles. I am a partisan, but I try to be a polite one. Notwithstanding my opposition to the fundamental principles of the Republican Party, I recognize that its has chapters in its history of which the future will take favorable note; but because I am a patriot before I am a partisan I say to you that I hung my head in shame when I read and realized the truth of that expression of the President. [Applause on the Democratic side.]

It does not reflect upon the honesty of the masses of the Republican Party or of the people of the United States, because. let it be said in candor, they did not know it. Those interests had obtained their strangle hold unawares to them. But they know it now. The President himself has vouched for it. What will they do? I think I know what they will do. They will arise in their wrath and smite as they have smitten. They will cleanse the temple of this Republic.

But there is more to the history. In 1910 a people, indignant at their betrayal, turned to the Democratic Party and elected a Democratic House of Representatives, as well as a number of Senators. That Congress was called in special session and met in April, 1911, and a Democratic House proceeded with the revision of that schedule which the President had denounced. [Applause on the Democratic side.] We remembered what the President had said about the woolen schedule, and at the earliest opportunity there was laid before him by a Democratic House and a close Senate a new woolen schedule, moderate in its character, conservative in its items, but constructed so as to preserve the revenues and at the same time bring relief to the people. We demonstrated that there was a party which the woolen interests could not control and make to eat from their hand. That bill, the just answer to a people's just demand, went to that President who had freely acknowledged the violation of faith by his own party on that schedule, and he vetoed it upon the sole ground that he himself was ignorant. He would not take the judgment of the Representatives fresh from the people, commissioned to do what he regretted his own party had not done, notwithstanding they had all the information and more than his party had when it framed the Payne-Aldrich bill. He must wait until Calpurnia had dreamed again. He must wait for the cunning genius of a tariff board to flower and fruit, though he needed it not when he signed the Payne bill.

And this was repeated as to other matters and other schedules of the tariff.

Mr. Chairman, I should gladly support this excise bill now before us upon its own merits, even if it is were not necessary as a measure to supply the revenues that will be lost to the Government if sugar be placed upon the free list, because I believe that it is essential to the preservation of the institutions of Government in this Republic that there should be laid in some manner or in some form a direct tax, a tax which the people will feel and which they will realize they are paying.

I believe that one of the dangers to our Federal Government's stability is that under our present system the people do not realize when they pay the Federal taxes. The hand of the taxgatherer is hidden. We know quite well when we pay tribute to State or county or municipality, because we pay directly, hand over the cash and receive nothing but a tax receipt in return. The Federal stipend is wrapped up in the coat or the blanket that you buy for yourself, the dress you purchase for your wife, the shoes for your child, concealed in the plow and the hoe and the ax, in the food which the laboring man buys; and the trouble of it is that the consumer pays this tax whether what he buys is imported or made in this country. If it is imported the Treasury gets the tax. If manufactured here the manufacturer gets it.

My friends, the growth of socialism in this country within recent years has been such as to cause all thoughful men to pause and ponder. Even I can remember when socialism was regarded as an incoherent, meaningless passion; but the vote has grown by leaps and bounds, and to-day a representative of that doctrine sits in the House of Representatives of the United States. I do not profess to understand the creed in all its refinements and ramifications, but I understand in a general way that one of its principles is common ownership of property; that no man shall own anything but all men shall own all things. That is not of itself a popular doctrine; there is a principle implanted in the heart of every man which leads him to wish to be able to say, "This is mine, the fruit of my labor, the increment of my toil." Why, then, has the party of that doctrine gathered such momentum? Perhaps it is true that the rapid introduction into our population of a foreign element, some of whom know nothing of, and many of whom care nothing for, our constitutional limitations and restrictions has been in part responsible.

But more than all else I believe that it is due to the fact that men have looked about them; have seen the inequalities imposed by the special interests that have so long been in control of the taxing power of this Republic; have seen the great forces of the Government manipulated so that one man might live in the sweat of other men's brows; and restless and discontent, disgusted with such legislative legerdemain they have rushed to the other extreme and embraced a doctrine foreign to our governmental hopes and aspirations.

If a system of direct taxation such as is proposed by this bill be established the citizens of this country will feel Federal taxation, and when they feel that taxation they will begin to guard Federal expenditures.

I think it was Edmund Burke who said that if you would hide the hand of the taxgatherer in the intricacies of a tariff you could tax even an Englishman down to his last loaf of bread and his last rag of clothing without evoking protest, and that philosophy holds good, in a measure, even unto this day.

Because the people of this country have not realized when they were paying Federal taxes extravagance in Federal expenditures has resulted. They have come all too often to regard an appropriation from the Federal Treasury as so much "picked up," not as so much spent. The popular thing for a member of a State legislature to do is to save in expenditures. Why? Because the State tax is a direct tax. Sometimes it seems that the most popular thing a Representative in Congress can do is to get an appropriation. Why? Because the Federal tax is indirect and the constituency, though it is composed of the same people represented by the State legislator, does not realize that it is paying.

But they do pay, Mr. Chairman. Aye, sir, not only do they pay to the Federal Treasury, but for every dollar which they pay through the tariff laws into the till of the Treasury they pay from $5 to $7, according to best estimates, that go not for governmental purposes, but into the pocket of some domestic producer.

Not only has this indirect system of taxation resulted in extravagance in Federal expenditures, but it has resulted in the centralization of governmental powers in the Federal entity.

Why, sir, the tendency is constantly growing for the States and local communities to shift upon the Federal Government duties that they should perform. How often are we urged to support Federal appropriations for the construction of highways?

How often does this demand come from citizens who would not think of voting to bond their county for that purpose? Why? The county tax is direct; the Federal tax is indirect. And yet if the Federal Government did it, it would cost from two to three times as much as for the community to do it. And so of many matters.

Mr. Chairman, this is a good bill; it is a splendid bill; it is in accord wth soundest governmental principles and best and bravest Democratic policies. The criticisms of it seem to me to be almost puerile. The gentleman from Ohio [Mr. LONGWORTH] thinks it will not reach men like Mr. Carnegie or Mr. Rockefeller. I think he is mistaken; but suppose he is correct; suppose, under the decision in the income-tax case—the Pollock case—this bill can not reach them. Shall we for that reason refuse to use our legitimate powers to tax others who are able to pay? For shame!

I believe the people will approve this bill, and will indorse our party for proposing and passing it. Mr. Chairman, the

Democratic Party has wandered long in the wilderness. Internal dissensions have dissipated our forces and disheartened our followers, yet, turning neither to the right nor to the left, but holding fast to the faith of the fathers and walking ever in the light of living issues, we have moved out from the swamp with its tangled thickets and its fetid waters, and standing to-day upon the mountain top we gaze with rapt vision into the promised land. We have the House of Representatives now, and I believe the people of this country indorse its actions and approve the profert of intention which it has made and that next November they will say unto our party—

Well done, good and faithful servant. Thou hast been faithful over a few things; I will make thee ruler over many things. Enter thou into the joy of thy Lord.

[Applause on the Democratic side.]

Mr. PAYNE. I yield 20 minutes to the gentleman from Kansas [Mr. JACKSON].

Mr. JACKSON. Mr. Chairman, I certainly shall not attempt to flatter myself by thinking that what I shall say upon this question will be of any particular interest to the Members of this House or to the country; but I wish to say a few words upon it because I regard the bill, connected with its companion piece, as the most stupendous piece of demagoguery and fraud that has ever been attempted to be perpetrated upon the American people in the name of American politics. [Applause on the Republican side.]

I characterize it as possessing the element of fraud, as it pretends to relieve the people from taxation, but, in fact, adds to their burdens. I call it demagoguery because it will be called before the public an income tax, when in fact it is not. It is wholly unscientific and moves away from that class of wealth a true income tax would reach. By its terms it exempts corporate and idle wealth and the swollen fortunes of the country. Can the "revivified" Democratic Party afford to stand for a makeshift measure which will discourage the adoption of a true income tax at a time when we need only the ratification of the constitutional amendment by six additional States to make it effective, and we have two new States ready to reduce the required number to four?

Mr. Chairman, I do not think any gentleman on that side of the House can charge me with being extremely partisan.

Mr. HUGHES of New Jersey. Oh, no; no.

Mr. JACKSON. The gentleman may well repeat out of order, "Oh, no; no"; but when the gentleman has stood here and voted against the measures adopted by the oath-bound caucus on that side of the House as often as I have voted for measures not approved by our caucuses and conferences, he may then shake his gory locks at me for being a partisan.

The truth is that I have promised myself, at least, that I shall speak out against fraud and demagoguery wherever I find it, whether it be in our party or in your party. I have long ago made up my mind that the statement so often heard, especially on that side of the House, that this country is a government of political parties, is not correct. This Government is, or ought to be, a government by the people; and I say to you, Members of this House, that, taking the last 20 years of the history of this country, every great national question that has received the sanction of Congress or of any considerable number of the State legislatures has come about by the organization of the people of this country almost independently of the political organizations.

I do not mean to condemn political organizations by that statement, but I mean to say that political organizations follow and do not lead in expressing the public will in this country, and so I deny the statement that we have a government of political parties.

I have voted for every tariff bill that has been brought out by the Ways and Means Committee on that side of the House, with the exception of the chemical bill and the sugar bill. I did not vote for the chemical bill because I regarded it as an honest Democratic measure. It was not an attempt to reduce the tariff; it was rather an attempt to raise it by levying duties upon noncompetitive articles, and therefore I voted against it. I voted against the sugar bill because I believed that you gentlemen on that side did not believe in it. There is scarcely a single Member on that side of the House who would have voted for it if he thought there was any chance of its becoming a law. I voted for the other bills because there was an honest difference of opinion as to whether or not the protection carried by them would destroy American industries. Indeed, the distinguished chairman of the Ways and Means Committee, who, I see, has now left the Hall, on every occasion made the statement that the duties carried in these bills equaled the difference in the cost of production at home and abroad, making this statement, I assume, in the joy of that new-found definition of his of a tariff for revenue. Taking his word for it, having the same confidence in a Republican Senate and a Republican President that the Democratic Party always evidences when confronted with a real responsibility, I voted for the bills in the hope that a Republican Senate would reframe them to make them into fairly acceptable tariff bills.

