PRIVATE BILLS AND RESOLUTIONS.

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

By Mr. DOREMUS: A bill (H. R. 7843) to place Michael James McCormack upon the active list of the Navy; to the Committee on Naval Affairs.

By Mr. DRISCOLL: A bill (H. R. 7844) granting a pension to Edward Lichtenstein; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7845) granting a pension to Frederick Rattke; to the Committee on Pensions.

Also, a bill (H. R. 7846) granting a pension to George W. Neily; to the Committee on Pensions.

Also, a bill (H. R. 7847) to remove the charge of desertion against C. S. Lockwood; to the Committee on Military Affairs.

By Mr. GREGG: A bill (H. R. 7848) for the relief of Ten Eyck De Witt Veeder, commodore on the retired list of the United States Navy; to the Committee on Naval Affairs.

By Mr. KEY of Ohio: A bill (H. R. 7849) granting a pension to Henrietta A. Silver-Grim; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7850) granting an increase of pension to D. H. Clifton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7851) granting an increase of pension to John Beckley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7852) granting an increase of pension to Henry Friar; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7853) granting an increase of pension to Joseph A. Beach; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7854) granting an increase of pension to William Goodin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7855) granting an increase of pension to William E. Gault; to the Committee on Pensions.

Also, a bill (H. R. 7856) for the relief of Samuel Cole; to the Committee on Military Affairs.

Also, a bill (H. R. 7857) to correct the military record of Charles Beach; to the Committee on Military Affairs.

By Mr. LAFFERTY: A bill (H. R. 7858) granting a pension to Alice G. Hudson; to the Committee on Pensions.

Also, a bill (H. R. 7859) for the relief of Joseph Glessner; to the Committee on Invalid Pensions.

By Mr. LANGLEY: A bill (H. R. 7860) granting a pension to Martha Tincher; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7861) granting a pension to Levi Salier; to the Committee on Invalid Pensions.

By Mr. LOBECK: A bill (H. R. 7862) granting an increase of pension to William Dunn; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7863) granting an increase of pension to Lucinda Hyde; to the Committee on Invalid Pensions.

By Mr. MOSS of West Virginia: A bill (H. R. 7864) granting an increase of pension to John E. Iman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7865) granting an increase of pension to Louisa Wildman; to the Committee on Invalid Pensions.

By Mr. PLATT: A bill (H. R. 7866) granting an increase of pension to Joseph Lambert; to the Committee on Invalid Pensions.

By Mr. STEENERSON: A bill (H. R. 7867) granting an increase of pension to Susan I. Keene; to the Committee on Pensions.

By Mr. J. M. C. SMITH: A bill (H. R. 7868) granting a pension to Rose Gregory Houchen; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7869) granting an increase of pension to William Birmingham; to the Committee on Invalid Pensions.

Also, a bill (H. R. 7870) granting an increase of pension to Frank W. Dickey; to the Committee on Invalid Pensions.

By Mr. STEPHENS of California: A bill (H. R. 7871) granting a pension to Moses S. Pittman; to the Committee on Invalid Pensions.

By Mr. STONE: A bill (H. R. 7872) granting an increase of pension to T. C. Murphy; to the Committee on Invalid Pensions.

PETITIONS, ETC.

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

By the SPEAKER (by request): Petition of citizens of Milwaukee, Wis., favoring the passage of legislation tending to bring about a final and just settlement on all pending questions concerning the serious Balkan, Prussian, and Austro-Hungarian Slavic controversy; to the Committee on Foreign Affairs.

By Mr. DAVIS of West Virginia: Petition of Local Union No. 3, United Brotherhood of Carpenters and Joiners of America, Wheeling, W. Va., favoring the passage of legislation for a republican form of government and representation for the city of Washington and District of Columbia; to the Committee on the District of Columbia.

By Mr. DYER: Papers to accompany House bill 7144, granting an increase of pension to Pleasant F. Clutts; to the Committee on Invalid Pensions.

Also, papers to accompany House bill 6608, granting a pension to Dorothea Christmann; to the Committee on Invalid Pensions.

Also, papers to accompany House bill 6609, for the relief of Arthur E. Rump; to the Committee on Claims.

By Mr. FITZGERALD: Petition of Association of German Authors of America, protesting against the passage of legislation placing a tax on books printed in a language other than English; to the Committee on Ways and Means.

Also, petition of Local Union No. 109, United Brotherhood of Carpenters and Joiners of America, of Brooklyn, N. Y., favoring the passage of legislation for a republican form of government and representation for the city of Washington and the District of Columbia; to the Committee on the District of Columbia.

By Mr. GARNER: Petition of Southwest Texas Progressive League, Corpus Christi, Tex., favoring the passage of legislation to extend the intercoastal canal to Baffins Bay and the mouth of the Arroyo Colorado; to the Committee on Railways and Canals.

By Mr. HAYES: Petition of citizens of Mountain View, Cal., protesting against the passage of Senate bill 752, providing for the proper observance of Sunday as a day of rest in the District of Columbia; to the Committee on the District of Columbia.

