

GEORGIA.

B. T. Baker, Woodbury.

KENTUCKY.

Cleo W. Brown, Mount Vernon.
Charles M. Griffith, Russellville.
Orrin Derby Todd, Shelbyville.
John C. Carrithers, Taylorsville.
Ernest W. McClure, Leitchfield.

SOUTH DAKOTA.

G. C. Knickerbocker, Eureka.

TENNESSEE.

Clarence W. Moore, Smithville.
Charles E. Rodes, Manchester.
William Brewer, Woodbury.
J. R. Brown, Cleveland.

WITHDRAWALS.

Executive nominations withdrawn from the Senate May 9, 1913.

COLLECTOR OF INTERNAL REVENUE.

Louis W. Murphy, of Iowa, to be collector of internal revenue for the third district of Iowa, in place of Michael J. Tobin, superseded, is hereby withdrawn because of error in name.

COLLECTOR OF CUSTOMS.

John Purroy Mitchel, of New York, to be collector of customs for the district of New York, in the State of New York, in place of William Loeb, jr., resigned, is hereby withdrawn because of error in spelling name.

HOUSE OF REPRESENTATIVES.

FRIDAY, May 9, 1913.

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

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

For all the tokens of Thy care, O God our Father, which come to us in sunshine and shadow, joy and sorrow, hope and disappointment, faith and doubt, victory and defeat, we thank Thee, and most earnestly pray that they may have their perfect work, fitting us for the now and the then, the here and the there, in the great fields of endeavor which wait on us; that we may grow day by day into the likeness of our Maker after the similitude of the Master. Amen.

THE JOURNAL.

The Journal of the proceedings of yesterday was read.

The SPEAKER. If there be no objection, the Journal will be considered as approved.

Mr. PAYNE. Mr. Speaker, reserving the right to object, I want to call attention to what I think is an error in the Journal. The recital is that I offered a motion to recommit, and then the next recital is that the gentleman from Kansas [Mr. MURDOCK] offered a substitute, and next that the gentleman from Alabama [Mr. UNDERWOOD] raised the point of order against my original motion, and that after discussion the point of order was sustained. Then the Journal does not show that I offered another motion to recommit, which was finally received and acted upon by the House without any point of order. That is omitted entirely, and the recital is that the vote was taken on the substitute offered by the gentleman from Kansas, and then that the vote was taken on my original motion. In other words, reference to my motion to recommit, on which the vote was taken, is entirely omitted from the Journal.

The second motion to recommit not having been read in the House, the text of that motion was omitted from the RECORD, although the RECORD correctly recites the fact that my second motion to recommit was made. I think the error in the Journal occurs in that way.

The SPEAKER. The gentleman states the matter correctly. The way it occurred was this: The gentleman from New York first offered a motion to recommit, which the Chair ruled out of order. The gentleman from Kansas [Mr. MURDOCK] never did offer any substitute or amendment to that motion. After that motion of the gentleman from New York was disposed of by the vote taken on the appeal, and so forth, then the gentleman from New York [Mr. PAYNE] offered a second motion to recommit with instructions, the instructions being identical with those in the motion which was ruled out of order, except that the second motion left out the proposition about the tariff commission or board, whichever it is. When the gentleman from New York [Mr. PAYNE] offered that second motion to recommit the gentleman from Kansas [Mr. MURDOCK] offered his substi-

tute, and the vote was taken on the motion of the gentleman from Kansas [Mr. MURDOCK]. He demanded a division, and there was a division. Then he demanded the yeas and nays, but did not muster enough Members to get the yeas and nays. Then the vote was taken on the second motion of the gentleman from New York [Mr. PAYNE].

Mr. MANN. I suggest that the Journal ought to show in full the two motions offered by the gentleman from New York. The SPEAKER. Of course.

Mr. MURDOCK. The RECORD does not show the text of the two motions to recommit.

Mr. PAYNE. It does not print in full the second motion that I made. It states that I made the motion.

The SPEAKER. Of course, that part of the Journal is made up from the RECORD, and if the RECORD did not contain it the Journal would not contain it. For the benefit of those who come after us, both the Journal and RECORD should be corrected in that respect. It ought to be set out in full as it actually was, and both corrections will be made.

SWEARING IN OF A MEMBER.

Mr. FINLEY. Mr. Speaker, my colleague, Representative Elect RICHARD S. WHALEY, from the first District of South Carolina, is present, and his credentials are on file. I wish to present him to take the oath of office.

The SPEAKER. Where are the credentials?

Mr. FINLEY. Mr. Speaker, I understand his credentials have been sent to the Clerk of the House.

Mr. MANN. The credentials not being at the desk, let me ask the gentleman from South Carolina, is there any contest?

Mr. FINLEY. None at all; not a vote against him.

Mr. MANN. I do not object to his being sworn in.

Mr. WHALEY appeared at the bar of the House and took the oath of office.

CHARLES C. GLOVER.

Mr. DAVIS of West Virginia. Mr. Speaker, I offer a privileged resolution, which I send to the Clerk's desk.

The SPEAKER. The gentleman from West Virginia offers a privileged resolution, which will be read by the Clerk.

The Clerk read as follows:

House resolution 99.

Resolved, That the Speaker do issue his warrant directed to the Sergeant at Arms commanding him to take in custody wherever to be found the body of Charles C. Glover, of the city of Washington, in the District of Columbia, and the same in custody to keep, and that the said Charles C. Glover be forthwith brought to the bar of the House of Representatives on this the 9th day of May, 1913, to answer the charge that he, on Friday, April 18, 1913, in the city of Washington, D. C., committed an assault upon the person of Representative THELUS W. SIMS, a Representative in the Sixty-third Congress from the State of Tennessee, because of words spoken by the said Representative SIMS in debate on the floor of the House of Representatives while the House was in regular session during the Sixty-second Congress, and that in committing said assault Charles C. Glover has been guilty of a breach of the privileges and a contempt of the House of Representatives; and that the said Charles C. Glover be furnished with a copy of this resolution and a copy of the report of the select committee of the House of Representatives appointed to investigate the charge made against him in the House of Representatives.

Mr. DAVIS of West Virginia. Mr. Speaker, before proceeding to discuss the resolution I should be glad if we could agree on some time for debate. I would like to inquire if it is anticipated that the resolution will be opposed?

Mr. MANN. I understand, Mr. Speaker, that the gentleman from Kansas [Mr. CAMPBELL] desires for himself one hour in opposition to the resolution. Whether there are other gentlemen who desire to be heard upon it on this side of the House at present I am not informed.

Mr. DAVIS of West Virginia. I will ask the gentleman from Kansas if he is advised that there are others in sympathy with him who desire to speak?

Mr. CAMPBELL. I am not advised as to whether anyone else will participate in the discussion against the adoption of the resolution or not. I have not talked with anyone who has expressed an intention of doing so, although many Members have stated that they might get into the discussion if an opportunity was offered.

Mr. DAVIS of West Virginia. How much time does the gentleman from Kansas desire?

Mr. CAMPBELL. I should like the privilege of an hour. Whether I shall occupy all the time or not I do not know.

Mr. MANN. How much time does the gentleman from West Virginia think will be required by those in favor of the resolution?

Mr. DAVIS of West Virginia. I am advised, Mr. Speaker, that probably three hours will be consumed by those who desire to speak in favor of the resolution.

Mr. CAMPBELL. Then I would suggest that the matter be left open as to those who oppose the resolution. I think the

House will take notice of the fact that the membership has been very busy within the last two weeks, since this matter came up, and little opportunity has been offered to inquire into the case involved in this unusual proceeding, and it may be that Members, after hearing the discussion, will feel justified in taking part in it in opposition to it.

Mr. MANN. I will suggest to the gentleman from West Virginia that if we should have two hours and a quarter or two hours and a half on each side, that that would probably cover the time.

Mr. DAVIS of West Virginia. I am satisfied that that would be enough. In view of the limited evidence of any intention to oppose the resolution, I think we can hardly make an even division of the time. I do not want to be unfair about it.

Mr. MANN. There are several gentlemen on the other side who have indicated that they may desire time in opposition to the resolution, and I believe there are several gentlemen on the other side who desire to be heard in favor of the resolution. I suggest two hours and a half on each side of the House, and we will endeavor to give time on this side to those in favor of the resolution.

Mr. COVINGTON. If the gentleman from Illinois expects to take care of those on that side who support the resolution, that will be agreeable.

Mr. MANN. We will take care of them, in part anyhow. I think there will be no trouble about that.

Mr. DAVIS of West Virginia. Then, Mr. Speaker, I ask unanimous consent that general debate on this resolution be limited to five hours, two hours and a half to be controlled by myself and two hours and a half by the gentleman from Illinois.

Mr. MURDOCK rose.
The SPEAKER. Will the gentleman from West Virginia yield to the gentleman from Kansas?

Mr. DAVIS of West Virginia. Yes.

Mr. MURDOCK. I would like to say to the gentleman from West Virginia that I would like to make an arrangement for time, although I do not know that anyone desires to speak on it. Will the gentleman from Illinois give me some time?

Mr. MANN. Oh, yes; the gentleman would be entitled to a portion of the time.

Mr. DAVIS of West Virginia. Then, Mr. Speaker, I ask unanimous consent that debate on this resolution be limited to five hours, two hours and a half of which is to be controlled by myself and two hours and a half by the gentleman from Illinois; that at the end of that time the previous question be considered as ordered on the resolution and all amendments thereto.

Mr. MANN. The gentleman asks that the previous question be considered as ordered on the resolution and all amendments thereto. I would like to couple with that the right of gentlemen to offer amendments.

Mr. DAVIS of West Virginia. I have no objection to that.

The SPEAKER. The gentleman from West Virginia asks unanimous consent that debate on this resolution be limited to five hours, one half of the time to be controlled by himself and the other half to be controlled by the gentleman from Illinois [Mr. MANN]; that at the end of the five hours, or sooner if the debate ends, the previous question shall be considered as ordered on the resolution and all amendments thereto. Is there objection?

There was no objection.

Mr. DAVIS of West Virginia. Mr. Speaker, the resolution which has just been read from the Clerk's desk is offered by unanimous instruction of the special committee created by House resolution No. 59.

By that resolution the committee was charged with a double duty—first, to investigate whether or not a current rumor to the effect that an assault has been committed upon a Member of the House because of words spoken on this floor was or was not true; and, second, if that rumor were found to be true to recommend to the House such procedure as should be thereupon had. In conformity with the resolution your committee proceeded to investigate the facts, and reports that such an assault as reported in fact occurred. It is well, perhaps, that the facts should be beyond all possibility of dispute, and that the House can proceed to such action as its judgment may direct without fear that any person will be injured or any inadvertent error committed because of a conflict of testimony. By the testimony of eyewitnesses present at the time of the occurrence, by subsequent oral statements made by the gentleman now accused and later by his voluntary written admission, it conclusively appears that on the 18th day of April last Mr. Charles C. Glover made a personal attack upon Representative THOMAS W. SIMS, of Tennessee, and that the provoking cause of that attack was words spoken by Representative SIMS upon the

floor of this House during the sessions of the Sixty-second Congress.

With the questions of fact so simplified, Mr. Speaker, there remains to be considered by the House the law affecting its power, and if it shall conclude that it has power and disposition to punish, the appropriate punishment will then be determined upon. Your special committee is not divided in opinion either as to the law of the case or the course to be pursued.

It is not necessary to indulge in any discussion of the general scope of congressional privilege or to attempt any detailed definition of the privileges of the House. Again and again, both this body and the courts have declined to catalogue, limit, or define either the privileges of the House or of its Members, for the very obvious reason that an incomplete definition might afterwards be treated as a surrender of privileges rightfully belonging to the House. By the admitted facts, however, as I have stated, it is clear that in this instance a constitutional privilege of the highest and most sacred character has been invaded.

Mr. DYER. Mr. Speaker, will the gentleman yield for a question at this time?

The SPEAKER. Does the gentleman from West Virginia yield to the gentleman from Missouri?

Mr. DAVIS of West Virginia. I do.

Mr. DYER. Did the committee which had this matter under consideration go into the statements made by the gentleman from Tennessee [Mr. SIMS], which apparently were what caused the dispute or assault? Did the committee take that into consideration, or did the committee deem it pertinent to the question at issue to go into the matter of what was said by the gentleman from Tennessee upon the floor of this House which caused the assault by Mr. Glover?

Mr. DAVIS of West Virginia. The committee did not in any particular enter into that question, and it may as well be stated now as later that the committee did not regard this controversy as in any sense a personal one between the gentlemen involved. It did not concern itself with the degree of provocation which the accused believed he had suffered, nor did it attempt to determine whether the charges which were the cause of his irritation were well founded or not, and for reasons which I shall assign in a moment the committee believes that to be absolutely immaterial to the question before the House.

Mr. CULLOP. Will the gentleman yield?

Mr. DAVIS of West Virginia. Yes.

Mr. CULLOP. What difference would it make as to whether you had examined into that question or not, because that is not the gravamen of the action? The gravamen of the action is the attack on the Member, irrespective of what brought it about.

Mr. DAVIS of West Virginia. Mr. Speaker, I yielded to the gentleman for a question, and I think I have already answered the question. I agree with the statement of the gentleman which followed his question.

The SPEAKER. The Chair desires to admonish Members that the rule about interruptions is that the gentleman who desires to interrupt shall first address the Chair, and then the Chair asks the gentleman who has the floor whether he will yield; and gentlemen must not address each other in the second person. The rule at first does not seem to have any great amount of sense in it, but when it is considered in all its bearings it will be seen that that is the way to keep order in the House.

Mr. GILLETT. Mr. Speaker, will the gentleman allow a question?

Mr. DAVIS of West Virginia. Yes.

Mr. GILLETT. Would not the provocation which was offered have some bearing upon the amount of punishment inflicted by the House?

Mr. DAVIS of West Virginia. In my judgment it would not. That is a matter which, of course, every Member of the House must for himself determine.

Mr. GILLETT. The gentleman, I presume, will deal with that point in due course.

Mr. DAVIS of West Virginia. That will naturally arise in the course of the proceedings. Now, with the permission of the House, I shall decline to yield further until I have made my statement.

The SPEAKER. The gentleman from West Virginia gives notice that he declines to yield further.

Mr. DAVIS of West Virginia. In opening the discussion of this resolution I desire on behalf of the committee to give a brief outline of the position they have assumed, and until I have stated it with reasonable fullness I must ask to be excused from yielding to further questions.

The constitutional privilege which has been invaded is, of course, Mr. Speaker, in the mind of every Member of the

House. The sixth clause of Article I of the Constitution provides that Senators and Representatives shall be privileged from arrest during their attendance at the sessions of their respective Houses and in going to and returning from the same, and that for any speech or debate in either House they shall not be questioned in any other place. These two great immunities are the defense and the support of every legislative body. They are indispensable to the proper exercise of its functions, and even if not provided by the express language of the Constitution, the very necessity of the case and the whole history of parliamentary government would have justified the conclusion that they had been conferred by implication. How vital the makers of the Constitution deemed this freedom of speech becomes at once apparent when we consider the sweeping language in which it was conferred.

In the first place, the express language of the Constitution is that Senators and Representatives shall not be questioned in any other place, thus making the immunity absolutely unrestricted in point of space, whether it be a court, a similar assembly, a popular gathering, a public highway, or a private chamber. All are included in this general phrase.

In the second place, this immunity is left absolutely unrestricted in point of time. No attempt is made to set a period beyond which a Member shall be no longer protected; but from the moment when words are spoken upon this floor to the very day of his death there is extended over him at all times the shield of the Constitution.

This immunity again arises not from some but from all forms of congressional activity. While the language of the Constitution is "for any speech or debate," it has been repeatedly held both by this body and by the courts that these words include everything that may be done upon this floor. As the Supreme Court of the United States has said in *Kilbourn v. Thompson* (103 U. S., 168):

It would be a narrow view of the constitutional provision to limit it to words spoken in debate. The reason of the rule is as forcible in its application to written reports presented in that body by its committees, to resolutions offered which, though in writing, must be reproduced in speech, and to the act of voting, whether it is done vocally or by passing between the tellers. In short, to things generally done in a session of the House by one of its Members in relation to the business before it.

And, lastly, Mr. Speaker, it may be observed that this immunity is not only unlimited in space and time and subject matter, but is equally so as to the manner in which it may be infringed.

That is to say, the Constitution, in using the word "questioned," adds to this immunity an element equally sweeping and all inclusive with those which I have named. It is intended by this language to provide not only that a Member shall not be questioned in a court of law, either by civil action or criminal proceeding, but that he shall not be questioned in any other way which may tend to put him in fear. He is to enjoy absolute and unrestricted freedom of debate and action, knowing that there is neither court nor official nor man nor mob that can assail him for the words that he has used. He is protected from personal assault by force and arms. He is even protected from verbal abuse and assault for this cause. As stated in the report, it is obvious that if one may not question a Member for words spoken in debate under the processes of law, he can not do so by taking the law into his own hands.

Now, what I have said so far relates primarily to the immunity which the Member himself enjoys, and from this standpoint I believe it has been correctly described; but in the case now under discussion we are not concerned with the personal immunity enjoyed by the gentleman from Tennessee [Mr. SIMS]. He has the right to plead that immunity at any time when attack may be made upon him and to use it for his own protection wheresoever he may choose, but the reason for the resolution now before the House is that the House itself has an interest in the immunity wholly apart from that of the individual Member. It will be at once conceded not only that each Member should be left free in counsel and debate, but that the House as an aggregate whole must enjoy a similar freedom, and that as an aggregate whole composed of individual units it has a right to the free participation of each one of its constituent Members. Thus, whenever the privilege of a single Member is invaded, whenever he is deprived of the protection afforded to him by the Constitution, the collective whole, of which he is but a single unit, is weakened just that much. If his attendance upon Congress is prevented, the numerical strength of the body is diminished. If in his actions in Congress he is intimidated, the moral force of the body is impaired to that extent. So it is that every parliamentary body of which any record has been preserved has always treated an attack upon the constitutional privileges of a member as an attack upon itself.

Now, it may be asked whether the interest which the House sustains in a Member's privilege and the right to punish its in-

vasion is as imperishable and as permanent as the Member's interest in his own privilege. It is not necessary for the present case to determine that question. I confess, speaking only for myself and not for the members of the special committee, that I think the time does come when the House as a House ceases to be interested in the protection of a Member's privilege, but I think that time comes only when the Member has ceased to be a part of this body. So long as he is a Member of the body, the injury done to him weakens its joint and coordinate strength.

The speech or debate may have been made in a preceding Congress, as in this instance, or they may have been uttered in the present Congress; but, in the opinion of myself and my colleagues, the wrong and injury that is done to the House itself is not measured by this consideration. If a Member having uttered the objectionable words in a preceding Congress enters this body, he comes in clothed with the imperishable cloak of an immunity already earned, and in order that in this present session he may join his co-Members in the full and untrammelled performance of their common functions he is entitled to all the protection which the Constitution gives him. If his constitutional protection is denied him or his constitutional right invaded, it does not matter to the House as a House when the Member secured his immunity, but it does grievously matter to the House when the attack is made upon him. If in after years a Member goes from this body back to the ranks of private citizenship of the country and is then questioned for his speeches or debates, it may well be that as to the House he then stands on the same plane as other private citizens.

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

Mr. DAVIS of West Virginia. I will.

Mr. MADDEN. What is the remedy for a man who has served here but is now a private citizen?

Mr. DAVIS of West Virginia. He has his remedy under the civil law. He may plead his immunity in bar of a civil action. He may plead it in bar of a criminal prosecution; and as to his body, his person, his good name, he has the same protection that every other man has under the civil and criminal law.

Mr. MARTIN. Mr. Speaker, will the gentleman yield there for a question?

The SPEAKER. Does the gentleman from West Virginia yield to the gentleman from South Dakota?

Mr. DAVIS of West Virginia. If the gentleman will be good enough to make it very short, I will.

Mr. MARTIN. The gentleman has stated that, in his opinion, the interest of the House in the immunity of the Member may cease when the Member leaves this body. I would like to suggest to the gentleman whether he may not be in error upon that point. Is it not likely that if a Member could be called to violent account for official statements made on the floor of the House when he is a Member, and it could be known that he would be called to account for it when his membership ceases, it would interfere with the full and free utterance of Members of the House?

Mr. DAVIS of West Virginia. I recognize the force of the gentleman's suggestion, and I ask the pardon of the House for interjecting my own opinion, and thus, to that extent, raising an issue foreign to the case we are considering.

The SPEAKER. The gentleman from West Virginia [Mr. DAVIS] a few moments ago asked that he be not interrupted until he gets through with his argument in the matter, and the Chair will do his best to keep everybody off of him [applause], and hopes the Members themselves will pay attention to the gentleman's request not to be interrupted.

Mr. DAVIS of West Virginia. Now, Mr. Speaker, the position which I have outlined in these general terms is amply supported by the precedents of this House, by the precedents of other parliamentary bodies, and by the decisions of the courts. Within the limited time that I expect to occupy I can not hope to call attention to all these precedents or to discuss them in full.

The recorded cases in England run back to the middle of the sixteenth century, and from that date to this the House of Commons has regarded an attack upon its members for words spoken in debate as a breach of the privileges of the House and a contempt of its authority. This contempt it has again and again punished.

The colonial assemblies claimed a similar privilege and power. In 1691 the Assembly of New York, for instance, took into custody George Webb for insulting and R. Richards for assaulting a member. Before the formation of the present Government, while Congress sat under the Articles of Confederation, a challenge was sent in the year 1777, under the dueling custom then in force, to a distinguished Member of that Congress, Gunning Bedford, by reason of words spoken in debate.

This was held to be an infraction of the privileges of Congress and was punished as such.

In the year 1832 there occurred the famous attack of Samuel Houston upon William Stanberry, a Member of the House from the State of Ohio, for words spoken in debate upon the floor. Houston, who had been a Member of this House but was no longer so, attacked Stanberry on the street but a short distance from this building and grievously wounded him. The matter was called to the attention of the House by a proceeding similar to that we have suggested here, and after a most exhaustive debate—a debate the reading of which will more than repay those who have the time and inclination to indulge in it—after the power of the House to punish had been challenged in the most adroit and skillful of arguments and had been defended with even greater ability, the House decided by an emphatic majority that its privileges had been invaded, called the offender to the bar of the House in the custody of the Sergeant at Arms, and inflicted upon him an appropriate punishment.

Again, in the year 1857, two Members of the House went to the Senate Chamber at the other end of the Capitol and inflicted upon the person of Charles Sumner, a Senator from Massachusetts, a serious assault. The Senate considered the matter and decided that it had no power over the person of a Member of the coordinate branch of Congress, but remanded the offenders to their own House for punishment. The committee of the Senate, which recommended this action, added to its report by way of friendly admonition to the coordinate branch that—

The judgment of the House has always held an assault upon a Member for words spoken in debate to be a violation of the privileges of the House.

We need not take time to discuss the subsequent history of the case, but the House took the position that its offending Members were punishable.

In the year 1865 a Member of the House was assaulted by reason of his official action. William D. Kelley was attacked by A. P. Field, who, not content with insulting him at a public table, followed this with a violent attack with an open knife, inflicting a painful wound upon Kelley, and threatening to shoot him before he went to bed. It is not surprising that the House considered this a breach of privilege, and it must be conceded that the penalty of a reprimand at the bar of the House seems hardly appropriate to the offense. In delivering his reprimand, Speaker Colfax said:

In this Hall assemble those who have been chosen by the suffrage of their constituents throughout the continental area of the Republic to deliberate and decide upon the gravest matters of national concern. Differing, often widely, from each other, their acts and votes on many questions may prove distasteful to large portions of the people for whom they legislate, and the Constitution has therefore wisely declared that no Representative shall be questioned elsewhere for words spoken here in debate. Accountable as every Representative is to this body with which he is associated, to which is reserved the right of expulsion for whatever renders him unworthy of its membership, the House has repeatedly decided that menace or assault by one Member upon another is a flagrant breach of privilege, rendering the offender amenable to whatever proper punishment it may see fit to inflict. And while thus subjecting a sworn associate to its discipline, it claims and exercises the right to fix the penalty against those not of the body itself who endeavor by threat or attack to interfere with the freest action of its Members.

Before the legislatures of the various States many similar proceedings have been had. In my judgment, Mr. Speaker, we are entirely justified in following these parliamentary precedents. The soundest motives of public policy and the most irrefutable reasons warrant our doing so, but we have the added support of learned text writers and distinguished jurists. Mr. Cushing, in his "Law of Legislative Assemblies," undertakes the bold task of enumerating the collective or aggregate privileges of a legislative assembly. I read from page 246 of the ninth edition:

610. The rights and immunities incident to or conferred upon a legislative assembly, considered as an aggregate body, are founded in the same general reason upon which those of the individual members rest, namely, to enable the assembly to perform the functions with which it is invested in a free, intelligent, and impartial manner.

611. The privileges of this kind, which belong to each branch of a legislative assembly, may be classified and arranged under the following heads, namely:

1. To judge of the returns, elections, and qualifications of its members.
2. To choose its own officers and remove them at pleasure.
3. To establish its own rules of proceeding.
4. To have the attendance and service of its members.
5. To be secret in its proceedings and debates.
6. To preserve its own honor, dignity, purity, and efficiency by the expulsion of an unworthy or the discharge of an incompetent member.
7. To protect itself and its members from personal violence.
8. To protect itself and its members from libelous and slanderous attacks.
9. To protect itself and its members from corruption.
10. To require information touching public affairs from the public officers.
11. To require the opinion of the judges and other law officers on important occasions.

12. To investigate, by the testimony of witnesses or otherwise, any subject or matter in reference to which it has power to act, and consequently to protect parties, witnesses, and counsel in their attendance when summoned or having occasion to attend for that purpose.

13. To be free from all interference of the other coordinate branch and of the executive and judiciary departments in its proceedings on any matter depending before it.

Later on he says (p. 251):

628. All attacks upon the persons of the members or officers of a legislative assembly or others attending and privileged, as witnesses and parties, whether by actual violence or by threats, and all disorders in, near, or about the place of sitting have been always deemed high breaches of privilege and punishable accordingly.

One after another of the highest courts of the various States have declared that the authority to punish a breach of privilege is a necessary incident, inherent in the very organization of legislative bodies as well as in courts of law or equity, independent of statutory provisions. I quote some of these authorities:

The authority to punish contempts is a necessary incident, inherent in the very organization of all legislative bodies and of all courts of law or equity, independent of statute provisions. (*State v. Mathews*, 37 N. H., 456.)

The right to punish for contempts in a summary manner has long been admitted as inherent in all courts of justice and in legislative assemblies, founded upon great principles which are coeval and must be coexistent with the administration of justice in every country—the power of self-protection. And it is only where this right has been claimed to a greater extent than this and the foundation sought to be laid for extensive classes of contempts, not legitimately and necessarily sustained by these great principles, that it has been contested. It is a branch of the common law brought from the mother country and sanctioned by our Constitution. The discretion involved in the power is necessarily in a great measure arbitrary and undefinable, and yet the experience of ages has demonstrated that it is compatible with civil liberty and auxiliary to the purest ends of justice and to the proper exercise of the legislative functions, especially when these functions are exerted by a legislative assembly. (*Neel v. State*, 9 Ark., 259.)

I find it asserted and uniformly conceded a common-law principle that not only may a legislative body inflict punishment on its members who may be guilty of contempt, but it may impose like penalties on other persons who may commit disorder in the presence of such body or who may ignore or treat with contempt its lawful process or be guilty of such other acts before the House or its committee as will tend directly and necessarily to defeat, embarrass, or obstruct its proceedings. This is a power inherent in the House or bodies composing the legislative branch, and for the exercise thereof no express constitutional provision is required; such power exists whether so conferred or not. (*Lowe v. Summers*, 69 Mo. App., 649.)

The right of punishing for contempts by summary conviction is inherent in all courts of justice and legislative assemblies and is essential for their protection and existence. It is a branch of the common law adopted and sanctioned by our State constitution. The discretion involved in this power is in a great measure arbitrary and undefinable, and yet the experience of ages has demonstrated that it is perfectly compatible with civil liberty and auxiliary to the purest ends of justice. (*Yates v. Lansing*, 9 Johns., 417.)

Across the water the courts of England have always held that the House of Commons possessed this power. In the case of *Burdett v. Abbott* (14 East's Repts., 1), Lord Ellenborough describes the power and the reason for its existence in this language:

The privileges which belong to them seem at all times to have been, and necessarily must be, inherent in them, independent of any precedent; it was necessary that they should have the most complete personal security to enable them freely to meet for the purpose of discharging their important functions, and also that they should have the right of self-protection—I do not mean merely against acts of individual wrong—for poor and impotent indeed would be the privileges of Parliament if they could not also protect themselves against injuries and affronts offered to the aggregate body which might prevent or impede the full and effectual exercise of their parliamentary functions. This is an essential right necessarily inherent in the supreme legislature of the Kingdom, and of course as necessarily inherent in the Parliament assembled in the two Houses as in one. The right of self-protection implies, as a consequence, a right to use the necessary means for rendering such self-protection effectual. Independently, therefore, of any precedents or recognized practice on the subject, such a body must a priori be armed with a competent authority to enforce the free and independent exercise of its own proper functions, whatever those functions might be.