But here, gentlemen, we are face to face with this bill and its sister bill, that proposes not to place a duty upon a revenue basis, but absolutely to destroy the public revenues and at the same time to destroy one of the great American industries. Three or four facts stand out undisputed in all the investigations which you gentlemen have conducted here and in all of the information which has been gathered and in all the discussion of these two bills. The first is—

(*a*) That we are producing through the beet-sugar factories and the cane sugar of Louisiana fully one-third of all the sugar that we consume in the country.

(*b*) The next fact admitted by the Hardwick investigation and the Ways and Means Committee is that this is the only independent sugar industry that exists in the country or in the world, and that this constitutes the only competition that we have by which prices may be reduced.

(*c*) It is admitted that this competition did within the last year serve to lower the price of sugar to the American consumer almost 1 cent per pound.

(*d*) It is admitted but for this competition the price of sugar in this country is largely controlled by the Sugar Trust, and that control failing at any time the fixing of prices passes to the great foreign syndicate, which, by means of the Brussels conference, controls the prices of sugar on the world's market as certainly as does the board of directors of the Sugar Trust control the affairs of that corporation. Still, back of this combination stands Russia, by her bounty fed and highly protected pauper-labor industry, dominating the sugar market, as does Argentina the coffee market, of the world.

Now, if that is true, I say to you that this sugar bill is a fraud and a deception, because you hope to go out with it and purchase the votes of the American people under the promise of cheaper sugar when you must know that when this home competition is destroyed that sugar will not be lower than it is now, but will be higher.

Is it not clear that by free sugar in this country you place it in the power of the European syndicate and Russia to cover into their treasury the duties you propose to remove from American importations? This was England's experience, and she was forced to restore her duties to protect her own treasury. It had been our own experience in the coffee trade. The gentleman from Nebraska [Mr. NORRIS] has presented at this session of Congress an almost unanswerable argument that we shall be compelled to restore a duty on coffee to prevent our people from paying the expenses of the Argentina Government exacted through the high prices of coffee by the Government monopoly of the Argentina Republic. The remedy for this condition of affairs, the way to bring cheaper sugar for the American consumers, is pointed out by the greatest sugar statistician of the world, a man who all admit to be disinterested and fair and able. In his evidence in the hearings Mr. W. P. Willet said (pp. 3556–57):

As showing the ultimate effect of home production equal to or surpassing home consumption, I call attention specially for earnest consideration to the fact that in 1910 we reached this desired consummation within 74,000 tons, and as a result we were almost independent of Europe; so much so, in fact, that we got our supplies from Cuba at over one-half cent per pound under world's prices, during which time one man (Santa Maria) was carrying on a big bull speculation in Europe in which we would certainly have been involved but for this limited amount we required that year. In 1911 the Cuban crop fell short of 1910 by 320,898 tons, and we required 212,182 tons from abroad to complete our supplies; hence we were involved in the world's prices in 1911, and the result was a hue and cry against the high prices of sugar. I am not making an argument, but am simply pointing to the facts that appear to me to make the consideration of the increase in our local supplies of greater importance in legislation than a reduction of duties beyond certain limits, those limits to be such as will positively exclude all sugars outside those of our States and dependencies.

In all these analyses I reach the same conclusion—that to decrease the price of sugar to the consumer, increase the domestic production as rapidly as possible (p. 3978).

The domestic industry in the western part of the country represents an investment of over a hundred million dollars, made under the promise not alone of our party, but of your party, because do not forget that under the free trade in sugar which you gentlemen seem to be so proud of throwing in the faces of certain leaders on this side, when that condition of affairs existed your party put a duty of 40 per cent on sugar.

Now, then, following that line of legislation, not only has a hundred million dollars been invested in this industry in this country, but hundreds of thousands of American farmers have taken their effects and property and camped under the shadow of irrigation works and gone into the business of producing sugar to feed the American people.

Now, if there is anything in this country that deserves the praise and the pride of the American people it is the hopefulness of the western farmer. In a few weeks he will take his plow from out of the shed, if he has any shed, and will bring into action the farm implements of his business, and step forward with his heart full of hope—God bless him—to produce another crop. Does any man on this floor think that a single acre of sugar beets will be planted this next year if your bill becomes a law? You told us that the price of sugar went above 7 cents last year because of the failure of something like a quarter of a million tons of sugar in Cuba. What kind of a price would sugar be next year if it were given out that the great product of the western fields in this country of ours were to be cut off next year? It permits of not a shadow of doubt that sugar, under such circumstances, would be higher and not lower.

But, Mr. Chairman, I refuse to consider this subject alone from the viewpoint of saving a few cents per year to each American family in the purchase of sugar. The interest of every American citizen is broader than that. The production of 600,000 to 700,000 tons of sugar to continental United States involves large financial transactions and the employment of many laborers. To meet these expenses the bankers of the communities where such industries exist have stood by the farmers and factories to assist them in meeting temporarily these expenditures. The destruction of the industry means an unsettling of credits that may threaten the very financial quiet and stability of the country. Absolute free trade in sugar also means great disturbance of the industry in our island dependencies and Cuba and a lessening of their capacity to buy and consume American goods.

This is a trade, consisting in the main of flour and meats, in which the West is directly interested. I wish to set forth here a view of Porto Rico Progress. On February 1 this prominent Porto Rico paper stated the following editorially:

The consumer asks himself, "How does the tariff affect me?" It increases the daily cost of his sugar one-half cent. But does the American consumer know that, practically due to the tariff on sugar alone, a market for American goods has been developed in Porto Rico which will amount to $50,000,000 a year in another 12 months? This is where the great factor, human nature, otherwise known as selfishness, enters the equation.

Since 1898 (the year of the American occupation), the sugar industry of Porto Rico has increased from about $2,500,000 to $24,000,000. In the same period the purchases of Porto Rico from the United States have increased from about $1,500,000 to $34,600,000. In other words, the production of sugar in Porto Rico has become 10 times greater, and our purchases from the mainland are 22 times greater.

One-third of the wage earners in manufactories in this island (according to official data furnished by the Census Bureau) depend upon the sugar and molasses industry. The number of persons dependent upon each wage earner for support and the number of business establishments and minor industries which owe their existence to the sugar business are not known. To say that 50 per cent of the population is directly and vitally interested would be conservative. Any alteration in the tariff on sugar will immediately impair the purchasing power of 600,000 people who now buy from the United States and will ultimately affect 600,000 more.

In 1901 we bought from the United States $7,000,000 worth of goods. Last year we spent in her markets $34,600,000. Next year, if the tariff is not changed, the figure should be $50,000,000.

If the tariff on sugar is eliminated, the consumer in the United States may possibly save $1.25 a year, but the business men of the Nation will lose in the end half of their market in Porto Rico, meaning an annual loss of about $25,000,000.

Apart from the fact that the American consumer may get his sugar for $1.25 less a year, no one will benefit by putting sugar on the free list so much as Cuba. She now buys her machinery in the cheaper markets of Europe. She will continue doing so unless absolute free trade is granted, and this is too remote a possibility to be considered. In short, Cuba will fatten on the American sugar market and will spend the profits in Europe. Porto Rico, on the other hand, spends her earnings in the United States.

It is unnecessary to elaborate on this argument. Human nature is the same the world over, even in the United States Congress; and that supreme commander of human actions, Selfishness, will doubtless govern in this case as in all others.

The only point to be borne in mind is that by taking away the protection given us by the sugar tariff the United States will seriously injure one of her best customers. Porto Rico buys more from the United States than Russia, Spain, Austria, Japan, Turkey, and all of the East Indies. The United States sells more to this island than she does to any other country of South and Central America, except the Argentine. Porto Rico occupies twelfth place in the list of the markets of the United States. Her purchases from the mainland are greater than those of any other noncontiguous territory, exceeding those of the Philippine Islands by $10,000,000, Alaska by $9,000,000, and Hawaii by $7,000,000.

As a cold-blooded business proposition, will it pay the United States to throttle Porto Rico to benefit Cuba?

What is true of Porto Rico is also true to a large extent of Hawaii and the Philippines. While the effect on American trade with Cuba is not so direct as with Porto Rico, the 20 per cent preferential tariff, which reciprocity with that island gave her, has caused our trade to increase as rapidly in volume as with Porto Rico.

So the blow of destruction is not alone at the industry of the beet-sugar farmers of the West, but also at the market and the prices of the western farmer who produces wheat, flour, and meats.

There are some amusing things about this legislation. One of the most amusing things, gentlemen of the committee, is the argument that has been made on that side of the House that you are doing this to relieve the American people of taxation. I sat here and heard the very interesting and eloquent description of the eminent chairman of the Ways and Means Committee of the great wrong that was done by the British Government by conferring upon some earl or some one else the privilege of taxing the right to do business in a certain market in London. You remember that, do you not, how eloquent he waxed about the wrong theory of government, that would tax the people by giving anyone the privilege of taxing the right to do business upon a certain market?

Then he proceeded to liken the protective duties or the revenue duties of America to the same thing as taxing the right to do business in the American markets. He then said, "We are going to take the $53,000,000 of taxes off the American market, away from the bellies of the American people." Mr. Chairman, where is he going to put the $53,000,000 tax? Can it be possible that this same man proposes to put the $53,000,000 of tax on the right of every man, every individual in the United States, to do any business at all? The proposition is proposterous and positively humorous. Is it wrong to tax the importer to do business in America? Then certainly it is wrong to tax an American citizen on the right to do business at home. [Applause.]

Mr. Chairman, there is a good deal of demagoguery and nonsense indulged in in caviling at the revenue taxes of this Government raised by duties upon imports. So far as I am concerned, I am a protectionist; I have never pretended to be anything else.

I regard the doctrine of American protection as one of the cardinal principles of taxation in America. It has existed for many years, and the same gentleman who described this pathetic picture in London at the beginning of the debate upon the sugar bill before he sat down said that we must continue to collect a large amount of our taxes from the customs. It is not only a cardinal principle of the American system of taxation and of every party in this country, but of every country in the world. The time has arrived in the history and development of commerce predicted long ago by that great statesman of England, Lord Salisbury, when he said that the future commerce of the world was to be a war between tariffs. That time is here, and no subject could better illustrate it than this subject of the tax upon sugar, because we are confronted with the fact that every great government of the world, including even free-trade England, recognizes it as a fit subject for taxation. Oh, but gentlemen say we are going to take off this $53,000,000 of tax, because you levy it back on the people. Not only that, but it so raises the prices of commodities that you treble it and make it $150,000,000. Let us see how you propose to do it. You propose to do it by taxing the people who do business in this country with that same $53,000,000. Will the man who imports sugar pay the tax? Of course he will; not by this bill perhaps, because he is already taxed under the Republican bill, which provides for a corporation tax, but if he is not a corporation he will be taxed under this bill. Will the man who sells sugar at wholesale be taxed under your law? Yes. Will the jobber who sells it to the retail merchant be taxed? Yes, if the business is a corporation or has a net income of $5,000 or more. Then, in the name of common sense, what is to prevent all of these men from putting this tax back on the commodities which they sell in their business and thus making the consumer pay for it all? You have just listened here to a very able and eloquent speech by the gentleman from Iowa [Mr. PROUTY], who shows you how all of this tax, whether levied by internal revenue or by customs duties, is eventually placed back upon the consumer. Will there be any difference in this tax and the tariff tax?