Also, petition of the Chamber of Commerce of Watsonville and the Pajaro Valley, Cal., favoring the passage of the 1-cent letter postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of the San Jose Grange, No. 10, Patrons of Husbandry, San Jose; J. D. Dunovant, Greenfield; T. J. Henderson, Campbell; J. W. Tennant, Watsonville; C. W. Dayton, Owensmouth; all of the State of California, and all favoring an extension of the parcel-post system; to the Committee on the Post Office and Post Roads.

By Mr. KIESS of Pennsylvania: Papers to accompany House bill 5915, granting an increase of pension to C. R. Taylor; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Colorado: Petition of the local union, No. 244, of the United Brotherhood of Carpenters and Joiners of America, Grand Junction, Colo., favoring the passage of legislation for a republican form of government and representation for the city of Washington and the District of Columbia; to the Committee on the District of Columbia.

SENATE.

SATURDAY, *August 30, 1913.*

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

Prayer by the Chaplain, Rev. Forrest J. Prettyman, D. D.

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

PETITIONS AND MEMORIALS.

Mr. PERKINS presented a petition of Hall of South San Francisco Parlor No. 157, Native Sons of the Golden West, of California, praying for the construction of a naval station at Hunters Point, on San Francisco Bay, in that State, which was referred to the Committee on Naval Affairs.

Mr. WARREN presented a petition of sundry citizens of Cheyenne and Laramie, Wyo., praying for the enactment of legislation for the prevention of fraud in the manufacture of American watch improvements, which was referred to the Committee on Interstate Commerce.

Mr. ROOT presented a memorial of a special committee of the New York Produce Exchange, remonstrating against the proposed duty on bananas, which was ordered to lie on the table.

MARSHFIELD (OREG.) TIDAL BASIN.

Mr. CHAMBERLAIN. From the Committee on Commerce I report back favorably without amendment the bill (S. 767) granting permission to the city of Marshfield, Oreg., to close Mill Slough, in said city. As this is a local measure, I ask unanimous consent that the bill may be considered now.

Mr. SMOOT. Let it be read for information.

The VICE PRESIDENT. The bill will be read.

The Secretary read the bill, as follows:

Be it enacted, etc., That Mill Slough, a tidal tributary of Coos Bay, lying within the limits of the city of Marshfield, State of Oregon, is hereby declared to be not a navigable waterway of the United States.

within the meaning of the laws enacted by Congress for the preservation and protection of such waterways, and the consent of Congress is hereby given to the filling in of said slough by the said city of Marshfield.

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

Mr. SMOOT. I should like to ask the Senator from Oregon if there is a favorable report on the bill from the department?

Mr. CHAMBERLAIN. Yes; the Chief of Engineers recommends it.

I may state in this connection that the Government, in connection with the local authorities, is dredging Coos Bay. Mill Slough is just a little tidal stream that goes out from the bay about half or three-fourths of a mile. At low tide there is no water in it. At high tide canoes, skiffs, and launches can go up, but at other seasons it is not navigable. It is desired to empty the silt which results from dredging Coos Bay into this tidal stream and so fill it up entirely, resulting in improved sanitary conditions in the city.

Mr. BRANDEGEE. It is not liable to be of any use to general navigation?

Mr. CHAMBERLAIN. No, sir.

Mr. SIMMONS. The Senator from Oregon does not understand that the bill will lead to any debate?

Mr. CHAMBERLAIN. Oh, no.

There being no objection, the bill was considered as in Committee of the Whole.

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

BILLS INTRODUCED.

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

By Mr. CHAMBERLAIN:

A bill (S. 3063) to authorize the Secretary of the Treasury to employ consulting architects in connection with the work of the Supervising Architect's Office, and for other purposes; to the Committee on Public Buildings and Grounds.

A bill (S. 3064) granting an increase of pension to James W. Lemison (with accompanying paper); to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 3065) granting an increase of pension to Rachael J. Baldwin (with accompanying papers); to the Committee on Pensions.

By Mr. BRADLEY:

A bill (S. 3066) granting an increase of pension to Larkin J. Vanhook; to the Committee on Pensions.

AMENDMENT TO THE TARIFF BILL.

Mr. JONES submitted an amendment intended to be proposed by him to the bill (H. R. 3321) to reduce tariff duties and to provide revenue for the Government, and for other purposes, which was ordered to lie on the table and be printed.

PERMANENT PANAMA EXHIBIT.

Mr. OVERMAN. Mr. President, I present to the Senate a short resolution from the manufacturers and jobbers of the United States, together with a short editorial from the Piedmont Industries, on the matter of the Panama exhibit plan and a ship railroad line in South America. I ask that it be printed in the RECORD without reading.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

Resolution favoring a permanent Panama exhibit.

Whereas the manufacturers of the United States and jobbers as well desire to take advantage of all possible means to extend their trade in South America; and

Whereas a number of the largest manufacturers of the United States have expressed a desire that a common point be selected from which goods and wares may be exploited; and

Whereas a large number of national conventions, among these being the Associated Advertising Clubs of America, the National Brick Manufacturers' Association, and other associations and chambers of commerce and boards of trade passed resolutions favoring a point of exploitation; and

Whereas the matter having been brought to the attention of Col. George W. Goethals, and he having passed favorably on same, provided the manufacturers of the United States become interested: Therefore

Resolved, That we favor an exhibit hall and permanent exhibit with adjoining warerooms and showrooms to be opened at the opening of the canal to the world, or as soon thereafter as practical and as near after as possible after the world exposition at San Francisco.