Of course, it has been asserted that precedents arising in the House of Commons are without authority here because of the historical fact that in the dim past Commons and Lords sat as a single body, with judicial and legislative power, and because of the suggestion that when they separated the right to try and punish for contempt was retained by the Commons as a sort of judicial residuum and not as inherent in the constitution of the House itself. But, echoing the words of Lord Ellenborough, this seems more a matter of antiquarian curiosity than legal importance. The decisions of the State courts with reference to the State legislatures may also be objected to as precedents for this body, because State legislatures are not restricted by the doctrine of granted or delegated power.

But we need not perplex ourselves with these fine distinctions, for there is ample warrant in express decisions for this claim of power by the House of Representatives.

In the famous case of *Anderson v. Dunn* (6 Wheat., 204) the question was raised and decided by the Supreme Court of the United States as long ago as the year 1822. For offering

a bribe to influence a Member's action on this floor. John Anderson was held in contempt of the House, arrested, and punished. After his discharge he brought an action of trespass against the Sergeant at Arms of the House for false arrest. The court held without dissent that the House had power to investigate and punish a breach of its privilege, and that the warrant of the House to its Speaker was an absolute defense to the suit brought against him.

This decision was accepted without question and followed year after year for half a century.

In 1848 the Senate imprisoned James Nugent for publishing a secret treaty, and the Circuit Court of the United States for the District of Columbia refused to discharge him upon habeas corpus.

In the year 1860 the question arose on a curious state of facts before the Superior Court of the State of New York. A debtor in the State of New York was under imprisonment for debt when the House of Representatives found him guilty of a contempt in refusing to testify before it. The Sergeant at Arms was dispatched to New York, took the debtor from the custody of the sheriff, and set him at the bar of the House. Thereupon his creditor sued the sheriff for permitting him to escape, and the sheriff defended by setting up the process of the House of Representatives. The court held that upon a charge of contempt and breach of privilege the House has power to cause the person charged to be taken into custody and brought to its bar to answer. (See *Wickelhausen v. Willett*, 10 Abbott's Prac. Repts., 164, and 1 Keyes, 521.)

In 1874 there occurred the famous case of Stewart against Blaine, where suit was brought against Mr. Speaker Blaine for causing the arrest of a contumacious witness. The Supreme Court of the District of Columbia held that the House of Representatives has power to punish for contempt, and that its order directing a commitment is a complete protection to the Speaker who directs the Sergeant at Arms to take the offender into custody. In this case the court said:

The question of power to punish for contempt in the case now before the court was settled by the Supreme Court of the United States in the case of *Anderson v. Dunn* (6 Wheat., 204) more than half a century ago after a stout contest and upon thorough deliberation. This authority has been uniformly acquiesced in for over 50 years, and until reversed must be regarded as conclusive with this court. (See *Stewart v. Blaine*, 1 McArthur, 453.)

When the application of Richard B. Irwin for release from the custody of Ben G. Ordway, Sergeant at Arms of the House in 1874, was made, Judge Arthur McArthur, of the Supreme Court of the District of Columbia, followed the same doctrine.

Now, I know it will be said that the Supreme Court about faced on this question, and that after subordinate courts had followed Anderson against Dunn for over half a century, in the case of *Kilbourn v. Thompson* (103 U. S., 168), decided in 1880, the court changed its ruling and declared the House powerless to protect itself. I shall not take time to analyze that case because I know that other gentlemen will speak in the course of this debate who are fully prepared to do so. It is discussed at some length in the report filed by your committee, and I simply call attention to the fact that so far from deciding that the House is without power to punish for contempt, the court, in the *Kilbourn* case, expressly reserved that question and finally decided but two single propositions, viz:

First. That the courts have the right to inquire whether in punishing for contempt in a given case Congress has exceeded its power; and

Second. That where Congress attempts an investigation of a subject into which it has no jurisdiction to inquire it has no power to punish for contempt a witness who refuses to testify. And as against the discussion indulged in by the learned justice who wrote the opinion in the *Kilbourn* case, I offer the subsequent declaration made by the same court in the *Chapman* case (166 U. S., 661), to the effect that—

Congress can not divest itself or either of its Houses of the inherent power to punish for contempt.

Now, Mr. Speaker, I have no desire to trespass further upon the time of the House in opening this discussion. I think it proper to repeat what I have already stated, that this proceeding is in no sense a private controversy nor should it be so treated. I think it proper further to say that the gentleman from Tennessee [Mr. SIMS], whose personal privilege has been invaded, has at no time sought to make this body the avenger of his injury. This proceeding was not instigated by him nor has he moved your committee to any action in regard to it. His appearance before us was in no sense voluntary and his attitude has been dignified and beyond the reach of criticism.

But the Constitution has drawn around every Member of the House and around the House itself a circle of fire not to be

lightly invaded nor to be entered upon without penalty and punishment. It has clothed this body with ample power to protect itself without awaiting the express action of the coordinate branch and without appealing to the Executive or the judiciary. It has made it the forum for free and unrestricted debate. The grant of these powers and these privileges makes it not only the right, but the duty of the House to defend them against all attack. Therefore, Mr. Speaker, acting under instructions heretofore given us, your committee moves the adoption of the resolution just submitted. [Applause.]

Mr. MARTIN. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from West Virginia yield to the gentleman from South Dakota?

Mr. DAVIS of West Virginia. I do.

Mr. MARTIN. Mr. Speaker, I understood in answer to the question of the gentleman from Massachusetts [Mr. GILLET] that probably the gentleman from West Virginia would give the House his view as to whether the extent of provocation ought to be considered in connection with the measure of punishment. I think that the courts would generally take that into consideration. Does the gentleman consider that the nature or character of the provocation which might be given would be a proper matter to consider in connection with the extent of punishment to be meted out by the House?

Mr. DAVIS of West Virginia. Mr. Speaker, I can only repeat what I said before—that I think every Member of this House having to vote on that question, and it being solely a question addressing itself to his individual discretion, must resort to such information as he thinks proper to move upon his discretion. For myself, I think the testimony taken by the committee and appearing in the RECORD furnishes all the information which is needed for a just and correct determination as to the question of punishment.

Mr. FOWLER rose.

The SPEAKER. For what purpose does the gentleman from Illinois rise?

Mr. FOWLER. To propound a question to the gentleman who has just concluded his remarks.

The SPEAKER. Does the gentleman from West Virginia yield to the gentleman from Illinois [Mr. FOWLER]?

Mr. DAVIS of West Virginia. Mr. Speaker, I must decline to take further time.

The SPEAKER. The gentleman declines to yield and asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. FOWLER. Mr. Speaker, it is only one short question that I desire to ask.

Mr. DAVIS of West Virginia. Mr. Speaker, if the gentleman persists, I will endeavor to answer his question.

Mr. FOWLER. Mr. Speaker, this assault was committed because of words spoken in another Congress. Suppose the Sixty-third Congress should pass this by, and that it did not see fit to call the assailant to account for his deed, does the gentleman think that the Sixty-fourth Congress under the powers of the Constitution would have a right to call in question the assault and battery which has been committed during this Congress?

Mr. DAVIS of West Virginia. Mr. Speaker, I must decline to enter into a discussion of that question, because it raises an hypothesis in no way related to this case.

Mr. FOWLER. I only wanted information, because I thought the gentleman had gone into the question fully.

Mr. DAVIS of West Virginia. Mr. Speaker, if the gentleman had been in the Hall earlier, he would have heard that or a similar question propounded and a discussion upon it, which, however, I am frank to admit was somewhat of a digression.

Mr. FOWLER. I have been here all of the time and I have heard no such question asked.

Mr. DAVIS of West Virginia. Mr. Speaker, I yield 20 minutes to the gentleman from Tennessee [Mr. MOON].

Mr. MOON. Mr. Speaker, it is certainly with no degree of pleasure that I rise to support the adoption of this resolution. This whole affair, in any view we may take of it, is exceedingly unfortunate. To me it seems hardly essential that I enter into any extended discussion of the legal features of the case after the presentation of the splendid report and the very able argument of the gentleman from West Virginia [Mr. DAVIS]. That the Congress of the United States has power to punish an offender for a breach of its privilege seems to be so very clear as not to admit of debate. A deliberative body like this is in many respects analogous to a judicial tribunal, and the power is inherent in every judicial tribunal to protect itself in order that in an orderly way it may administer the law to protect

life, liberty, and property. So the power is inherent in a deliberative body, the lawmaking body, to protect itself and its membership for the same purpose. But there has been a question raised from the very beginning of jurisprudence as to the extent of the inherent power that exists both in legislative and judicial bodies. It has never, however, in all the history of these proceedings been questioned that a court had the power to punish for a contempt committed in its presence. Nobody disputes that. It was never disputed that a court had the power to punish for the violation of its processes issued for the purpose of the enforcement of law.

But it has been questioned at times as to how far the power of the judicial tribunal extends for the punishment of one using opprobrious and offensive language against the judges of a court, but the consensus of opinion seems to be that where such language tended to bring into ridicule and contempt a tribunal that the power existed. As to the question of the punishment that was always left to the sound judgment and discretion of the court and had no other limitation in the absence of a statute. That same rule would apply to a deliberative body; but the framers of the Federal Constitution wisely foresaw the troubles that might arise along this line, and for the protection of a Member of the House and the integrity of a legislative body they placed an express provision in the Constitution of the United States that prevented any Representative or Senator from being questioned for any words spoken in debate save on the floor of the body where spoken. This is essential to maintain the integrity of the body and the sanctity of its deliberations. Therefore you do not have to resort to the implied power to punish for contempt as inherent in these bodies, but there stands the expressed constitutional prohibition against conduct destructive of the welfare of the legislative power. It is no dormant provision lying in the Constitution that needs a legislative enactment to give it vitality. It stands there as a shield to law and order of the men called upon to participate in the deliberations of the country. It was wisely, it was purposely, placed there; it was placed there to meet the exigencies of a case like this. It may be said that no punishment has been provided by statute. I remarked before, the question of punishment is limited only by the sound judgment and discretion of the tribunal offended. Gentlemen have said that because the words were spoken in one Congress and the offense was committed after the meeting of another that possibly this House would be without jurisdiction. The Congress is a continuous body. It never dies. Its membership may die, but the Congress lives forever, just as the courts of your country do. This power to punish exists so long as it has the will to punish for the infraction of its dignity and its constitutional rights and privileges. But, as I remarked, I will desist from any lengthy discussion of the legal questions involved on account of the presentation that has already been made.

In answer to the distinguished gentleman who stated that the facts ought to be made known clearly here that led up to and induced such infraction of the rules of the House as a basis to enable us to determine the measure of punishment if the House agrees that this offender should be punished I concur. While the right to punish exists upon confessions made by Mr. Glover, the real facts that induced this assault ought to be brought to the consideration of the House. I have therefore prepared a brief statement, an abstract of the facts as they appear from the record and in the evidence, that shows the foundation of this whole assault and the animus and the contempt that lies in it. Permit me to read just for a moment a page or two. I take this question from its inception, and I now present you the facts upon which you must act. I think there is no question about your legal power. For several years prior to March 3, 1909, there had been pending before the House and Senate a proposition by way of a bill or amendment to a bill to accept and pay for about 100 acres of land situated between Connecticut and Massachusetts Avenues, Washington, D. C., and running out westwardly to the Cathedral School, on which Mr. C. C. Glover held an option from the owners, at the price of \$420,000, or about \$4,000 per acre. Mark you this: It is an option held and owned by him; the land to be used for a park or park purposes. Mr. Glover had appeared before the Appropriations Committee of the House of Representatives to advocate legislation authorizing the purchase of the land upon which he held the option. What he said before that committee appears in print. The hearing was had on the 15th day of May, 1908. In the hearing he claimed the land was advancing in value very rapidly, and that unless the Government accepted the land at the price named in his option a much higher price would have to be paid for the land. Finally a bill was passed in the Senate in 1908, being Senate bill No. 4441, Sixtieth Congress, making an appropriation of \$423,000 with which to acquire the

land. On the 26th day of May, 1908, a motion to suspend the rules and pass Senate bill No. 4441 was made in the House. The bill failed to pass by a vote of 164 to 57. It remained on the calendar, and on the 3d of March, 1909, being the last day of that Congress, a motion was again made to suspend the rules and pass the bill.

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

Mr. MOON. Yes.

Mr. DYER. Will the gentleman state to the House what he is reading from; is that the speech of Mr. SIMS?

Mr. MOON. Oh, no; it is not a speech of anybody's; it is an abstract from the record showing the facts. I refer to the record and the pages.

Mr. DYER. Is it testimony before the committee?

Mr. MOON. Yes; I have given you the date.

Mr. CLAYTON. You are on the statement of facts.

Mr. MOON. It is an abstract, as I stated before, of the record of facts.

Mr. SIMS took no part in the discussion that took place when the bill was under consideration on the 26th of May, 1908, but was yielded five minutes' time in opposition to the bill when it was considered under motion to suspend the rules and pass the bill on March 3, 1909.

In his speech at that time he said in substance that the price named in the option was much lower than had been asked for the land covered by the option prior thereto. He made this statement as a refutation of the claim made in behalf of the bill that the land was rapidly advancing in price. But in addition to these statements as to the value of the land he charged that a Member of the House at that time owned an interest in some of the land covered by the Glover option, and that the fact that a Member owned part of the land had been kept secret by Mr. Glover. He strongly opposed the passage of the bill on that account. On March 3, 1909, the bill again failed of passage by a vote of 192 against it to 31 for it.

Let me stop here to observe for a moment, is it cause for an assault on a man that he attempts to stop the passage of a bill of this character, tending to speculate on the National Treasury when sitting in the House at the time of the passage?

On December 30, 1912, being 3 years and 10 months from the time Mr. SIMS made the speech against this bill on March 3, 1909, Mr. C. C. Glover, under oath, in a statement before a subcommittee of the House Committee on the District of Columbia, not bearing on the matters then under investigation by said subcommittee, but referring to the attempt to pass Senate bill 4441, on March 3, 1909, said that a statement which Glover claimed Mr. SIMS had made in his speech on March 3, 1909, with reference to the price he, Glover, had asked for the land, was an "absolute and unqualified falsehood."

What is the meaning of that? Does not that show malice? Does not that show the degree of enmity was so exceedingly great that after so long a lapse of time the truth that had been made known in reference to the conduct of this man still so hurt him that he took an opportunity on an occasion when such matters should not have been mentioned to denounce SIMS as an unqualified liar?

C. C. Glover caused to be printed in full his statement about Mr. SIMS made before said subcommittee in a morning paper in the city of Washington. On January 15, 1913, Mr. SIMS arose to a question of personal privilege and made a reply to the charges of Mr. Glover before said subcommittee in defense of himself, which speech appears on page 1913 of the CONGRESSIONAL RECORD and following pages—January 15, 1913. In this speech there was no use of defamatory language against Mr. Glover, but notwithstanding this fact Glover had published in all the newspapers of Washington a statement of about 10 columns in length as paid advertising matter containing many charges against Mr. SIMS with reference to said option transaction, and in it published what he claimed to be a true copy of his original option on the land and the extension of same.

On February 5, 1913, Mr. SIMS again arose to a question of personal privilege in defense of himself against the charges made by Glover in the last statement of said Glover. In this last statement Mr. SIMS claimed that the statements of Glover before the subcommittee regarding the option and renewal or extension of same as to the length of time it had to run and as to the length of time of the extension as shown by the copy of option and extension as published in the newspapers by Glover was a false statement, and made under oath with full knowledge that it was false, as he showed by his statement in the papers that he had possession of the option and knew all its terms and stipulations. Both speeches of Mr. SIMS made January 15 and February 5, respectively, were made in defense of charges made against him by Mr. Glover and published by his direction and at his expense as paid advertising in the Wash-

ington newspapers, making charges of willful falsehood against Mr. SIMS as to material statements made on the floor of the House in connection with and pertinent to said Senate bill No. 4441.

In the charges made in the newspaper statement by Mr. Glover on January 25 he claimed that the charges made by Mr. SIMS in his five-minute speech March 3, 1909, caused said Senate bill to be defeated.

By possession of the papers he showed that he had knowledge and knew of the speculation. He knew that it had defeated this bill. That was the cause of his grievance against him. Not that SIMS had stood upon the floor of this House and used defamatory language in reference to him and sought under the protection of the Constitution to defend himself against Glover from such charges, but that SIMS had defeated a measure in which he had a pecuniary interest. Listen again.

In Mr. SIMS's speeches of January 15, 1913, and February 5, 1913, he showed that more than two years after the Senate bill 4441 was defeated part of the land embraced in and covered by the said option had been given by the owners of the lands to the Government or District of Columbia for park purposes, amounting to 17½ acres, and that by the defeat of the bill the Government had been saved a sum of about \$70,000. The price of \$4,000 per acre was the option price. Mr. Glover had stated in the hearing before the House Committee on Appropriations that not an acre of the land covered by his option could be purchased for less than \$6,000 or \$8,000 if said option expired. But it was shown by Mr. SIMS that after the option had expired, instead of asking and obtaining \$6,000 or \$8,000 per acre for every acre of the land, as had been stated to be the fact by Mr. Glover, that the owners actually gave away 17½ acres of the same.

It thus appears that by the action of Mr. SIMS in exposing the secret-option dealing by Mr. Glover with a Member of the House of Representatives, who at least would have had an opportunity to vote to take money out of the Treasury of the United States with which to pay for lands owned by himself and held by Glover under the option, the bill was defeated and a great public service rendered in bringing to light the means used in putting off on the Government at high prices lands so valueless as to be donated to the Government by the true owners of same after the bill had failed.

Now, another view of the facts. But I am reciting these facts to do that which ought to be done in every case, not only determining what ought to be done by the House toward an offender but if convicted the measure of his punishment.

In the statement of Mr. Frederick Steckman, made before the special committee under oath, he stated that Mr. Glover, in giving his version of his striking Mr. SIMS, said:

Since Mr. SIMS made his last speech on the floor of the House we never met until to-day. I have in a way kept a lookout for him, but never went out of my way to find him.

Ah, here is a man offended because of the legitimate, honest, and patriotic conduct of a Member of the House. He seeks him day after day, but never passing much out of his way to find him. He keeps a lookout. What for? That he may call in question that which the Member said on the floor of the House, inflict a punishment upon him, and stand in contempt of the Congress or a breach of the constitutional privileges of the House of Representatives. Is that what he intended? Listen again.

This statement shows that from February 5 until April 18 he was looking out for Mr. SIMS. A brave man would have at least demanded a retraction and given notice to Mr. SIMS that in case of a refusal he would take steps to redress his wrongs. But instead he came up behind him, unobserved, and, according to his own statement, took the law into his own hands.

It is shown by the testimony of Hon. BEN JOHNSON, an honored and distinguished Member of this House, that said Glover, about the middle of February, 1913, expressed the regret that there was a law against dueling, as he desired to challenge Mr. SIMS to fight a duel. No man who does not desire to shed the blood of his fellow man wants the law against dueling repealed.

These are the substantial facts in the case.

The SPEAKER pro tempore (Mr. FLOYD). The time of the gentleman from Tennessee [Mr. MOON] has expired.

Mr. MOON. Will the gentleman from West Virginia give me a little more time?

Mr. DAVIS of West Virginia. Mr. Speaker, I yield to the gentleman 10 minutes.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. MOON] is recognized for 10 minutes more.

Mr. MOON. Mr. Speaker, the fact that this man wanted to fight a duel with Mr. SIMS about this transaction, about

this legitimate discharge of duty on the part of the Representative from Tennessee [Mr. SIMS], shows that Mr. Glover had murder in his heart; it shows that he not only had a contempt for the proceedings of this House, but that he wanted to kill the man that had thwarted him in his attempt to thrust his arms into the Treasury of the United States.

But, you say, "How was he to be benefited?" He had an interest in that option. He concealed the combination he had made with a Representative in the House to have that land purchased, lying hard by his own land, which would be improved more than all others by the purchase of the additional land by the Government.

Now, Mr. Speaker, we have seen the extent of Mr. SIMS's offending. He stood here to protect the interests of the Government. He recited the facts as they existed. He defeated the attempt to speculate on the Treasury. That, I think, the House ought to commend.

Let us see Mr. Glover's attitude. He owned the option. He was concealing from Members the interest of those who were partners with him in the option. He was to be benefited in two ways, directly and indirectly, in the result. The option defeated, he naturally becomes very angry. Why? He is a man who has hitherto stood high in public esteem for benevolent conduct, for progressiveness. These cold-blooded facts, presented in this House, changed in his mind, as in the mind of every good citizen, his relation to the public, so far as their opinion of his beneficent conduct was concerned. He was no longer the benefactor but the greedy speculator.

I have no doubt that it so preyed upon his mind as to produce that condition mentally which assassins have who seek revenge for wrongs conceived. These things transpired long before the assault by Glover upon Mr. SIMS. The assault did not arise on a sudden heat of passion. It was not the result of exasperation from a sense of suddenly offended honor. It was cold-blooded and deliberate and premeditated. Did it not partake of all the elements of the dastardly crime of murder? He sought Mr. SIMS.

Ah, he said he had hunted for him. This time he goes out of the way to find him. He goes into the park. He lies in wait for him. He waits until he comes, and proceeds to accost him, like a bandit demanding his money: "Why did you speak of me as you did? I demand an apology from you," was his language.

Mr. SIMS mildly, but frankly, refused an apology. What did Mr. Glover do then? Look at the calculation of the man. Did he strike Mr. SIMS down? He could have felled him to the earth with one blow if that had been his purpose. Was that what he wanted? He wanted to use that mere technical assault and then desist; so he struck Mr. SIMS on the face slightly as Mr. SIMS turned his face upon him, and then desisted.

What for? We are fools if we can not draw the inference of fact as well as of law from this course of procedure. He did it in order that Mr. SIMS might become the violent aggressor, and that he, Glover, would no longer be at fault, but that SIMS should be forced and provoked to make an assault upon him which was not proportionate to that which Glover had made upon Mr. SIMS, one not commensurate with that offense, in order that Glover might kill him and have a pretext to invoke the doctrine of self-defense on the ground that SIMS, in response to a mere technical assault, was seeking to kill him—Glover.

Mr. Speaker, such methods have always been the tactics of purse-proud cowards that sought assassination. But there was no time for any further action. Only a moment intervened until a passer-by stood between them. Mr. SIMS could not, perhaps, have struck him if he had desired to, under those conditions.

Mr. DILLON. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. Does the gentleman from Tennessee yield to the gentleman from South Dakota?

Mr. MOON. Yes.

Mr. DILLON. Is the gist of this offense assault and battery or is it the taking of a Member to task for words spoken in this Chamber?

Mr. MOON. Of course, it is the taking of a Member to task for words spoken in this Chamber; but if the House wants to know the malice and animus that provoked it, it must know the facts and the circumstances of the assault, so that it may determine the degree of the offense and the contempt that the man is guilty of.

Mr. DILLON. If that be true, then the assault and battery is a mere incident to the taking of the Member to task for words spoken in this House.

Mr. MOON. A Member may be taken to task in various ways, by assault and battery or otherwise.

Mr. DILLON. I want to know which is incidental, the assault and battery or the taking of the Member to task.

Mr. MOON. Of course the assault and battery is the means by which the man called in question the Member for the language used in the House. Everybody understands that it is for the breach of the privilege of the House, not the assault and battery upon Mr. SIMS.

Mr. Speaker, if SIMS had made the deadly assault I have referred to in response to the mere technical assault, then it would have afforded Glover the pretext to kill him. Do not the facts indicate that was his real purpose? What did he want to kill SIMS for? I take it, not for the loss of the money in this matter, but because of the degradation of his character before the public by the disclosure of these facts. Mr. Glover may be, and probably is, a very estimable gentleman under normal conditions, but surely he departed far from the path of rectitude and honor in this matter. Surely it took more courage on the part of Mr. SIMS, more of self-possession under the circumstances, not to resist the assault, knowing what it was intended for, in view of the threats that had been communicated to him, than it would have taken to defend himself effectually under the circumstances. Most of us would have had the impulse to strike back. Most of us would have done so; but I take it that the law-abiding man, who would not want murder to occur, who would not want the purposes of Glover to be carried out, would commend the conduct of Mr. SIMS under the circumstances.

Mr. Glover's conduct was not that of a law-abiding citizen. He evidently had no honorable purpose. It was not the evidence of a chivalrous nature. It was rather the dominancy of those low and debased instincts that sometimes creep out in human nature, the very essence of cowardice that degenerates into crime. Will it be said, here or anywhere, that the law-abiding citizen of this country who avoids assassination by failure to fall into the traps that men have set for his destruction is less brave, less chivalrous, less honorable than other men?

The SPEAKER pro tempore. The time of the gentleman from Tennessee has again expired.

Mr. DAVIS of West Virginia. I yield to the gentleman one minute more.

Mr. MOON. Mr. Speaker, I want to add just one word on the question of punishment. I surely have no desire to see this man punished. I have no personal grievance in the world against him. I only present the law and facts as they appear to me. If this House thinks that his offense was committed in an unguarded moment, in an hour of insanity, I would prefer to see this resolution wiped out of the way and nothing more done. This is not Mr. SIMS's prosecution. He has taken no part in it. He will take no part in it. Nothing you can do or ought to do will preclude him from that consideration of this question hereafter that he thinks it deserves. But, Mr. Speaker, if Mr. Glover was in the full possession of his faculties, if his conduct was malicious, if he intended felony, as the facts in this case would indicate, then it is a very high breach of the privileges of the House. A mere reprimand, under those conditions, would only add dignity to his offense and afford him pleasure to appear before you as a victim of the House whose dignity had been assaulted, but whose real dignity would seem to demand nothing more than a mere reprimand, where a punishment ought to be inflicted that would not only deter him and others from like offending, but give him time to reflect and to become a law-abiding citizen. [Applause.]

Mr. MANN. Mr. Speaker, I yield one hour to the gentleman from Kansas [Mr. CAMPBELL].

Mr. DAVIS of West Virginia. A parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DAVIS of West Virginia. How much time has been consumed on this side?

The SPEAKER pro tempore. The gentleman from West Virginia has consumed 72 minutes. The gentleman from Kansas [Mr. CAMPBELL] is recognized for one hour.

Mr. CAMPBELL. Mr. Speaker, I take the position that the House of Representatives does not possess the inherent or the constitutional power to convert itself, by its sole resolution, into a judicial body with power to try the guilt or innocence, upon a question of fact, of a citizen when it is sought to exercise that power beyond the specified grants of the Constitution.

Let us see what we are doing in this case. The special committee appointed by the House has brought in a resolution that proposes, upon its adoption, to convert this House into a court—and in this case it should properly be called a police court—to try a case of assault and battery occurring in one of the parks of the city of Washington. But it is urged by the committee

that this is done because the assault was committed by a citizen upon a Member of the House of Representatives for words spoken in debate upon the floor. I shall refer later to that. It is urged, therefore, that in order to preserve the ancient dignity of a parliamentary body and to preserve the privileges of the House of Representatives, we must assume the exercise of this extraordinary power.

The adoption of this resolution will convert the House into a court, and make of the Speaker, if you please, a police judge, authorizing such court to have a jury of 444 summoned from the remotest bounds of the Republic, a Republic so vast in extent of empire that these men come from regions of perpetual winter and zones of a never ending summer, all to try a case of assault and battery.

But, it is urged, we must preserve the dignity of the House of Representatives! The authority of the House of Representatives to assume such extraordinary power is based upon the ancient precedents of the Parliament of Great Britain to inflict punishment upon those who were guilty of contempt of its dignity.

It is stated by the chairman of the committee, in quoting a dictum of Lord Ellenborough in *Burdette* against *Abbott*, that Parliament had the inherent power to punish for all contempts of its authority or privileges. The Parliament of England exercised that power for generations, and, as the chairman of the committee well anticipated, the exercise of the authority and power to try a question after the fact as a court was because the Parliament of Great Britain had at one time been a portion of the supreme judicial power of Great Britain. When the Parliament divided the House of Commons still retained a residuum of that power and still exercises it to punish for certain contempts.

But the Constitution of the United States has not granted to this House the power and authority to try a man on a question after the fact for an alleged offense committed outside of its presence that is not specifically named in the powers granted by the Constitution. The Constitution specifically names those offenses of which this body is the judge and for the trial of which a contumacious witness in an impeachment case might be sent to jail by order of the Speaker of the House.