Oh, but you say the tariff is only paid by the man who imports and that he adds the tariff and that brings all local prices up to the same level with the foreign price with the tariff added. But you do not propose to tax everybody under this law. It is only the large concerns, the concerns of the country which fix the prices, the wholesale houses, the great department stores, the mail-order houses, and things of that sort which make the prices. They are the concerns who are to pay this tax unless they are incorporated. I should like you to tell me what would prevent them from putting this tax back upon the consumer, and when they do, do you think the small dealers will offer their goods at a lower price than the big concerns? And if you do, I will be willing to support your law. So I say that your scheme of relieving taxation is absolutely deceptive, and

you would not be for it if you knew that you could pass it. Not only that, but the very distinction between a direct tax and an excise tax rests on the very proposition that the direct tax can not be shifted, while the excise tax and the indirect tax can be shifted. I do not ask you to take my word for it. I want to read to you here from the language of this Pollock decision.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. PAYNE. Mr. Chairman, I yield 10 minutes more to the gentleman.

Mr. JACKSON. This is a quotation from the eminent statesman, Albert Gallatin, for whom I believe Democrats have some respect. This is what he said in his sketch of the finances of the United States, published in November, 1796:

> The most generally received opinion, however, is that by direct taxes in the Constitution those are meant which are raised on the capital or revenue of the people; by indirect, such as are raised on their expense.

Again, the court itself in this decision said:

> Ordinarily all taxes paid primarily by persons who can shift the burden upon some one else, or who are under no compulsion to pay them are considered indirect taxes, but a tax upon property holders in respect of their estates, whether real or personal, or of the income yielded by such estates, and the payment of which can not be avoided, are direct taxes. (P. 558.)

You propose to sustain this law in the Supreme Court upon the proposition that it is a tax upon the expenditures or the expenses of the people and therefore one which can be shifted from the payee to some one else, and yet you say that you are relieving the people from taxation. There is a difference in the operation of this law and in the operation of a tariff law, and I will tell you what it is, in my judgment. The hearings before us on the two bills show this state of affairs, that in England, where they have only 40 per cent tax on sugar, the price of sugar has been eight-tenths of a cent less, on an average, per pound than it is in this country where we have a tax of 1.90. How do you escape the conclusion, then, that the exporter, or some one else than the consumer, pays about half of that tax?

Mr. WARBURTON. Mr. Chairman, I would like to ask the gentleman a question.

Mr. JACKSON. In a moment. Then the difference is this, that we do have some opportunity of shifting a tax that is levied as a customs duty on to some one else than the consumer, but when we levy an internal-revenue tax, such as we do upon tobacco and liquors, there is no opportunity to do it, but the consumer must pay the tax. So you have taken off the $53,000,000 of tax, half of which—according to the figures I have just quoted, and they are your figures—is not paid by the consumer, and you have put it back again in the form of a tax all of which must be paid by the consumer.

Mr. WARBURTON. I find from the English Statistical Abstract that the price of refined sugar plus the tariff averages about $1.70 per hundred. I would like to know where the gentleman gets his figures.

Mr. JACKSON. I quoted the figures from the report. The gentleman will find them there. I quoted them from the majority report. The same figures have been quoted over and over again by both sides in this debate. There can be no question about their correctness. Here is what Mr. UNDERWOOD himself says:

> In England refined sugar in bond is quoted for 1910 at 3.706 cents; in Germany, 3.640 cents; in Austria, 3.800 cents; in France, 4.070 cents; and in the United States, 3.532 cents. The result is that sugar is quoted in bond in the United States for the year 1910 cheaper than untaxed sugar in bond was quoted in any of the great European countries that produce sugar.

Mr. BATHRICK. Mr. Chairman, I would like to ask the gentleman if in his discussion of where this tax will lie he is not overlooking the fact that under the law proposed and under discussion this afternoon the tax will not be placed upon those people who have under $5,000 a year income. Is that not true?

Mr. JACKSON. Yes, that is true; and I am glad the gentleman called my attention to that, because I want to discuss it now. The gentleman calls my attention to the fact that those who have an income of less than $5,000 per annum are exempt from this law. Of course, the gentleman will understand that I have just tried to explain why I think everyone who buys sugar will pay this tax.

Mr. BATHRICK. The gentleman stated that the wholesaler, the manufacturer, and the importer would pass this tax down in the price of sugar to the consumer. Is that not true?

Mr. JACKSON. I did.

Mr. BATHRICK. Does the gentleman suppose that the wholesaler will pass it all down and charge it up, notwithstanding the fact that he handles many other lines of goods?

Mr. JACKSON. Oh, I did not mean that.

Mr. BATHRICK. Consequently not so much will be passed to the consumer as under the tariff, would it?

Mr. JACKSON. I think that is true as to the price of sugar alone. I am glad the gentleman asked that question, because it permits me to complete my argument upon that subject. Of course, the tax now being distributed over a number of articles, instead of upon sugar alone, the entire tax will not be placed upon sugar, but it will be placed upon all the articles the merchant handles, and therefore upon all the articles which we buy, and the people will pay it just as they now pay a part of it.

It will be handed along to the banker. It will be handed along to the dealer in clothing and other goods; to the dealer in groceries. When the outcome is figured up the American people will have paid this tax just the same as they pay any other revenue or customs tax. It is perfectly idle to argue that the tax of every section of the Payne-Aldrich bill is paid by the consumer, except the tax levied by section 38 of that law.

Mr. BATHRICK. Will not the gentleman concede that a tax was levied on the American people far in excess of the revenue collected by the tax on sugar? Was not the tax levied on the American people just in that proportion that the rate bears to the consumption?

Mr. JACKSON. I am perfectly willing to concede that the tariff is too high.

Mr. BATHRICK. The rest of the tax will be on the backs of the American consumer, if you take this tax off, even though it passes from the wholesaler down to the consumer.

Mr. JACKSON. That depends entirely on how much more tax you put on. I am willing to concede the tax on sugar is too high. I hope, and I believe the gentleman and his party hope, that the Republican Senate will send the bill back here with a duty of 1 or 1½ cents per pound on sugar.

Mr. BATHRICK. I do not hope so at all. I am for free sugar.

Mr. JACKSON (continuing). Abolishing the differential and the Dutch standard. I will vote for it, and I hope the gentleman will vote for it, because then he would show his sincerity before the American people in advocating a lower tax, and one that will mean lower prices to the consumer and at the same time sufficient protection to our domestic sugar industry.

Mr. BATHRICK. I will vote for the best I can get, and as near to it as I can get.

Mr. WILLIS. Will the gentleman from Kansas [Mr. JACKSON] permit me to ask my colleague from Ohio [Mr. BATHRICK] a question?

Mr. JACKSON. Yes.

Mr. WILLIS. I wish to ask the gentleman from Ohio [Mr. BATHRICK], my colleague, whether he is also in favor of free wheat? I understand that he voted against reciprocity, as I did, upon that question.

Mr. BATHRICK. Yes; I certainly would do it if it redounded to the benefit of the people in the State and would make flour free also. I understand my colleague voted to prevent flour from being free.

Mr. LONGWORTH. Will my colleague include in his question free wool? I would like to be enlightened.

Mr. WILLIS. I am coming to that. My colleague is saying that he is in favor of free sugar because he thinks sugar will be cheaper to the consumer. Is my friend from Ohio in favor of free wheat on the same theory?

Mr. BATHRICK. The bill you voted for puts flour on the free list.

Mr. WILLIS. But I voted against reciprocity and also the free-list bill.

Mr. UNDERWOOD. Mr. Chairman, I was absent from the Chamber for a moment, and I understand the gentleman from Kansas [Mr. JACKSON] stated that I brought this bill into the House knowing that it would not become a law and could not pass. I am here now, and I would like the gentleman to repeat his statement, so that I may understand.

Mr. JACKSON. I think I made no stronger statement than when I opened my remarks, which was that I think the entire measure, including free sugar, is a piece of rank demagoguery.

Mr. UNDERWOOD. I would like to understand what the gentleman said.

Mr. JACKSON. I remember no such remark as he quotes, except that.

Mr. UNDERWOOD. Then I did not understand it correctly.

Mr. JACKSON. I think I did say this, Mr. Chairman, and I am willing to repeat it, that neither he nor any other Member on that side of the House expects this bill to become a law, and that I believe no man on that side would vote for it if he did expect it to become a law.

Mr. UNDERWOOD. I will say to the gentleman from Kansas, if he will allow me to interrupt him——

Mr. JACKSON. Certainly.

Mr. UNDERWOOD (continuing). That he has no warrant whatever for making any statement of that kind. This side of

the House passed a wool bill that your side said could not pass, and we sent it to the President of the United States. It would be a law to-day if he had put his signature to it. We can not control the President of the United States. I believe that this bill will pass the Senate as well as the House, and that the President of the United States will not dare to veto it. [Applause on the Democratic side.] I want it to become a law.

Mr. JACKSON. Mr. Chairman, mere assertion and statement is very cheap, although it is hard sometimes, under the rule on the other side of the House, to get opportunity to make them from the minority side. But, Mr. Chairman, I voted for the gentleman's wool bill——

The CHAIRMAN. The time of the gentleman from Kansas [Mr. JACKSON] has again expired.

Mr. PAYNE. Mr. Chairman, I will yield to the gentleman from Kansas five minutes more.

Mr. JACKSON. I voted for the gentleman's wool bill, because, as I stated a moment ago, he told the House in the joy of his new-found definition of a tariff for revenue that the Government was in dire need of revenue, and that it was necessary to keep the tariff on raw wool, notwithstanding that his party had promised the people of the country that they would take the duty off of raw material. [Applause on the Republican side.]