Resolved, That this exhibit and exhibit hall shall have for its object the exploitation of the merchandise and manufactures of the United States to South America and the world, and to serve as a common ground on which to meet the trade from South America and the world, and a place where language and customs and manners of trade can be learned in the Latin-American countries.

Resolution passed by the Associated Advertising Clubs of America, National Brick Manufacturing Association, National Building Brick Association, Charlotte Chamber of Commerce.

The possibilities of establishing a permanent exhibit and permanent exhibition hall with adjoining warehouses from which to distribute North American goods into South America is pregnant with the greatest possibilities to the North American trade.

The Panama Canal is the best advertising "copy" Uncle Sam has ever gotten out.

Exports to South America have shown a phenomenal gain in the fiscal year which ends with the present month. Prior to 1911 the total value of exports to South America has never reached $100,000,000. In 1911 the total $109,000,000, and in the current fiscal year which ends with the present month seems likely to be about $135,000,000, having more than doubled since 1905.

Argentina is the country showing by far the largest gain in our exports to South America. The figures now available in the Bureau of Statistics of the Department of Commerce indicate that the total exports to Argentina for the complete fiscal year will amount to about $55,000,000, against twenty-three and one-half in 1905, having thus considerably more than doubled in the period in question. To Brazil the total exports for the fiscal year will exceed $30,000,000 in 1905, an even larger percentage of gain than in the case of Argentina. To Chile the total for the year will amount to about $15,000,000, against five and one-half million in 1905, also a gain of nearly 200 per cent. To Uruguay the figures of exports for the fiscal year which ends with the present month will aggregate about $7,000,000 in value, against a little less than $2,000,000 in 1905.

This increase in exports to South America, while occurring in a large number of articles, is especially notable in lumber, leather, mineral oils, and railway material. For example, the exports of lumber to Argentina in the 10 months ending with last April amounted to five and three-fourths millions of dollars in value, against $4,000,000 in the corresponding months of last year, and those to other South American Republics over $3,000,000, against about $2,000,000 in the corresponding period of the preceding year. Illuminating oil exported to Argentina in the 10 months in question amounted to about 24,000,000 gallons, against about 13,000,000 in the corresponding months a year ago, and lubricating oil over 4,000,000 gallons, against less than 3,000,000 in the same months of last year. Glazed kid leather exported to Argentina in the 10 months of 1912 amounted to over $1,000,000 in value, against $370,000 in the corresponding months of the preceding year. Automobiles exported to South America as a whole amounted in the 10 months in question to one and one-half millions dollars in value, against $688,000 in the corresponding months of the preceding year.

The total value of exports from the United States to South America as a whole was, 10 years ago, in the fiscal year 1902, $38,000,000; five years ago, in the fiscal year 1907, $82,000,000, and in the current year, as indicated above, will probably be about $135,000,000, an increase of more than 250 per cent in the decade and of more than 50 per cent in the last five years.

To lose the opportunity which comes with such culminative force at the opening of the canal to exploit American goods and manufactured products to buyers in South America, who had previously gone to Germany for their goods, is little short of a crime.

A great exhibit hall, with facilities for showing exhibits, such as the Coliseum in Chicago, with representatives present with samples and goods, is sure to bring results with the great traveling trade who are destined to visit and cross the canal.

The seeing of this exhibit will be made easy from the fact that the traveler who crosses will likely disembark from his ship and cross the Isthmus in a leisurely way by the electric car line which will run parallel to the canal.

Helper, a famous political writer in his day, a native of North Carolina, who was American consul at Buenos Aires in the years 1861–1866, wrote eloquently of the Pan American or "Three Americas" railway, which would some day extend from Bering Sea to the Strait of Magellan.

The idea fascinated the mind of James G. Blaine, who openly championed it and did much to bring it into notice.

When the rails of Mexico's railway system reached the northern border of Guatemala, at Mariscal, July 1, 1908, the Pan American enthusiasts saw it as a great link in the gigantic railway dreamed of by Helper long years before a north-and-south trunk-line road was projected for that country.

The construction of less than 100 miles southward from Santa Maria will join the railway system of Salvador and connect the capital of that Republic with New York City by rail.

There are short lines in Salvador, Nicaragua, and Costa Rica which will eventually join terminals. Already a railroad extending through a large section of Panama, from David to Panama City, has been surveyed and construction begun. In Colombia there has not been much new construction that would be part of the Pan American system, but new lines are being contemplated and financed. In Ecuador railroad connections already exist between Guayaquil, a port, and Quito, the capital. A good part of this line would be the trunk system of the Pan American railway. In Peru the road from Cuzco south to Lake Titicaca and the road in Bolivia from Lake Titicaca south to the capital, La Paz, and then farther south to Chile would form important links in the Pan American system. A new longitudinal line is already under construction in Chile, and a road which reaches from the heart of Bolivia south through Argentina to Buenos Aires lacks only about 175 miles of completion. The construction of less than 500 miles of track will bring the South American section of the Pan American railway as far northward as Lima, connecting the capitals of Argentina, Bolivia, Chile, and Peru by bonds of steel.

Thus at the completion of the canal in a few years we shall see a great concourse of trade passing not only "across" the Isthmus but "through" the Isthmus, making it a great "crossroads" point of retracting lines of travel and trade.