It is also judge of the election of its own Members. It may, and does, under the authority granted, convert itself into a trial court to try the question of fact whether or not a Member sits here by authority of his constituents, and may punish a contumacious witness in the trial of that question of fact.

But here it is proposed to try a question of fact after an assault and battery has been committed in one of the parks of the District of Columbia. On what authority? The committee says upon the authority of an ancient necessity of the parliaments of the world to protect themselves from an invasion of their privileges by a citizen. But the Constitution limits the powers of Congress in the length to which it may go even to protect its privileges or dignity; it at the same time throws about every citizen of the Republic, no matter how humble he may be, no matter in what portion he may reside, the equal protection of the law and the right to a trial by jury for offenses committed against the law. The law forbidding assault and battery includes Members of Congress within the scope of its protection.

What is proposed by this resolution? The denial of the right of trial by jury in a case of assault and battery. What does this resolution propose? To deny the equal protection of the law. We are giving, in this case, by our sole resolution, a dignified court, with the Speaker of the House as its presiding officer and all these Members assembled from the farthest confines of this great country to act as jurors for the trial of one of the citizens of the District. We have not placed any limitation upon ourselves, and no one knows what punishment we may inflict. There are no limitations if we assume the power; if we assume the power it is absolute. The citizen may be reprimanded; he may be fined; he may be sent to prison. What, under the statement of the chairman of the committee, are the limitations? He says there are none, and we may send the respondent to the gallows or the electric chair; and it is claimed there is no appeal from our decision.

The proceeding is unusual and the punishment may be unusual; the court, when we are converted into one, will be unusual.

Mr. COVINGTON rose.

The SPEAKER. Does the gentleman from Kansas yield to the gentleman from Maryland?

Mr. CAMPBELL. I would prefer to go on, but I yield for a short question.

Mr. COVINGTON. Does the gentleman not know that the Supreme Court itself in the Anderson-Dunn case holds, and that in the unbroken line of constitutional authority in this case it is held, that the limitation of the House of Representatives for punishment is to such punishment as will expire at the time that the House itself shall pass out of existence?

Mr. CAMPBELL. Oh, yes; that is stated in the Anderson case, but we are not bound by the Anderson case, if the chairman of the committee, the gentleman from West Virginia [Mr. DAVIS] correctly stated the privileges of the House. The *lex et consuetudo parliamenti* has no limitations.

Mr. DAVIS of West Virginia. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Kansas yield to the gentleman from West Virginia?

Mr. CAMPBELL. Mr. Speaker, I am sure the gentleman from West Virginia will appreciate the necessity of my proceeding, but I yield.

Mr. DAVIS of West Virginia. I understood the gentleman to quote the chairman of the committee as saying that there was no limit except the *lex et consuetudo parliamenti*. Does not the gentleman admit that the punishment shall not exceed the life of the body which inflicts it?

Mr. CAMPBELL. Yes; but in the exercise of that power what are the limitations within that time? There are none, and there is no appeal from our decision when we assume to act.

But the right to punish for an assault upon a Member of the House is not up for the first time. The question was up in the Constitutional Convention, and on the 20th day of August, 1787, Mr. Pinckney submitted, among other things, this proposition:

Each House shall be the judge of its own privileges, and shall have authority to punish by imprisonment every person violating the same, or who, in the place where the Legislature may be sitting and during the time of its sessions, shall threaten any of its Members for anything said or done in the House, or who shall assault any of its Members.

The fathers who gave us the Constitution and wrote that portion of these limitations, protections, and immunities into the Constitution which relate to the freedom of speech, which give immunity to a Member for speech or debate on the floor, refused to provide punishment for assault upon Members of the House by citizens outside of the House. They knew what every Member of this House may well know, that if this House assumes to convert itself into a police court to decide cases of assault and battery every time a Member of this House is assaulted for words uttered in debate we may at some time become a cheap police court, without dignity, privilege, or respect. What Member has not been questioned, who has in late years been a Member of this House, for words uttered in debate and for speech made upon the floor of the House and for votes cast here? Who of you upon either side of this Chamber has not been confronted by citizens and called to account because of a certain speech, because of what was said in a certain debate, or of a certain vote that you cast.

And yet it has not been presumed that we as Members were immune from being questioned elsewhere for words uttered in speech or debate on this floor. Who has not been questioned upon the stump, in public place—who has not been challenged that upon a certain day he said a certain thing and that when he said that he was false to his constituents? All of us have been questioned, almost assaulted, but yet it never entered into the mind of a Member so questioned and assaulted that he had a constitutional immunity from such questioning. The question of immunity relates wholly, therefore, to that immunity that may be pleaded in any formal body as a defense against any action, civil or criminal, that may be brought by anyone against a Member of the House for words uttered in debate, for speech made, for vote cast, for resolution offered, for vote upon a bill or a resolution. Yea, indeed, the Speaker of this House may plead immunity in this case, if this resolution is agreed to, and the committee bringing in the resolution may plead immunity, if the resolution be agreed to, in defense against an action for false imprisonment, if for the remainder of this Congress or this session the respondent should lie in jail, and thereafter bring action for damages against the Sergeant at Arms, the Speaker of the House, and the committee offering the resolution. The Sergeant at Arms may plead immunity in vain, under the warrant of the Speaker, but the Speaker and the committee and every Member who votes for the resolution may plead immunity, and the court will hold that they are immune for anything said or done in here.

Mr. POWERS rose.

Mr. CAMPBELL. I would rather not yield at this time. This very question has been decided by the Supreme Court of the United States. We do not need to go into the musty alcoves of the Library and bring down ancient decisions ren-

dered at an ancient time, when the environment and judgment of men were vastly different from what they are to-day.

In the case of Kilbourn against Thompson, decided in 1880, the Supreme Court held that while the Sergeant at Arms was liable to Kilbourn for imprisoning him on the warrant of the Speaker, that Speaker Kerr and the Members in charge of the resolution could plead their immunity, as they did plead it, and they were discharged from any liability to the complainant, Kilbourn, but Thompson, the Sergeant at Arms, was held liable. We have a construction in that case of clause 6 of Article I, of the Constitution. It means that a Member for any speech or debate upon this floor may not be required to answer in any other place in any formal proceeding. Why was this clause inserted in the Constitution? We got that, with many other provisions, from Great Britain. It came to us from the mother of parliaments, the Parliament of Great Britain. There was an ancient struggle between that Parliament and the Kings of the British Empire. That struggle went through the reign of the Tudor and Stuart Kings. They were constantly at war with Parliament—members questioned elsewhere for what they said and did in Parliament; members fined; members punished; members imprisoned, members sent to the tower for what they said in debate. After the dethronement of the last of the Stuarts the first Parliament of William and Mary enacted that from that day no member of Parliament should be questioned in any court or elsewhere for words uttered in debate or speech made upon the floor of Parliament. And that language has come down to the parliaments that have succeeded since then. It was one of the Articles of the Confederation. It was made the law of many legislative bodies of the Colonies, and when the fathers prepared clause 6 of Article I they provided merely the limitation that a Member could not be questioned elsewhere for any speech or words uttered in debate upon the floor of the House of Representatives, and the Supreme Court of the United States has interpreted that to mean that a man could not be made to answer in court for words so uttered.

Mr. Speaker, the decisions of the privy counsel are contrary to the statement made by the chairman of the committee. In recent years that court has not given support to this ancient assumption of authority by Parliament. In Stockdale against Hansard, rendered in 1843, the privy counsel of Great Britain said that the power of Parliament to punish for contempt was not unlimited. It had assumed up to that time the omnipotent power that Blackstone described in his apostrophe to Parliament, but in the case of Stockdale against Hansard the unlimited authority to punish for contempt was specifically denied.

Now, upon the question as to what we are proceeding to do here: Without a law we are making one after the fact—after the assault in Farragut Square. There is no special punishment fixed by Congress or any other power for making an assault upon a Member of Congress, so we are passing a special law to cover that omission, not only of the Constitution, but of the Congress itself. We have power to legislate for the District and have legislated. We have covered cases of assaults. We have provided in the case of assaults in the District of Columbia as follows:

Whoever unlawfully assaults or threatens another in a menacing manner shall be fined not more than \$500 or be imprisoned not more than 12 months, or both.

So we are not without a law. We have made this law for any man who may chance to be within the confines of this District, for the protection of all, for the punishment of all. We did not say, "This law applies in all cases except in the case of an assault upon a Member of Congress." If we had said so, the law would have been unconstitutional. We have never undertaken to define it as a special offense against the law of this land to commit an assault upon the President of the United States, the Chief Justice of the Supreme Court, any Senator or any Member of the House. We could not do that if we would by the joint action of the Members of both branches of Congress and the approval of the President, and much less are we able to do so by adopting this resolution. We are attempting by the adoption of this resolution to do what the Congress of the United States with the consent of the President could not do—make it a special offense to commit an assault upon a Member of Congress out of the presence of Congress.

Why, the matter was considered—

Mr. MURRAY of Oklahoma. Will the gentleman yield for a question?

Mr. CAMPBELL. I would rather not yield.

Twelve years ago many bills were introduced in the House and in the Senate to make it an especial crime to assault or assassinate the President of the United States or the Vice Presi-

dent or anyone succeeding to that high office. The question was discussed in both ends of the Capitol. It was discussed from the pulpit; it was discussed in the press; it was discussed everywhere throughout the country; but, after mature deliberation, Congress in both of its branches came to the conclusion that it was not wise to single out even the President of the United States, or any man who might rightfully succeed to that high office, and give him the special protection of a special law, making it a special crime to commit an assault upon his person. Evidently Congress remembered that provision of our ancient guaranty of equal protection that has surrounded the citizens of this Republic from the day of its foundation, which grants to everyone the equal protection of the law and gives no one special protection.

Now, Mr. Speaker, speaking of the power of Congress to proceed without limitation, of the power to punish for contempt, the Supreme Court of the United States in *Kilbourn vs. Thompson* has followed the judgments of the recent decisions of the privy council. The ancient traditions that preceded and immediately followed the dictum of Lord Ellenborough, in *Burdette* against *Abbott*, in 1811, are no longer followed. We do not go to that remote past for authority for our action in matters to-day.

The world has been making some progress since then toward the equality of man and the right of every citizen to the equal protection of the law, denying also the right of the exercise of more than the authorized powers by any branch of the Government—we, the Legislature; yonder the Supreme Court, and yonder the Executive. We have our functions to perform and they are not judicial.

The case of *Burdette* against *Abbott*, decided by Lord Ellenborough in 1811, took the position, as stated by the gentleman from West Virginia [Mr. DAVIS], that Parliament had the inherent power, of necessity, to proceed without limitation in the matter of punishment for contempt of its dignity or authority. This case was followed by Justice Baron Parke, in 1836, in the case of *Beaumont* against *Barrett*. He followed the dictum of Lord Ellenborough in the *Burdette* case, and held:

The power of punishing contempts is inherent in every assembly possessing a supreme legislative authority, whether they are such as tend indirectly to obstruct their proceedings or directly to bring their authority into contempt.

In 1842 the case of *Kielley* against *Carson* was tried in the privy council, and the decision was rendered by the same eminent jurist. The case of *Kielley* against *Carson* was twice argued, and the last time before one of the greatest arrays of legal talent Anglo-Saxon jurisprudence has ever known at the same time. After the last argument Mr. Justice Baron Parke reversed the decision in *Beaumont* against *Barrett* and said that that latter decision was rendered upon the dictum of Lord Ellenborough, and that the case was decided immediately after the conclusion of the argument, and that it was not well considered, and then proceeded to analyze the rights of legislative bodies to try men charged for offenses committed outside of their presence after the fact. It will be interesting, therefore, to know some of the things that that eminent jurist gave utterance to upon this very vital question. He said, among other things:

But the power of punishing anyone for past misconduct as a contempt of its authority and adjudicating upon the fact of such contempt and the measure of punishment as a judicial body irresponsible to the party accused, whatever the real facts may be, is of a very different character and by no means essentially necessary for the exercise of its functions by a local legislature, whether representative or not.

The case of *Kielley* against *Carson* was a case of an assault upon a member by the name of Kent, of the Newfoundland Legislature, similar to the assault in this case. *Kielley* was punished: he was imprisoned; and brought his action against *Carson*, the sergeant at arms. The case was tried. The highest court in Newfoundland found against *Kielley*. The case was appealed to the privy council and was argued and reargued, as I have stated, and after exhaustive arguments the opinion held that the inherent right—the constitutional power—of punishing after the fact did not inhere in a legislative body.

Mr. DAVIS of West Virginia. Mr. Speaker, will the gentleman permit a question?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. CAMPBELL. Yes.

Mr. DAVIS of West Virginia. Is it not a fact that that case was decided with reference to the power to punish, the legislature being that of the Province of Newfoundland?

Mr. CAMPBELL. Yes; it was the supreme legislative body of Newfoundland.

Mr. DAVIS of West Virginia. And is it not a fact that it differentiated in that particular from legislative bodies in general?

Mr. CAMPBELL. The court merely differentiated that legislative body from the British Parliament and not from legisla-

tive bodies in general. It simply said it was not like the British Parliament, which anciently had the authority to punish for contempt, which, under the *lex et consuetudo parliamenti*, exercised the power to punish for contempt. The opinion proceeds:

All these functions may well be performed without this extraordinary power—

That is, referring to the legislative functions—and with the aid of the ordinary tribunals to investigate and punish contemptuous insults and interruptions.

We have had paraded here to-day all sorts of possible invasions upon the privileges of Congress; we have had Congress threatened with invasion from this quarter and that, destroying the liberty, the conscience, the right of the Members to speak without interruption, without fear, if you please. It was argued, therefore, that the power of punishing for contempt is necessary for our own preservation. The fact that we have the protection of the courts that we ourselves have created has been ignored. We have the protection of the laws that we ourselves have made. If they are sufficient for the rest of mankind, they should be good enough for us. If they are not sufficient, it is within our power to amend them and to add the necessary additional protection.

Mr. Justice Baron Parke, continuing his opinion in *Kielley* against *Carson*, said:

It is said, however, that this power belongs to the House of Commons in England; and this, it is contended, confers authority for holding that it belongs as a legal incident, by the common law, to an assembly with analogous functions. But the reason why the House of Commons has this power is not because it is a representative body with legislative functions, but by virtue of ancient usage and prescription; the *lex et consuetudo parliamenti*, which forms a part of the common law of the land, and according to which the high court of Parliament, before its division, and the Houses of Lords and Commons since, are invested with many peculiar privileges, that of punishing for contempt being one.

Construing this question, he said in that case:

There is no decision of a court of justice nor other authority in favor of the right, except that of the case of *Beaumont v. Barrett* (1 Moo. P. C. 59), decided by the judicial committee, the members present being Lord Brougham, Mr. Justice Bosanquet, Mr. Justice Erskine, and myself. Their lordships do not consider that case as one by which they ought to be bound on deciding the present question. The opinion of their lordships, delivered by myself, immediately after the argument was closed, though it clearly expressed that the power was incidental to every legislative assembly, was not the only ground on which that judgment was rested, and therefore was in some degree extrajudicial; but, besides, it was stated to be and was founded entirely on the dictum of Lord Ellenborough in *Burdette v. Abbott* (14 East, 137), which dictum we all think can not be taken as an authority for the abstract proposition that every legislative body has the power of committing for contempt. The observation was made by his lordship with reference to the peculiar powers of Parliament, and ought not, we all think, to be extended any further.

We all therefore think that the opinion expressed by myself in the case of *Beaumont v. Barrett* (1 Moo. P. C. 59) ought not to affect our decision in the present case, and there being no other authority on the subject, we decide according to the principle of the common law, that the house of assembly have not the power contended for. They are a local legislature, with every power reasonably necessary for the proper exercise of their functions and duties, but they have not what they have erroneously supposed themselves to possess—the same exclusive privileges which the ancient law of England has annexed to the House of Parliament.

Do we possess an inherited power of trying a lawsuit in this body? Whence the authority? It was not granted by the Constitution, nor yet by the people. These are grants that were withheld from us. They belong yet to the people.

The question, however, of authority to punish for contempt has been elaborately argued by Mr. Justice Miller in the case of *Kilbourn* against *Thompson*, and I beg to take issue with the distinguished gentleman from West Virginia [Mr. DAVIS] in his conclusion as to the authority of that case upon this important question. The decision, the burden of the decision, is upon the authority of Congress as a Congress to try judicial questions. After commenting upon the case of *Anderson* against *Dunn*, which in specific language this decision modifies if, indeed, it does not reverse, it says:

We must therefore hold, notwithstanding what is said in the case of *Anderson v. Dunn*, that the resolution of the House of Representatives finding *Kilbourn* guilty of contempt and the warrant of its Speaker for his commitment to prison are not conclusive in this case, and the facts are no justification, because, as the whole plea shows, the House was without authority in the matter.

The powers of Congress itself, when acting through the concurrence of both branches, are dependent solely on the Constitution. Such as are not conferred by that instrument, either expressly or by fair implication from what is granted, are "reserved to the States respectively, or to the people." Of course, neither branch of Congress, when acting separately, can lawfully exercise more power than is conferred by the Constitution on the whole body, except in the few instances where authority is conferred on either House separately, as in the case of impeachments. No general power of inflicting punishment by the Congress of the United States is found in that instrument. It contains in the provision that no "person shall be deprived of life, liberty, or property without due process of law," the strongest implication against punishment by order of the legislative body. It has been repeatedly decided by this court, and by others of the highest authority, that this

means a trial in which the rights of the party shall be decided by a tribunal appointed by law, which tribunal is to be governed by rules of law previously established.

What law has been "previously established" for the government of the judicial body that you propose to create by this resolution? None. You will prescribe that after you have converted this body into a police court.

Continuing the court said:

An act of Congress which proposed to adjudge a man guilty of a crime and inflict the punishment would be conceded by all thinking men to be unauthorized by anything in the Constitution. That instrument, however, is not wholly silent as to the authority of the separate branches of Congress to inflict punishment. It authorizes each House to punish its own members. By the second clause of the fifth section of the first article, "Each House may determine the rules of its proceedings."

This case modified the dictum in the case of Anderson against Dunn, following the dictum of Lord Ellenborough in Burdette against Abbott. The case of Kilbourn against Thompson has not been modified by any decision since.

The general trend of public thought, the general trend of the world's great political movements, has been in the opposite direction from the power contended for in this resolution. It has been toward the taking away of assumed authority. It has been toward the taking away of assumed dignity. It has been toward the elevation of the citizen, rather than the granting of power for his degradation. Every movement in the last quarter of a century, and especially in the last decade, has been against the assumption of unusual authority that would lead to the infliction of unusual punishments upon any citizen for any cause.

The authority that we are assuming to exercise here to-day is the ancient authority of the Parliament of Great Britain. Is there a man here who will go back a century of time and plead before any forum in this Republic the practices and the traditions of the British Empire a century ago for his action here to-day? And yet that is exactly what you are doing in proposing the adoption of this resolution, making this body—a purely legislative body, one branch only of the Congress of the United States—a body with unlimited judicial power in a given case, granted by the House to itself without the warrant or authority of the Constitution.

I challenge any man upon this floor or elsewhere to point to a single provision of the Constitution that grants the authority that we are exercising here to-day of inflicting punishment upon a citizen for an offense committed outside of the presence of the House upon one of its Members.

Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore (Mr. CLAYTON). The gentleman has eight minutes remaining.

Mr. CAMPBELL. We may pause at this point to see just how much too far we are pressing our authority, how much too far we are asserting our dignity, how much above the rest of mankind we are elevating ourselves, how much we claim for ourselves that we deny to other men. Anciently the Parliament of Great Britain claimed many privileges and immunities that were denied to other citizens. But the time has passed even in Great Britain when the ancient privileges and immunities and powers of Parliament are conceded by the people. I have here a book that I have had in my library for many years—The Mother of Parliaments. I find this:

The jealous care with which Parliament guarded its rights in olden days often threatened to bring the very name of privilege into contempt. The Commons especially acquired the pernicious habit of voting that whatsoever displeased them was an insult to Parliament—

That is what we are doing here—

requiring instant and drastic punishment. Books or sermons which criticized or reflected upon the doings of either House were condemned wholesale, confiscated, and publicly burnt by the common hangman; authors or preachers were imprisoned and otherwise penalized. "The Parliament men are as great princes as any in the world," says Selden, "when whatsoever they please is privilege of Parliament; no man must know the number of their privileges, and whatsoever they dislike is breach of privilege."

How is it to-day? Stockdale against Hansard decided that there are limitations to the powers and the privileges of Parliament. It may not imprison a man for contempt of its authority in all cases, as of old, and its public printer must respond in damages for publishing a defamatory article even when published by order of Parliament.

Further, from the Mother of Parliaments:

Impeachment, imprisonment, fines, confiscation of property, or committal to the Tower were among the penalties meted out with a lavish hand to all who gave offense to the Commons.

The most trivial faults, the most innocent acts were, from time to time, contempts of Parliament, and the offenders chastised with a barbarity which was out of all proportion to the nature of their misdeeds. So harmless an offense as crowding or jostling against a member of Parliament was at one time considered a crime.

Mr. Speaker, we are not so much above the rest of mankind after all. We are here in a representative capacity and bring a limited authority from the people with us.

I listened this morning to the solemn oath administered to a Member of this House. He declared in the presence of all mankind and Almighty God that he would support the Constitution of the United States; and yet within to-day's session he is asked to overstep that Constitution and convert one branch of Congress into a judicial body—convert it into a trial court to try a question after the fact touching the guilt or innocence of a private citizen.

Mr. Jefferson—and I shall conclude with that great authority—appealed to the Congress of the United States to restrain itself upon this very question. After marshaling the claims for inherent right and of necessity to punish for breach of privileges or dignity, together with the contentions against the exercise of that power, Mr. Jefferson says in his Manual:

But if one branch may assume its own privileges without control, if it may do it on the spur of the occasion, conceal the law in its own breast, and, after the fact committed, make its sentence both the law and the judgment on that fact; if the offense is to be kept undefined and to be declared only *ex re nata*, and according to the passions of the moment, and there be no limitation either in the manner or measure of the punishment, the condition of the citizen will be perilous indeed.

Perhaps Congress in the meantime, in their care for the safety of the citizen, as well as that for their own protection, may declare by law what is necessary and proper to enable them to carry into execution the powers vested in them, and thereby hang up a rule for the inspection of all, which may direct the conduct of the citizen, and at the same time test the judgments they shall themselves pronounce in their own case.

We have not defined either by rule or law the power we are asked to assume to-day, and until we have done this it ill becomes this great parliament of a free people to exercise such a power.

My brethren, we must protect the privileges, dignity, and authority of this House. We can do so in no better way than by not inviting the contempt of the public upon the privileges, dignity, and authority of this great body by assuming power beyond the limitations of the Constitution, to punish a citizen for an offense that is unknown to the law of the land. [Applause.]

Mr. DAVIS of West Virginia. Mr. Speaker, I yield 40 minutes to the gentleman from Maryland [Mr. COVINGTON].

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

Mr. MANN. Mr. Speaker, I yield 30 minutes to the gentleman from Iowa [Mr. PROUTY].

Mr. PROUTY. Mr. Speaker, we are here at this time to consider and determine, if we may, a grave and important question. It is not a question whether or not the controversy between Mr. SIMS and Mr. Glover created a sufficient cause or provocation on the part of Mr. Glover to make an assault. We are not to discuss or determine the question as to whether or not the things said of and concerning Mr. Glover by Mr. SIMS are true or false. We are here to settle and determine, if we can, the great question as to whether or not under the Constitution of the United States this body is clothed with power to protect itself against contempt, whether it has power to punish those that undertake to transgress the high privileges of this branch of Congress.

At the very inception of the investigation on the part of the committee we notified Mr. Glover of our desire to have his presence and such testimony as he saw fit to offer, and in response to our request he communicated to us by letter, in which he says:

The preamble of the resolution sets forth with substantial accuracy the facts of the incidents therein referred to.

In that resolution it was alleged and set out that Mr. Glover had made an attack upon Mr. SIMS for and on account of words spoken by Mr. SIMS upon the floor of this House. After having admitted these two fundamental facts, namely, that the assault had been made and that it had been made expressly on account of words spoken in this House, Mr. Glover proceeds to challenge in a courteous way the power and jurisdiction of this House to punish him for this act. He says:

Though advised that under any fair and reasonable interpretation of the conclusions announced by the Supreme Court of the United States in the case of Kilbourn v. Thompson (103 U. S. 168) the House of Representatives is without jurisdiction to pursue this inquiry and to take the action foreshadowed by the resolution in question, I have determined, as the result of personal reflection, to disregard this advice for the moment, reserving, however, the right to avail myself of the benefits thereof if it should at any time become necessary so to do.

Confronted by that frank statement, this committee gave its careful, considerate, and I might say judicial, consideration to the grave and important question as to whether or not there is under the nature of our Constitution power vested in the House of Representatives as a whole to protect itself and its Members from assault. In the consideration of that question it was

somewhat assigned to me to review and examine carefully the judicial decisions on this question. I shall confine myself in the discussion that I make to the one single constitutional question as to whether or not there is inherent power as determined by the courts of the United States lodged in this body to punish for contempt.

It is conceded by everybody, it is conceded by every court that has passed upon this question, that there is no express power in the Constitution given the House of Representatives to punish for contempt. I might say that it is conceded by everybody who has examined the question that there is in the Constitution no express power giving to the courts jurisdiction to punish for contempt of their authority.

It has been held, however, in every court of the land that has ever considered this question, in England and in this country, in State and Federal courts, that courts have the implied power—a power that grows out of their very office, grows out of the dignity of their jurisdiction—to determine and punish for contempt of the court.

Now, the clear-cut question is this: Has Congress, one of the coordinate branches of this Government, the same implied and necessary power to protect itself?

The first time that this question ever came before the Supreme Court of the United States was in the case of Anderson against Dunn. That case was one in which a certain person had offered a bribe to a Member of Congress. When the matter was brought before the House the same question was raised then that is raised now, and while entertaining the profoundest respect for the gentleman from Kansas [Mr. CAMPBELL], who argued the question here on the other side to-day, I feel that I am expressing no discourtesy when I say that gentlemen at that time expressed every argument that he has expressed, and I perhaps would not be going too far in saying that they expressed them with much greater cogency, clearness, and accuracy than did the gentleman from Kansas, who argued that side of the controversy. Notwithstanding the able arguments and all the arguments that are offered here to-day, the House by an overwhelming majority, as I remember, 4 to 1, decided the proposition that they had the power to punish for contempt, although it will be noted the contempt was not committed in the presence of the House.

Mr. CAMPBELL. Mr. Speaker, will the gentleman yield?

Mr. PROUTY. Mr. Speaker, just let me inquire if there is any time on the other side of the House that I can have, if I yield at this time.

Mr. DAVIS of West Virginia. How much time does the gentleman want in addition?

Mr. PROUTY. I can not tell, until I see how much time these other things take.

Mr. DAVIS of West Virginia. I think I can yield the gentleman some time.

Mr. PROUTY. Then, Mr. Speaker, I yield.

Mr. CAMPBELL. Mr. Speaker, does the gentleman from Iowa say that the House acts judicially when it votes on a resolution of this kind?

Mr. PROUTY. Not exactly judicially. I have not said that. The courts act judicially in protecting their power, and this body acts in accordance with its power and not as a judicial body. It acts as one of the great sovereign, independent departments of this Government in exercising those rights that are necessary for its preservation, and not the preservation of the courts.

Mr. CAMPBELL. Will the gentleman yield further?

Mr. PROUTY. Certainly.

Mr. CAMPBELL. And in passing upon a judicial question, a question of fact and a question of law, does it not become necessary for the House to act in a judicial capacity?

Mr. PROUTY. In a sense, in a judicial capacity, of course. Nobody can determine a question of fact unless he determines it at least with a judicial mind.

Mr. CAMPBELL. The gentleman cited the vote in the House of Representatives on resolutions of this kind as a precedent or as an authority for acting upon these resolutions.

Mr. PROUTY. Mr. Speaker, the gentleman will pardon me, but I did not yield for an argument. This is what I said, and I will repeat it, that this House in that case decided that it had the power. I did not say it was a judicial opinion from which an appeal might be taken to the Supreme Court of the United States, but I do say that the House in a clearly defined and in a better argued case than has been argued here to-day on either side—that is generous enough I am sure—after argument decided that it had the power. That case was taken to the Supreme Court of the United States, the case of Anderson against Dunn, and there every argument was presented to the Supreme Court that has been presented by my good friend here

to-day, and after full and complete discussion, every phase that has been suggested here by my friend was gone into and repudiated and refuted by the learned judge who wrote that opinion. I will not read the case in full, but here is what the court says:

It is certainly true that there is no power given by the Constitution to either House to punish for contempt except when committed by their own Members, nor does the judicial nor criminal power given to the United States in part expressly extend to the infliction of punishment for contempt of either House or any coordinate branch of the Government. Shall we, therefore, decide that no such power exists? It is true that such a power, if it exists, must be derived from implication, and the genius and spirit of our institutions are hostile to the exercise of implied powers. Had the faculties of man been competent to the framing of a system of government which would have left nothing to implication, it can not be doubted that the effort would have been made by the framers of the Constitution. But what is the fact? There is not in the whole of that admirable instrument a grant of powers which does not draw after it others not expressed, but vital to their exercise; not substantive and independent, indeed, but auxiliary and subordinate.