Now then, Mr. Chairman, the revenues have so increased within the year that that party can disregard the fact that they were willing to put a duty of 20 per cent on raw wool.

Mr. UNDERWOOD. Will the gentleman allow me to ask him a question?

Mr. JACKSON. Just wait a moment, please. The revenues of the Government have become so opulent since that time, less than a year ago, that they can now disregard $53,000,000 of revenue and trade it off for a lawsuit.

This is the first time in the history of the country that any party has attempted to make a lawsuit legal tender or has attempted to coin a lawsuit into gold with which to pay the public expenditures; and so, notwithstanding the gentleman's statement that I was not authorized to state what I did a moment ago, I think I am fully warranted when I say that such legislation as that is an imposition and a deception upon the Amercan Republic. [Applause on the Republican side.]

Mr. UNDERWOOD. Mr. Chairman, I want to ask the gentleman on what authority he states that the Democratic Party had pledged itself to free wool?

Mr. JACKSON. Well, Mr. Chairman, I did not state that, in the first place, and——

Mr. UNDERWOOD. I understood the gentleman to state it.

Mr. JACKSON. Well, the gentleman's understanding is at fault. I did state that your party had long pledged itself to free raw materials, and that, not many years ago, it had declared for free wool.

Mr. SHACKLEFORD. Mr. Chairman, may I ask the gentleman a question?

Mr. CULLOP. Will the gentleman permit a question right there?

The CHAIRMAN. Does the gentleman yield?

Mr. JACKSON. It depends on whether I shall get more time or not.

Mr. CULLOP. Can the gentleman point to a single Democratic national platform that ever promised free raw materials? If so, will the gentleman name it? There never has been one.

Mr. MANN. Ask him if they are in favor of free raw materials.

Mr. JACKSON. Are you in favor of them now?

Mr. CULLOP. No. My party stands for a revenue tariff. I am in favor of a tariff for revenue, and you can not point to a single Democratic national platform that ever pledged the party to the doctrine of free raw materials.

Mr. PAYNE. I would like to know if the gentleman from Indiana over there knows everything——

Mr. CULLOP. No. I do not claim any such distinction.

Mr. PAYNE. I mean about the Democratic Party. I did not mean any offense to the gentleman. I would like to know if the Democratic Party did not vote for free wool and stand for it? Will some one of you over there answer that, if you can? [Applause on the Republican side.]

Mr. CULLOP. I do know that no Democratic national platform ever declared for free raw materials, and you can not find it in any of them.

Mr. JACKSON. Now, Mr. Chairman, on the subject of the constitutionality of this law——

Mr. SHACKLEFORD. Mr. Chairman, I would like to ask the gentleman just one question.

The CHAIRMAN. Does the gentleman from Kansas yield to the gentleman from Missouri?

Mr. JACKSON. Just wait until I find out whether I can get more time. I have not discussed all I want to say about this proposed law. I decline to yield.

Mr. PAYNE. Mr. Chairman, I yield five minutes more to the gentleman.

The CHAIRMAN. The gentleman from Kansas is recognized for five minutes more.

Mr. SHACKLEFORD. What I want to know of the gentleman is whether, when he voted for the wool bill, he expected it to become a law? [Laughter on the Democratic side.]

Mr. JACKSON. No; I did not.

Mr. SHACKLEFORD. That is frank.

Mr. JACKSON. Now, Mr. Chairman, I was about to say something as to whom this law would affect. In my judgment, if it is ever held to be constitutional, being levied upon the capital and industry employed in any business in this country, it will apply to every merchant, every business man in this country who has a capital equal to $25,000, and I would like to know why you propose to take off this tax on sugar and place it upon the man who hands out the sugar to the consumers and still think that he will not put it back upon that sugar?

Why, gentlemen, the very last clause of this bill adopts the internal-revenue laws of the present time. I congratulate the Democratic Party upon extending the machinery, which was made for the purpose of collecting the tax on the illicit distilleries of the South, over the legitimate business interests of the country all over the United States; and I have no doubt that certain parts of Virginia that are at present under arms will welcome such extension of the Federal power on the part of the Democratic Party.

Mr. SHACKLEFORD. That is a Republican county to which the gentleman refers. [Laughter.]

Mr. JACKSON. Well, it is said that there is an illicit distillery behind each pine tree in it.

Under the present corporation-tax law there was collected as penalties from the small corporations not subject to the tax at all $25 or $15 from each corporation. Does the gentleman expect the army of Federal inspectors, described here in Mr. Cabell's letter, which is included in the minority report, to go riding over the country and levy taxes of from $15 to $25 upon each firm and each individual engaged in business, under the authority of the Federal Government, and at the same time meet the approval of your southern brethren who are so jealous of the Federal Government's powers of taxation?

This law will never be held to be constitutional. It is worded almost in the identical language that was used in the act of 1894; and will the gentleman expect that the words which levied a tax upon the "income from property and rents and profits" will mean substantially anything different from the words that seek to levy a tax upon the "income of property used in business"? The courts will never say that there is any substantial difference between the two propositions. And so I say you propose to trade off $53,000,000 of Government revenue for a mere lawsuit. That is what your bill means.

Now, something was said on that side about the Republicans on this side refusing to tax the wealth of the country. But here you are face to face with the proposition that the last Congress placed a similar tax of 1 per cent upon the corporate wealth of the country, and that instead of attempting to increase that tax or to pass an inheritance tax, which would reach some of the idle wealth of the country, you have undertaken to spread this tax upon the active middle-class business men of the country. You have left all of that wealth, you have exempted under the terms of this law all of that kind of wealth which should be taxed, including the bonds and the notes that are issued by these great corporations.

The gentleman from Ohio [Mr. LONGWORTH] stated here that the entire wealth of the country amounted to $107,000,000,000.

I will read here from John Moody, "The Truth about the Trusts":

Thus it will be seen that including industrial, franchise, transportation, and miscellaneous about 445 active trusts are represented in the book, with a total capitalization of $20,379,162,551. They embrace in all about 8,664 original companies.

In fact, the only gigantic interests or groups which can in any sense be considered as on the same plane are the Rockefeller and Morgan groups.

The Morgan domination, like the Standard Oil, makes itself felt through the means and influence of large metropolitan financial institutions and great banks, such as the National Bank of Commerce, First National Bank, Chase National Bank, and Liberty National Bank. The great life insurance companies, such as the New York Life, and trust companies, such as the Mercantile, Guaranty, and Central Trust, are generally rated as being at least partially under the Morgan control.

It should not be supposed, however, that these two great groups of capitalists and financiers are in any real sense rivals or competitors for power, or that such a thing as "war" exists between them. For, as a matter of fact, they are not only friendly, but they are allied to each other by many close ties, and it would probably only require a little stretch of the imagination to describe them as a single great Rockefeller-

Morgan group. It is felt and recognized on every hand in Wall Street to-day that they are harmonious in nearly all particulars, and that instead of there being danger of their relations ever becoming strained it will be only a matter of a brief period when one will be more or less completely absorbed by the other, and a grand close alliance will be the natural outcome of conditions which, so far as human foresight can see, can logically have no other result.

Therefore, viewed as a whole, we find the dominating influences in the trusts to be made up of an intricate network of large and small groups of capitalists, many allied to one another by ties of more or less importance, but all being appendages to or parts of the greater groups, which are themselves dependent on and allied with the two mammoth, or Rockefeller and Morgan, groups. These two mammoth groups jointly—for as pointed out they really may be regarded as one—constitute the heart of the business and commercial life of the Nation, the others all being the arteries which permeate in a thousand ways our whole national life, making their influence felt in every home and hamlet, yet all connected with and dependent on this great central source, the influence and policy of which dominates them all.

The following statement appears in the Government's brief in the Corporation Tax case:

Two hundred and sixty-two thousand four hundred and ninety corporations made returns under the corporation-tax law. They had a capital stock of $52,371,626,752, bonded and other debt of $31,333,952,696, and a net income upon stock of $3,125,481,101. If this capitalization is substantial, they have absorbed the major part of the taxable wealth of the country.

Indeed, a writer in one of the newspapers published in this city, with more frankness than is shown by some of his fellow advocates of this bill, in predicting that it will eventually pass the Senate, says:

Advocates of the measure declare that the so-called special interests are not opposing the bill, but are perfectly willing that it should become law. They are already covered by the corporation tax, and its extension to persons may be to their advantage, if it ever becomes necessary to greatly increase taxation, as in the event of war.

It is thus seen that this law exempts by its terms the corporate wealth of the country, as well as the idle and fixed income property of the country. The vast amount of wealth amounting to more than one-third of the entire wealth of the country it is proposed to leave free of taxation, except as to taxes imposed by the last Republican Congress.

If it is a measure intended to benefit all the people, why did you not increase this corporation tax and levy a graduated inheritance tax? This would have taxed wealth and idleness and not industry alone. You could have increased the internal-revenue tax on beer and tobacco to have raised the sum needed and still the taxes on tobacco would be less than it is in England and the beer tax less than it was during the Spanish War. These taxes would have been legal, and therefore sure to be collected. But as it is you are sure of nothing.

In my humble judgment the whole law must go down as unconstitutional when it comes before the courts for trial. Of course I understand that the reputed author of this bill [Mr. HULL] argues that once a man engages in business his entire income from every source, whether from the business or from some such source as interest on United States bonds or income from real estate, will become taxable. And this is the very rock upon which the whole structure will go to pieces.

In order to arrive at once at what I wish to say, allow me to read from the Corporation Tax case what the court in its opinion said upon these words. The court said:

It is true that in the Spreckels case (192 U. S., supra) the excise tax, for the privilege of doing business, was based upon the business assets in use by the company, but this was because of the express terms of the statute which thus limited the measure of the excise. The statute now under consideration bears internal evidence that its draftsman had in mind language used in the opinion in the Spreckels case, and the measure of taxation, the income from all sources, was doubtless inserted to prevent the limitation of the measurement of the tax to the income from business assets alone.

It is evident from the speech of the gentleman from Alabama [Mr. UNDERWOOD] and the others who have talked upon that side of this proposition that they expect that the same measurement of this tax which was applied by the Supreme Court to the measurement of a corporation income can be applied to the measurement of an individual's income; and I assert that position overlooks the fundamental proposition in the corporation-tax case, namely, that the decision rests on the right to tax the use of a corporate franchise in business. I know gentlemen quote it here as though it had rested on the proposition of taxing business alone, but they do not notice that in every instance where the court used this language it emphasizes the fact that the thing taxed is the privilege of the corporation to do business as a corporation. This is important upon the question of the measure of the tax.