We have thus gone into the railroad construction in South America in detail because when a railroad extends from Panama into all South American Republics it will greatly facilitate shipping. The shipping by rail is much safer, because there are no harbors on the South American coast and the ships' cargoes must be unloaded on lighters in an open sea while waves are running high, with great danger both to men and cargo.

The plan of establishing a warehouse and exhibit hall on the Panama Canal has been pronounced feasible and practical by the South American commissioner in Washington, who is associated with Mr. John Barrett, of the Panama American Commission.

The management might be vested in two companies—one a holding company, to operate the building and warehouse, the other an exhibition company, to carry on the exhibition.

I have just received the following letter from Mr. Barrett, director general Pan American Union:

WASHINGTON, D. C., *March 5, 1912.*

I have to acknowledge receipt of your esteemed note of March 2, with press clipping from the Chicago Evening Post in regard to a showroom in the Canal Zone for displays.

The greatest opportunity before the United States for its future foreign commerce is in the 20 Republics lying south of us, and as a result of the efforts of the Pan American Union the trade of the United States to-day with that part of the world is growing more rapidly than it is with any other foreign group or nations. We are, however, only at the beginning of what we can accomplish in the future if we will simply make the proper effort.

Under separate cover I am sending you a copy of my last annual report, which may be of possible interest to you.

Yours, very cordially, JOHN BARRETT.

THE TARIFF.

The VICE PRESIDENT. The morning business is closed.

Mr. SIMMONS. I ask unanimous consent that the Senate proceed to the consideration of House bill 3321.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 3321) to reduce tariff duties and to provide revenue for the Government, and for other purposes.

Mr. SIMMONS. I think it was agreed on yesterday that section 3, relating to contracts for the sale of cotton for future delivery, should be passed over until Monday. I will ask that the Secretary begin reading at page 214, section 4.

Mr. CLAPP. Before the reading begins, I desire to call the attention of the chairman of the committee to paragraphs 281 and 282.

Mr. BRANDEGEE. On what page?

Mr. CLAPP. On pages 84 and 85. Under the old law mats and rugs were included entirely in the paragraph equivalent of 282. The committee, following the House, has placed them in paragraph 281. I desire to call the attention of the Senator from North Carolina to it, so that when the matter comes before the committee, as I have no doubt many of these matters will that were passed over, the committee may consider the inconsistencies which will arise from using the words "including mats and rugs" in paragraph 281.

Mr. SIMMONS. I understand the Senator is speaking to the point that mats and rugs in paragraph 281 and mats and rugs in paragraph 282 ought to be in the same classification.

Mr. CLAPP. No; "floor mattings, plain, fancy, or figured, manufactured from straw," is the language of the present law. In paragraph 282 we have "carpets, carpeting, mats, and rugs made of flax, hemp, or jute."

Mr. SIMMONS. Paragraph 281 applies to "floor mattings, plain, fancy, or figured, including mats and rugs, manufactured from straw." Paragraph 282 applies to "mats and rugs made of flax, hemp, jute, or other vegetable fiber (except cotton)."

Mr. CLAPP. Yes. If you stopped at straw there would be no difficulty, but you say, in paragraph 281, "manufactured from straw, round or split, or other vegetable substances."

Mr. SIMMONS. "Not otherwise provided for."

Mr. CLAPP. Under the existing law the words "including mats and rugs" are not in the equivalent of paragraph 281.

Mr. SIMMONS. We will consider the matter.

The Secretary resumed the reading of the bill at page 214, section 4.

The next amendment of the committee was to change the section number by striking out "III" and inserting "IV."

The amendment was agreed to.

The next amendment was, on page 214, line 12, beginning with the word "That," to strike out the remainder of the paragraph in the following words:

That for the purposes of this act bringing or causing merchandise to be brought within the territorial limits of the United States shall be construed to be an attempt to enter or introduce the same into the commerce of the United States.

The amendment was agreed to.

The next amendment was, on page 215, line 12, after the word "owner" and the period, to insert:

That such invoices shall have appended for the purpose of making statistical entry, an enumeration of articles contained therein, in form to be prescribed by the Secretary of the Treasury, with the total of each article, and it shall be the duty of the consular officer, to whom the invoice shall be produced, to require such information to be given.

The amendment was agreed to.

The next amendment was, on page 216, line 6, after the word "purchase," to strike out the words "or agreement for purchase," so as to read:

D. That all such invoices shall, at or before the shipment of the merchandise, be produced to the consular officer of the United States of the consular district in which the merchandise was manufactured, or purchased, or contracted to be delivered from, or when purchases or agreements for purchase are made in several places, in the consular district where the merchandise is assembled for shipment, as the case may be, for export to the United States, and shall have indorsed thereon, when so produced, a declaration signed by the purchaser, seller, manufacturer, owner, or agent, setting forth that the invoice is in all respects correct and true and was made at the place from which the merchandise is to be exported to the United States; that it contains, if the merchandise was obtained by purchase, a true and full statement of the time when, the place where, the person from whom the same was purchased, etc.