But if there is one maxim which necessarily rides over all others in the practical application of government, it is that the public functionaries must be left at liberty to exercise the power which the people have intrusted to them. The interest and dignity of those who created them require the exertion of the powers indispensable to the attainment of their creation. No reason can be urged against the exercise of such power. The wretch beneath the gallows may repine at the fate which awaits him, and yet it is no less certain that the laws under which he suffers were made for his security.

The unreasonable murmurs of individuals against the restraints of society have a direct tendency to produce that worst of all despotisms which makes every individual the tyrant over his neighbor's rights. "The safety of the people is the supreme law" not only comports with but is indispensable to the exercise of those powers in their public functionaries, without which that safety can not be guarded. On this principle it is that courts of justice are universally acknowledged to be vested, by their very creation, with power to impose silence, respect, and decorum in their presence and submission to their lawful mandates, and, as a corollary to this proposition, to preserve themselves and their officers from the approach and insults of pollution. It is true that the courts of justice of the United States are vested, by express statute provision, with power to fine and imprison for contempt; but it does not follow, from this circumstance, that they would not have exercised that power without the aid of the statute or not in cases, if such should occur, to which such statute provision may not extend. On the contrary, it is a legislative assertion of this right as incidental to a grant of judicial power, and can only be considered either as an instance of abundant caution or a legislative declaration that the power of punishing for contempt shall not extend beyond its known and acknowledged limit of fine and imprisonment.

Now, I call the special attention of the gentleman from Kansas to this:

But it is contended that if this power in the House of Representatives is to be asserted on the plea of necessity, the ground is too broad and the result too indefinite; that the Executive and every coordinate, and even subordinate, branch of the Government may resort to the same justification, and the whole assume to themselves in the exercise of this power the most tyrannical licentiousness.

This is unquestionably an evil to be guarded against, and if the doctrine may be pushed to that extent it must be a bad doctrine and is justly denounced.

But what is the alternative? The argument obviously leads to the total annihilation of the power of the House of Representatives to guard itself from contempts and leaves it exposed to every indignity and interruption that rudeness, caprice, or even conspiracy, may meditate against it. This result is fraught with too much absurdity not to bring into doubt the soundness of any argument from which it is derived. That a deliberative assembly, clothed with the majesty of the people and charged with the care of all that is dear to them, composed of the most distinguished citizens, selected and drawn together from every quarter of the great Nation, whose deliberations are required by public opinion to be conducted under the eye of the public and whose decisions must be clothed with all that sanctity which unlimited confidence in their wisdom and purity can inspire—that such an assembly should not possess the power to suppress rudeness or repel insults is a supposition too wild to be suggested.

That decision has been in the books of the United States Supreme Court for something over half a century. It is found in Sixth Wheaton, page 228. There is only one case that seems to call in question the doctrine clearly announced and laid down in this case, and that is the case of Kilbourn against Thompson, referred to by Mr. Glover in his letter and referred to here by the gentleman from Kansas [Mr. CAMPBELL]. Now, to reach that case casually, as I fear my friend has, one would reach the conclusion that it had overruled the fundamental principle announced by the Supreme Court in the case of Anderson against Dunn. But if he will take the pains to read that case carefully, and reread it, as I have many times, he will find that, while the court does indulge in much dictum that is not in accordance with the line of argument in the Anderson case, yet, when it finally comes up to the question, it then frankly says they do not pass upon the question. I read a small section from the case of Kilbourn against Thompson, found in One hundred and third United States Reports, on page 189, the same case which was called to your attention by the gentleman from Kansas [Mr. CAMPBELL]. Now, after having spent four or five pages discussing the question we have been discussing here to-day, the court says as follows:

We are of opinion that the right of the House of Representatives to punish the citizen for a contempt of its authority or a breach of its privileges can derive no support from the precedents and practices of the two Houses of the English Parliament, nor from the adjudged cases

in which the English courts have upheld these practices. Nor, taking what has fallen from the English judges, and especially the later cases, on which we have just commented, is much aid given to the doctrine that this power exists as one necessary to enable either House of Congress to exercise successfully their function of legislation.

This latter proposition is one which we do not propose to decide in the present case, because we are able to decide it without passing upon the existence or nonexistence of such a power in aid of the legislative function.

The court goes ahead and discusses the express powers of the Constitution as to Congress, and winds up with this statement:

Whether the power of punishment in either House by fine or imprisonment goes beyond this or not, we are sure that no person can be punished for contumacy as a witness before either House, unless his testimony is required in a matter into which that House has jurisdiction to inquire, and we feel equally sure that neither of these bodies possesses the general power of making inquiry into the private affairs of the citizen.

That was the point upon which that case was decided. As has been called to your attention by my colleagues, that was a case where the witness had refused to answer a question as to his private business, and the Supreme Court held that if it was a case where Congress undertook to inquire into private business, that was beyond the power of Congress, because such a right of privacy was protected by another provision of the Constitution.

But I assert now without fear of contradiction that there has never dropped from the pen of any judge, either in the Supreme Court or district court or in any State court of the United States the proposition for which my friend is contending, namely, that Congress has no inherent power to punish for contempt. These two cases have been referred to only once since, and that was in the case of *Re Chapman*, in which the court especially calls attention to the fact that in this *Kilbourn* case the question that they decided was the one that I have just now announced, namely, that Congress has no power to punish for contempt a man who refuses to answer a question that Congress has no right to ask him. And in that same opinion, as has been called to your attention in two separate places, the Supreme Court of the United States said that there is no question but that the Congress of the United States has the power to punish for contempt. That was the case where they tested the constitutionality of a law to punish for contempt. As I said, that is the last time that it has appeared in the court, so far as the Supreme Court is concerned. It has appeared, however, once since that in the Court of Appeals in the District of Columbia, in which it was clearly and unequivocally asserted that that was an inherent power vested in Congress, and it could not, even if it desired, divest itself of that authority.

Now, as I intimated in my remarks at the start, this is not a new question, and that every phase that has been here discussed has been discussed by Congress before. The gentleman from Kansas [Mr. CAMPBELL] made as the basis of his argument the proposition that a crime could not be punished until it was first defined and its punishment provided for. In other words, that we must create a crime by law.

I think, if the gentleman will reflect a minute, he will detect the absurdity of that proposition. There never has been any law, to my knowledge, in any State or in the United States defining just what contempt is. From the very nature of the thing, it is impossible. It may grow up in so many and so diversified situations and conditions that you could not possibly anticipate it by legislation. No court has ever undertaken to define and set down rules for its determination. Suppose, to illustrate what I mean, a man would walk up to a judge on the bench and spit in his face. Then the fellow would employ my good friend from Kansas [Mr. CAMPBELL] to defend him; and he would look through his statute books and would say: "I do not find anything in the statute books about spitting in a judge's face. Therefore he must go free, because no law has been made to meet such a case or punishment provided." This Congress had that proposition up once. It was once undertaken, and after an exhaustive discussion and consideration of the question they found it was impossible in the statute to define contempt. Contempt is anything that strikes at the authority or power or dignity or freedom of the tribunal, and it may be exercised by all the varied acts that human ingenuity can meditate or think about.

Now, the next thing the gentleman from Kansas [Mr. CAMPBELL] says is that he ought to be tried by a jury; that under our great free institutions every man is entitled to a trial by jury. Now, the gentleman is too good a lawyer to say that. There never was a contempt case until the recent act of Congress ever tried by a jury. It is one of the powers of the court to determine the facts and prescribe the punishment. It must be so, from the very nature of things.

Mr. CAMPBELL. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore (Mr. Moon). Does the gentleman yield?

Mr. PROUTY. With pleasure.

Mr. CAMPBELL. The gentleman concedes that the modern trend of thought led this Congress to pass a law giving the citizen the right of a trial by jury even in a contempt case?

Mr. PROUTY. Not in all contempt cases; only in certain contempt cases where the question of fact was involved.

Mr. CAMPBELL. Certainly.

Mr. PROUTY. But here the facts are admitted. There is no question of fact to be determined here. It is for us to determine the law; and, as I understand my good friend here now, he would have a jury called to determine the question of facts, when Mr. Glover himself admits the facts.

Now, think of that absurdity for a moment. You must sometimes consider what might happen in order to determine the powers that are necessary to prevent it. Suppose that this Congress should pass some law that was so obnoxious to the people in the District of Columbia that they would undertake to mob Congress. Supposing we should pass a law—for instance, an excise law or a law abolishing the half-and-half principle in the District—upon which these people would become so indignant that they would undertake to punish every man who spoke for it or voted for it on the floor of this House. Suppose we marched down here and they jumped on us and pounded us and beat us and assaulted us. My friend would say, "Your only remedy is to go down here to the police court, file an information, and call for a jury composed of the same men, surrounded by the same influences, aroused by the same situation, and call upon them to pass upon the question of the guilt or innocence of the fellows who have committed the assault."

Mr. CAMPBELL. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. Does the gentleman from Iowa yield to the gentleman from Kansas?

Mr. PROUTY. Yes.

Mr. CAMPBELL. In what respect would that differ from permitting the man who was assaulted to be the court and jury to try the man who committed the assault?

Mr. PROUTY. As I say, the court does pass upon it. But—

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

Mr. PROUTY. Will the gentleman from Illinois [Mr. MANN] give me some more time?

Mr. MANN. How much time does the gentleman desire?

Mr. PROUTY. Fifteen minutes.

Mr. MANN. Mr. Speaker, I yield to the gentleman 15 minutes more.

Mr. PROUTY. Just think for a moment, gentlemen, where the doctrine of the gentleman from Kansas [Mr. CAMPBELL] would lead us to. Under the Constitution a Member of Congress is not to be called to account for any of the things that he says on the floor of this House, and yet under the gentleman's application of that splendid protection that has been thrown around the sacredness of speech here a man attacks the gentleman upon the street for what he has said here, and he has no other right, no other power for his protection than is given to the hobo. The gentleman would simply have the right to file an information for assault and battery, and the humblest negro or the most vagrant hobo in this town has all of that right.

What did the Constitution intend to do when it said that no man should be called on or questioned for what he says upon the floor of this House at any other place? Why, my friend says, "There is ample protection and enforcement of that provision by filing an information in the police court and having the other fellow fined a few dollars."

Why, that is the right and the protection that the humblest citizen has, independent of this Constitution. I would like also to call the attention of the Members of Congress to this point, and it is one that has entered into my mind quite fully: What court, what power, can enforce this provision of the Constitution?

Mr. CAMPBELL. Mr. Speaker, will the gentleman yield for a question?

Mr. PROUTY. With pleasure.

Mr. CAMPBELL. In what respect would a fine or a term of imprisonment imposed by the courts that we have constituted here in the District differ from either a fine or a term of imprisonment imposed by such a court as we might create out of Congress by the resolution of the House?

Mr. PROUTY. The difference is this: The courts have no power to limit or to gauge the punishment under this constitutional provision. Let us be frank about it. Suppose we were filing an information against a man down here for assaulting the gentleman for a speech made in this House. Suppose the gentleman should say he is a Member of Congress, and that for what he should say as a Member of Congress is not to be ques-

tioned in any place, and therefore the courts must determine the amount of punishment that should be meted out to the offender. Its mere statement shows its folly. You could not go into court and plead that proposition. I repeat that if this House has not the power to enforce that constitutional provision, there is nowhere vested in any court any power to enforce it or preserve it.

There is one other thought that I wish to call to the attention of this House. Several times it has been hinted at and intimated that this is a trivial matter that never ought to have been brought to this House—that it ought to have been settled in the police court or settled on the spot. If any of you have taken the pains to read the testimony in this case, you have found that Mr. Glover on more than one occasion said that if it was not for the dueling laws of Congress he would challenge this man to mortal combat. And if it had not been for a law that this Congress saw fit to put upon the statute books many years ago, it is more than probable, from the disposition shown by the respondent in this case, that we would here to-day be considering a case of homicide and not one of simple assault.

Mr. CAMPBELL. Would we have the right to try a case of homicide?

Mr. PROUTY. We would have the right to try a man for dueling, as I interpret the law. Yes; we would have a right to try a man for any insult that he offered to the Members of Congress for things that they said upon the floor. You would say, of course, that notwithstanding he had shot down Mr. SIMS upon the spot for words that he said upon this floor, there is no power in this House to punish him for contempt; and as I have called attention to before, very often, the situation in this town might have been such, there might have been such an inflaming of public sentiment as would have made it impossible to convict Mr. Glover by a jury of his peers, and therefore he would have gone unpunished for committing one of the gravest crimes against the dignity and power of the United States Congress.

Mr. CAMPBELL. Will the gentleman yield further?

Mr. PROUTY. Certainly.

Mr. CAMPBELL. Suppose the President of the United States had signed that law that was so offensive to the people of the District of Columbia, and that they should take their vengeance upon him. Is there any special crime for assassinating the President of the United States?

Mr. PROUTY. No; because there is nothing in the Constitution that says the President shall not be called in question for anything that he says. It is not supposed that the President will do much talking, although that has been violated considerably recently. [Laughter.] Everybody knows that as a fundamental principle of a republican form of government all men who make laws must be at liberty to discuss policies, measures, and men freely, untrammelled, without any fear of being called in question by the slugger upon the streets. [Applause.]

I yield back the remainder of my time.

Mr. MANN. How much time does the gentleman yield back?

Mr. PROUTY. Whatever I have.

The SPEAKER pro tempore (Mr. Moon). The gentleman yields back nine minutes.

Mr. MANN. I yield to the gentleman from Wisconsin [Mr. NELSON] 20 minutes. [Applause.]

Mr. NELSON. Mr. Speaker, having served with the gentleman from Kansas [Mr. CAMPBELL] in this House for a number of years, I, of course, know that he is a very able and astute lawyer; but if he has made good to-day in his constitutional argument he is the ablest constitutional lawyer this country has ever known. This follows because he has challenged—and I presume to his satisfaction has overthrown—the position taken by Chief Justice John Marshall on the implied powers of Congress, and specifically the position taken by him in the Anderson-Dunn case. Marshall was in the consulting room and on the bench when that opinion was passed upon and delivered; and though penned by another, the brain of Marshall molded this decision. Not only that, but the gentleman from Kansas has overthrown Mr. Justice Story, who sat as associate justice in the Anderson case, and who as a commentator on the Constitution strongly argues for the powers which the gentleman from Kansas denies.

As has been shown by my colleagues on the committee, the gentleman from Kansas has challenged an array of legal luminaries on the Constitution. I am going to call attention to one or two only, because my time is limited.

What Judge PROUTY has said is true. The gentleman from Kansas has shrewdly marshaled those arguments that have been put forward by minority committee reports and by attorneys in the cases referred to, but all of them have been over-

ruled in both branches of Congress and by the decisions of the courts. He has not been able to produce a single case that sustains his point of view—not a single great authority on the Constitution.

In the case against Woods, where Mr. Bingham of Ohio, chairman of the Judiciary Committee, brought in the majority report, the House sentenced Mr. Woods to jail for three months because he had assaulted a Member of Congress, although in that case it is not entirely clear that he was assaulted in his official capacity, because the words spoken by him which induced the assault were uttered outside of the House.

Yet these able lawyers reported him guilty, and Mr. Bingham quotes in his argument Kent, Story, and Rowle, three of our most learned commentators on the Constitution, in support of the power of the House to punish an assault made upon a Member of the House as for contempt.

Now, I wish to read an interesting letter by the Attorney General of the United States, which is referred to by Mr. Bingham in the Woods case in 1870, although the letter was written in 1834. It is as follows:

ATTORNEY GENERAL'S OFFICE, June 25, 1834.

SIR: In answer to the question submitted to me on the memorial of Gen. Houston, who appears to have been indicted, convicted, and fined in the criminal court of this District for an assault on the person of a Member from the House of Representatives after having been previously punished by that House, for the same act, as a contempt and breach of privilege, I have the honor to state that, in my opinion, the proceedings of the House constituted no bar to the subsequent indictment and conviction. The fifth amendment to the Constitution of the United States, which provides that no person "shall be subject for the same offense to be twice put in jeopardy of life or limb," does not apply to cases of this sort. Courts and other bodies which have the power of punishing for contempts are invested with that power, and are supposed to employ it for the purpose of protecting themselves in the due exercise of their appropriate functions, and not for the purpose of vindicating the general law of the land, which may also have been violated by the same act. Technically, therefore, Gen. Houston has not been twice tried for the same offense. The act committed by him was one and the same, and it constituted but one indictable offense, and he was therefore liable to only one conviction on indictment. But if this act was also a breach of the privileges of the House of Representatives and a contempt of the House, they had a right to punish him for the contempt independently of the action of the criminal court, and so vice versa.

I am, sir, etc.,

B. F. BUTLER.

Then there is the more recent Chapman case, referred to frequently in this debate, which is another decision that is overturned by the great constitutional lawyer from Kansas. Who wrote this opinion? Chief Justice Fuller. Who sat on the bench and in the consulting room with him? Chief Justice, then Associate Justice, White. These jurists also go down before the onslaught of the gentleman from Kansas, for in that case the court directly held that the House "necessarily possesses the inherent power of self-protection," and asserts again and again that neither House of Congress can divest itself of the power to punish for contempt. The Attorney General's opinion just read is cited on the point that the assault constitutes two offenses—one against the House because of the violation of its inherent privileges, and the other against the individual assaulted, of which the courts of law have jurisdiction. Unquestionably, Mr. SIMS can have Mr. Glover prosecuted in the courts. But that is not our primary concern. The House has the constitutional right to protect a Member of this body, so that we do not have to appeal to a police court and be hampered in the discharge of our official duties every time an assault is made upon a Member of the House. Anyone can see plainly the reason why the House of Representatives must have the inherent right to punish for contempt.

But the report of the special committee was made so inclusive, and I believe conclusive, of the facts in the case, the precedents of both branches of Congress, the decisions of the courts, together with the reasons upon which these rest, that it would be wearisome repetition of authorities and arguments to go over them again in detail. I would rather take the time that is left to me to make some observations that may be of service to those who are most vitally concerned in this affair. I think it proper and right that I should express a personal thought, a sentiment, and a hope.

My thought is that up to the present moment the House of Representatives has acted in this case in a way that is entirely worthy of it—in a deliberate and dignified manner, which I am sure has commended itself to the membership of this House, to the people of this District and elsewhere, and will be approved by those who shall come after us when they shall have occasion to refer back to the precedent we are now making. The gentleman from Tennessee [Mr. GARRETT], with his usual tact and ability, instead of asking for summary action by the House, introduced a resolution calling for the appointment of a special committee to report and investigate, giving the committee authority, and clearly defining its duties. And the Speaker, with

his keen sense of the fitness of things and his thorough knowledge of the mental make-up of the older Members of the House, made no mistake in the appointment of the personnel of the committee save for one possible exception. I attribute my appointment to a generous friendship and good will, but it was singularly fortunate that the committee had the services of the former parliamentary expert of this body, Mr. CRISP, of Georgia, who gave the committee the benefit of his extended and reliable knowledge of parliamentary law, procedure, and precedents. We were also fortunate in having on that committee a gentleman who has had long experience on the bench, Mr. PROUTY, of Iowa, who reviewed thoroughly the decisions of the courts, and also such able lawyers, with keen analytical and logical minds, as J. HARRY COVINGTON, of Maryland, and JOHN W. DAVIS, of West Virginia, our chairman. Each member of the committee, feeling his responsibility to this House and his duty with reference to these two gentlemen, Mr. Glover and Mr. SIMS, divested himself of all bias and prejudice and independently made a survey of the entire field. When we came together we found ourselves in substantial agreement upon every proposition, which was fortunate, because it enabled us to make a unanimous report defining the rights of Members, the privileges of the House, and its power to punish for contempt.

I particularly wish to commend in this case the action of the gentleman from Tennessee [Mr. SIMS]. He did not bring this matter to the attention of the House, but when asked to come before the committee he did so and made a full, free, and frank statement of the facts, without any attempt to exaggerate or color them. Indeed, he rather minimized and deprecated the extent of the injury that he had suffered at the hands of Mr. Glover. I commend his course because it shows a high order of moral courage, not merely brute courage. The committee had special opportunity to learn the real facts.

It learned that Mr. Glover had permitted this controversy with Mr. SIMS to prey upon his mind. He had brooded over it, and if he was not beside himself, if he was not insane—I do not say that he was—yet he had permitted this matter to so strain his nervous tension that he had but little check upon his actions. Read the testimony of Mr. SIMS himself. Mr. SIMS is coming along, not thinking of danger. He had no hard feeling toward Mr. Glover. They had indulged in a controversy, as other men have upon this floor; but Members of the House have no lasting ill-will toward each other or toward other men with whom they differ. Suddenly some one, whom he found to be Mr. Glover, accosted him from behind and struck him. What impression did Mr. Glover make upon Mr. SIMS? I will quote passages from Mr. SIMS's testimony:

He had what I believed to be at the time, and so impressed me, an insane expression, a glare of the eyes, somewhat of a bluish pallor on the face.

Again:

He had an expression on his face which made me feel very apprehensive at the moment.

Again:

Because by that time I felt very apprehensive of an assault, but not an ordinary assault with the hand.

Again:

I was only watching his right hand and his right arm, with the only purpose which I arrived at coolly and deliberately, that if I saw his hand go toward his coat pocket or his trousers pocket to grab his arm. I had no other thought.

Again:

To be perfectly candid and clear about this matter, it was a very light stroke; and having come to the conclusion that I had come to, from his appearance, I regarded it as a provocative stroke, and I purposely and deliberately, for what I thought was my own best interest, declined to strike back or do anything that would justify an assault of the kind I felt from his appearance was intended.

Mr. GOOD. Mr. Chairman, will the gentleman yield?

Mr. NELSON. Yes.

Mr. GOOD. Did the committee come to any conclusion as to whether or not Mr. Glover was sane or insane at the time of this assault?

Mr. NELSON. No.

Mr. GOOD. If I understood the gentleman correctly, he is reading from the testimony to show that Mr. Glover had brooded over this matter to such an extent that he was deranged.

Mr. NELSON. I have given the gentleman my theory of his mental attitude. This is what Mr. SIMS testified was the impression that Mr. Glover made upon him.

Mr. GOOD. That is what I was trying to get at. The gentleman's conclusion was that he was rather unbalanced in mind at that time.

Mr. NELSON. I said I would not say that, but that he had reached a state of nervous tension where he had but little check on his own action.

Mr. GOOD. If that is the case, does the gentleman think this is a tribunal to try an insane man?

Mr. NELSON. I did not say he was insane. The gentleman is putting a forced construction on what I said.

Mr. GOOD. Does the gentleman think this is a tribunal to try a man whose mind is unbalanced by reason of his brooding upon a subject at any time?

Mr. NELSON. That is not an issue here, and that is not a matter of defense, and I decline to yield further.

Mr. JOHNSON of South Carolina. He is not pleading insanity. All men are presumed to be sane.

Mr. NELSON. What was in Mr. Glover's mind? The testimony of Hon. BEN JOHNSON shows that months previously he had expressed regret that there was a law against dueling. But for this law he would have challenged Mr. SIMS. For what purpose? Obviously he wished either to wound or to kill Mr. SIMS. And others have heard the same remark. In fact, within the personal knowledge of members of the committee he uttered the same words. It is also in the testimony that he said to a newspaper man that he was on the lookout for Mr. SIMS. Now, all I desire to bring out is that if Mr. SIMS had not acted with a high degree of moral courage and self-control—for he has those passions we all have—instead of the comedy that caused the man up the tree to laugh, a tragedy might have been enacted in Farragut Square. I have served with Mr. SIMS in this body for seven years. I have never known a more fearless fighter on the side of public welfare on every question than he. When I first came here Mr. SIMS was on the District Committee. He very soon won my confidence, because he frequently demonstrated that he possessed the moral courage to resist all forms of special and selfish interests of gentlemen in the city of Washington who had legislative schemes to put through, and courageously exposed them on this floor.

Mr. SIMS is entitled to the praise of his colleagues and the approval of his constituents for his self-control. Had he repelled the assault with a counterblow it might have given him some personal satisfaction but little honor, for it would have been reported in the newspapers and said throughout the country: "There is another Member of Congress, one of those fire eaters of the South, who has so far forgotten the dignity of his high office as to engage in a brawl with a citizen in a public place." The House would have hesitated to order an investigation in that event, because it would not have cared to wash dirty linen in public.

I want to say a word now for Mr. Glover in this matter. Mr. Glover is a man of high standing socially and financially in this city. Undoubtedly this controversy between him and Mr. SIMS had worked upon his mind. He felt that his reputation among his fellow citizens had been injured. Deeply resentful, he forgot himself and took the law in his own hands. But he has frankly avowed his fault. He has stated that he never intended to infringe upon the privileges of this House nor hold it in contempt. I believe, therefore, that when the time comes for us to pass sentence upon him we should not play the part of a Shylock and insist upon the full pound of flesh, but rather let the quality of mercy season our justice, for mercy gives justice a flavor that is pleasing to man and to his Maker. I hope the House will adopt this resolution, approving thereby the findings of the committee upon the rights of Members, the privileges of the House, and the power of the House to punish for contempt. If we adopt this resolution by a nearly unanimous vote, it will stand as a landmark for all time to come in our parliamentary and constitutional history. Let the Sergeant at Arms arrest Mr. Glover, let him be reprimanded by the Speaker, and then be discharged from custody. The House will thus conclude what it has begun in the right spirit. Vindictiveness will have had no part in its action. Its course will have been dictated alone by the patriotic purpose to maintain the rights of Members, and to protect the power, the dignity, the safety, and the integrity of the proceedings of the House of Representatives of the American people, in discharging its constitutional duties.

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

Mr. NELSON. Yes.

Mr. CAMPBELL. Does the gentleman from Wisconsin think that a reprimand from the House of Representatives is more of a deterrent to citizens in the future from an assault upon the Members of Congress than a possible fine of \$500 and languishing in the jail of the District of Columbia for a year, as the courts we have constituted are authorized to impose for assault?

Mr. NELSON. Answering the gentleman, I believe the present situation lends itself admirably to serving notice upon Mr. Glover, and every other person in this District, that under the Constitution we have the power and shall always reserve the

right to send any person to prison or to reprimand him, no matter how high he may stand socially and financially, when the privileges of the House have been invaded. The Member assaulted still has the right to go to the courts if he desires to do so.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. I yield the gentleman 10 minutes additional.

Mr. NELSON. As an individual citizen Mr. SIMS has the right to go to the courts of law, if he cares to do so, but the House is protecting him as an integral part of this body, and always will protect its Members when assaulted, harassed, or insulted in their official capacity, but as individuals they can also go to the courts of law for further redress.

Mr. DILLON. Mr. Speaker, I would like to ask the gentleman, in reference to this constitutional provision that a Member shall not be questioned for any speech or debate in any other place. Would you say that a speech that is made on the floor of this House could not be questioned at home, in the newspapers, or in the magazines?

Mr. NELSON. Not at all. The people have the right to question, in the sense of criticizing, provided that this does not directly interfere with the constitutional duty that you and I are here to discharge. Where there is something done that affects the integrity or the safety or the orderly discharge of our duties here, then the House has the right to act and to punish. An assault may keep a Member away from the House and may intimidate him, especially in a case like this, as Mr. Glover is still interested in park projects which will come before us; and if he or any other person may slap a Member in the face every time such private citizen disagrees with or is resentful of words spoken in debate, we shall not be safe in passing to and from this House or in the discharge of our public trust.

Mr. DILLON. The offense here is for words spoken in this House. That is the conclusion of the committee.

Mr. NELSON. Yes; that is the constitutional right we have.

Mr. DILLON. Suppose Mr. Glover in meeting Mr. SIMS had taken him to task for words spoken in this House and had done so in a manner that is a provocation, and then Mr. SIMS had defended himself, would you still contend that we can punish the attack, or take him to task for words spoken in this House?

Mr. NELSON. Answering the gentleman generally, he can make his own application. When the thing done clearly touches a Member in his official capacity then the House will take notice. If he gets into a brawl as to whether Walter Johnson is the best baseball pitcher, or some other fellow, then the House will not look into it. Whether the Member is assaulted in his official capacity or not must be determined in each particular case by the facts. Our select committee went into this question, and every other committee will do likewise. The committee will carefully consider whether or not the assault was made on the Member in his official capacity, a direct violation of his constitutional privilege, or not, and so report to the House. But if a Member engages in some common brawl, of course the House will not take notice.