It was held that the tax on a corporation might include all its income from every source, including income from property which, considered alone and unconnected with the business, would not be taxable, but the court did not hold, and never will hold, that such a rule could be applied to individuals. The court rested this ruling squarely on the very fact that all the property of a corporation must be necessarily related to and connected with its business. The Government in the brief on this case said:

Besides, the property held by a corporation, whether actively employed in its principal business or not, does serve as an aid to that business, adding to its financial strength and credit.

When the court came to pass on that question, in the opinion it used this language:

In the case at bar we have already discussed the limitations which the Constitution imposed upon the right to levy excise taxes, and it could not be said, even if the principles of the fourteenth amendment were applicable to the present case, that there is no substantial difference between the carrying on of business by the corporation taxed and the same business when conducted by a private firm or individual. The thing taxed is not the mere dealing in merchandise, in which the actual transactions may be the same, whether conducted by individuals or corporations, but the tax is laid upon the privileges which exist in conducting business with the advantages which inhere in the corporate capacity of those taxed, and which are not enjoyed by private firms or individuals. These advantages are obvious and have led to the formation of such companies in nearly all branches of trade. * * *

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.

Then on this very question the court further said:

It is contended that the measurement of the tax by the net income of the corporation or the company received by it from all sources was not only unequal, but so arbitrary and baseless as to fall outside the authority of the taxing power. But is this so? Conceding the power of Congress to tax the business activities of private corporations, including, as in this case, the privilege of carrying on business in a corporate capacity, the tax must be measured by some standard, and none can be chosen which will operate with absolute justice and equality on all corporations.

Some corporations do a large business upon a small amount of capital; others with a small business may have a large capital.

The tax upon the amount of business done might operate as unequally as a measure of excise as it is alleged the measure of income from all sources does.

Now, again:

Nor can it be justly said that investments have no real relation to the business transaction by a corporation. The possession of large assets is a business advantage of great value; it may give credit which will result in more economical business methods; it may give a standing which shall facilitate purchases; it may enable the corporation to enlarge the field of its activities and in many ways give it business standing and prestige.

So this bill incorporates in its provision a measure of taxation which, under the corporation-tax cases, is clearly unconstitutional and can not be upheld. Broadening the provisions of the corporation-tax law to include all individual incomes brings the law within the rule declared in the Pollock case and annuls it in its entirety.

In the first Employers' Liability case (207 U. S., 463) Congress used language which could be construed to include intrastate as well as interstate commerce, and intrastate commerce not being with the regulative power of Congress the entire law was declared unconstitutional. Again, in Western Union against Kansas (216 U. S., 1)—a case in which I was unfortunate enough to be on the wrong side as counsel—the court held that a State law attempting to tax all the capital stock of a foreign corporation was unconstitutional as an unlawful restriction on interstate commerce.

As this bill boldly and unequivocally attempts to measure a tax by including in its provisions sources of incomes not within the power of Congress to tax constitutionally I believe it will be stricken down by the courts as a whole.

It is also clear that when you extend the measure of tax to include all the income from every source of a man who engages in business, regardless of whether the income is received from the business, you thereby include within the letter of the law incomes from real property and invested personal property wholly unconnected with the business sought to be taxed. This penalizes or taxes the mere ownership of property and is squarely within the prohibitions declared in the income-tax cases and therefore void.

Mr. UNDERWOOD. Mr. Chairman, I intended to move that the committee rise at this time; but I wish to detain the committee for a moment, in order to congratulate the country on the fact that we know where the distinguished gentleman representing the Progressive Republican Party of Kansas stands on the great political issues of the day. From my association in past Congresses and in this Congress I had reason to believe that even if our progressive brethren belonging to the Republican Party had not as yet entirely approached the position taken by the Democratic Party in times past in favor of honest legislation for the American people, yet that on many questions those gentlemen who style themselves Progressive Republicans were working away from the domination of the wealth of the country and seeking legislation that would relieve the American people of many of their burdens. But the gentleman from Kansas [Mr. JACKSON], in addressing himself to this House on a bill which of all bills is intended to place on the wealth of this country a portion of the taxes wrung from the American

people, opens his address by declaring to this House that such a bill is buncombe.

Mr. JACKSON. Mr. Chairman, will the gentleman yield?

Mr. UNDERWOOD. I yield.

Mr. JACKSON. Does the gentleman mean to say that this tax will reach, in any degree at all, the idle wealth, or the corporate interests of the country?

Mr. UNDERWOOD. I will tell the gentleman what it means.

Mr. JACKSON. Will the gentleman answer my question?

Mr. UNDERWOOD. I am going to. The gentleman's colleagues have already told him what it means. The distinguished gentleman from Iowa [Mr. PROUTY] who preceded him in a very able speech, declared this evening that the purpose of this bill to tax the great wealth of this country was along lines that he could approve of.

Mr. JACKSON. Mr. Chairman, if the gentleman will yield——

Mr. UNDERWOOD. Oh, yes.

Mr. JACKSON. I did not understand the gentleman from Iowa to make such a statement. I understood him to say that this law was unconstitutional, in his calm judgment, and that the present Federal laws, including this one, would not compel Rockefeller to pay as much tax as a section hand. [Applause on the Republican side.]

Mr. UNDERWOOD. The gentleman clearly stated that he believed that the Supreme Court of the United States would reverse the Pollock case. The gentleman from Iowa proposes to vote for this bill. He would not vote for a bill that he believed to be in violation of the Constitution of the United States. But the gentleman from Kansas [Mr. JACKSON] proposes to cast his vote against an attempt to send a bill back to the Supreme Court, and let the highest tribunal of this land determine whether the great wealth of this country shall pay a portion of the taxes that the American people have to bear.

Mr. JACKSON. Will the gentleman yield for a correction?

Mr. UNDERWOOD. Certainly.

Mr. JACKSON. I have not said I intended to vote against this bill. [Laughter on the Democratic side.]

Mr. UNDERWOOD. The gentleman has made a speech against it. The gentleman has declared that the bill is buncombe. The gentleman has declared that it is a fraud.

Mr. JACKSON. I think it is.

Mr. UNDERWOOD. The gentleman has declared that it is unconstitutional.

Mr. JACKSON. Yes.

Mr. UNDERWOOD. But I shall certainly welcome the gentleman's vote for the bill, notwithstanding that statement. [Applause on the Democratic side.]

Mr. JACKSON. The gentleman need not be too foxy about that proposition, if he will pardon the language. I shall not vote for the bill. The responsibility is yours. I shall vote "present" upon the bill, because I believe it is unconstitutional.

Mr. FOSTER of Illinois. That is dodging.

Mr. JACKSON. If gentlemen will restrain their mirth——

Mr. UNDERWOOD. I did not yield for a speech. I yielded for a question.

Mr. JACKSON. If the gentleman criticizes my position, I take it he will allow me to explain it.

Mr. UNDERWOOD. Certainly.

Mr. JACKSON. I shall not vote against it, because if any part of it should ever be held constitutional I might be compelled to pay a slight tax, and I shall not cast my vote against it. I realize, as the gentleman does, that I can not prevent the passage of the bill.

And if the gentleman will say to me that the passage of this bill could in any wise procure a reversal of the Pollock case, if the gentleman will say that the bill is presented under the pretext that it is in opposition to the Pollock case and not in conformity to it, I will vote for it, because I favor an income tax, and my opposition to this bill is that it is not an income tax.

Mr. UNDERWOOD. Then the gentleman can vote for the bill for this reason: The bill is not presented for the purpose of a reversal of the Pollock case. The bill is presented in conformity to the present decisions of the Supreme Court.

Mr. JACKSON. That is the way I understood it.

Mr. UNDERWOOD. But the gentleman's colleagues on that side of the House have already said, and gentlemen on this side of the House have said, that the probability is that the present Supreme Court, presided over by a man who dissented from the Pollock case, even if it had to go so far as to reverse the Pollock case to declare this bill constitutional, the probabilities are that it would. Even the distinguished gentleman from Ohio [Mr. LONGWORTH] did not go so far as to declare this bill unconstitutional in its terms. The distinguished gentleman from Ohio limited his criticism of this bill, presenting the case of his Republican colleagues on the Ways and Means Committee, to the criticism that the court, after holding it constitutional, would differentiate as to how far the bill would reach the wealth of this country.

Mr. LONGWORTH. Will the gentleman permit me?

Mr. UNDERWOOD. Certainly.

Mr. LONGWORTH. I understood the gentleman who led off so ably in debate, the gentleman from Tennessee [Mr. HULL], to admit that the majority of the Ways and Means Committee have no idea that the Supreme Court would reverse the decision in the Pollock case, but rested their contention on the question as to their understanding of the corporation-tax decision to cover this tax.

Mr. UNDERWOOD. The gentleman from Ohio knows as well as I do that there is a conflict between the Pollock case and the corporation-tax case, and the Supreme Court, instead of directly reversing the Pollock case, differentiated as between the two cases, and it may do so in this case.

Mr. JACKSON. Do I understand the gentleman from Alabama to be arguing that if the Pollock case is upheld this law must fail?

Mr. UNDERWOOD. No; I do not argue that at all. I am not entering into an argument in this case now, but I simply want to congratulate the country on the fact that we have found out where the Representative of the progressive Republicans from Kansas stands. We have found, Mr. Chairman, that he does not stand anywhere. [Laughter.] The gentleman from Kansas is willing to vote for the reduction on wool; he is willing to vote for a bill reducing the duty on iron and steel, because it does not affect his constituency. But he says himself that he may be taxed under this bill, and he says himself that there are industries in his State that this bill may affect. He says himself that this may affect the enactment of a bill putting sugar on the free list, in which his State is interested, and therefore, instead of taking a stand on this bill that it is constitutional and therefore he will vote for it, or that it is unconstitutional and under his oath he will vote against it, he prefers to announce to the country that as the representative of the progressive sentiment of the Republican Party in the State of Kansas he will stand on the fence and let the procession go by on the other side without taking any part in it. [Laughter.] [Applause on the Democratic side.]

Mr. JACKSON. Mr. Chairman, I ask unanimous consent to address the House for three minutes, if the gentleman from Alabama has finished.