Mr. SMOOT. Mr. President, this is the subdivision which requires the legalization of invoices by American consuls. It has been amended so as to require that the invoice shall be consulated in the consular district where the merchandise is assembled for shipment in cases where the purchases or agreements for purchase were made in several places. Other amendments in this paragraph D are apparently for the purpose of securing a true and exact account of the transactions so that their precise nature will be disclosed to the United States appraising officer. In connection with the declaration of the shipper before the American consul required by the statute, it might be proper to call attention to a suggestion which has been made which, if adopted, would probably secure truthful declarations. The suggestion is that shippers be required to make oath to the truth of these declarations before a judge or other functionary who is empowered to administer oaths. This would make false swearing before such a functionary punishable as perjury under the laws of the particular country.

I wanted to call the Senator's attention to that condition of affairs, because I expect hereafter to call attention to other paragraphs in connection with the words used on page 216, line 7, where the bill says "a true and full statement of the time when," and no oath whatever is required. I believe it should be required, and as we proceed with the other sections of the bill I think the Senator having the bill in charge will fully see the reason why it should be required.

Mr. WILLIAMS. I have been thinking that perhaps the bill as at present worded may dispense with a part of the present requirements as to oaths to be taken before our consuls. I have in contemplation an examination into that question to see whether there is any danger of that, and if so what remedy will cure it. As we go along with the bill and reach the proper place I will call attention to it.

Mr. SMOOT. What I wanted the Senator to pay particular attention to was that paragraph D, which we have under discussion now, requires simply a true and full statement of the time when, the place where, the person from whom the same was purchased, and then the words "or agreed to be purchased" are stricken out, to which, of course, I have no objection; but this simply requires a statement to be made.

Mr. WILLIAMS. This is merely a repetition of the language of the present law.

Mr. SMOOT. Under the present law that statement is to be made out in a form approved by the Secretary of the Treasury, and under this provision that is left out entirely, so what kind of a form are you going to have? Is the form to be made by the importer or the exporter from a foreign country, or is it to be made out or approved by the Secretary of the Treasury?

Mr. WILLIAMS. The language of the bill is—

A true and full statement of the time when, the place where, the person from whom the same was purchased, and the actual cost thereof, or price agreed upon, fixed, or determined, and of all charges thereon, as provided by this act.

We did not see why there should be any particular form or that the returns should be definitely prescribed, provided those things were contained in it. It is like the statute of a State when there is a declaration setting forth certain things, especially in common-law form.

Mr. SMOOT. As soon as we reach paragraph F, I think it will be emphasized more strongly, and then I will bring it to the Senator's attention again.

Mr. WILLIAMS. Very well; the same matter will present itself later on. The principle runs through the bill.

Mr. SIMMONS. I wish to suggest to the Senator that it seems to be clear that these statements here are part of the general declaration of the statements he refers to.

Mr. WILLIAMS. It is a mere repetition of existing law. It has been on the statute books for years.

Mr. SIMMONS. Yes; and a concluding clause of the section says "if the merchandise was actually purchased," and also "the declaration," referring to the other statements of fact to which the Senator has called attention, "the declaration shall also contain a statement that the currency," and so forth. It is a part of the general declaration. There can not be any question about the bill requiring the declaration to be under oath.

Mr. SMOOT. We will wait until we get to paragraph F and see.

Mr. WILLIAMS. If the Senator will examine the clause at some time fully, he will find the only thing the committee did

was to strike out a provision the House made and to restore the original law.

Now, Mr. President, in this connection I want to make a statement for the benefit of Senators generally. We found ourselves in a situation where it looked to us as if we were about to substitute for a protective tariff a prohibitive administration in the manner in which this came from the other House. We therefore concluded that it would be well to revise, codify, and harmonize the administrative laws of the United States with regard to tax collections and import duties especially. These laws run back for years and years in a most heterogeneous sort of way; some of them are amendments upon appropriation bills, and heaven knows what. So we provided here for a joint committee composed of members of the Finance Committee of the Senate and members of the Ways and Means Committee of the House, whose duty it shall be to revise, codify, and harmonize the tax administration laws of the United States and to report to the Ways and Means Committee of the House not later than February 1, 1914.

For that reason we did not go very far into the new provisions with regard to administration, and we left out most of the amendments which the other House had made, with a view of enabling us to have this report by the time stated, so that both Houses could act upon it and have an harmonious tax administration law. Where we struck little phrases which the other House had put into the old law like the one to which the Senator refers, we struck them out, with the idea that it would go back to this joint committee, who would make a complete report in connection with the subject matter and with all other subjects matter pertaining to the same question.

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

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Finance was, on page 216, line 8, after the word "purchased," to strike out "or agreed to be purchased"; and on page 217, line 4, after the word "purchased," to strike out "or agreed to be purchased," so as to read:

The person from whom the same was purchased, and the actual cost thereof, or price agreed upon, fixed, or determined, and of all charges thereon, as provided by this act; and that no discounts, rebates, or commissions are contained in the invoice but such as have been actually allowed thereon, and that all drawbacks or bounties received or to be received are shown therein; and when obtained in any other manner than by purchase, or agreement of purchase, the actual market value or wholesale price thereof, at the time of exportation to the United States, in the principal markets of the country from whence exported; that such actual market value is the price at which the merchandise described in the invoice is freely offered for sale to all purchasers in said markets, and that it is the price which the manufacturer or owner making the declaration would have received, and was willing to receive, for such merchandise sold in the ordinary course of trade in the usual wholesale quantities, and that it includes all charges thereon as provided by this act, and the actual quantity thereof; and that no different invoice of the merchandise mentioned in the invoice so produced has been or will be furnished to anyone. If the merchandise was actually purchased, the declaration shall also contain a statement that the currency in which such invoice is made out is that which was actually paid for the merchandise by the purchaser, or agreed to be paid, fixed, or determined.