Mr. DILLON. One other question. The gist of this offense constitutes the words spoken in this House and taking to task for the same. That is correct, is it not?

Mr. NELSON. That is the present case.

Mr. DILLON. I want to get instructed on this. It is an interesting question. Suppose that Mr. Glover had accosted the Member upon the street and said to him, "You have spoken these words in the House, and I call you a liar for what you have said, and I will burn your house down in order to get even with you." Now, the offense would not be the burning of the house, would it, but the offense would be taking him to task for what was said in the House of Congress?

Mr. NELSON. The gentleman, of course, can state cases so near the margin that it is difficult to determine whether it would be one or the other.

Mr. GARRETT of Texas. Let me suggest to the gentleman that this is not a hypothetical case. Here you have the specific charges and a plea of guilty.

Mr. DILLON. What I wanted to be instructed upon is that it is conceded there is no limitation to this punishment.

Mr. NELSON. Indeed there is. In the Anderson case the Supreme Court says it is limited to the life of the Congress.

Mr. DILLON. Suppose it is the last day of Congress and you could not punish? It seems to me the power must be continuous.

Mr. NELSON. I give the Supreme Court decision, and the gentleman having been a distinguished jurist himself can figure it out for himself.

Mr. BURKE of South Dakota. Mr. Speaker, I desire to ask the gentleman a question before he takes his seat. I under-

stood the gentleman from West Virginia to make the statement, but if he did not actually state it, it was subject to the deduction that a contempt might be committed by the publisher of a newspaper, commenting upon language spoken on the floor of the House by a Member, in a way that would be offensive, and it might constitute a contempt of the House. I would like to ask the gentleman if that is the opinion of the committee and that a newspaper publisher might be brought before this House and punished for contempt under such circumstances?

Mr. NELSON. I will answer the gentleman that such a case was passed upon by the Senate in the Duane case, where a newspaper man libeled the Senate, clearly slandered the Senate, where he was cited to appear, and was finally punished by the courts themselves.

Mr. BURKE of South Dakota. Was it a libel of a Senator or of the Senate as a whole?

Mr. NELSON. The Senate as a whole. Of course there is a distinction here. It must go to the very integrity, safety, and dignity of the House. A mere criticism by newspapers generally would not be considered. The House itself and the Speaker have decided that mere criticism by newspapers generally is not entitled to serious consideration, but anything which puts Members and Senators in the light of being criminals, grafters, of accepting bribes, or doing that through which Congress would lose the respect of the people, allows the House and both branches of Congress to order an investigation, and if the charges are found to be grossly untrue and libelous to punish the detractors.

Mr. DAVIS of West Virginia. Mr. Speaker, will the gentleman yield for a question?

Mr. NELSON. Yes.

Mr. DAVIS of West Virginia. If the gentleman will permit me, I understood the gentleman from South Dakota [Mr. BURKE] to quote my position to the effect that a libel on the House would be considered a breach of its privileges. That, perhaps, is a deduction from what I said, but it is not my language. My language, if the gentleman will permit, is that the phrase "questioned as to words spoken in debate" refers to questioning not only in a court of justice and not only questioning by a personal attack, but it may even include a questioning by words, and that is shown to be true by reason of the fact that the sending to a Member in former times of a challenge to a duel, which of course was a mere verbal assault, was treated as questioning of words spoken in debate and therefore a breach of privilege.

Now, it may be possible to argue from that, following the Duane case, to which the gentleman referred, that a libel might be so treated. But I did not so state, and I would not undertake to commit myself about that proposition.

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

Mr. BURKE of South Dakota. I think it might be fairly stated that the remarks of the gentleman from West Virginia were subject to that deduction.

Mr. MANN. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. The gentleman has 26 minutes.

Mr. MANN. Mr. Speaker, I yield five minutes to the gentleman from Iowa [Mr. TOWNER].

The SPEAKER pro tempore. The gentleman from Iowa [Mr. TOWNER] is recognized for five minutes.

Mr. TOWNER. Mr. Speaker, I have an amendment which I desire to send to the Clerk's desk and have read.

The SPEAKER pro tempore. The Clerk will report the amendment offered by the gentleman from Iowa [Mr. TOWNER].

The Clerk read as follows:

Amend by striking out "and that in committing said assault Charles C. Glover has been guilty of a breach of the privileges and a contempt of the House of Representatives" and insert the following: "and that he appear and show cause, if any exists, why he should not be held in contempt of the House of Representatives."

Mr. TOWNER. Mr. Speaker, I think that the committee can have no objection to this amendment, and I think that the reason for it ought to satisfy the House that it should be adopted.

In the first place, it is understood by Members of the House that in this proceeding we stand in the position both as accusers and also as judges. At this time we are making the accusation. In the courts of nearly all of the States and in the courts of the United States when a contempt is committed outside of the presence of the court a citation is issued by the court for the person to appear and show cause, if any, why he should not be punished for a contempt of the court, and on that process the warrant is issued, and the person appears before the tribunal and has an opportunity to make his showing.

Analogous to that, Mr. Speaker, we are citing this man to appear and answer for a contempt of this body. It is not certainly our intention to try and find him guilty now; and yet

if we adopt this resolution as it is stated we will be doing so, because the language of the resolution is:

And that in committing said assault Charles C. Glover has been guilty of a breach of the privileges and a contempt of the House of Representatives.

Mr. DAVIS of West Virginia. Will the gentleman yield?

Mr. TOWNER. In just a moment I will. If we vote now for this resolution as it stands, we shall be determining in advance that he is in contempt of this House. I presume what we really mean is that we think he is in contempt of this House, and that we think so sufficiently strongly to cite him to appear and make his defense; but certainly we do not desire to try him in his absence, before he has had a right to appear and answer and show cause and make defense. We certainly do not desire to try him now and so estop ourselves from voting in his favor if he shall show that he ought not to be punished for a contempt of this House.

Mr. DAVIS of West Virginia. The gentleman will recall that under the resolution the committee were instructed to ascertain whether or not a contempt had been committed by an assault upon a Member for words spoken in debate. The committee were directed to ascertain that fact. They have reported the fact to be as rumored. If the House were to adopt that resolution, would it not do exactly what this resolution does by declaring that these acts were committed and that they constituted a contempt?

Mr. TOWNER. I think not. The gentleman is too good a lawyer not to know that a court never issues a citation for a man to appear and show cause why he should not be held in contempt unless it thinks he is in contempt. And by the passage of this resolution in the form I suggest this House will be saying that it believes that these acts on the part of Mr. Glover make him guilty of a contempt of this House; but they do not so decide and determine, as this resolution expressly states. They ought only to cite him to appear and answer and show cause, if any he has, why he should not be punished for a contempt of this House.

Mr. DAVIS of West Virginia. The gentleman is already advised by the reading of the report that there is another resolution to be offered following the adoption of this, or as an amendment to this, which will give to the accused his day in court.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. I yield to the gentleman five minutes more.

Mr. TOWNER. I am so advised, and that is only another reason why this language ought to be adopted, because we do not want to place ourselves at this time in the position of having determined already the guilt of the accused without his having an opportunity to be heard. We ought to say, if we so find, that we think he is in contempt, but we do not adjudge him so, and do not try and determine the case, as the language of this resolution would declare that we had, until he has had an opportunity to appear and show cause why such action should not be taken.

Mr. COVINGTON. Does not the gentleman know that every indictment at the criminal law contains this categorical form against the alleged offender, the statement that he has committed certain acts, and that those acts constitute a crime contrary to the act of assembly, or against the peace, government, and dignity of the State; and, notwithstanding the apparent adjudication by the grand jury, it sets forth succinctly the same fundamental principles that this resolution does, but yet he has his day in court.

Mr. TOWNER. But the gentleman ought to understand that this is not an indictment. An indictment is not found by the court or the jury that tries the case and determines the guilt. The indictment is found by the prosecutor, or the grand jury, an independent, outside party. He or it asserts the guilt of the defendant. But the judge, in an indirect charge for contempt, never asserts the guilt of the defendant. He only cites the defendant to appear, answer, and show cause if he can, why he should not be punished for a contempt of court. This is a different proceeding from a trial on an indictment. Gentlemen should realize that they ought not at the same time to charge and determine in advance the guilt of the defendant, and that without an opportunity of being heard; because if the House of Representatives by the passage of this resolution determines in advance that this man is guilty before he has had an opportunity before the bar of this House to show whether he is guilty or not, then the proceeding that may occur when he comes before this House will be a mere farce. We can not then determine whether or not he has shown cause why he should not be punished, for we will have already determined it against him. Of what use will it be for him to appeal to a body that has already found him guilty and has solemnly registered that finding in this resolution?

Mr. GARRETT of Texas. Will the gentleman yield?

Mr. TOWNER. Certainly.

Mr. GARRETT of Texas. Does the gentleman recall the preamble in the resolution originally offered by the gentleman from Tennessee [Mr. GARRETT]?

Mr. TOWNER. I do not.

Mr. GARRETT of Texas. That preamble charged Mr. Glover with assaulting a Member in a public park in the city of Washington for language spoken upon the floor of this House. If that be true, would not that be an offense against this House and a violation of its privileges, and would not that be a contempt of the House?

Mr. TOWNER. I do not discuss the question as to whether it would or not.

Mr. GARRETT of Texas. If that be true, would it not?

Mr. TOWNER. I will not discuss that.

Mr. GARRETT of Texas. Does not Mr. Glover admit here that it is true?

Mr. TOWNER. That we do not know; and if it be true, of what use is it to cite him to appear and answer and show cause why he should not be punished for a contempt of the House? We are now determining in this resolution beforehand that he is guilty of a contempt, and we do so without his having his day in court. There is no court in America to-day that would punish any man for an infraction of its rules, or for anything that might be considered a contempt, that was indirect and not in the presence of the court, unless it first cited him to appear and allowed him an opportunity to show cause why such punishment should not be inflicted, and that is the course that is orderly and, I think, ought to be followed in this case.

Mr. DAVIS of West Virginia. I will yield two minutes to the gentleman from Maryland [Mr. COVINGTON].

Mr. COVINGTON. Mr. Speaker, I do not desire to engage in any further discussion of the case except to call the attention of the House to a misapprehension which the gentleman from Iowa [Mr. TOWNER] seems to have in regard to the resolution which has been offered.

As a matter of fact, the committee has no pride of opinion with respect to the resolution. It simply followed the precedent established by the resolution in the Houston case in 1832, where the subject was most carefully considered by the House.

The gentleman from Iowa has utterly failed to see that this resolution does not declare Mr. Glover guilty of contempt. It states that the warrant shall be issued for C. C. Glover "to answer the charge that" an assault has been committed by Mr. Glover upon the gentleman from Tennessee [Mr. SIMS], and that that assault constitutes a contempt of the House.

And, Mr. Speaker, the second resolution goes on to provide, with careful regard for the rights of the accused, that he shall be asked if he desires to be heard—which every lawyer in this House knows to mean if he desires to have a trial, and that he shall be asked if he desires to have counsel. In other words, after Mr. Glover has been brought to the bar of the House, what is, in substance, the indictment—that is to say, the findings of fact—shall be read to him. He is thus informed of the charge against him, and he may plead his guilt or demand a trial. If he denies the findings of fact, the House shall proceed with the trial of the case. If he admits the charge, the resolution provides that the House shall proceed to take order in the matter—that is, to adopt a resolution either discharging or reprimanding or imprisoning Mr. Glover. In every way the constitutional safeguards of the citizen have been secured to him as they would be secured to him in any court in the land.

Mr. DAVIS of West Virginia. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. The gentleman has 36 minutes left.

Mr. DAVIS of West Virginia. I yield 2 minutes to the gentleman from Iowa [Mr. PROUTY].

Mr. PROUTY. Mr. Speaker, my colleague, whom I recognize as being a good lawyer and a good judge, for I have known him many years, has fallen into a mistake in reading this resolution. I presume that he read it hastily and did not notice exactly what it said. I want to call attention of the House to the fact that the criticism he makes is not germane. The resolution does not find him guilty, but it charges him with two things: First, of having committed certain acts therein set out; and, second, that those things constitute a contempt of this House. He is cited here to answer both charges. In the letter he wrote he admitted the fact as to the commission of the acts, but questions the jurisdiction of this tribunal to declare them in contempt or to exercise any jurisdiction over the matter. I want to read the resolution, leaving out the immaterial matter.

On page 14 of the report it says: "That the said Charles C. Glover shall be brought to the bar of the House of Representatives on a day to be fixed in said warrant to answer," and so forth.

Now, second, as to the contempt of the House: "And that in committing said assault Charles C. Glover has been guilty of a breach of the privilege and a contempt of the House of Representatives." When the case is here he is to answer two propositions: First, did he commit the acts charged; and, second, has he any reason to show why it is not contempt of this House? Then the House can pass upon the question whether or not he has shown any reason why there was no contempt. But we are simply asking him to come into this House and answer two questions: First, did you do the things; and, second, are you guilty of contempt in so doing?

The SPEAKER. The time of the gentleman has expired.

Mr. DAVIS of West Virginia. Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, it will be impossible for me in the short time which I have, to discuss any of the legal phases of this controversy. I have no doubt, however, that under the sixth section of the Constitution this House has the right to punish anyone who shall question anything that a Member may have said upon the floor of this House in debate. I have every confidence in the legal ability and the impartiality of the special committee which has this case in hand, and I shall vote to uphold the report of that committee.

It seems that this controversy between Mr. SIMS and Mr. Glover grew out of an option which Mr. Glover had upon some Rock Creek land. As I understand it, three bills were introduced in this House, one to sell that land upon which he had that option for \$600,000. That bill was not passed in that Congress. The bill was reintroduced in the next Congress, and the price fixed in the second bill was \$50,000 less than in the first bill. As I understand it a third bill was introduced fixing the sum at \$423,000, being \$177,000 less than the first bill.

Mr. COOPER. Mr. Speaker, will the gentleman yield?

Mr. THOMAS. Certainly.

Mr. COOPER. Will the gentleman permit me to say right there that that is one of the statements with which Mr. Glover in his newspaper article found so much fault. Both Mr. Andrus and Mr. SIMS made that statement, and it is not at all in accordance with the facts. The \$600,000 price and the \$500,000 price and the \$423,000 price were successive reductions on a piece of property relating to Meridian Hill property and not to the Rock Creek property on which Mr. Glover had an option, which was never offered for any other price than \$423,000; and Mr. SIMS acknowledged it here on the floor, but attempted to excuse himself by saying it was toward midnight when he made that statement, and yet the fact is that after he made the statement, as the record shows, and I have just been consulting it, the House, on motion of Mr. PAYNE, of New York, at 6 o'clock and 15 minutes took a recess until 10 o'clock on the same evening, showing that the statement was made during the afternoon instead of toward midnight.

Mr. THOMAS. Mr. Speaker; I decline to yield further. I am stating that those three bills were introduced, and the controversy came up over that matter. I do not know and I do not pretend to say who was right or who was wrong. I am not condemning Mr. Glover and I am not condemning Mr. SIMS, but I do know that Mr. SIMS in his speech upon the floor of this House declared that he did not intend to reflect upon Mr. Glover.

I am simply reciting the matter about which this controversy arose. Mr. Glover had no business and no right under the law to assault Mr. SIMS for words spoken in this House. As I understand it they are both about 60 years of age. I have never met Mr. Glover and I do not want to meet him, because I do not want my jaws slapped [laughter], but, as I understand it, he is an athlete. Well, we all know that Mr. SIMS is blessed or cursed, owing to the point of view, with an abnormal abdominal protuberance [laughter], and I think that Mr. Glover would have been just as much justified in assaulting a muscovy duck with both wings broken as he was in assaulting Mr. SIMS on that occasion. I think he had no right to do it. I have known Mr. SIMS ever since I have been in Congress. I am on a committee of which he is the chairman, and I can say that there is not in Congress a more honest, honorable, kinder-hearted man, and I do not believe that he would intentionally give offense to anyone.

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

Mr. DAVIS of West Virginia. Mr. Speaker, does the gentleman from Illinois desire to occupy any more time?

Mr. MANN. How much more time have I remaining, Mr. Speaker?

The SPEAKER. Seventeen minutes. [Cries of "Vote!"]

Mr. MANN. Does anyone desire to be recognized for time in opposition to the resolution?

Mr. DAVIS of West Virginia. I will yield 15 minutes to the gentleman from Oklahoma [Mr. MURRAY].

Mr. MANN. First I yield 5 minutes to the gentleman from Iowa [Mr. GREEN].

Mr. GREEN of Iowa. Mr. Speaker, I shall consume only two minutes. The fundamental error, as I view it, into which the gentleman from Kansas [Mr. CAMPBELL] and some other gentlemen have fallen is this, that the offense with which Mr. Glover is charged is not that of assault and battery, but of committing acts which tend to obstruct this House in the performance of its official functions.

If Mr. Glover and Mr. SIMS had had an altercation over some business matter and the same act had been committed by Mr. Glover by reason of some offense which he imagined had been given by Mr. SIMS, no one would contend that this House would have any jurisdiction. On the other hand, if Mr. Glover had simply threatened Mr. SIMS instead of actually striking some blows, the offense given this House would have been committed in the same manner. It is alleged and asked that this whole matter be relegated to the courts. The fact is that no court has any jurisdiction and no court can try the offense with which Mr. Glover is charged.

Mr. MANN. The gentleman yields back his time. I yield five minutes to the gentleman from Minnesota [Mr. STEENERSON].

Mr. STEENERSON. Mr. Speaker, I regret I was not able to be present when this debate began, and I have not had the time to examine this report as fully as I should have liked to have done, but I desire to state now the point which in my mind still remains in doubt. There is no doubt in my mind that the House of Representatives possesses power to punish for contempt, but whether or not the acts charged as contempt constitutes a contempt is not free from doubt in my mind. And for this reason, that the cases that are cited in this report are cases that necessarily interfere with the performance of the high functions of this House. For instance, two or three of those cases are attempted bribery. Of course, an attempted bribery tends to impede and frustrate the will of the people as expressed in legislation in the Congress and is self-evident contempt of the House. But the alleged ground against Mr. Glover in this case, as I understand it, is that he violated the provision of the Constitution which says that for any speech or words spoken in the House a Member shall not be questioned in any other place. Now, what is "questioning" in any other place? That is the exact point that we would like to have discussed in order to enable us to vote intelligently upon this case. Is the mere fact that you meet a Member on the street and say to him, "You voted against that bill yesterday; I have my opinion of you. What did you do it for?" Is that questioning or do the words in the Constitution, "shall not be questioned," mean you can not sue him for anything that he said, and if you bring an action for slander or libel for a false charge he could undoubtedly plead his privilege and that he could not therefore in law be questioned or held in damages. That is plain. But does that term go further than that and clothe him with any special right? Now, if the act of Mr. Glover to Mr. SIMS had tended directly to impede the proceedings of this House there would be no question in my mind that it would be contempt.

If he had sought to detain him from attending the sessions of the House, for instance; but that does not appear. It appears that Mr. SIMS was on his way from his residence, to where? Not to a session of the House but to an executive department of the Government. It may be true that he went there on official business, but it did not necessarily impede the work of the House in enacting legislation to stop him from going to the department when the House was not in session at the time. Therefore the act to prevent him from going to the department did not directly impede the proceedings in the House. Now, it seems to me that the case can be distinguished from a case of bribery which necessarily affects the dignity and the work of the legislative body, that this is a different case entirely. It did not directly keep Mr. SIMS from attending the sessions of the House as did the act of the sheriff who detained a Member on his way to attend a session of the House, cited in the report, and, therefore, it seems to me before I would be prepared to vote upon the final question of whether Mr. Glover is guilty of contempt of the House I should like to have a little more enlightenment upon that precise point. Do the words of the Constitution that are representative for words spoken here, "shall not be questioned in any other place," mean that he shall not be asked anything about it as was suggested by the gentleman from South Dakota [Mr. DILLON]? Does it mean that he shall not be criticized in a newspaper? If he were to be asked a question in a newspaper article or

severely condemned, does that come within the distinction of questioning him under the constitutional term? There is a very grave question in my mind now whether or not the acts that are reported to have been committed here by the committee do come within the exact definition of whether or not it really did interfere with the work of the House and therefore would be a direct contempt of the House of Representatives, unless the assault had a direct tendency to prevent Mr. SIMS from attending the sessions of the House, or to influence his action upon a matter pending therein, by preventing his attendance or by duress or fear, I doubt whether the acts constitute a contempt of the House. I reserve my right to decide that question in the event the case should go to trial.

Mr. MANN. Mr. Chairman, I yield five minutes to the gentleman from South Dakota [Mr. MARTIN].

Mr. MARTIN. The House has heard very able arguments on both sides of the pending question, and it is not my disposition or desire to delay the vote upon it. I think, however, in the exercise of a great and fundamental and important power that is resident in the membership of the House of Representatives by virtue of the offices we hold, that we ought not to let an occasion like this pass without soberly realizing the extent of this power and the danger of its abuse.

To begin with, I agree entirely that an assault on a Member of Congress, whether during the time for which he is elected or thereafter, for words spoken upon the floor of the House, is an attack, not simply on the Member himself, but upon the House in its organized capacity, and I disagree with the suggestion made by the able gentleman from West Virginia, who made the opening speech on behalf of the committee, when he expressed his own personal view that when a Member's time of service ceases in the House of Representatives the House ceases to have interest in that question. I do not agree with that. I believe that it should be understood that if for words spoken by a Member of the House in the discharge of what he conceives to be his public duty, he could be assaulted violently and held to account after ceasing to be a Member of this body, it would very much embarrass the deliberations of the body. In the closing debates of a closing Congress, pending a possible change of administration, things may occur in heat, and if retiring Members could be called to an account immediately after the adjournment of Congress the beneficial influence of this protection would entirely disappear. If a man in debate on the 3d day of March, at the close of an administration, could be held to account day after to-morrow, on the 5th day of March, by violent assault or in any other way for what he said, that, I think, would very much undermine the effect of this necessary constitutional protection.

But I want to say another word, with the permission of the House, however, looking upon this great question from an entirely different angle. It is an extraordinary proceeding. It is an extraordinary power that is vested in the membership of the House. A man can not be held to account anywhere under the Constitution for statements he makes in official debate. Like the exercise of all great power, it should be used with moderation, and the privileges of debate ought not to be abused on the floor of the House. A man's reputation as a private citizen is just as dear and sacred to him as the reputation of a Member in his official capacity; and I never hear a Member in either branch of Congress assaulting the character and purposes of private citizens but that it seems to me it is in the nature of a reckless exercise of important constitutional power. I think that the statement of the gentleman from West Virginia that, in his opinion, it becomes unimportant to inquire into the nature or extent of the provocation for an assault of this kind, may not be absolutely well founded. I think the nature and extent of the provocation, whether the citizen is justly or unjustly assailed by a Member of the House, may be very properly taken into consideration in meting out punishment to the offender. I do not justify an assault upon a Member, no matter how great the provocation; but I do think, sitting, as we do here, as judges and jury and prosecutors, really, to judge of the question of the contempt of our own rights and immunities, it would be a very proper subject to inquire as to whether the provocation is great or little, for the purpose simply of determining what punishment ought to be administered.

Now, I am in entire accord with the recommendations of the committee. I have not made these observations to indicate anything to the contrary. I do believe that this unusual trial ought to be proceeded with. I realize, however, that in the very nature of the case the defendant is in an uneven contest. For that reason the House ought to mete out its conclusions with deliberation and with a just regard to the rights of others.

The SPEAKER. The time of the gentleman has expired.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Tully, one of its clerks, announced that the Senate had insisted upon its amendments to the bill (H. R. 2441) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. MARTIN of Virginia, Mr. OVERMAN, and Mr. WARREN as the conferees on the part of the Senate.

CHARLES C. GLOVER.

Mr. MANN. Mr. Speaker, I understand that the gentleman on the other side of the House is willing now to yield me eight minutes, on account of the time I have yielded.

Mr. DAVIS of West Virginia. Mr. Speaker, how much time have I remaining?

The SPEAKER. The gentleman has 29 minutes.

Mr. MANN. I would like to have a little more than eight minutes.

Mr. DAVIS of West Virginia. I will yield to the gentleman 10 minutes.

Mr. MANN. All right. I may ask for a little more later.

Mr. DAVIS of West Virginia. I think we may be able to accommodate the gentleman.

Mr. MANN. My Speaker, I yield 10 minutes, then, to the gentleman from Wisconsin [Mr. COOPER].

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

Mr. MANN. Mr. Speaker, I yield 5 minutes to the gentleman from North Dakota [Mr. NORTON].

Mr. NORTON. Mr. Speaker, the law and facts in this case have already been very ably discussed. It is clear from the many precedents and from the many court decisions cited that this House has the inherent, the implied, and the express constitutional right and power to punish for contempt in cases of this kind. There is no room to reasonably doubt the fact that Mr. Glover made the assault as charged upon Mr. SIMS, and in doing so committed a contempt against this House.

It occurs to me, after listening several hours this afternoon to the circumstances and facts surrounding this case, to inquire what kind of District of Columbia special-privilege meat this man Glover must have eaten that he has grown so great that he feels free to make a brutal assault on any Member of this House, thus flinging insult and contempt at this House and at its honest legislative deliberations; and it seems that when this man then calmly, in that manner of self-assurance characteristic of men of his kind and business success, suggests that this House has no authority to defend itself from assaults of this character it is time that summary action should be taken. Today one of the most severe indictments that the people of this country are bringing against our courts and legislative bodies is on account of the frequent long-drawn-out delays in performing their functions. I believe this is a rich opportunity for this House to set a good example for the courts and other legislative bodies in this country. I believe it is highly important—it is essential—that this case be soon finally concluded; that no commission of insanity be authorized, as was suggested a short time ago, nor that the recommendations of the committee be side-stepped in any way on mere technicalities.

I want to say that I wish to heartily congratulate the special committee that has had this matter in charge. They have most carefully considered the law and the facts and have brought in a resolution here that should be adopted. By adopting this resolution, by bringing Mr. Glover promptly to the bar of this House, by inflicting a just punishment upon him, and doing it without delay, will gain, I am sure, for this House not only the respect of the whole country but the respect of Mr. Glover as well.

Mr. MANN. Mr. Speaker, I am inclined to think myself that the immunity expressly granted by the Constitution only relates to proceedings in court—that words spoken in debate can not be used as a basis for a suit or criminal action brought against the Member speaking them. But I have no doubt whatever that this legislative body, as other legislative bodies must have, has the inherent power to protect its own Members from assaults. The Member of Congress who takes the floor, or who even votes, ought to know that when he steps outside of the Chamber of the House he will not be met by a set of men who, perhaps, have threatened him in advance with their physical disapproval if he has spoken or voted contrary to their wishes. [Applause.] And such a Member, if so assaulted, ought to feel that the House itself will punish the offender, and not require him to take his chances by making a complaint in the police court or bringing suit in the form of a civil action. [Applause.]

The protection of a Member is not for his own advantage, it is not for his own personal protection, but it is in order that the legislative body representing a great, free people shall be free to act according to the best judgment of its individual Members, without fear of those who happen to be locally surrounding the Chamber on the outside. I, for one, am in favor, whenever the question is raised before the House, of protecting not merely the dignity of the House but the sanctity of the proceedings in the House, by protecting the individual Members of the House when they are physically assaulted, when they leave the Chamber, for what they say or do here. [Applause.]

Mr. DAVIS of West Virginia. I yield 10 minutes to the gentleman from Oklahoma [Mr. MURRAY].

Mr. MURRAY of Oklahoma. Mr. Speaker, the question before the House is hardly a question as to whether Mr. SIMS made a true statement on the floor of the House, nor is the question, on the other hand, primarily whether Mr. Glover was justified in making the attack. The question is as to the right the people of this country have given to their Members of Congress to encourage them in expressing their most inward secrets.

Now, the makers of our Constitution have left four provisions in relation to this matter: First, no man can be arrested while attending upon Congress; second, no Member shall be questioned in any other place for any statement made in debate; third, the provision for segregation of the Capitol site from any States of the Union by its location in the District. Does anyone suppose for a moment that this District was cut out only to build parks upon? Any man who is acquainted with constitutional history will understand that with certain delegated or reserved powers to the States, supreme so far as they exist, it would have been unwise to have established a government in any one of them, and so it was intended by those great statesmen who made this great Federal nationality, when they provided that the Capitol itself should be segregated, to give Congress complete control over it. I take it there is no doubt but that there exists the inherent power to punish as for contempt in every legislative body, just as it exists in every court of record under the common law.