Mr. UNDERWOOD. The gentleman from New York has control of the time, and I am willing for him to yield to the gentleman.

Mr. PAYNE. I will yield to the gentleman from Kansas three minutes, and that is the last three minutes I will yield to-night. [Laughter.] We are wasting time here.

Mr. JACKSON. Mr. Chairman, the distinguished gentleman from Alabama does me entirely too much honor in crediting me with being the leader of the progressives of our State. I have never assumed to be the leader of any faction or any party. But, Mr. Chairman, so far as he attributes to me an uncertainty as to where I stand, let me say to the distinguished gentleman that my tariff position is fully as well understood in the country as is that of the gentleman from Alabama. If the gentleman from Alabama would do the country the same service that he has accredited me with doing, and tell them whether he is a protectionist or free trader, he would, indeed, do the country a great service. If he would tell the country when he declared in a magazine article, which he circulated all over the country, that he was in favor of a tariff which equaled the difference in the cost of production at home and abroad, whether he made that statement as a Republican or as a Democrat, he would do the country a very valuable service. [Laughter and applause on the Republican side.]

Mr. UNDERWOOD. Mr. Chairman, the gentleman from Kansas has made so many misquotations that I am not surprised at the last one. He can not find in any article that I have ever given authority for, that ever went out under my name, where I said that I believed in a tariff that equaled the difference in the cost of the production at home and abroad. I have repeatedly said that the high-water mark of revenue tariff was the difference in cost at home and abroad, and that from that high-water mark it went downward according to the necessities of the Government. I have said that the low-water mark of the Republican tariff was above the difference between the cost at home and abroad, because they declare in favor of a reasonable profit after having fixed the difference in cost at home and abroad. That is all I have ever said, and any quotation to the contrary does not represent my views.

Mr. JACKSON. That is entirely satisfactory as far as I am concerned, and I welcome the gentleman into the Republican Party. [Laughter and applause on the Republican side.]

Mr. UNDERWOOD. 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. MOON of Tennessee, 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. 21214 and had come to no resolution thereon.

LEAVE OF ABSENCE.

Mr. SHEPPARD, by unanimous consent, was given leave of absence indefinitely, on account of illness.

EXTENSION OF REMARKS AND LEAVE TO PRINT.

Mr. UNDERWOOD. Mr. Speaker, I ask unanimous consent that all gentlemen who speak on the bill may revise and extend their remarks in the RECORD, and that all gentlemen who may desire to do so may have five legislative days after the passage of the bill to print remarks on the bill in the RECORD whether they speak or not.

The SPEAKER. The gentleman from Alabama asks unanimous consent that all gentlemen who have spoken on the bill may have leave to extend their remarks in the RECORD, and that all other gentlemen shall have five legislative days after the bill is passed to print remarks on the bill. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. UNDERWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 54 minutes p. m.) the House adjourned until Monday, March 18, 1912, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Little River, Del. (H. Doc. No. 626); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of the Treasury, submitting deficiency estimate of appropriations required by the Interior Department (H. Doc. No. 627); to the Committee on Appropriations and ordered to be printed.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. ADAMSON, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation and government of the Canal Zone, reported the same without amendment, accompanied by a report (No. 423), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. WILSON of Pennsylvania, from the Committee on Labor, to which was referred the bill (S. 252) to establish in the Department of Commerce and Labor a bureau to be known as the children's bureau, reported the same with amendment, accompanied by a report (No. 424), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CLAYTON, from the Committee on the Judiciary, to which was referred the bill (H. R. 21226) providing for compensation of clerks of United States district courts, and for other purposes, reported the same with amendment, accompanied by a report (No. 425), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. BURNETT, from the Committee on Immigration and Naturalization, to which was referred the bill (H. R. 21489) to amend the immigration law relative to alien seamen and stowaways, reported the same without amendment, accompanied by a report (No. 426), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HUMPHREYS of Mississippi, from the Committee on Rivers and Harbors, to which was referred the concurrent resolution (S. Con. Res. 18) requesting a supplemental report from the War Department, reported the same without amendment, accompanied by a report (No. 427), which said bill and report were referred to the House Calendar.

## CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Pensions was discharged from the consideration of the bill (H. R. 19820) granting an increase of pension to Sue B. Merrill, and the same was referred to the Committee on Invalid Pensions.

## PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. CLAYTON: A bill (H. R. 22006) authorizing the Choctawhatchee River Light & Power Co. to erect a dam across the Choctawhatchee River, in Dale County, Ala.; to the Committee on Interstate and Foreign Commerce.

By Mr. LINDBERGH: A bill (H. R. 22007) requiring the Government to furnish post-office boxes free to regular patrons of post offices in towns, villages, and cities in which there is no free delivery; to the Committee on the Post Office and Post Roads.

By Mr. COX of Ohio: A bill (H. R. 22008) to provide for the erection of a public building at Middletown, Ohio; to the Committee on Public Buildings and Grounds.

By Mr. CARLIN: A bill (H. R. 22009) for the construction of a public building at Warrenton, Va.; to the Committee on Public Buildings and Grounds.

By Mr. JOHNSON of Kentucky (by request): A bill (H. R. 22010) to amend the license law approved July 1, 1902, with respect to licenses of drivers of passenger vehicles for hire; to the Committee on the District of Columbia.

By Mr. PRAY: A bill (H. R. 22011) providing for second homestead entries; to the Committee on the Public Lands.

By Mr. LEE of Pennsylvania: A bill (H. R. 22012) concerning carriers engaged in interstate commerce and owners of coal mines the products of which enter into interstate commerce and their employees; to the Committee on Interstate and Foreign Commerce.

By Mr. HAY: Joint resolution (H. J. Res. 273) authorizing the Secretary of War to receive for instruction at the United States Military Academy Manuel Agüero y Junqué, of Cuba; to the Committee on Military Affairs.

By Mr. GARDNER of Massachusetts: Joint resolution (H. J. Res. 274) providing for the establishment of a hospital ship in connection with the American fisheries; to the Committee on the Merchant Marine and Fisheries.

By Mr. DANIEL A. DRISCOLL: Memorial from the Assembly of the State of New York, dated March 11, 1912, asking that the United States improve and enlarge to barge-canal dimensions that portion of Lake Champlain known as the inlet of said lake which is under Federal jurisdiction and control, in order that the improvement and development of the Champlain Canal being done by the State may be supplemented and made effective by the improvement of this section under national control and jurisdiction; to the Committee on Rivers and Harbors.

By Mr. LINDSAY: Memorial from the Assembly of the State of New York, dated March 11, 1912, asking that the United States improve and enlarge to barge-canal dimensions that portion of Lake Champlain known as the inlet of said lake which is under Federal jurisdiction and control, in order that the improvement and development of the Champlain Canal being done by the State may be supplemented and made effective by the improvement of this section under national control and jurisdiction; to the Committee on Rivers and Harbors.

By Mr. MOTT: Memorial of the Legislature of the State of New York, favoring the improvement of the inlet of Lake Champlain; to the Committee on Rivers and Harbors.

## 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. 22013) granting an increase of pension to Augustus Fortney; to the Committee on Invalid Pensions.

By Mr. AUSTIN: A bill (H. R. 22014) for the relief of Salada Moses; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22015) granting an increase of pension to Frazier McDonald; to the Committee on Pensions.

By Mr CAMPBELL: A bill (H. R. 22016) granting an increase of pension to John D. Mohler; to the Committee on Pensions.

By Mr. CARLIN: A bill (H. R. 22017) for the relief of the heirs or estate of John Sullivan, deceased; to the Committee on War Claims.

Also, a bill (H. R. 22018) for the relief of the heirs or estate of John C. Newton, deceased; to the Committee on War Claims.

By Mr. CULLOP: A bill (H. R. 22019) granting an increase of pension to Thomas C. Whisnaud; to the Committee on Invalid Pensions.

By Mr. CURRIER: A bill (H. R. 22020) to correct the military record of Albert Heath; to the Committee on Military Affairs.

By Mr. DICKINSON: A bill (H. R. 22021) granting a pension to Martha J. Collier; to the Committee on Invalid Pensions.

By Mr. DANIEL A. DRISCOLL: A bill (H. R. 22022) granting an increase of pension to Alonzo Sidman; to the Committee on Invalid Pensions.

By Mr. FARR: A bill (H. R. 22023) granting a pension to Mary Daniels; to the Committee on Invalid Pensions.

By Mr. FULLER: A bill (H. R. 22024) granting an increase of pension to Albert H. Cleaveland; to the Committee on Invalid Pensions.

By Mr. HAMILTON of West Virginia: A bill (H. R. 22025) granting an increase of pension to John M. Buckley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 22026) granting an increase of pension to Robert F. Evans; to the Committee on Invalid Pensions.

By Mr. HAYES: A bill (H. R. 22027) for the relief of R. S. Thornton; to the Committee on Claims.

By Mr. HELM: A bill (H. R. 22028) for the relief of G. W. Martin, administrator of the estate of James Madison Martin, deceased; to the Committee on War Claims.

By Mr. HUGHES of West Virginia: A bill (H. R. 22029) granting an increase of pension to Joshua Suiter; to the Committee on Invalid Pensions.

By Mr. JACOWAY: A bill (H. R. 22030) granting a pension to Nannie McPike; to the Committee on Invalid Pensions.

By Mr. JAMES: A bill (H. R. 22031) for the relief of the estate of David W. Settle, deceased; to the Committee on War Claims.

By Mr. KENDALL: A bill (H. R. 22032) granting an increase of pension to Charles W. Matthews; to the Committee on Invalid Pensions.

By Mr. LANGLEY: A bill (H. R. 22033) for the relief of Sophia Nesbitt; to the Committee on War Claims.

By Mr. McHENRY: A bill (H. R. 22034) granting an increase of pension to Joseph R. Patton; to the Committee on Invalid Pensions.

By Mr. MAYS: A bill (H. R. 22035) granting a pension to Nathaniel C. Turner; to the Committee on Pensions.

Also, a bill (H. R. 22036) granting a pension to Samuel M. Baggett; to the Committee on Pensions.

Also, a bill (H. R. 22037) granting a pension to Obie L. Crocker; to the Committee on Pensions.

By Mr. POWERS: A bill (H. R. 22038) granting a pension to John Storms; to the Committee on Pensions.