The amendment was agreed to.

Mr. BRANDEGEE. Mr. President, referring to page 217, lines 4 to 8, inclusive, I have not looked to see whether or not any change has been made in existing law.

Mr. WILLIAMS. No change has been made.

Mr. BRANDEGEE. The language is:

If the merchandise was actually purchased the declaration shall also contain a statement that the currency in which such invoice is made out is that which was actually paid for the merchandise by the purchaser, or agreed to be paid, fixed, or determined.

I do not understand exactly what that language means. It may have been interpreted by decisions in practice, but if the merchandise was actually purchased what does it mean when it says: "That the currency in which such invoice is made out is that which was actually paid for the merchandise by the purchaser, or agreed to be paid, fixed, or determined"?

Mr. WILLIAMS. All the goods might have been bought and agreed to be paid for——

Mr. BRANDEGEE. Yes; but what does it mean?

Mr. WILLIAMS. And paid for in francs, in marks, in pounds sterling, or in dollars.

Mr. BRANDEGEE. That would cover the phrase "or agreed to be paid"?

Mr. WILLIAMS. And the remainder of the phrase means simply the currency fixed or determined upon in the bargain. At any rate, that is the language of the present law, and the matter has been administered all right under it. So we left it.

Mr. BRANDEGEE. And it produces no friction in administration?

Mr. WILLIAMS. None.

The reading of the bill was resumed.

The next amendment of the Committee on Finance was, in paragraph F, page 219, line 5, after the word "declaration," to strike out "upon a form to be prescribed by the Secretary of the Treasury, according to the nature of the case," so as to read:

F. That whenever merchandise imported into the United States is entered by invoice, a declaration shall be filed with the collector of the port at the time of entry by the owner, importer, consignee, or agent, which declaration so filed shall be duly signed by the owner, importer, consignee, or agent before the collector, or before a notary public or other officer duly authorized by law to administer oaths and take acknowledgments, under regulations to be prescribed by the Secretary of the Treasury.

Mr. SMOOT. Mr. President, this will bring to the attention of the Senate the point I made in connection with paragraph C. This portion of the proposed statute provides for the declarations being filed with the collector at the time of entry by the owner, importer, consignee, or agent who makes entry of the goods, whereas under the present law the forms of these declarations, as suited to the circumstances of the importation, are set forth in the statute. The House adopted an amendment conferring upon the Secretary of the Treasury the power to prescribe the forms of these declarations. This seems proper, because they are purely a matter of administrative detail, and in consequence of the variance in the circumstances of commercial transactions their embodiment in the statute deprives them of necessary flexibility

As reported to the Senate, the words "upon a form to be prescribed by the Secretary of the Treasury, and according to the nature of the case," have been stricken out and nothing has been inserted to take their place. The result is that the provision has been so thoroughly emasculated as to make it as it stands of no avail whatever.

Mr. WILLIAMS. From what is the Senator from Utah reading?

Mr. SMOOT. I have run through this hurriedly, and I put into writing what I had to say.

Mr. WILLIAMS. The Senator is reading from his own manuscript?

Mr. SMOOT. Yes.

Mr. ROOT. Mr. President——

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

Mr. SMOOT. I yield.

Mr. ROOT. I rise for the purpose of inquiring whether this bill does away with the forms of declaration which are prescribed in the existing law? The existing law contains full forms—one form of declaration of the consignee, the importer or the agent where merchandise has been actually purchased; then, another form of declaration of the consignee, importer, or agent where merchandise has not been actually purchased; then, a declaration of the owner and a declaration of the manufacturer. That is all set out in full in the present statute. My inquiry is, whether that is proposed to be done away with now?

Mr. SMOOT. That is what I am objecting to, Mr. President. The way the provision is now it requires a simple declaration to be filed with the collector of the port at the time of entry, but it does not prescribe what shall be in the declaration. As it stands, an importer could comply with the law by making some noncommittal observation of any kind.

Mr. ROOT. Mr. President, may I suggest to the Senator from Mississippi, out of some experience in the enforcement of our customs laws, that that language will lead to a great deal of uncertainty and litigation. If the importers are left by law at liberty to make up their declarations in their own way, clever, adroit, skillful fellows will make up declarations that come pretty near answering the purpose, but which omit things or are equivocal upon the very matters as to which they want to avoid committing themselves. The result will be that our officers will have to deal with a great variety of different forms of papers, and there will be no end of litigation.

Mr. WILLIAMS. The Senator from New York is taking for granted that the reply given to him by the Senator from Utah is correct, and that this provision will repeal some present regulations of the Treasury Department. So far as I can see, however, it will not.

Mr. SMOOT. Mr. President, the reason I made that statement was because of the fact that the committee have stricken out the words:

Upon a form to be prescribed by the Secretary of the Treasury, according to the nature of the case.