I was surprised and astonished at the statement made by the gentleman from Kansas [Mr. CAMPBELL] when he undertook to say that no such power ever existed or could exist. I would not have been surprised, knowing his surroundings, if he had said, "I do not believe in the power," because I realize that the doctrine of L. W. W. ism, opposed as it is to every kind of supreme power, and so necessary to safe and stable government, would tear down the old flag and call it a dirty rag; but when this gentleman makes a declaration that such power to punish for contempt is not the law, he certainly can have but little respect for his own opinion as a lawyer. But back of this we read in the history of the old republics of Germany, that these petty republics along the Rhine more than 2,000 years ago met together annually to legislate, and they encouraged each other to get on a drunk for three days and then to sober down and proceed to deliberate. This was thought necessary in those times because it was an encouragement for every individual in the state of intoxication to give out his most inward secrets, and if the American people could get from every Member of both Houses of Congress a straight declaration of his most inward secrets, it would be best for the American people.

The purpose of this provision and this power lodged in Congress is not to protect me; it is not to protect you; but to encourage the Members of this body to say what they desire to say about every man and every measure in order that the people may know that the Member is free from all fear. So it ceases to be a question of the protection of Mr. Glover or the protection of Mr. Sims. It is the maintenance of a doctrine that will encourage freedom of speech on the floor of this body, and I want to predict now to the gentleman from Kansas [Mr. CAMPBELL] that he may find in but a short time that he will be met in this city with thugs of the corporate interests if he gets as enthusiastic in opposition to that corporate interest as he has on the other side of this question.

Sooner or later the American people are going to understand that this is a corporate-ridden city and District, where the public-service corporations are oppressing the people; and when thousands of employees of the Government have to pay an extra charge to the public-service corporations, it means extra public salary. Whenever the people understand that, they are going to demand of Congress the absolute regulation and control of public-service corporations, and I warn the gentleman from Kansas, if he stands up here and makes the fight as earnestly in behalf of the people of this Republic as he does this individual [Glover], he may be met upon the street the next day by the thugs of the corporate interests of the District. If I am

in Congress I expect to be standing with the people, and I expect Congress to protect me against any such assault; and so this is not a question of any individual right—this is a question of the interest of the great American people. Our forefathers knew that while here and there an individual may be slandered without redress, yet in this great body of the representatives of the people we must have free and open discussion. They knew another thing. They knew that an honest man has no fear of slander. It is the truth that hurts. I have been slandered and so have you, but it never hurt me, nor will it hurt any other honest man. It is the truth that hurts. And now I say in reply to the statement made by the gentleman a while ago that we ought to be very lenient in this punishment. I want to say, my friends, we have heard the arguments touching the tendency of the times; and what is that tendency? Is it against a constitutional Government with a national power? No. The tendency of the times is that we are against a Government that is too weak for the strong and too strong for the weak.

Mr. Glover is a man of wealth, and if he were an humble hodecarrier we would not be long making up our minds. Let us see that he bear the penalty just the same as the great, immortal Sam Houston, governor of two States, Member of Congress, once a President of a Republic which he carved out of the wilderness—the Lone Star Republic [applause] of Texas—a great general, a great statesman, and yet when he trespassed upon this power he had to suffer not only at the hands of the Congress but at the hands of the courts. After he was punished by Congress he was indicted and convicted in the court of the District of Columbia. Let us be just as square, and let us return to those days when the Government would be equally strong upon the strong as it was upon the weak. Let us convict this man if the evidence is true and give him sufficient punishment. [Applause.]

Mr. DAVIS of West Virginia. Mr. Speaker, how much time have I remaining?

The SPEAKER. Seven minutes.

Mr. DAVIS of West Virginia. Mr. Speaker, I yield the balance of my time to the gentleman from Maryland [Mr. COVINGTON].

Mr. COVINGTON. Mr. Speaker, I offer an amendment to the resolution now pending.

The SPEAKER. The gentleman from Maryland offers an amendment, which the Clerk will report.

The Clerk read as follows:

That when Charles C. Glover shall be brought to the bar of the House to answer the charge of having violated the privilege of the House of Representatives by having made an assault upon Representative THELUS W. SIMS, of the State of Tennessee, for words spoken by said Representative SIMS on the floor of the House of Representatives, the Speaker shall then cause to be read to the said Charles C. Glover the findings of facts by the special committee of the House charged with the duty of investigating whether or not the said assault had in fact been committed as alleged, and whether or not the said Charles C. Glover had violated the privileges of the House of Representatives by said assault. The Speaker shall then inquire of the said Charles C. Glover if he desires to be heard, and to have counsel, on the charge of being in contempt of the House of Representatives for having violated its privileges. If the said Charles C. Glover desires to avail himself of either of these privileges, the same shall be granted him; if not, the House shall thereupon proceed to take order in the matter.

Mr. COVINGTON. Mr. Speaker, I do not desire to discuss the amendment. I simply want to call attention—

Mr. MANN. Will the gentleman yield?

Mr. COVINGTON. I do.

Mr. MANN. As I understood the amendment read, that is the second resolution in the report of the committee?

Mr. COVINGTON. It is. It simply makes one continuous resolution. I simply want to state for the benefit of those Members who were not in the Chamber at the time the gentleman from Iowa [Mr. TOWNER] had time yielded to him, that there was offered an amendment to correct, as he thought, certain language in the first resolution offered upon the theory that the resolution was attempting in advance to charge Mr. Glover with being guilty of contempt before he had had an opportunity to answer and that as a matter of fact the amendment will do nothing that was not already set out succinctly in the resolution. It will make it necessary to demand a separate vote upon that amendment.

The SPEAKER. The Clerk will report the Towner amendment.

The Clerk read as follows:

Amend the resolution by striking out the clause "and that in committing said assault Charles C. Glover has been guilty of a breach of the privileges and a contempt of the House of Representatives" and insert in lieu thereof "and that he appear and show cause, if any exists, why he should not be held in contempt of the House of Representatives."

The question was taken, and the amendment was rejected.

The SPEAKER. Will the gentleman from Maryland give his attention? This last paper which the gentleman sent up here to the Clerk's desk is really part and parcel of the original resolution, is it not?

Mr. COVINGTON. That is true, Mr. Speaker, but at the time the gentleman from West Virginia [Mr. DAVIS], chairman of the committee, offered the resolution he offered what is apparently a separate resolution, the first part of that in the printed report, and this is the second part of that resolution.

The SPEAKER. The question is on the amendment offered by the gentleman from Maryland.

Mr. HAMILTON of Michigan. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman rise?

Mr. HAMILTON of Michigan. I want to ask the gentleman a question. As I understood the reading of his resolution, it does not contain the identical language of the resolution as printed.

Mr. COVINGTON. It is identically the language in the resolution.

Mr. HAMILTON of Michigan. Then the Clerk omitted about a line in reading it.

The SPEAKER. The Clerk will report the amendment again, without objection.

Mr. COVINGTON. Mr. Speaker, in order that there may be no misconception about it, I state that it will be the printed resolution.

The SPEAKER. The one you are going to have a vote on is the one the Clerk has in his hand.

Mr. MANN. Let the Clerk read it from the printed report, and then we will know what it is.

Mr. STAFFORD. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman rise?

Mr. STAFFORD. I would like to direct the attention of the gentleman from Maryland [Mr. COVINGTON] to the fact that in examining the resolution of the chairman of the committee, sent to the Clerk's desk this morning, there is a certain date stated, whereas in the resolution printed there is no certain date printed.

Mr. TOWNER. As I understand the gentleman from Maryland, this is one resolution instead of two? It will make it only one?

Mr. COVINGTON. That is the idea.

Mr. TOWNER. In other words, this resolution that is printed on page 14 is not to be considered as a separate resolution, but as a part of the resolution originally offered?

Mr. COVINGTON. That is precisely the intention.

Mr. MANN. Now it is the second resolution that is to be read?

The SPEAKER. The Chair understands that. The Clerk will report the resolution.

The Clerk read as follows:

Resolved, That when Charles C. Glover shall be brought to the bar of the House to answer the charge of having violated the privilege of the House of Representatives by having made an assault upon Representative THURUS W. SIMS, of the State of Tennessee, for words spoken by said Representative SIMS on the floor of the House of Representatives, the Speaker shall then cause to be read to the said Charles C. Glover the findings of facts by the special committee of the House charged with the duty of investigating whether or not the said assault had in fact been committed as alleged, and whether or not the said Charles C. Glover had violated the privileges of the House of Representatives by said assault. The Speaker shall then inquire of the said Charles C. Glover if he desires to be heard, and to have counsel, on the charge of being in contempt of the House of Representatives for having violated its privileges. If the said Charles C. Glover desires to avail himself of either of these privileges, the same shall be granted him; if not, the House shall thereupon proceed to take order in the matter.

The SPEAKER. The question is on the Covington amendment.

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

The SPEAKER. The question is on the amended resolution.

Mr. MANN. Mr. Speaker, in order that it may show the vote, I ask for a division.

The House divided; and there were—ayes 200, noes 4.

So the resolution as amended was agreed to.

Mr. COVINGTON. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. COVINGTON. Is the Speaker now about to execute the action in warrant for the apprehension of Mr. Glover?

The SPEAKER. That is exactly what he is about to do.

Mr. COVINGTON. May I ask further from the Speaker if he knows from the Sergeant at Arms whether there is a reasonable certainty that the warrant will be executed this afternoon? I think the House may very well know that.

The SPEAKER. The Speaker does not know that. The Chair has been informed that Mr. Glover is within the building and can be very easily found. I do not know him of my own knowledge. I never saw the gentleman in my life. The precedents in the case seem to show that when Mr. Glover is brought in Members will not be allowed to confer with him until the matter is finished.

PRINT OF TARIFF BILL.

Mr. MANN. While we are not very active about business, I think there are one or two printing propositions that we might dispose of.

Mr. UNDERWOOD. Mr. Speaker, I ask unanimous consent that 5,000 copies of H. R. 3321 may be printed, 1,000 copies to go to the document room and 4,000 copies to go to the folding room, for the use of the Members, in the form that the bill went to the Senate.

Mr. BARNHART. Mr. Speaker, would that necessitate a separate resolution?

Mr. MANN. No. That is under \$500.

Mr. BARNHART. All right.

Mr. UNDERWOOD. One thousand copies to go to the document room and 4,000 copies to the folding room, in the form in which the bill went to the Senate.

The SPEAKER. The gentleman from Alabama [Mr. UNDERWOOD] asks unanimous consent that there shall be printed 5,000 copies of the tariff bill in the shape in which it went to the Senate, 1,000 copies for the use of the document room and 4,000 copies for the use of the folding room. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

LEAVE TO PRINT.

Mr. MANN. Mr. Speaker, at the request of several gentlemen, I ask unanimous consent that those who have spoken on the Glover resolution before the House this afternoon shall have leave to extend their remarks in the RECORD.

The SPEAKER. The gentleman from Illinois [Mr. MANN] asks unanimous consent that those who have spoken on this Glover matter to-day may have the right to print and extend their remarks in the RECORD. Is there objection?

There was no objection.

Mr. MANN. Mr. Speaker, is that request granted?

The SPEAKER. It is.

Mr. CARLIN. For how long a time?

Mr. MANN. There is no limit of time. There were only a few gentlemen who spoke.

Mr. HUMPHREY of Washington. Unanimous consent has been granted.

SAN DIEGO EXPOSITION.

Mr. UNDERWOOD. Mr. Speaker, I would like to ask unanimous consent, on behalf of the gentleman from California [Mr. KETNER], for the consideration of a bill relating to the admission of goods to the exposition at San Diego, Cal. It is necessary for this to pass speedily in order that they may allow the laborers to dispose of the foreign exhibits as they come in, in the exposition buildings.

Mr. MANN. I think that might take a few minutes, and there is no trouble about taking it up to-morrow.

Mr. UNDERWOOD. Well, then, I will let it go over.

REPORT OF THE MONEY TRUST INVESTIGATION.

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

The SPEAKER. The gentleman from South Carolina [Mr. FINLEY] asks unanimous consent for the present consideration of a resolution which he sends to the Clerk's desk, which the Clerk will report.

The Clerk read as follows:

House resolution 100.

Resolved, That there shall be printed 2,500 copies of the report of the Money Trust investigation, for the use of the House document room, at a cost of \$452.32.

Mr. MANN. The cost does not want to go into the resolution itself. It is no part of the resolution.

Mr. FINLEY. I understand that; but it is for the information of the House.

Mr. MANN. It is reported at the bottom of the resolution.

Mr. FINLEY. It is at the bottom of the resolution, but it is no part of it.

The SPEAKER. Is there objection?

Mr. STAFFORD. Mr. Speaker, reserving the right to object, I would like to inquire if there is any provision for these reports to be made available to the Members in the folding room? If they are sent to the document room there will be none at our command. I would like to have some at my command for the benefit of those who request them.

Mr. MANN. Mr. Speaker, I will say for the information of the gentleman from Wisconsin [Mr. STAFFORD] that the edition of 2,500 copies provided for by the resolution is practically the limit that the House can provide for by simple resolution. I

think the understanding is that if that does not supply the demand there will be at once a similar resolution to provide an additional allotment. If that does not suffice, the demand can be supplied by a concurrent resolution.

Mr. FINLEY. I will say to the gentleman from Wisconsin that this will not be the end of it if more copies are desired.

The SPEAKER. Is there objection?

There was no objection.

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

The resolution was agreed to.

CHARLES C. GLOVER.

The SPEAKER signed and delivered to the Sergeant at Arms the following warrant:

HOUSE OF REPRESENTATIVES, UNITED STATES OF AMERICA.
Ninth day of May, 1913, ss:

To ROBERT B. GORDON, Sergeant at Arms, greeting:

Whereas the House of Representatives of the United States on the 9th day of May, 1913, then being in session in the city of Washington, D. C., did resolve that the Speaker do issue his warrant directed to the Sergeant at Arms commanding him to take into custody wherever to be found the body of Charles C. Glover, of the city of Washington, D. C., and the same in custody to keep, and that the said Charles C. Glover be brought to the bar of the House of Representatives on the 9th day of May, 1913, to answer the charge that he, on Friday, April 18, 1913, in the city of Washington, D. C., committed an assault upon the person of Representative THETUS W. SIMS, a Representative in the Sixty-third Congress from the State of Tennessee, because of words spoken by the said Representative SIMS in debate on the floor of the House of Representatives while the House was in regular session during the Sixty-second Congress, and that in committing said assault he, the said Charles C. Glover, has been guilty of a breach of the privileges and a contempt of the House of Representatives:

These are therefore to require you, Robert B. Gordon, Sergeant at Arms for the House of Representatives of the United States, forthwith to take into your custody the body of said Charles C. Glover, of the city of Washington, D. C., and him safely to keep, and to bring him before the bar of the House of Representatives on the 9th day of May, 1913; and all marshals and deputy marshals, civil officers of the United States, and every other person are hereby required to be aiding and assisting you in the execution thereof, for which this shall be your sufficient warrant.

Given under my hand this 9th day of May, 1913.

CHAMP CLARK,
Speaker of the House of Representatives.

In testimony of the authority of this warrant, witness the seal of the House of Representatives of the United States this 9th day of May, 1913.

SOUTH TRIMBLE,
Clerk of the House of Representatives.

The Sergeant at Arms made the following return:

RETURN.

HOUSE OF REPRESENTATIVES,
Washington, D. C., 9th day of May, 1913, ss:

To HON. CHAMP CLARK, Speaker, greeting:

Received the within warrant on the 9th day of May, A. D. 1913, and pursuant to its command I did, on the 9th day of May, A. D. 1913, as directed, take into custody the body of said Charles C. Glover therein named and brought him forthwith to the bar of the House of Representatives.

Given under my hand this 9th day of May, 1913.

R. B. GORDON,
Sergeant at Arms, House of Representatives.

The Sergeant at Arms (Mr. Robert B. Gordon) appeared at the bar of the House, having in custody the respondent, Mr. Charles C. Glover.

The SERGEANT AT ARMS. Mr. Speaker, according to instructions, I now present the person of Charles C. Glover.

The SPEAKER. Mr. Glover, you will give heed to the findings of fact by the special committee, which the Clerk will report.

The Clerk read as follows:

FINDINGS OF FACT.

That Representative THETUS W. SIMS while on his way from his residence in the city of Washington to the Post Office Department on official business on Friday morning, April 18, 1913, was accosted in Farragut Square, in the city of Washington, by Charles C. Glover, who, after applying to him certain epithets, assaulted him by striking him in the face.

That the said Charles C. Glover committed the assault upon Representative SIMS because of statements made by Representative SIMS in debate on the floor of the House of Representatives at several times during the session of the House in the Sixty-second Congress, in which Congress the said Representative SIMS was also a Representative from the State of Tennessee.

The SPEAKER. Mr. Glover, do you desire to be heard, and to have counsel, on the charge of being in contempt of the House of Representatives, for having violated its privilege?

Mr. GLOVER. Mr. Speaker, I admit the facts to be as found, but earnestly disclaim all intention to show disrespect to this House or its Members, or to invade their privileges. Nor did I know, at the time of the occurrence, that I was doing either.

I express my deep regret and offer my sincere apology.

The SPEAKER. The Sergeant at Arms will furnish Mr. Glover with a chair.

Mr. Glover sat down.

Mr. CRISP. Mr. Speaker, I offer the following resolution in behalf of the special committee appointed by the House in charge of this investigation.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 101.

Resolved, That the Speaker do reprimand Charles C. Glover, now at the bar of the House, for the breach of privileges of the House by him committed; and that the said Charles C. Glover be thereupon discharged from further custody.

Mr. CRISP. Mr. Speaker, the House, by a practically unanimous vote, has just decided that it has the inherent power to punish for breach of its privileges, and it has decided that Mr. Glover is in contempt of this House for having made an assault upon Representative SIMS for the words used by him in debate.

This House, Mr. Speaker, will ever maintain and preserve its dignity, its integrity, and its right to legislate without interference from anyone; but while in my judgment the House will always maintain that right, it will never be vindictive or inflict punishment out of proportion to the offense committed against it. It will pass judgment in each case according to the facts of the case, always seasoning justice with mercy, for if we err, we prefer to do it on the side of mercy.

Mr. Speaker, there have been numerous cases of breach of privilege of the House, and I want to refer the House to the punishment inflicted in many of those cases.

In 1796 Mr. Gunn was reprimanded.

In 1816 Mr. Fry was reprimanded.

In 1818 John Anderson was reprimanded.

In the case in 1832, of Gen. Sam Houston, with which the Members of the House are familiar, he was reprimanded.

Mr. Field, who in 1865 made an assault upon Representative Kelly, wounding him with a knife, was discharged with a reprimand. And in every instance but one, while the House has always maintained its right to punish, it has inflicted a reprimand, that one exception being in the case of Patrick Woods.

Mr. Speaker, the object of punishment is to have a deterrent effect, and in my judgment the certainty of punishment, more than its severity, will accomplish that purpose.

The committee in its investigation made no report to the House as to the form the punishment in this case should take, because the committee did not know what the conduct of Mr. Glover at this time would be.

It is unquestionably and undeniably the right of the House of Representatives to punish for contempt by imprisonment in the jail of the District of Columbia during the term that this Congress lasts. But in view of the turn that this case has taken, in view of Mr. Glover having apologized to the House, and having expressed his regret for what occurred in this case, the committee have directed me to offer the resolution for a reprimand.

Mr. Speaker, to bring the matter to a close, I demand the previous question on the resolution.

The SPEAKER. The gentleman from Georgia demands the previous question.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The resolution was agreed to unanimously.

Mr. Glover rose.

The SPEAKER. Charles C. Glover, the House of Representatives, after thorough and patient investigation of both the law and the facts, made by a special committee of five eminent lawyers of the House, appointed by the Speaker, brought in a resolution declaring that you had violated the privileges of the House and acted in a manner derogatory to the dignity of the body by assaulting a Member for words spoken in debate on the floor of the House; and after full debate the House almost unanimously adopted that resolution.

The freedom of speech and the immunity from being questioned elsewhere for words spoken in debate on the floor of the House and also of the Senate, guaranteed by the Constitution, lie at the very root of our free institutions. You violated both grossly by your conduct. In your anger you struck a blow at constitutional government.

From the very inception of parliamentary government among English-speaking peoples the principles which I have stated have been universally adopted and practiced.

This is not a case of a Member of Congress against the prisoner at the bar. It is the House of Representatives in its assembled capacity asserting its freedom of speech and the dignity of the House, which are necessary for the free and wise transaction of the public business. It is not so much to punish an individual as it is for the public good, to the end that the Republic may endure.

The House passed a resolution directing the Speaker to issue his warrant and deliver it to the Sergeant at Arms for your arrest, and the same has been done. The mandate of the warrant has been complied with by the Sergeant at Arms by bringing your body to the bar of the House.

Acting with the moderation, the care, the wisdom, and the justice with which people of our race act, they gave you a chance to be heard either in person or by counsel in mitigation before they would determine the punishment for your very grave offense against the Constitution of your country. You elected to be heard in your own proper person; you have acknowledged the facts as charged; you have apologized to the House; you have expressed your regrets; you have asserted your ignorance of the fact that you were violating the privileges of the House and the Constitution of the United States. This statement on your part, no doubt, influenced the Members in the leniency of the punishment which they determined upon, and that was that the Speaker should reprimand you for your very grave offense.

It must be apparent that a Representative or a Senator in his individual capacity has no more rights than any other citizen of the Republic, and he is clothed by the Constitution with the immunity from being questioned elsewhere for words uttered in debate on the floor of the House so that they may speak their minds freely without fear and without embarrassment. This is for the public weal. If one person is permitted to go unpunished for an assault upon one Representative for words spoken in debate on the floor of the House, every person can assault a Representative for words used in debate on the floor of the House, and free speech is at an end, free government is at an end.

Not only that, but to assault a Representative or a Senator for words spoken in debate on the floor of either House might compel a good man who does not want to kill anybody to perform that very act.

The Chair therefore reprimands you, Charles C. Glover, in the name of and by direction of the House of Representatives, and directs the Sergeant at Arms to remove you from the Hall of the House and to discharge you from custody.

Thereupon Mr. Glover left the Hall of the House.

ADDITIONAL DISTRICT JUDGE FOR EASTERN PENNSYLVANIA.

Mr. HENRY. Mr. Chairman, I submit the following privileged resolution from the Committee on Rules.

The Clerk read as follows:

House resolution 97 (H. Rept. 16).

Resolved, That immediately after the adoption of this rule the House shall proceed to the consideration of the bill H. R. 32, to provide for the appointment of an additional district judge in and for the eastern district of Pennsylvania.

Mr. HENRY. Mr. Speaker, just one minute, and I think I can convince the House that the resolution should be adopted immediately and the bill to which it refers passed promptly. The resolution has been unanimously reported by the Committee on Rules, and provides for the consideration of a bill that the Judiciary Committee would undoubtedly report favorably on at once. Therefore I move the previous question on the resolution and ask for its adoption.

The SPEAKER. The gentleman from Texas moves the previous question.

Mr. MANN. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. Has the gentleman debated it so that it will cut off further debate?

The SPEAKER. The Chair does not think that he debated it enough to do that.

Mr. HENRY. I hope the resolution will be adopted so that we can take up the bill.

Mr. MANN. It will not be if I can help it.

The SPEAKER. The question is on ordering the previous question.

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

Mr. MANN. Mr. Speaker, I did not know that such a resolution was coming in. The truth is I have had a rather unfortunate experience with the minority members of the Committee on Rules, because I rarely obtain any information concerning the rule to be reported to the House until it is reported in the House. I hope the gentleman from Kansas will take that chiding good-naturedly, because I think it is deserved.

Mr. CAMPBELL rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. CAMPBELL. To ask the gentleman from Illinois if he will yield.

Mr. MANN. I will yield for an apology or an explanation. [Laughter.]

Mr. CAMPBELL. Mr. Speaker, I was informed last night that there would be a meeting of the Committee on Rules this morning at 11 o'clock for the purpose of holding a hearing, but that nothing would be done except to have the hearing. I stated to the chairman of the committee that if that was all that was to occur, in view of the fact that I expected to participate in the discussion of the privileged resolution which was to be brought up in the House this morning at 11 o'clock, I would not attend the meeting of the Committee on Rules, and I did not attend. That may be construed into an explanation or an apology by the gentleman from Illinois.

Mr. HENRY. Mr. Speaker, the gentleman from Kansas misapprehended what I said. I said that there would be a hearing and other matters to be considered, and a formal committee notice was issued, and the gentleman must have received it this morning.

Mr. CAMPBELL. I had the notice that the gentleman from Texas gave me last night.

Mr. HENRY. Yes; and the committee had a quorum present. There were two Republican members there this morning, and we had no other idea than to act on this particular matter.

Mr. CAMPBELL. My understanding of what the chairman of the Committee on Rules stated last night was that there was to be merely a hearing.

Mr. HENRY. Oh, several gentlemen came up to present their views about some other matters, and then we were to dispose of this matter.

The SPEAKER. The Chair will notify the gentleman from Illinois [Mr. MANN] that his time is running.

Mr. MANN. I know it. I do not know who was at the meeting. All I know is that I had no idea that such a resolution was coming in. What are the facts in the case? For many years certain lawyers in the judicial district taking in West Virginia, Virginia, and North Carolina have been endeavoring to obtain the appointment of a new judge.

Mr. HARDWICK. Mr. Speaker, will the gentleman yield?

Mr. MANN. There are about 40 or 400 of them who desire to be appointed. I yield to the gentleman from Georgia.

Mr. HARDWICK. Mr. Speaker, this resolution is not the one to which the gentleman refers.

Mr. HENRY. Not at all.

Mr. HARDWICK. This is a resolution providing for another judge in the eastern district of the State of Pennsylvania.

Mr. MANN. I did not know that. I did not know that the gentleman from Pennsylvania had gotten in his work quite so soon. The House ought to have opportunity to know what is coming up. Here is a proposition brought into the House after 5 o'clock in the evening for the adoption of a rule to immediately take up a bill which nobody knows anything about, which has not been reported upon, to provide an additional United States judge. For 16 years, sitting in this House, I have heard gentlemen on the other side of the aisle assert time and again that there was too much litigation in the Federal courts, too many judges in the Federal courts, and that we ought to restrict the amount of business to be transacted in the Federal courts. In the judicial title revision act, which we passed three or four years ago, or less, we did restrict the amount of business which could be carried on in the Federal courts. We restricted the suits which could be commenced in the Federal courts and restricted the suits which could be removed from the State court to the Federal court. That side of the House has already announced its intention, through the appropriation act, that it proposes to abolish the Commerce Court, which will transfer four or five judges now in the Commerce Court to the circuits, where they can perform the work of district judges.

I had supposed that there was sufficient patronage to go to the Democratic side to last for a few weeks or a few months before you would commence to create new and needless places in order to provide appointments. I have no doubt that gentlemen will be able to produce the certificates of lawyers that they need more judges. I think you could provide 10 new Federal judges in the city of Chicago, and within a year obtain a petition signed by thousands of lawyers, many of whom had never been inside the Federal court, insisting that in order to get prompt disposition of litigation they must have a new or 10 new Federal judges. We have gone to the limit in providing United States court judges. What we ought to do is to further restrict the suits that can be brought in the Federal courts. Only recently in some act we provided a further restriction as to suits that could be brought, and provided that no suit could be brought in the Federal court against a State official for carrying out a State law. Much of the litigation in the Federal

courts in recent years has been in the form of injunction suits brought against State officials to prevent the enforcement of State laws, particularly those which related to railroad rates.

There are a number of propositions pending, some of which, I think, ought to be enacted into law, further restricting the litigation in the Federal courts. I do not believe that there is any occasion for taking the great mass of suits brought in the State courts out of the State courts and into the Federal courts, and yet we keep on adding to the Federal courts. A man who is now appointed a Federal judge in a great many cases thinks as soon as he is appointed a Federal judge his time is his own and he forgets to work very hard.

I do not know how much the political necessities may demand the appointment of this judge. I do not know whether this judge was asked for in the last session or not. I do not recall, but it was not granted; that I know. We have not added many new judges in the last few years. I do not think we ought to add any while we are taking away jurisdiction from them, while we know that the intention of the Democratic side of the House is to abolish the Commerce Court, which has four judges. I was referring awhile ago to the appointment of a circuit-court judge in the circuit immediately south of us—a proposition which has been pending before Congress for many years, bitterly opposed by the gentleman from North Carolina [Mr. WEBB], who defeated, with the aid of some of the rest of us, a proposition reported in here at one time to provide that circuit judge. That is in another bill now pending, and the reason I supposed that was to come up here was because a gentleman was endeavoring to persuade me to-day that that bill ought to pass. There is another job that somebody wants. Why, gentlemen, it will not be possible for the Democratic Party to provide enough new Federal judges to give every lawyer who wants a job a place—not all the disappointed ones. There will be many who will be asking patronage. I should have supposed the distinguished gentleman from Pennsylvania, for whom I have high regard, would have had enough trouble with the tariff bill and the disposition of patronage in Pennsylvania to satisfy him without asking for another place. The Lord knows I would hate to have that job. I have profound sympathy for anyone who has to distribute jobs or distribute patronage. I have profound sympathy for the President of the United States, upon whom rests the burden in some way of appointing thousands of persons to thousands of different places. I had hoped that we might at least pass through a special session of Congress, called to consider the tariff, without commencing the making of new places, unneeded, to provide jobs for disappointed job seekers. [Applause on the Republican side.]