Also, a bill (H. R. 22039) to remove the charge of desertion from the military record of James Marlow; to the Committee on Military Affairs.

By Mr. RUSSELL: A bill (H. R. 22040) granting an increase of pension to Carroll B. Beasley; to the Committee on Invalid Pensions.

By Mr. STEENERSON: A bill (H. R. 22041) granting an increase of pension to Susan Isabelle Keene; to the Committee on Invalid Pensions.

## PETITIONS, ETC.

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

By the SPEAKER: Petitions of labor organizations in the island of Porto Rico, asking that citizens of that island be granted American citizenship; to the Committee on Insular Affairs.

Also, petitions of labor organizations in the island of Porto Rico, for the creation in Porto Rico of a department of labor and agriculture; to the Committee on Insular Affairs.

Also, petition of citizens of Union, Mo., protesting against passage of the Lever oleomargarine bill (H. R. 18493); to the Committee on Agriculture.

By Mr. ANDERSON of Minnesota: Petition of R. D. Sprague and 15 others, of Caledonia, Minn., against extension of the parcel-post system; to the Committee on the Post Office and Post Roads.

By Mr. ANSBERRY: Resolutions of Pleasant Hill Grange, No. 1724, of Montpelier, Williams County, Ohio, against any change in the oleomargarine tax and in favor of a general parcel-post service; to the Committee on the Post Office and Post Roads.

Also, petition of George E. Hepler, of the Elite Theater, Defiance, Ohio, favoring House bill 20595, to amend section 25 of the copyright act of 1909, relating to penalty for violation of copyright in exhibition of motion pictures; to the Committee on Patents.

By Mr. ASHBROOK: Petition of August Meier and 20 other citizens of Newark, Ohio, protesting against the enactment of legislation prohibiting the interstate commerce of liquors; to the Committee on the Judiciary.

By Mr. AYRES: Petition of citizens of Brooklyn, N. Y., for passage of the Berger old-age pension bill; to the Committee on Pensions.

By Mr. BARTLETT: Petition of Lodge No. 226, Brotherhood of Railway Carmen of America, for construction of one battleship in a Government navy yard; to the Committee on Naval Affairs.

Also, petition of the Turpentine Operators' Association of Georgia, favoring tariff duty on rosin; to the Committee on Ways and Means.

By Mr. BURKE of South Dakota: Petition of citizens of Beresford, S. Dak., for parcel-post legislation; to the Committee on the Post Office and Post Roads.

Also, petition of the Woman's Christian Temperance Union of Northville, S. Dak., for passage of Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

Also, petition of Boaz Grange, No. 45, of Columbia, Brown County, S. Dak., favoring passage of the parcel-post law; to the Committee on the Post Office and Post Roads.

By Mr. CAMPBELL: Petition of citizens of Coyville, Kans., protesting against parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. CARLIN: Papers to accompany a bill for the relief of the estate of John Sullivan, deceased; to the Committee on War Claims.

By Mr. CRAGO: Petitions of Granges Nos. 1022 and 1444, Patrons of Husbandry, for enactment of House bill 19133; to the Committee on Interstate and Foreign Commerce.

By Mr. CURRIER: Petition of the Union Congregational Church of Peterborough, N. H., for passage of Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

Also, petition of Bion L. Nutting and other citizens of Concord, N. H., for enactment into law of the Berger bill providing for old-age pensions; to the Committee on Pensions.

By Mr. DAVENPORT: Petition of citizens of Wagoner, Okla., for passage of the Berger old-age pension bill; to the Committee on Pensions.

By Mr. DRAPER: Memorial of the Assembly of the State of New York, for improvement of the Lake Champlain Inlet; to the Committee on Interstate and Foreign Commerce.

Also, petition of Naval Camp, No. 49, Department of New York, United Spanish War Veterans, for passage of House bill 17470; to the Committee on Pensions.

By Mr. DANIEL A. DRISCOLL: Memorial of Naval Camp, No. 49, United Spanish War Veterans, of Brooklyn, N. Y., favoring House bill 17470; to the Committee on Pensions.

Also, memorial of the Chamber of Commerce and Manufacturers' Club, urging amendment of the corporation-tax law; to the Committee on Ways and Means.

Also, petition of the National Business League of America, favoring the Nelson-Foss consular bill; to the Committee on Foreign Affairs.

By Mr. DYER: Petition of Chicago Mill & Lumber Co., protesting against House bill 17593; to the Committe on the Judiciary.

Also, petition of the Parker-Russell Mining & Manufacturing Co., of St. Louis, Mo., against proposed reduction in duties on sugar; to the Committee on Ways and Means.

Also, petition of the Mexico (Mo.) Commercial Club, for reduction in postal rates of first-class mail matter; to the Committee on the Post Office and Post Roads.

Also, memorial of the Merchants' Exchange of St. Louis, Mo., for an appropriation of $100,000 per annum for the Bureau of Grain Standardization; to the Committee on Agriculture.

Also, petition of the Scudders-Gale Grocer Co., of St. Louis, Mo., protesting against passage of House bill 16844; to the Committee on Interstate and Foreign Commerce.

Also, petitions of residents of St. Louis, Mo., for enactment of House bill 20595, amending the copyright act of 1909; to the Committee on Patents.

By Mr. ESCH: Petition of sundry citizens of Thorp, Sparta, Rockton, Disco, and Tomah, Wis., protesting against the pas-

sage of the Lever bill (H. R. 18493) and in favor of the Haugen bill (H. R. 19338), with exception of change of the name of oleomargarine to margarin; to the Committee on Agriculture.

Also, petition of the Federated Trades Council of Milwaukee, Wis., in favor of building battleships in Government navy yards; to the Committee on Naval Affairs.

By Mr. FULLER: Petition of the Germania Club, of Peru, Ill., opposing the passage of pending bills relating to interstate-commerce shipments of intoxicating liquors; to the Committee on the Judiciary.

Also, papers to accompany bill for the relief of Albert H. Cleaveland; to the Committee on Invalid Pensions.

Also, petition of Mrs. Nancy Keutzer, of Dimmick, Ill., favoring the establishment of a parcel post; to the Committee on the Post Office and Post Roads.

Also, petitions of C. A. Stevenson, of Capron, Ill., and of A. J. Shimp and Lew R. R. Goldberg, of Rockford, Ill., favoring the passage of the Townsend bill (H. R. 20595) to amend section 25 of the copyright act of 1909; to the Committee on Patents.

By Mr. GARDNER of Massachusetts: Memorial of the House of Representatives of the State of Massachusetts, protesting against removal or abolishment of the present United States navy yard at Charlestown, Mass.; to the Committee on Naval Affairs.

By Mr. GOEKE: Petition of 107 citizens of the fourth congressional district of Ohio, for passage of House joint resolution 163; to the Committee on the Judiciary.

By Mr. GRAHAM: Petition of citizens of Springfield, Ill., for construction of one battleship in a Government navy yard; to the Committee on Naval Affairs.

By Mr. GRAY: Papers to accompany bill for the relief of Edward Payton, alias Edward Padden; to the Committee on Military Affairs.

By Mr. HANNA: Petitions of Alice May Goheen, of Sherwood, N. Dak., for enactment of Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

Also, petition of the Seventh-day Adventist Church of Squires, N. Dak., protesting against Senate bill 237; to the Committee on the District of Columbia.

Also, petition of citizens of the State of North Dakota, for passage of House bill 14; to the Committee on the Post Office and Post Roads.

Also, petition of citizens of Clyde, N. Dak., protesting against parcel-post legislation; to the Committee on the Post Office and Post Roads.

Also, petition of citizens of Glenville, N. Dak., against passage of Lever oleomargarine bill; to the Committee on Agriculture.

Also, petition of citizens of Buford, N. Dak., for old-age pension legislation; to the Committee on Pensions.

Also, petition of Zeeds Bottling Works, of Zeeds, N. Dak., for total elimination of the duty on sugar; to the Committee on Ways and Means.

Also, petition of Conlee (N. Dak.) Commercial Club, urging that the State agricultural colleges be aided by appropriations; to the Committee on Agriculture.

Also, petition of citizens of Lee, N. Dak., for repeal of the Canadian reciprocity treaty; to the Committee on Ways and Means.

Also, memorial of Post No. 19, American Veterans of Foreign Service, for certain legislation; to the Committee on Claims.

By Mr. HAYES: Petition of R. S. Thornton filed with bill for the relief of R. S. Thornton; to the Committee on Claims.

By Mr. HELM: Papers to accompany a bill for the relief of G. W. Martin, administrator of the estate of James Madison Martin, deceased; to the Committee on War Claims.

By Mr. HILL: Petition of the Connecticut Dairymen's Association, for retaining the tax on oleomargarine; to the Committee on Agriculture.

Also, petition of the Connecticut Dairymen's Association, for parcel-post legislation; to the Committee on the Post Offices and Post Roads.

Also, petition of business men of Newton, Conn., protesting against parcel-post legislation; to the Committee on the Post Office and Post Roads.

Also, petition of the Woman's Christian Temperance Union of Stamford, Conn., for passage of Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

Also, petition of the Central Labor Union of Danbury, Conn., favoring the passage of House bill 11032; to the Committee on the Judiciary.

By Mr. HUGHES of West Virginia: Petition of members of Improved Order of Red Men of fifth congressional district of West Virginia, for an American Indian memorial and museum building in the city of Washington, D. C.; to the Committee on Public Buildings and Grounds.

By Mr. JACOWAY: Petition of members of the First Baptist Church of Little Rock, Ark., for enactment of the Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

Also, petition of J. W. Daniel and other citizens of Russellville, Ark., for parcel-post legislation, etc.; to the Committee on the Post Office and Post Roads.

By Mr. JAMES: Papers to accompany a bill for the relief of the estate of David W. Settle, deceased; to the Committee on War Claims.

By Mr. KENT: Petition of 105 citizens of Winters, Cal., in favor of the Kenyon-Sheppard bill, to withdraw from interstate commerce protection liquors imported into "dry" territory for illegal use; to the Committee on the Judiciary.

Also, petition of residents of Sacramento and Santa Rosa, Cal., in favor of Berger old-age pension bill; to the Committee on Pensions.

By Mr. LANGHAM: Memorial of Burrell Grange, No. 515, Patrons of Husbandry, of Burrell, Armstrong County, Pa., favoring House bill 19133, which provides for a governmental system of postal express, and declaring that the proposed alternative of extension of limit to 11 pounds weight and reducing rate on third-class matter from 16 to 12 cents a pound will be inadequate and a delay of the needed legislation; to the Committee on the Post Office and Post Roads.