In subdivision C of this section a statement is required to be made, and that is all that is required.

Mr. WILLIAMS. And that subdivision is the language of the existing law; and the regulations of the department require

certain things to be in the statement, and they will continue to require them.

Mr. SMOOT. But the present law provides specifically what those declarations shall be, and they are set out in detail.

Mr. ROOT. Section 5 of the existing tariff law provides——

Mr. SMOOT. And that corresponds to this paragraph.

Mr. ROOT. And section 5 is a continuance of what appears in tariff law after tariff law, going back for many years.

Mr. SMOOT. As far back as the act of March 1, 1823.

Mr. ROOT. Section 5 of the existing law provides:

That whenever merchandise imported into the United States is entered by invoice one of the following declarations, according to the nature of the case, shall be filed with the collector of the port at the time of entry.

And so forth. Then follow the series of declarations. It is by force of that statute that this kind and form of declaration has to be filed, and not by the force of any Treasury regulation. I think it would be an unfortunate thing for administration to do away with that without giving express authority to the Secretary of the Treasury to substitute something in its place.

Mr. SMOOT. I do not want the Senator from Mississippi to think that I am criticizing from any unfriendly point of view. I am simply calling attention to what seems to me a very serious omission. If those words were left in as the House provided, I believe, then there would perhaps be some little conflict, but very little, indeed, because then the Secretary of the Treasury would have the power to regulate the matter.

Mr. President, these declarations are of great importance, for they inform the customs authorities as to the precise interest of the party making the declaration.

Mr. ROOT. May I make another suggestion before we pass from this matter? I should like the attention of the Senator from Mississippi. Our customs officers have to deal with an enormous number of papers, and in order that they may do so expeditiously, it is of the highest importance that the papers which perform the same service in all the vast number of cases shall be identical in form. Then the eye becomes accustomed to find figures and the really important and vital matters in such a place on such a page on each paper, and the officers can go over hundreds of thousands of them; but if the papers are different in form it will enormously multiply the cost and labor of ordinary administration. I am very much afraid that if these statutory requirements as to form are eliminated and no authority is given to the Secretary of the Treasury, all the fellows who want to defraud the customs will choose their own forms.

Mr. SMOOT. Mr. President, these forms were required by the act of March 1, 1823, which was reenacted in section 2841 of the Revised Statutes. The provision was amended and reenacted by section 8 of the tariff act of 1883, which, in turn, was superseded by section 5 of the act of June 10, 1890.

Mr. WILLIAMS. I want to save the time of the Senate and of the country so far as possible, and I am convinced by what has just been said that we have made an error. The subcommittee, of which I was chairman, struck out this new language put in the bill by the House:

Upon a form to be prescribed by the Secretary of the Treasury, according to the nature of the case.

First, because we thought we had better leave the administration of the law, so far as possible, just as it already is. The House language was new, and we thought it was technical. Section 5 of the act of 1909 was overlooked by me. I neglected to notice the fact that the House in inserting this provision had put it in as a substitute for that section of the present law, and my object was to restore the administration feature just as it was, subject to the report of the joint committee which is to investigate the whole subject. I will take up that matter with the subcommittee and the committee, and I have no doubt, so far as my own opinion goes, that we will simply restore the language of the present law. The intention was not to change the present law. It is really a fault of my own, because it is a matter that was left to me to examine, and I failed to examine it as thoroughly as I ought to have done.

Mr. SMOOT. If the Senator will look at subsection 5 of the present law, he will notice that not only are those words used, but the forms are given.

Mr. WILLIAMS. I understand that, and I want to restore the language of the existing law. I am speaking for myself now; I do not know what the committee or the caucus may do, and I will have to submit it, of course, to them; but my own idea is to restore subsection 5 of the present law.

Mr. SIMMONS. Mr. President, if the Senator will permit me, I have no doubt the House struck out the forms prescribed in the old law and gave the Secretary of the Treasury the power to formulate and promulgate regulations, because the House had made certain very important changes in connection with purchases or agreements to purchase. We have stricken out those provisions put in by the House, and therefore we can return to the language of the old law.

Mr. SMOOT. That will be satisfactory.

Mr. WILLIAMS. The House provision says "upon a form." That would have been one form for everything according to the nature of the case. The Secretary of the Treasury has been given very large discretion. For how many different cases he may find it necessary to prescribe, nobody can tell; so that the administration of the law would have been largely dependent upon whether there was a Secretary of the Treasury who was favorable to these provisions or who was unfavorable to them. I think there can be no doubt about the fact that we will restore the words of the present law. That is true so far as I am concerned, at any rate.

The VICE PRESIDENT. What is to become of the amendment?

Mr. WILLIAMS. There is no amendment offered.

The VICE PRESIDENT. Yes; there is a committee amendment here.

Mr. WILLIAMS. Oh, the Chair refers to the committee amendment. I insist upon the adoption of the committee amendment, but I ask that the paragraph may go back to the committee to be remodeled.

Mr. SMOOT. Would it not satisfy the Senator to recommit the paragraph to the subcommittee?

Mr. WILLIAMS. I think it would be better first to act upon this new language, and then we will be left to remodel it.

Mr. SMOOT. Would it not be better to remodel the whole thing?