Mr. HENRY. Mr. Speaker—

The SPEAKER. The gentleman from Illinois has seven minutes remaining.

Mr. HENRY. Mr. Speaker, the gentleman's speech was based on an erroneous idea altogether. We are not creating an additional place. If he had waited 15 minutes he would not have made the speech. I desire to yield 10 minutes to the gentleman from Pennsylvania [Mr. PALMER], who will convince, I think, every Member of this House that this bill should be passed and passed now.

Mr. PALMER. Mr. Speaker, the principal complaint of the distinguished gentleman from Illinois [Mr. MANN] seems to be that he does not know enough about this bill, and he takes the minority Members of the Rules Committee to task for not having informed him about this rule. I expect that is the reason why the distinguished gentleman from Illinois talked so much further beside the mark to-day than he usually does, for I feel quite convinced, as the gentleman from Texas has said, that if the gentleman from Illinois had known anything whatever about this bill—and, of course, he ought to have known about it, because his followers on the Committee on Rules should have advised him—he would not have made anything like the sort of argument that he has presented here.

Mr. Speaker, this bill provides for an additional judge for the eastern district of Pennsylvania, and it provides, also, that whenever a vacancy shall occur in the office of the district judge for the eastern district of Pennsylvania, senior in commission, such vacancy shall not be filled and thereafter there shall be but two district judges in said district. Now, the fact is that at the present time in this great eastern district of Pennsylvania there are two district judges. It comprises the city and county of Philadelphia and five large outlying counties, having a population altogether of something like two and a half million persons. The two judges are Judge Thompson and Judge Holland, Judge Holland being the senior in commission on that bench. Now, it is a difficult and delicate thing to say, but this House is, of course, entitled to know the whole truth about the matter, and the fact is that Judge Holland,

who is senior in commission upon this bench, is now in such physical condition as to hold out absolutely no hope that he will ever be able to return to the bench. He is, I may truthfully say, a very sick man. He has been compelled to leave his work and go to the South in what everyone agrees is an absolutely vain search for health.

He has what I am advised is an absolutely incurable malady. Mr. Speaker, Judge Holland has been upon that district bench for nine years, appointed when the judgeship was created. He had been theretofore a United States district attorney. He is a man 53 years of age, has never received large salaries in the positions which he has occupied, has comparatively small means, and, consequently, it would be a great hardship upon him if, in order to give the people of Philadelphia the opportunity to have their cases decided promptly by that court, he would have to retire from the bench in order to permit a man to be put there in his place. It would not be fair to a man who has been such a great judge as Judge Holland has been in that court, when ill health of this kind has overtaken him, at the very time when he most needs the little salary which the place affords, to compel him to leave the bench, because this Congress would not put, for at most a very short time, an extra judge upon that bench.

The salary is \$7,000 per annum.

This Congress has done this thing before in three or four cases. I think, in the Sixty-second Congress, it was done in the Baltimore district where Judge Morris had become incapacitated from a further service on the bench. And I doubt very much if the gentleman from Illinois [Mr. MANN], who has as kind a heart as any man in the House, interposed any objection.

Mr. MOORE. Will the gentleman yield?

Mr. PALMER. In just a minute. Congress passed a law to provide for an additional judge in that district, with a provision that when the vacancy occurred senior in commission it should be filled. The President appointed a judge to that place, Judge Morris soon thereafter died, and the court is now the same size that it was before.

Mr. MOORE. Do I understand from the gentleman's statement that the passage of this bill will not prejudice the position now held by Judge Holland?

Mr. PALMER. It would not.

Mr. MOORE. It does not mean the crowding out of the present judge?

Mr. PALMER. It does not. It means as it says. Judge Holland is senior in commission, and when a vacancy occurs in senior in commission it will not be filled. That means that Judge Holland would serve out his lifetime.

Mr. MOORE. It would be unfortunate, as the gentleman states, if Judge Holland, who has been a faithful judge, should by reason of his illness be forced out of his position through the passage of this bill. I wanted to have the gentleman's statement as to the effect of the bill.

Mr. PALMER. What I was referring to about the hardship on Judge Holland contemplated the answer some gentleman might make, that if a gentleman is incapacitated he ought to retire. That sometimes might be true, but sometimes it would be a hardship on a faithful public official, as in this particular case.

Mr. MOORE. There is no means by which a Federal judge can be retired on pay, and it would be well to have it understood that the bill does not dispossess a faithful judge.

Mr. PALMER. It would not. It means that Judge Holland would remain on the bench during life or good behavior, and another judge would do the work which he has been doing up to several months ago, when he was compelled to entirely give up, as my colleague knows.

Mr. BUTLER. Will the gentleman yield?

Mr. PALMER. I yield.

Mr. BUTLER. As my colleague knows, I have known Judge Holland well for 30 years. He has been my personal friend. I did not know until just now that his condition of health was as bad as the gentleman states it is. I know the gentleman states the facts as he has them, but I did not know until this very minute that it was anticipated that Judge Holland might die. I know he is a great sufferer, and I know he has been unable to attend to public business for some time. But I had not anticipated that Judge Holland's life might not be prolonged.

Mr. PALMER. I will say to my colleague it was a very difficult thing for me to say, and yet I feel the House is entitled to the information.

I have not seen Judge Holland personally for a long time, but members of the Philadelphia bar, of the very highest standing, men like Mr. William A. Glasgow, jr., Mr. Charles Biddle, Judge McPherson, who sits upon the same bench, and Judge

Gray, the circuit court judge in that district, came before the Committee on the Judiciary, and all of them who referred to Judge Holland's physical condition agreed with the statement that I now make, that it was such as to hold out absolutely no hope whatever that he could return to his work upon the bench.

Mr. BUTLER. Does my colleague know the condition of the public business in that court?

Mr. PALMER. I know that it is very much congested. I have a statement here, showing the number of days that the judges have been sitting on the bench, and the efforts that have been made to relieve the court by calling in outside judges, and I shall present that statement to the House during the consideration of the resolution. Again, Judge McPherson—

Mr. BUTLER. What request has Judge McPherson made?

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

Mr. HENRY. Mr. Speaker, how much time have I left?

The SPEAKER. The gentleman has nine minutes.

Mr. HENRY. Mr. Speaker, I yield four minutes more to the gentleman from Pennsylvania [Mr. PALMER].

The SPEAKER. The gentleman from Pennsylvania [Mr. PALMER] is recognized for four minutes.

Mr. BUTLER. Will the gentleman speak of Judge McPherson's request?

Mr. PALMER. This bill was introduced in the last Congress, before the close of the Congress, and a hearing was held before the Committee on the Judiciary, which was attended by Judge George Gray, Judge McPherson, and many lawyers of the Philadelphia bar; and Judge Gray and Judge McPherson, as well as the lawyers, agreed in the statement to the committee that it was absolutely necessary for the proper conduct of the business of that court that this judgeship should be created temporarily.

Mr. BUTLER. Was a report made upon the bill?

Mr. PALMER. There was no report made upon the bill, although I think the Committee on the Judiciary was unanimously in favor of it, because the matter was drawn to my attention by the Philadelphia bar so late in the session that there could be no hope that the Committee on the Judiciary could be reached in the House in order to pass the bill through the House, and it was not reported on that account.

Mr. AUSTIN. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Pennsylvania yield to the gentleman from Tennessee?

Mr. PALMER. I yield.

Mr. AUSTIN. My recollection is that a bill was passed for the relief of Judge Ricks, of northern Ohio, a few years ago.

Mr. PALMER. There have been a number of bills of that kind passed. The most recent one was the Morris case, I think.

Mr. HENRY. In one of the Texas districts Judge Rector became incapacitated, and we passed such a bill as this, but he lived for several years, although he was unable to perform his duties on the bench. When he died there was no successor appointed for him.

Mr. BUTLER. I know that we shall lose that judgeship if Judge Holland unfortunately should die.

Mr. PALMER. Let me say to my colleague regarding Judge Holland's condition that this judgeship is being asked for by members of the Philadelphia bar whom he knows, and I am quite sure that he will agree that they would make no such request were the facts not as we state them. Men like John G. Johnson—

Mr. BUTLER. The statement of Judge McPherson would convince me of the necessity. I know him well.

Mr. PALMER. The committee on the creation of judicial vacancies as part of the Law Association of Philadelphia, which is the Bar Association, which takes charge of such matters, of which Mr. John G. Johnson, one of the leaders of the American bar, is chairman, unanimously adopted resolutions asking Congress to do this very thing.

If I have time, Mr. Speaker, if this rule is adopted, as I hope it will be, during the consideration of the resolution I shall be glad to show the House the amount of business which has been done in this court and the necessity for the judgeship, aside from the question of the physical incapacity of Judge Holland.

I want to say to the gentleman from Illinois [Mr. MANN] that he does me an injustice in intimating that we are attempting to get this place for political purposes. I introduced this bill in the Sixty-second Congress. I have no interest in it whatever. I agree with him exactly upon this patronage proposition. I wish I did not have any of it. But the Philadelphia bar have asked for the passage of the bill, and I have asked a

Republican Congress to pass the bill, and I would have asked a Republican President to fill the position.

The SPEAKER. The time of the gentleman has expired.

Mr. MANN. How much time have I remaining?

The SPEAKER. Eleven minutes.

Mr. MANN. Mr. Speaker, the gentleman from Pennsylvania [Mr. PALMER] criticized me quite severely because I was not familiar with the details in reference to this matter. I plead guilty. Why should I know? Why should I be posted? Why should any Member of the House be posted on the subject of this bill or this rule? Since when did it become the policy in the House of Representatives, by a special rule, to call up what is almost a private bill, which never had been reported into the House or considered by a committee, to call it up without notice, for passage, and expect Members to know in regard to it?

I know a few other things that are not intimately connected with this proposition. One is that the Democrats in the Senate held up the appointment of two Federal judges in Chicago, where they were needed very much more than this one is needed in Philadelphia. They held up those appointments for a considerable period of time, and since Democrats in the Senate held up those appointments so long they are still held up by a Democratic President.

Mr. HUMPHREY of Washington. Will the gentleman yield?

The SPEAKER. Does the gentleman from Illinois yield to the gentleman from Washington?

Mr. MANN. I do.

Mr. HUMPHREY of Washington. I just wanted to state that they did the same thing in the State of Washington, where business was very much congested, even after the judge had assumed his duties.

Mr. MANN. Now, Mr. Speaker, the gentleman from Pennsylvania [Mr. PALMER] says that if this bill is considered in the House he will make the attempt to show the necessity for this judge, regardless of the illness of the present judge. I have no doubt that he will make that attempt.

I remember the Ohio case. We passed a bill to provide an additional judge, I think, in the southern or middle district of Ohio, with a provision that when one of the places became vacant it should not ever be filled. But when that place became vacant, if my recollection is correct, we passed another bill to provide an extra judge.

I opposed both of the propositions. I do not think there was any occasion in that case for the appointment of the extra judge.

Mr. PALMER. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. PALMER. The gentleman from Illinois did not oppose the Maryland case.

Mr. MANN. I did not.

Mr. PALMER. And when Judge Morris died there was no attempt to put another judge on the bench?

Mr. MANN. No.

Mr. PALMER. Well, I will say to the gentleman—

Mr. MANN. Let me say a word now.

Mr. PALMER. I should like to complete my statement.

Mr. MANN. Before that bill passed we had a complete understanding between many Members of the House that there should be no effort and no attempt made when Judge Morris died to put anybody in his place, if we passed a bill providing for an extra judge through the balance of his term of life.

Mr. PALMER. Will the gentleman yield?

Mr. MANN. Yes.

Mr. PALMER. Permit me to say that I am perfectly willing and anxious to enter into exactly the same kind of an understanding.

Mr. MANN. Yes; but the gentleman himself has not the power.

Mr. PALMER. Well—

Mr. MANN. The gentleman is only one man in Congress, and while at present he may be the political boss of Pennsylvania—and I hope he is—and I hope he will continue so on the Democratic side, he might not.

Mr. PALMER. Well, if the gentleman will permit, the understanding in the case of Judge Morris was had, I suppose, with the gentleman who introduced the bill.

Mr. MANN. Oh, it was bad with a good many gentlemen.

Mr. PALMER. I am satisfied that a good many gentlemen here would be willing to enter into that understanding, because nobody has any earthly notion of asking for an additional judge in Philadelphia.

Mr. MANN. The gentleman ought not to bring in a bill at this time of night without a chance for Members to know anything about it, and attempt to put it through in this way.

Mr. **POU**. Does not the bill itself provide that there shall be no appointment when a vacancy occurs?

Mr. **MANN**. It does; and that was the case in the Ohio matter. But the gentleman from Pennsylvania himself says that he will undertake to show to the House the need of three judges in this district where there are now only two. If he can show to the House now that they need three judges in the district, I fail to understand how he could enter into such an agreement fairly to himself that there shall be only two judges.

Mr. **POU**. Any agreement that might be entered into here would not be worth anything.

Mr. **MANN**. We discovered that in the last Congress when an agreement was entered into in regard to some international congress at Buffalo—and that is true of this Congress because the same provision was in the sundry civil bill—and then we discovered later that the agreement we entered into in regard to the California Exposition was good for nothing. In other words, gentlemen on the floor of the House who introduce bills and in good faith make statements are not able to carry them out, because they do not represent the sentiment of the people, and they are sidestepped, or perhaps they are retired from the Congress, and some one else carries it out. We had a distinct agreement on the floor as to the Buffalo Hygiene Congress, that there should be no appropriation asked for, and the gentleman who made the agreement kept it as far as he was concerned, but his colleague from the same city did not feel bound by the agreement and presented a case which secured an appropriation. He had it inserted at the other end of the Capitol and left in by the House conferees on the sundry civil bill, one of the conferees being subject to the influence of his colleague from the same State.

Mr. **HENRY**. Mr. Speaker, I am utterly surprised at the attitude of the gentleman from Illinois in this case.

Mr. **MANN**. The surprise is mutual.

Mr. **HENRY**. That may be true. When Justice Moody was stricken, Democrats of the Judiciary Committee, and every Democrat in this House, and every Republican on that side of the House, brought in a relief bill in order that that justice might retire on full pay, although he was not eligible under the general law.

The gentleman talks about being surprised in regard to this matter. A rule was introduced yesterday in this House, was referred to the Committee on Rules, and was taken up this morning, with his Republican colleagues sitting there and participating in the proceedings of the Rules Committee. They heard this case, and they thoroughly considered every phase of it and agreed to bring in a rule. It is a unanimous report of the Committee on Rules.

Now, if the gentleman from Illinois thinks that I am going to run to him every time I have an idea that I want to put something through this House—and he will be surprised if I do not—he will be entirely mistaken; nor do I think the gentlemen on that side ought to be required to do it. Here is a meritorious bill, and there ought to be no opposition to it. Every man on both sides of the House ought to be willing to vote for this bill to relieve a stricken judge, for it is a meritorious measure, introduced by the gentleman from Pennsylvania. Now, Mr. Speaker, I yield the balance of my time to the gentleman from Pennsylvania [Mr. **LOGUE**].

Mr. **LOGUE**. Mr. Speaker, being a practitioner in the eastern district of Pennsylvania, I can verify what my colleague, Mr. **PALMER**, has said. The work of the eastern district court is absolutely congested. We have a large volume of work there, many bankruptcy cases, a large civil trial list, and a large amount of equity business and criminal cases. At the present time, from my personal knowledge and acquaintanceship with the work of that court, it assures me that it is impossible for it to be kept in any way up to date.

I had occasion, a short time ago, to visit the home of Judge Holland, the town of Norristown, and from his friends there with whom I spoke I was assured of the fact that there was little hope of his recovery. His trouble at the present time is said to be tuberculosis. The man has performed his duty faithfully. He has served at times when he should have been relieved. He has given up only within the last few months, when absolutely compelled to do so and unable further to perform the duties. The bar of the eastern district, which embraces the member that my colleague has referred to, require it. Judge Witmer has been brought in from a distance to try an important conspiracy case—the lumber case. Other judges have been brought in to try cases that had to be disposed of. We need some one there who is able to devote all his time to this district, and not be limited to a judge of another district to help out the congestion. I know personally, from my experience and practice, of the necessity for this act, and have been urged by members

of the bar, whose sole interest is not to fill a place, but to expedite and quickly clear up litigation, to urge its passage. In the interest of the administration of justice this should be done. I am perfectly satisfied that there will be no attempt to create a permanent additional judge out of this act.

Mr. **MOORE**. Mr. Speaker, will the gentleman yield?

The **SPEAKER**. Does the gentleman yield?

Mr. **LOGUE**. I do.

Mr. **MOORE**. I merely want to ask a question. Does the gentleman know whether Judge Witmer came in to try the lumber case to relieve Judge Holland?

Mr. **LOGUE**. Yes.

Mr. **MOORE**. That was the reason for it?

Mr. **LOGUE**. Yes.

Mr. **MOORE**. Does the gentleman know when Judge Holland left for the South?

Mr. **LOGUE**. In January Judge Holland left for the South. He became so sick there that he had to return to Norristown. I was in Norristown in a case the last week in March. I then met his son. From his statements regarding his father's condition it was manifest to me that Judge Holland had not improved.

The **SPEAKER**. The time of the gentleman from Pennsylvania has expired.

Mr. **MANN**. Mr. Speaker, I make the point of order that there is no quorum present.

The **SPEAKER**. The gentleman from Illinois makes the point of order that there is no quorum present. Evidently there is no quorum present.

Mr. **UNDERWOOD**. Mr. Speaker, I move a call of the House.

The **SPEAKER**. The question is on the motion of the gentleman from Alabama that a call of the House be ordered.

The question was taken; and on a division (demanded by Mr. **MANN**) there were—ayes 64, noes 37.

So a call of the House was ordered.

The **SPEAKER**. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Ainey	Dupré	Kennedy, R. I.	Roberts, Mass.
Alexander	Eagan	Key, Ohio	Rouse
Allen	Edmonds	Kieess, Pa.	Rucker
Ansberry	Elder	Kinkead, N. J.	Saunders
Anthony	Esch	Kitchin	Scully
Baker	Estopinal	Knowland, J. R.	Sells
Baltz	Evans	Konig	Sharp
Barchfeld	Fairchild	Konop	Sherley
Bartholdt	Falconer	Korbly	Shreve
Bartlett	Fitzgerald	Lafferty	Sims
Beakes	Flood, Va.	Langley	Sisson
Borland	Floyd	Lazaro	Slayden
Bowdle	Fordney	Lee, Pa.	Slemp
Bremner	Fowler	L'Engle	Small
Britten	Francis	Lenroot	Smith, Idaho
Brockson	Frear	Lever	Smith, Md.
Broussard	Gard	Levy	Smith, J. M. C.
Brown, N. Y.	Gardner	Lewis, Md.	Smith, Saml. W.
Browne, Wis.	George	Lewis, Pa.	Smith, Minn.
Browning	Gerry	Linthicum	Smith, N. Y.
Bruckner	Gillett	McCellan	Stedman
Buchanan, Ill.	Glass	McDermott	Steenerson
Bulkley	Goldfogle	McGuire, Okla.	Stevens, Minn.
Burgess	Good	McKellar	Stevens, N. H.
Burke, Pa.	Goodwin, Ark.	McKenzie	Stout
Byrnes, S. C.	Gordon	Madden	Sullivan
Calder	Gorman	Mahan	Sumners
Callaway	Gouiden	Maher	Switzer
Carew	Graham, Ill.	Manahan	Talbott, Md.
Carlin	Graham, Pa.	Merritt	Taylor, Ala.
Casey	Green, Iowa	Metz	Taylor, Ark.
Chandler	Greene, Mass.	Mondell	Taylor, Colo.
Church	Griest	Montague	Taylor, N. Y.
Clancy	Gudger	Morrison	Temple
Claypool	Guernsey	Moss, Ind.	Ten Eyck
Clayton	Hamill	Moss, W. Va.	Thacher
Connelly, Kans.	Hamilton, N. Y.	Mott	Thomson, Ill.
Connolly, Iowa	Hardy	Nelson	Towner
Cooper	Harrison, Miss.	Nolan, J. I.	Townsend
Copley	Hay	O'Brien	Vare
Covington	Helgesen	Oldfield	Volstead
Cramton	Hinebaugh	O'Leary	Wallin
Curley	Hobson	O'Shaunessy	Walsh
Curry	Holland	Page	Webb
Dale	Howard	Parker	Whitacre
Danforth	Howell	Patten, N. Y.	Wildor
Decker	Hoxworth	Peters	Wilson, N. Y.
Detrick	Hughes, W. Va.	Platt	Wingo
Dent	Hulings	Plumley	Winslow
Difenderfer	Humphrey, Wash.	Post	Woodruff
Dillon	Johnson, Ky.	Powers	Young, N. Dak.
Donohoe	Johnson, S. C.	Quin	
Dooning	Kahn	Rauch	
Doremus	Kelley, Mich.	Riordan	

The **SPEAKER**. The roll call develops 192; not a quorum.

Mr. **UNDERWOOD**. Mr. Speaker, I move that the Speaker be authorized to issue the warrant of the House for the arrest of the absentees.

The SPEAKER. The gentleman from Alabama moves that the Speaker be authorized to issue his warrant to arrest the absentees, and that the Sergeant at Arms arrest them and bring them into the House.

The motion was agreed to.

The SPEAKER. Two hundred and eighteen Members have responded to their names—a quorum; 216 Members constitute a quorum.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. Do 216 Members constitute a quorum?

The SPEAKER. Two hundred and sixteen Members constitute a quorum.

Mr. MANN. I thought the whole number was 434.

The SPEAKER. Four hundred and thirty-five Members constitute the whole membership of the House; but one is dead and three have never been sworn in.

Mr. MANN. Are their names carried on the roll?

The SPEAKER. The Chair does not know whether their names are carried on the roll or not. They ought not to be. This matter was in a good deal of doubt for a long time until Speaker Henderson rendered a very elaborate written opinion in which he defined what constitutes a quorum as being one more than a majority of Members elect sworn in and living who have neither resigned nor been expelled.

Mr. MANN. The Chair states there are three Members who have not been sworn in; their names ought to be stricken off the roll.

Mr. GARRETT of Tennessee. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GARRETT of Tennessee. The Chair announced that 218 Members were present.

The SPEAKER. That is correct.

Mr. GARRETT of Tennessee. So this question does not arise—

The SPEAKER. This question is not at all acute; we have two more than enough to constitute a majority.

Mr. GARRETT of Tennessee. The previous question has been ordered?

The SPEAKER. The previous question has been ordered and a call of the House was ordered, and the gentleman from Alabama—

Mr. UNDERWOOD. Mr. Speaker, I move to dispense with further proceedings under the call.

The SPEAKER. The gentleman from Alabama moves to dispense with further proceedings under the call.

Mr. HAMLIN. Mr. Speaker, I desire to be recorded as present.

The SPEAKER. That makes 219. The gentleman from Alabama moves to dispense with further proceedings under the call.

The question was taken, and the Speaker announced the ayes had it.

Mr. MANN. Mr. Speaker, I ask for a division.

The SPEAKER. The gentleman from Illinois asks for a division.

The House divided; and there were—ayes 53, noes 19.

Mr. MANN. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The gentleman from Illinois demands the yeas and nays. Those in favor of ordering the yeas and nays will rise and stand until they are counted. [After counting.] Nineteen gentlemen have risen, a sufficient number. The question is on dispensing with further proceedings under the call.

The question was taken; and there were—yeas 167, nays 0, answered "present" 2, not voting 264, as follows:

YEAS—167.

Abercrombie	Bryan	Edwards	Hamlin
Adair	Buchanan, Ill.	Elder	Hardwick
Aiken	Buchanan, Tex.	Falconer	Hayden
Anderson	Burke, Wis.	Farr	Helvering
Ashbrook	Campbell	Ferguson	Hensley
Avis	Caraway	Fertis	Hill
Bailey	Carr	Fess	Holland
Barkley	Cline	Fields	Houston
Barnhart	Collier	Finley	Hughes, Ga.
Barton	Conry	FitzHenry	Hull
Bathrick	Cox	Foster	Igoe
Beakes	Crisp	Francis	Jacoway
Beall, Tex.	Cullop	Frear	Johnson, S. C.
Bell, Cal.	Davenport	Gallagher	Johnson, Utah
Bell, Ga.	Dershem	Garner	Johnson, Wash.
Blackmon	Dickinson	Garrett, Tenn.	Keating
Booher	Dies	Garrett, Tex.	Keister
Borchers	Dixon	Gilmore	Kelley, Mich.
Bremner	Donovan	Gittins	Kelly, Pa.
Britten	Doughton	Goodwin, Ark.	Kennedy, Conn.
Brockson	Dunn	Gooden	Kennedy, Iowa
Brodbeck	Dyer	Greene, Vt.	Kettner
Brumbaugh	Eagle	Griffin	Kiess, Pa.

Kindel	Martin	Reed	Stone
Kirkpatrick	Mitchell	Reilly, Conn.	Stringer
Kreider	Moon	Reilly, Wis.	Sutherland
La Follette	Moore	Roberts, Nev.	Taggart
Langham	Murdock	Rogers	Talcott, N. Y.
Lee, Ga.	Murray, Mass.	Rothermel	Tavener
Lee, Pa.	Murray, Okla.	Rubey	Taylor, Colo.
Leshner	Neeley	Rupley	Thomas
Lieb	Norton	Russell	Thompson, Okla.
Lindbergh	Oglesby	Sabath	Treadway
Lindquist	O'Hair	Scott	Underwood
Lloyd	Palmer	Seldomridge	Walker
Logue	Pepper	Sherwood	Wagner
Lonegan	Peterson	Sinnott	Walters
McAndrews	Phelan	Sloan	Weaver
McGillcuddy	Porter	Sparkman	Williams
Maguire, Nebr.	Ragsdale	Stephens, Miss.	Willis
Mann	Raker	Stephens, Nebr.	Wilson, Fla.
Mapes	Rayburn	Stephens, Tex.	

ANSWERED "PRESENT"—2.

Bartlett	Rouse
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NOT VOTING—264.

Adamson	Eagan	Kinhead, N. J.	Rucker
Ainey	Edmonds	Kitchin	Saunders
Alexander	Esch	Knowland, J. R.	Scully
Allen	Estopinal	Konig	Sells
Ansberry	Evans	Konop	Shackelford
Anthony	Fairchild	Korbly	Sharp
Aswell	Falson	Lafferty	Shrley
Austin	Fitzgerald	Langley	Shreve
Baker	Flood, Va.	Lazaro	Sims
Barchfeld	Floyd, Ark.	L'Engle	Sisson
Bartholdt	Fordney	Lenroot	Slayden
Borland	Fowler	Levy	Slomp
Bowdle	French	Levy	Small
Broussard	Gard	Lewis, Md.	Smith, Idaho
Brown, N. Y.	Gardner	Lewis, Pa.	Smith, J. M. C.
Brown, W. Va.	Gerry	Linthicum	Smith, Md.
Browne, Wis.	Gillett	Lobeck	Smith, Minn.
Browning	Glass	McClellan	Smith, N. Y.
Bruckner	Godwin, N. C.	McCoy	Smith, Saml. W.
Bulkley	Goeke	McDermott	Smith, Tex.
Burgess	Goldfogle	McGuire, Okla.	Stafford
Burke, Pa.	Good	McKellar	Stanley
Burke, S. Dak.	Goodwin, Me.	McKenzie	Stedman
Burnett	Gordon	McLaughlin	Steenerson
Butler	Gorman	Madden	Stephens, Cal.
Byrnes, S. C.	Graham, Ill.	Mahan	Stevens, Minn.
Byrnes, Tenn.	Graham, Pa.	Maher	Stevens, N. H.
Calder	Gray	Manahan	Stout
Callaway	Green, Iowa	Merritt	Summers
Candler, Miss.	Greene, Mass.	Metz	Switzer
Cantrill	Gregg	Miller	Talbot, Md.
Carew	Griest	Mondell	Taylor, Ala.
Carlin	Gudger	Montague	Taylor, Ark.
Carter	Guernsey	Morgan, La.	Taylor, N. Y.
Cary	Hamill	Morgan, Okla.	Temple
Casey	Hamilton, Mich.	Morin	Ten Eyck
Chandler, N. Y.	Hamilton, N. Y.	Morrison	Thacher
Church	Hammond	Moss, Ind.	Thomson, Ill.
Clancy	Hardy	Moss, W. Va.	Towner
Clark, Fla.	Harrison, Miss.	Mott	Townsend
Claypool	Harrison, N. Y.	Nelson	Tribble
Clayton	Haugen	Nolan, J. I.	Tuttle
Connelly, Kans.	Hawley	O'Brien	Underhill
Connolly, Iowa	Hay	Oldfield	Vare
Cooper	Hayes	O'Leary	Volstead
Copley	Heflin	O'Shaunessy	Wallin
Covington	Helgesen	Padgett	Walsh
Cramton	Helm	Page	Watkins
Crosser	Henry	Parker	Watson
Curley	Hinds	Patten, N. Y.	Webb
Curry	Hinebaugh	Patton, Pa.	Whaley
Dale	Hobson	Payne	Whitacre
Danforth	Howard	Peters	White
Davis, Minn.	Howell	Platt	Wildner
Davis, W. Va.	Hoxworth	Plumley	Wilson, N. Y.
Decker	Hughes, W. Va.	Post	Wingo
Deitrich	Hullings	Pou	Winslow
Dent	Humphrey, Wash.	Powers	Witherspoon
Difenderfer	Humphreys, Miss.	Prouty	Woodruff
Dillon	Johnson, Ky.	Quin	Woods
Donohoe	Jones	Rainey	Young, Mich.
Dooling	Kahn	Rauch	Young, N. Dak.
Doolittle	Kennedy, R. I.	Richardson	Young, Tex.
Doremus	Kent	Riordan	
Driscoll	Key, Ohio.	Roberts, Mass.	
Dupré	Kinkaid, Nebr.	Roddenbery	

During the calling of the roll the following occurred:

Mr. MANN. A parliamentary inquiry, Mr. Speaker. The Clerk just called the name of Mr. GEORGE. I would like to inquire if Mr. GEORGE has been sworn in and whether his name should be on the roll?