Also, petition of the Men's Bible Class of the Methodist Episcopal Church of Indiana, Pa., favoring the passage of the Kenyon-Sheppard interstate liquor bill (H. R. 16214) to withdraw from interstate-commerce protection liquors imported into "dry" territory for illegal purposes; to the Committee on the Judiciary.

Also, petition of the men's adult Bible classes of the Presbyterian Church of Indiana, Pa., favoring the passage of the Kenyon-Sheppard interstate liquor bill (H. R. 16214) to withdraw from interstate-commerce protection liquors imported into "dry" territory for illegal purposes; to the Committee on the Judiciary.

Also, memorial of Clover Grange, No. 1172, Patrons of Husbandry, of Clover, Jefferson County, Pa., favoring House bill 19133, which provides for a governmental system of postal express, and declaring that the proposed alternative of extension of the limit to 11 pounds weight and reducing rate on third-class matter from 16 to 12 cents a pound will be inadequate and a delay of the needed legislation; to the Committee on the Post Office and Post Roads.

By Mr. LINDSAY: Petition of the National Business Men's League of America, favoring the Nelson-Foss consular bill; to the Committee on Foreign Affairs.

Also, petition of Pathe Freres Motion Pictures, of New York, favoring House bill 15263; to the Committee on Patents.

Also, memorial of Naval Camp, No. 49, United Spanish War Veterans, of Brooklyn, N. Y., favoring House bill 17470; to the Committee on Pensions.

By Mr. LOUD: Petition of members of St. John's Society, of Bay City, Mich., in regard to measures relating to Catholic Indian mission interests; to the Committee on Indian Affairs.

By Mr. McHENRY: Petition of Good Hope Grange, No. 1354, Patrons of Husbandry, of Jerseytown, Pa., asking for certain changes in the Federal oleomargarine law as set forth in said petition; to the Committee on Agriculture.

By Mr. McKELLAR: Petition of citizens of Memphis, Tenn., for construction of one battleship in a Government navy yard; to the Committee on Naval Affairs.

By Mr. MOTT: Petition of dairymen of Woodville, N. Y., against the Lever oleomargarine bill; to the Committee on Agriculture.

Also, memorial of Ontario Chapter, Daughters of the American Revolution, in favor of printing Revolutionary records; to the Committee on Appropriations.

Also, memorial of Naval Camp, No. 49, United Spanish War Veterans, in favor of the Crago pension bill; to the Committee on Pensions.

Also, memorial of Madison County Pomona Grange, Patrons of Husbandry, against the Lever oleomargarine bill; to the Committee on Agriculture.

Also, memorial of Business Men's League of America, in favor of Nelson-Foss consular bill; to the Committee on Foreign Affairs.

By Mr. PRAY: Petition of citizens of Meagher County, Mont., favoring establishment of parcel-post system; to the Committee on the Post Office and Post Roads.

Also, petition of Joseph Strouf and other residents of Fergus County, Mont., for enactment of Senate bill 3367; to the Committee on the Public Lands.

By Mr. RAINEY: Petition of the Woman's Christian Temperance Union of Detroit, Ill., for passage of Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

By Mr. REILLY: Petition of Hartford (Conn.) Yacht Club, against House bill 15786; to the Committee on the Merchant Marine and Fisheries.

Also, petition of Center Congregational Church, of Meriden, Conn., in favor of passage of the Kenyon-Sheppard interstate commerce liquor bill; to the Committee on the Judiciary.

Also, petition of residents of New Haven, Conn., for enactment of House bills 16802 and 18244; to the Committee on Indian Affairs.

By Mr. SHERWOOD: Petition of citizens of Wood County, Ohio, favoring parcel-post legislation; to the Committee on the Post Office and Post Roads.

Also, petition of citizens of Swanton and Delta, Ohio, against the Johnson Sunday bill (S. 237); to the Committee on the District of Columbia.

Also, petition of dairymen of Richfield, Lucas County, Ohio, against the Lever oleomargarine bill; to the Committee on Agriculture.

Also, petition of numerous citizens of Ohio, favoring the retention of duty on sugar; to the Committee on Ways and Means.

By Mr. SPARKMAN: Petitions of citizens of the State of Florida, protesting against parcel-post legislation; to the Committee on the Post Office and Post Roads.

Also, petitions of citizens of the State of Florida, for regulation of express rates and classifications; to the Committee on Interstate and Foreign Commerce.

Also, memorial of the executive committee of the Turpentine Operators' Association, requesting the enaction of legislation providing a duty on rosins in all its forms equal to the duty imposed on exported rosins by foreign countries; to the Committee on Ways and Means.

Also, memorial of the executive committee of the Turpentine Operators' Association, requesting the enaction of legislation providing for the gathering and publishing of statistics relating to the production and consumption of naval stores in America; to the Committee on Printing.

Also, petition of the Mount Dora (Fla.) Citrus Growers' Association, requesting the enactment into law of the Lever agricultural bill; to the Committee on Agriculture.

Also, petition of business men of the towns of Plant City, Zephyrhills, Williston, McIntosh, Ocala, Hernando, and Morriston, in the State of Florida, against the enaction of legislation providing for the establishment of a parcel-post system; to the Committee on the Post Office and Post Roads.

Also, petitions of business men of the towns of Plant City, Zephyrhills, Williston, McIntosh, Ocala, Hernando, and Morriston, in the State of Florida, requesting the enaction of laws empowering the Interstate Commerce Commission to regulate express rates and express classifications; to the Committee on Interstate and Foreign Commerce.

By Mr. THOMAS: Petition of sundry citizens of Barren County, Ky., against the passage of a parcel-post law; to the Committee on the Post Office and Post Roads.

Also, petitions of sundry citizens of Kentucky, asking for a reduction of the duty on sugar; to the Committee on Ways and Means.

By Mr. TILSON: Petition of the Connecticut Dairymen's Association, for parcel-post legislation; to the Committee on the Post Office and Post Roads.

Also, petition of the Connecticut Dairymen's Association, for retaining the present tax of 10 cents per pound on oleomargarine; to the Committee on Agriculture.

By Mr. TOWNER: Petition of Salinger & Goldstein and 50 other citizens of Centerville, Iowa, against the parcel-post law; to the Committee on the Post Office and Post Roads.

By Mr. UNDERHILL: Memorial of the Chamber of Commerce of the State of New York, relative to toll rates through the Panama Canal; to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Corning, N. Y., for construction of one battleship in a Government navy yard; to the Committee on Naval Affairs.

Also, petition of citizens of Elmira, N. Y., protesting against parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. WILDER: Petition of residents of Westford, Mass., for old-age pensions; to the Committee on Pensions.

Also, petition of Ranhan Aarre Temperance Society, of Gardner, Mass., for passage of Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

By Mr. WILLIS: Papers to accompany bill for the relief of Thomas N. Maple (H. R. 22001); to the Committee on Invalid Pensions.



## SENATE.

### MONDAY, *March 18, 1912.*

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

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

The Secretary proceeded to read the Journal of the proceedings of Saturday last when, on request of Mr. GALLINGER and by unanimous consent, the further reading was dispensed with and the Journal was approved.

#### MEMORIAL SERVICE FOR THE DEAD OF THE "MAINE" (H. DOC. NO. 630).

The VICE PRESIDENT. The Chair lays before the Senate a letter from the President of the United States, which will be read.

The Secretary read as follows:

THE WHITE HOUSE,
*Washington, March 16, 1912.*

Hon. JAMES S. SHERMAN,
*The Vice President.*

MY DEAR MR. VICE PRESIDENT: A memorial service for the dead of the (old) U. S. S. *Maine* will be held at the south front of the State, War, and Navy Department Building, Washington, at 2.30 o'clock p. m., Saturday, March 23, 1912, and immediately thereafter the remains of the men lately recovered from the wreck of that vessel at Habana will be interred with full military honors at Arlington National Cemetery.

I deem it desirable and fitting that the proposed ceremonies should be regarded as a national tribute to the ill-fated *Maine* and to the officers and enlisted men of her crew who lost their lives in the service of our country, and I have the honor to suggest that the Congress take such action as it may deem appropriate, with a view to attending the memorial service and to making formal recognition of the occasion.

Sincerely, yours,
WM. H. TAFT.

The VICE PRESIDENT. The letter will be referred to the Committee on Naval Affairs.

#### HIGH PRESSURE FIRE SERVICE SYSTEM (S. DOC. NO. 437).

The VICE PRESIDENT laid before the Senate a communication from the Commissioners of the District of Columbia, transmitting, pursuant to law, a report of the investigation relative to the installment of a high-pressure fire-service system in the business section of the city of Washington, which, with the accompanying papers, was referred to the Committee on the District of Columbia and ordered to be printed.

#### WILLIS D. CADDELL V. UNITED STATES (S. DOC. NO. 438).

The VICE PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact and conclusion of law filed by the court in the cause of Willis D. Caddell *v.* United States, which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had agreed to the concurrent resolution (No. 18) of the Senate requesting the Secretary of War to make a supplemental or additional report or estimate concerning the work of levee construction in the improvement of the navigability of the Mississippi River on the east bank thereof from Vicksburg to Bayou Sara.

#### ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 17119) granting the courthouse reserve at Pond Creek, Okla., to the city of Pond Creek for school and municipal purposes, and it was thereupon signed by the Vice President.

#### PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented petitions of the Woman's Christian Temperance Unions of Linden, N. Y.; North Loup, Nebr.; Hillsboro, N. Dak.; and Thompson, Pa.; of the congregation of the Methodist Church of Pratt City, Ala., and of sundry citizens of the United States, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating liquors, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of Seattle, Wash.; Brocket, N. Dak.; Asherton, Tex., and Tifton, Ga., remonstrating against the extension of the parcel-post system beyond its present limitations, which were referred to the Committee on Post Offices and Post Roads.

Mr. GALLINGER presented petitions of the Christian Endeavor Union, and of the conference of trustees of the Anti-Saloon League of Concord, N. H., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which were referred to the Committee on the Judiciary.

He also presented a petition of the Woodburn Citizens' Association, of the District of Columbia, praying for the enactment of legislation providing for the extension of New Hampshire Avenue in a straight line, which was ordered to lie on the table.