The SPEAKER. The Chair will order the names of Mr. GEORGE, Mr. SULLIVAN, and Mr. BALTZ stricken from the roll. That will settle it.

Mr. GOULDEN. Mr. Speaker, Mr. GEORGE is in Europe and quite ill.

The SPEAKER. I am aware of that; and the other two gentlemen are quite sick. The Clerk will proceed with the calling of the roll.

The Clerk resumed and completed the calling of the roll.

So the proceedings under the call were dispensed with.

The Clerk announced the following pairs:

For the session:

Mr. METZ with Mr. WALLIN.

Mr. HOBSON with Mr. FAIRCHILD.
 Mr. BARTLETT with Mr. BUTLER.
 Mr. ADAMSON with Mr. STEVENS of Minnesota.
 Until further notice:
 Mr. WILSON of New York with Mr. BROWNE of Wisconsin.
 Mr. BROWN of West Virginia with Mr. BURKE of Pennsylvania.
 Mr. SCULLY with Mr. BROWNING.
 Mr. BULKLEY with Mr. CARY.
 Mr. BURGESS with Mr. COOPER.
 Mr. BURNETT with Mr. CRAMTON.
 Mr. BYRNES of South Carolina with Mr. BURKE of South Dakota.
 Mr. BYRNS of Tennessee with Mr. CURREY.
 Mr. CANDLER with Mr. DANFORTH.
 Mr. CARLIN with Mr. DAVIS of Minnesota.
 Mr. CARTER with Mr. DILLON.
 Mr. CANTRILL with Mr. EDMONDS.
 Mr. KORBLY with Mr. ESCH.
 Mr. TAYLOR of Colorado with Mr. FORDNEY.
 Mr. CLARK of Florida with Mr. GOOD.
 Mr. CLAYPOOL with Mr. GOODWIN of Maine.
 Mr. CLAYTON with Mr. GRAHAM of Pennsylvania.
 Mr. CURLEY with Mr. GREENE of Massachusetts.
 Mr. DAVIS of West Virginia with Mr. GRIEST.
 Mr. DENT with Mr. GUERNSEY.
 Mr. DEFENDERFER with Mr. HAMILTON of Michigan.
 Mr. DONOHUE with Mr. HAUGEN.
 Mr. FAISON with Mr. HAWLEY.
 Mr. FLOOD of Virginia with Mr. HINDS.
 Mr. GLASS with Mr. SLEMP.
 Mr. GODWIN of North Carolina with Mr. KAHN.
 Mr. RIORDAN with Mr. MERRITT.
 Mr. GOLDSOGLE with Mr. KENNEDY of Rhode Island.
 Mr. GRAHAM of Illinois with Mr. KINKAID of Nebraska.
 Mr. GREGG of Texas with Mr. J. R. KNOWLAND.
 Mr. GUDGER with Mr. LANGLEY.
 Mr. HARDY with Mr. LENROOT.
 Mr. HARRISON of New York with Mr. LEWIS of Pennsylvania.
 Mr. HARRISON of Mississippi with Mr. McGUIRE of Oklahoma.
 Mr. HAY with Mr. MCKENZIE.
 Mr. HEFLIN with Mr. McLAUGHLIN.
 Mr. HOWARD with Mr. MADDEN.
 Mr. HUMPHREYS of Mississippi with Mr. MANAHAN.
 Mr. JONES with Mr. MILLER.
 Mr. JOHNSON of Kentucky with Mr. MONDELL.
 Mr. KINKAID of New Jersey with Mr. MOSS of West Virginia.
 Mr. KITCHIN with Mr. NELSON.
 Mr. LEVER with Mr. MOTT.
 Mr. LEVY with Mr. PATTON of Pennsylvania.
 Mr. LOBECK with Mr. PARKER.
 Mr. MCCOY with Mr. PLATT.
 Mr. MONTAGUE with Mr. PLUMLEY.
 Mr. MORGAN of Louisiana with Mr. PROUTY.
 Mr. OLDFIELD with Mr. ROBERTS of Massachusetts.
 Mr. PADGETT with Mr. HAMILTON of New York.
 Mr. PAGE with Mr. HAYES.
 Mr. PETERS with Mr. PAYNE.
 Mr. POU with Mr. HELGESEN.
 Mr. SHACKLEFORD with Mr. SELLS.
 Mr. SHARP with Mr. SHREVE.
 Mr. SIMS with Mr. SMITH of Idaho.
 Mr. SISSON with Mr. SMITH of Minnesota.
 Mr. SLAYDEN with Mr. STAFFORD.
 Mr. SMALL with Mr. STEENERSON.
 Mr. SMITH of Texas with Mr. SWITZER.
 Mr. TALBOTT of Maryland with Mr. TOWNER.
 Mr. TAYLOR of Alabama with Mr. VARE.
 Mr. UNDERHILL with Mr. VOLSTEAD.
 Mr. WATKINS with Mr. WILDER.
 Mr. WHITE with Mr. WINSLOW.
 Mr. YOUNG of Texas with Mr. WOODS.
 Mr. RAINEY with Mr. YOUNG of Michigan.
 Mr. ASWELL with Mr. YOUNG of North Dakota.
 Mr. RAUCH with Mr. SAMUEL W. SMITH.
 Mr. RIORDAN with Mr. MERRITT.
 Mr. ROUSE with Mr. J. M. C. SMITH.
 Mr. RUCKER with Mr. FRENCH.
 Mr. HUMPHREY of Washington with Mr. MORRISON.
 Mr. SHERLEY with Mr. GILLET.
 Mr. STEDMAN with Mr. ANTHONY.
 Mr. WEBB with Mr. HUGHES of West Virginia.
 Mr. ALEXANDER with Mr. AINEY.
 Mr. ALLEN with Mr. AUSTIN.
 Mr. BORLAND with Mr. BARCHFELD.
 Mr. FITZGERALD with Mr. CALDER.

Mr. ROUSE. Mr. Speaker, I voted "yea." I am paired with the gentleman from Michigan, Mr. J. M. C. SMITH, and wish to withdraw my vote and vote "present."

The SPEAKER. The Clerk will call the gentleman's name. The name of Mr. Rouse was called, and he voted "present." The result of the vote was announced as above recorded. Mr. MANN. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The gentleman from Illinois [Mr. MANN] moves that the House do now adjourn. The question is on agreeing to that motion.

The question was taken, and the Speaker announced that the yeas seemed to have it.

Mr. MANN. Mr. Speaker, I ask for a division. The House divided; and there were—ayes 35, yeas 93.

So the House refused to adjourn. Mr. MANN. Mr. Speaker, I make the point of order that there is no quorum present.

Mr. PALMER. Mr. Speaker, I make the point of order that the point of order made by the gentleman from Illinois [Mr. MANN] is dilatory.

Mr. MANN. Oh, Mr. Speaker, the point of order that there is no quorum is not dilatory.

The SPEAKER. Evidently the House is so much short of a quorum that the Chair thinks the point of order made by the gentleman from Illinois is well taken.

Mr. MANN. It is a constitutional right, Mr. Speaker, to have a quorum present.

The SPEAKER. The Chair understands that. The point of order is sustained.

Mr. PALMER. Mr. Speaker, I move a call of the House.

The SPEAKER. The gentleman from Pennsylvania [Mr. PALMER] moves a call of the House. The question is on agreeing to that motion.

The question was taken, and the Speaker announced that the yeas seemed to have it.

Mr. MANN. Mr. Speaker, I ask for a division. The House divided; and there were—ayes 93, yeas 31.

Mr. MANN. Mr. Speaker, I demand tellers.

The SPEAKER. The gentleman from Illinois [Mr. MANN] demands tellers. Those in favor of taking the vote by tellers will rise and stand until they are counted.

Mr. PALMER. Mr. Speaker, I demand the yeas and nays. Mr. MANN. What? That is dilatory.

Mr. PALMER. That will develop a quorum. The SPEAKER. Those in favor of ordering the yeas and nays will rise and stand until they are counted. [After counting.] Evidently a sufficient number have arisen in the affirmative, and the Clerk will call the roll.

Mr. BURNETT. Mr. Speaker, what is the roll call on?

The SPEAKER. The question is on ordering a call of the House. Those in favor of it will vote "yea"; those opposed will vote "nay." The Clerk will call the roll.

The question was taken; and there were—yeas 146, nays 47, answered "present" 3, not voting 235, as follows:

YEAS—146.

Abercrombie	Dershem	Jacoway	Reilly, Conn.
Alken	Dickinson	Johnson, Ky.	Reilly, Wis.
Ainey	Dies	Johnson, S. C.	Richardson
Ashbrook	Doughton	Keating	Rothermel
Bailey	Driscoll	Kennedy, Conn.	Ruby
Barkley	Eagle	Kettner	Rupley
Barnhart	Edwards	Kindel	Russell
Bartlett	Elder	Kirkpatrick	Sabath
Bathrick	Falconer	Lee, Ga.	Seldomridge
Beakes	Fergusson	Lee, Pa.	Shackleford
Beall, Tex.	Ferris	Leshar	Sherwood
Bell, Ga.	Fields	Lieb	Sisson
Blackmon	Finley	Lloyd	Smith, Md.
Booher	Fitzhenry	Lobeck	Sparkman
Bremner	Foster	Logue	Stephens, Miss.
Brockson	Francis	Loneragan	Stephens, Nebr.
Brodbeck	Garner	McAndrews	Stephens, Tex.
Brown, W. Va.	Garrett, Tenn.	McGillcuddy	Stone
Brumbaugh	Garrett, Tex.	Maguire, Nebr.	Stringer
Buchanan, Ill.	Gilmore	Mitchell	Taggart
Buchanan, Tex.	Godwin, N. C.	Moon	Talcott, N. Y.
Burgess	Goodwin, Ark.	Murray, Mass.	Tavener
Burke, Wis.	Goulden	Murray, Okla.	Taylor, Colo.
Burnett	Gray	Neeley	Temple
Byrns, Tenn.	Griffin	Norton	Thompson, Okla.
Candler, Miss.	Hamlin	Oglesby	Tribble
Caraway	Hammond	O'Hair	Underwood
Carr	Hardwick	Page	Vaughan
Chandler, N. Y.	Hayden	Palmer	Walker
Clark, Fla.	Helm	Pepper	Watson
Claypool	Helvering	Peterson	Weaver
Collier	Hensley	Phelan	Williams
Conry	Hill	Porter	Wilson, Fla.
Cox	Holland	Ragsdale	Young, Tex.
Crosser	Houston	Raker	The Speaker
Cullop	Hughes, Ga.	Rayburn	
Davenport	Igoe	Reed	

NAYS—47.

Anderson	Dyer	Kreider	Scott
Avis	Farr	La Follette	Sinnott
Barton	Fess	Langham	Sloan
Boichers	Frear	Lindquist	Smith, Idaho
Britten	Greene, Vt.	Mann	Stafford
Bryan	Hamilton, Mich.	Mapes	Sutherland
Butler	Johnson, Utah	Martin	Thomas
Campbell	Johnson, Wash.	Morgan, Okla.	Treadway
Cary	Keister	Morin	Walters
Curry	Kelley, Mich.	Murdock	Willis
Dillon	Kennedy, Iowa	Roberts, Nev.	Witherspoon
Dunn	Knowland, J. R.	Rogers	

ANSWERED "PRESENT"—3.

Hullings	Lewis, Md.	Rouse
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NOT VOTING—235.

Adair	Esch	Key, Ohio	Rainey
Adamson	Estopinal	Kless, Pa.	Rauch
Alexander	Evans	Kinkaid, Nebr.	Riordan
Allen	Fairehild	Kinkead, N. J.	Roberts, Mass.
Ansberry	Faison	Kitchin	Roddenbery
Anthony	Fitzgerald	Konig	Rucker
Aswell	Flood, Va.	Konop	Saunders
Austin	Floyd, Ark.	Korbly	Seully
Baker	Fordney	Lafferty	Sells
Barchfeld	Fowley	Langley	Sharp
Bartholdt	French	Lazaro	Sherley
Bell, Cal.	Gallagher	L'Engle	Shreve
Borland	Gard	Lenroot	Sims
Bowdle	Gardner	Lever	Slayden
Broussard	Gerry	Levy	Slomp
Brown, N. Y.	Gillett	Lewis, Pa.	Small
Brown, Wis.	Gittins	Lindbergh	Smith, J. M. C.
Browning	Glass	Linticum	Smith, Minn.
Bruckner	Goeke	McClellan	Smith, N. Y.
Bulkley	Guldfogle	McCoy	Smith, Saml. W.
Burke, Pa.	Good	McDermott	Smith, Tex.
Burke, S. Dak.	Goodwin, Me.	McGuire, Okla.	Stanley
Byrnes, S. C.	Gordon	McKellar	Stedman
Calder	Gorman	McKenzie	Steenerson
Callaway	Graham, Ill.	McLaughlin	Stephens, Cal.
Cantrill	Graham, Pa.	Madden	Stevens, Minn.
Carew	Green, Iowa	Mahan	Stevens, N. H.
Carlin	Greene, Mass.	Maher	Stout
Carter	Gregg	Manahan	Summers
Casey	Griest	Merritt	Switzer
Church	Gudger	Metz	Talbot, Md.
Clancy	Guernsey	Miller	Taylor, Ala.
Clayton	Hamill	Mondell	Taylor, Ark.
Cline	Hamilton, N. Y.	Montague	Taylor, N. Y.
Connelly, Kans.	Hardy	Moore	Ten Eyck
Connelly, Iowa	Harrison, Miss.	Morgan, La.	Thacher
Cooper	Harrison, N. Y.	Morrison	Thomson, Ill.
Copley	Haugen	Moss, Ind.	Townsend
Covington	Hawley	Moss, W. Va.	Townsend
Cramton	Hay	Mott	Tuttle
Crisp	Hayes	Nelson	Underhill
Curley	Hellin	Nolan, J. I.	Vare
Dale	Helgesen	O'Brien	Volstead
Danforth	Henry	Oldfield	Wallin
Davis, Minn.	Hinds	O'Leary	Walsh
Davis, W. Va.	Hinebaugh	O'Shaunessy	Watkins
Decker	Hobson	Padgett	Webb
Deltrick	Howard	Parker	Whaley
Dent	Howell	Patten, N. Y.	Whitacre
Difenderfer	Hoxworth	Patton, Pa.	White
Dixcn	Hughes, W. Va.	Payne	Wilder
Donohoe	Hull	Peters	Wilson, N. Y.
Donovan	Humphrey, Wash.	Platt	Wingo
Dooling	Humphreys, Miss.	Plumley	Winslow
Doolittle	Jones	Post	Woodruff
Doremus	Kahn	Pou	Woods
Dupré	Kelly, Pa.	Powers	Young, Mich.
Eagan	Kennedy, R. I.	Prouty	Young, N. Dak.
Edmonds	Kent	Quint	

So a call of the House was ordered.

The SPEAKER. The Clerk will call my name.

The Clerk called the name of Mr. CLARK of Missouri, and he voted "yea."

Mr. MANN. Is the gentleman from Connecticut [Mr. LONERGAN] recorded?

The SPEAKER. He is recorded.

Mr. MANN. I do not know whether he was present or not. His name was called. The gentleman from Missouri [Mr. LLOYD] answered, endeavoring to answer to his own name, and I heard the Clerk answer "Present" for Mr. LONERGAN. Now, if the gentleman from Missouri [Mr. LLOYD] is also recorded, I should like to inquire if Mr. LONERGAN is present.

The SPEAKER. Is Mr. LONERGAN present?

Mr. LONERGAN. Yes.

The SPEAKER. Did the gentleman vote?

Mr. LONERGAN. I did. I voted "yea."

The result of the vote was announced as above recorded.

The SPEAKER. A call of the House is ordered.

ADJOURNMENT.

Mr. PALMER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 6 minutes p. m.) the House adjourned until to-morrow, Saturday, May 10, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, a letter from the Secretary of War, transmitting a letter from the former Secretary of War in relation to the employment of clerks and messengers in the Philippine Islands (H. Doc. No. 46), was taken from the Speaker's table, referred to the Committee on Military Affairs, and ordered to be printed.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. FERRIS: A bill (H. R. 4923) for the relief of the Iowa Tribe of Indians of Oklahoma; to the Committee on Indian Affairs.

By Mr. DENT: A bill (H. R. 4929) to promote the safety of travelers and employees upon railroads engaged in interstate or foreign commerce; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 4930) to promote the safety of travelers and employees upon railroads engaged in interstate or foreign commerce; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 4931) to prevent false advertising in the District of Columbia; to the Committee on the District of Columbia.

By Mr. SCULLY: A bill (H. R. 4932) appropriating money for the improvement of the Raritan River, N. J.; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 4933) appropriating money for the improvement of the Shrewsbury River, N. J., up to Red Bank on the North Branch and to Branchport on the South Branch; to the Committee on Rivers and Harbors.

By Mr. YOUNG of Michigan: A bill (H. R. 4934) providing for the erection of a public building at Calumet, in the State of Michigan; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 4935) providing for the purchase of a site and the erection of a public building thereon at Hancock, in the State of Michigan; to the Committee on Public Buildings and Grounds.

By Mr. LEVY: A bill (H. R. 4936) to amend section 605 of subchapter 4 of the District of Columbia Code; to the Committee on the District of Columbia.

By Mr. BEALL of Texas: A bill (H. R. 4937) extending to the port of Dallas, Tex., the privileges of section 7 of the act approved June 10, 1880, governing the immediate transportation of dutiable merchandise without appraisement; to the Committee on Ways and Means.

By Mr. FERRIS: A bill (H. R. 4938) providing for the issuance of patents to transferees of town lots purchased from the United States at public sale in certain cases; to the Committee on the Public Lands.

Also, a bill (H. R. 4939) providing method of filling vacancies of any register or receiver of any district land office until a proper successor can be appointed and qualified; to the Committee on the Public Lands.

By Mr. HENSLEY: A bill (H. R. 4940) to limit the effect of the regulation of interstate commerce between the States in goods, wares, and merchandise wholly or in part manufactured, mined, or produced by convict labor or in any prison or reformatory; to the Committee on Labor.

By Mr. GARDNER: A bill (H. R. 4941) providing for new rates of duty on certain classes of cotton goods; to the Committee on Ways and Means.

By Mr. HAYDEN: A bill (H. R. 4942) to fix the times and places of holding the district court for the district of Arizona and creating divisions thereof; to the Committee on the Judiciary.

By Mr. HENRY: Resolution (H. Res. 98) authorizing the creation of a House committee to be known as the committee on roads; to the Committee on Rules.

By Mr. CURLEY: Memorial of the Legislature of Massachusetts, opposing State control of national forests; to the Committee on Agriculture.

By Mr. PETERS: Memorial of the Legislature of Massachusetts, in opposition to State control of national forests; to the Committee on Agriculture.

PRIVATE BILLS AND RESOLUTIONS.

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

By Mr. AINEY: A bill (H. R. 4943) granting a pension to Charlotte S. Manley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4944) granting an increase of pension to Mary Quinlan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4945) granting an increase of pension to Harvey G. Van Horn; to the Committee on Invalid Pensions.

By Mr. ANTHONY: A bill (H. R. 4946) for the relief of Charles A. Bess; to the Committee on Military Affairs.

By Mr. BAILEY: A bill (H. R. 4947) to correct the military record of Thomas Amick; to the Committee on Military Affairs.

By Mr. BRITTEN: A bill (H. R. 4948) granting a pension to Mary L. Miller; to the Committee on Invalid Pensions.

By Mr. BROWN of West Virginia: A bill (H. R. 4949) for the relief of Hiram Smith and John R. W. Smith; to the Committee on War Claims.

Also, a bill (H. R. 4950) for the relief of the heirs of William Elliott; to the Committee on War Claims.

By Mr. CARAWAY: A bill (H. R. 4951) granting an increase of pension to William A. Yantis; to the Committee on Invalid Pensions.

By Mr. HINDS: A bill (H. R. 4952) to refund to John B. Keating customs tax erroneously and illegally collected at Portland, Me., on cargo of coal March 11, 1903; to the Committee on Claims.

By Mr. JACOWAY: A bill (H. R. 4953) granting an increase of pension to Thomas D. Bumgarner; to the Committee on Invalid Pensions.

By Mr. KEATING: A bill (H. R. 4954) granting an increase of pension to George R. Moore; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4955) granting an increase of pension to Matilda Fellows; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4956) granting an increase of pension to Henry Stone; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4957) granting an increase of pension to Andrew W. Duggan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4958) granting an increase of pension to Tamma A. Lloyd; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4959) granting an increase of pension to Martha E. Raper; to the Committee on Invalid Pensions.

By Mr. LAFFERTY: A bill (H. R. 4960) granting a pension to Fred W. Nisbett; to the Committee on Pensions.

Also, a bill (H. R. 4961) granting an increase of pension to Regina F. Palmer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4962) for the relief of David R. B. Winniford; to the Committee on Military Affairs.

By Mr. PETERS: A bill (H. R. 4963) granting a pension to William Galvin; to the Committee on Pensions.

By Mr. PORTER: A bill (H. R. 4964) granting an increase of pension to Amelia Walker; to the Committee on Invalid Pensions.

By Mr. POU: A bill (H. R. 4965) for the relief of Mrs. A. C. Budd and others, heirs at law of the late Elias Bryan; to the Committee on War Claims.

By Mr. REILLY of Connecticut: A bill (H. R. 4966) to remove the charge of desertion from the military record of Thomas B. Smith; to the Committee on Military Affairs.

By Mr. TAYLOR of Colorado: A bill (H. R. 4967) granting an increase of pension to Charlotte S. Norton; to the Committee on Invalid Pensions.

By Mr. TEN EYCK: A bill (H. R. 4968) granting a pension to Daniel Lawlor; to the Committee on Pensions.

By Mr. YOUNG of Michigan: A bill (H. R. 4969) granting a pension to Charles H. Haring; to the Committee on Pensions.

Also, a bill (H. R. 4970) granting a pension to Albert J. Pepin; to the Committee on Pensions.

Also, a bill (H. R. 4971) granting a pension to Charles H. Brown; to the Committee on Pensions.

Also, a bill (H. R. 4972) granting a pension to George L. Steward, alias George Smith; to the Committee on Pensions.

Also, a bill (H. R. 4973) granting a pension to Fred Brassel; to the Committee on Pensions.

Also, a bill (H. R. 4974) granting a pension to Fred Hugo-boom; to the Committee on Pensions.

Also, a bill (H. R. 4975) granting an increase of pension to Frank Laplante; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4976) granting an increase of pension to Lewis Van Skyhawk; to the Committee on Invalid Pensions.

By Mr. REILLY of Connecticut: A bill (H. R. 4977) granting an increase of pension to Emma S. Grogan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4978) for the relief of A. H. Holloway; to the Committee on Claims.

Also, a bill (H. R. 4979) to remove the charge of desertion from the military record of Albert C. Raymond; to the Committee on Military Affairs.

By Mr. SMITH of Maryland: A bill (H. R. 4980) for the relief of Charles C. Serrin; to the Committee on Military Affairs.

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 (by request): Petition of Miland H. Benjamin, Batavia, N. Y., protesting against including mutual life insurance companies in the income-tax bill; to the Committee on Ways and Means.

Also (by request), petition of E. C. Dickenhorst, of Troy, Mo., against mutual life insurance funds in the income-tax bill; to the Committee on Ways and Means.

By Mr. ASHBROOK: Petitions of J. A. Thompson and C. M. Thompson, of Newark, and William S. Kinney, of Wooster, Ohio, against mutual life insurance funds in the income-tax bill; to the Committee on Ways and Means.

By Mr. DALE: Petitions of members of the Confectioners and Ice Cream Manufacturers' Protective Association of New York City, favoring reduction of the duty on rock salt; to the Committee on Ways and Means.

By Mr. GRAHAM of Pennsylvania: Petition of the New York and New Jersey Live Stock Exchange, of Jersey City, N. J., against the tax on live stock; to the Committee on Ways and Means.

Also, petition of R. E. Maxwell, of Curran, Ill., against mutual life insurance in the income-tax bill; to the Committee on Ways and Means.

Also, petition of the Philadelphia Stationers' Association, of Philadelphia, Pa., against the passage of legislation relative to the right of manufacturers to fix retail prices, etc.; to the Committee on Interstate and Foreign Commerce.

By Mr. GRIFFIN: Petitions of sundry citizens of Brooklyn, N. Y., against mutual life insurance funds in the income-tax bill; to the Committee on Ways and Means.

Also, petition of the Confectioners and Ice Cream Manufacturers' Protective Association of New York, favoring reduction of the duty on rock salt; to the Committee on Ways and Means.

By Mr. HAYES: Petition of W. J. Gothenom, of Maurertown, Va.; Gautier & Mattern Co., of San Francisco, Cal.; F. Ballsdell, of Santa Cruz, Cal.; P. M. O'Connor, of Santa Clara, Cal.; and L. A. Foster, of Santa Cruz, Cal., protesting against including mutual life insurance companies in the income-tax bill; to the Committee on Ways and Means.

Also, petition of H. Weber, of Pleasanton, Cal.; J. A. Ivill, of Downey, Cal.; and J. W. Colanton, Norwalk, Cal., protesting against the proposed reduction of the tariff on sugar; to the Committee on Ways and Means.

By Mr. KINDEL (by request): Petition of Quitman Brown, G. W. McClaine, and William Tew, of Sterling, Colo., relative to the tariff on sugar; to the Committee on Ways and Means.

By Mr. KINKEAD of New Jersey: Petition of the New York and New Jersey Live Stock Exchange, Jersey City, N. J., favoring the placing of live stock on the free list; to the Committee on Ways and Means.

Also, petition of the Lithographers Foreman's Club of New York, protesting against the reduction of the tariff on lithographic work; to the Committee on Ways and Means.

By Mr. MONTAGUE: Petition of the Chamber of Commerce of Richmond, Va., against the reorganization of the customs service; to the Committee on Ways and Means.

By Mr. POU: Affidavit to accompany bill for the relief of Mrs. A. C. Budd and others, heirs at law of Elias Bryan, deceased; to the Committee on War Claims.

By Mr. TUTTLE: Petition of the board of trade of the city of Newark, N. J., against the provision in the sundry civil bill which confers a privilege to one class as against another class, etc.; to the Committee on the Judiciary.

By Mr. WILLIS: Petition of Hon. J. Q. A. Campbell, of Bellefontaine, Ohio, against free tolls on the Panama Canal and in favor of the maintenance of the Hay-Pauncefote treaty; to the Committee on Interstate and Foreign Commerce.

HOUSE OF REPRESENTATIVES.

SATURDAY, May 10, 1913.

The House met at 12 o'clock noon.

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

Eternal God, our heavenly Father, our hearts go out to Thee in gratitude for Thy goodness and for Thy wonderful works to the children of men. Especially do we thank Thee for the reflection of Thy love in the patient, tender, sweet, affectionate ministrations of mother, who on the morrow will receive the spontaneous tribute of love and respect poured out by thousands in her memory, a most potent factor in shaping the destiny of men and of nations. Surely "the hand that rocks the cradle rules the world." She was first to greet us when we came into