Mr. WILLIAMS. I do not see anything else in it that needs remodeling. I request that the Senate committee amendment be acted upon, and then that the paragraph go back to the committee.

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

The amendment was agreed to.

The VICE PRESIDENT. The paragraph will be referred back to the committee.

Mr. SMOOT. Mr. President, before that is done, will the Senator from Mississippi allow me to call his attention to one other thing that I believe the committee ought to take into consideration? The Senator will notice that the wording on line 11, page 219, is that this declaration shall be made "before a notary public or other officer duly authorized by law to administer oaths and take acknowledgments." The present law limits this authority to such notaries public and other officers as are designated by the Secretary of the Treasury.

Mr. WILLIAMS. This does substantially the same thing, because it says "under regulations to be prescribed by the Secretary of the Treasury."

Mr. SMOOT. That refers to regulations as to the oath or affirmation; but the present law specifically requires that the notary public shall be designated by the Secretary of the Treasury. I only wish to call it to the attention of the Senator.

Mr. WILLIAMS. I really do not think there is any substantial difference there. It goes on to say "or before a notary public or other officer duly authorized by law to administer oaths and take acknowledgments, under regulations to be prescribed by the Secretary of the Treasury." The Secretary of the Treasury is authorized to make such regulations in regard to the matter as he thinks necessary.

Mr. SIMMONS. That is the language of the present law.

Mr. WILLIAMS. Yes; I thought it was the language of the present law.

Mr. SIMMONS. The present law is, "before a notary public or other officer duly authorized by law to administer oaths and take acknowledgments, who may be designated by the Secretary of the Treasury."

Mr. SMOOT. That is the difference. The present law requires that before a notary public can take a declaration he must be designated, and there is a good reason why that should be the case.

Mr. SIMMONS. Does not the Senator think that the Secretary, in his regulations, could designate the kind of notary before whom the acknowledgment should be taken?

Mr. SMOOT. No; because the bill says it is "before a notary public or other officer duly authorized by law to administer oaths."

The reason for the language of the present law is that an importer might have a particular friend who was a notary public, and a declaration made before him might be worded in such a way that there would be a loophole of escape in case a question should arise. That is why the present law says that the Secretary of the Treasury shall designate the notary public.

I ask the Senator to take this into consideration with the other matter.

Mr. WILLIAMS. I will take it into consideration, but I do not see any occasion for making any change. I think the two things are substantially the same.

The reading of the bill was resumed.

The next amendment of the Committee on Finance was, in paragraph F, page 219, line 21, after the word "subsequently," to insert:

That the Secretary of the Treasury and the Secretary of Commerce are hereby authorized and directed to establish from time to time for statistical purposes a list or enumeration of articles in such detail as in their judgment may be necessary comprehending all goods, wares, and merchandise imported into the United States, and that as a part of the declaration herein provided there shall be either attached thereto or included therein an accurate statement specifying, in the terms of the said detailed list or enumeration, the kinds and quantities of all merchandise imported, and the value of the total quantity of each kind of article.

Mr. WILLIAMS. In that connection it might be well for me to state to the Senate the purpose of the amendment.

We have a whole lot of paragraphs in the tariff laws which include a whole lot of different articles, and we are reduced to the necessity of finding an average from the report; and we want a report on each one as nearly as possible. This is a provision purely for statistical purposes, so that we may know better hereafter what the unit of value is in connection with each thing contained in the paragraph.

Mr. SMOOT. Mr. President, I approve most heartily of the provision; but I desire to call the Senator's attention to the fact that in paragraph C there is a provision practically identical with this one. It reads:

That such invoices shall have appended, for the purpose of making statistical entry, an enumeration of articles contained therein, in form to be prescribed by the Secretary of the Treasury, with the total of each article, and it shall be the duty of the consular officer.

And so forth.

Why make a duplication, and, in this provision, add "the Secretary of Commerce"?

Mr. WILLIAMS. The first provision refers to the invoice. Perhaps the words "the invoice shall contain" should be inserted there for the purpose of helping to get the information sought. Then the later amendment says:

That the Secretary of the Treasury and the Secretary of Commerce are hereby authorized and directed to establish from time to time * * * a list or enumeration of articles.

That would be a guide to the man who makes the invoice.

Mr. SMOOT. It seems to me the proper place is just where the committee placed it, in paragraph C. If it is on the invoice, every requirement is complied with, and all possible statistics are obtained.

Mr. WILLIAMS. If the Senator's view is correct, and his objection is that the two things are identical, it will not hurt to repeat the provision.

Mr. SMOOT. No; the objects are identical, but in one case it is the Secretary of the Treasury and in the other case it is the Secretary of the Treasury and the Secretary of Commerce.

Mr. WILLIAMS. We put in "the Secretary of Commerce" later on, because he is more of a statistical officer than the Secretary of the Treasury, and we thought it would be well for him to have something to do with establishing this list or enumeration of articles.

Mr. SMOOT. The Senator does not want this information collected twice, does he?

Mr. WILLIAMS. No; I do not.

Mr. SMOOT. Under this language I think that would be the result.

Mr. WILLIAMS. One part of it refers to the invoice which the importer makes up and the other refers to the list or enumeration which the Secretary of the Treasury makes up.

Mr. SMOOT. That is collecting it twice.

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

The amendment was agreed to.

The reading of the bill was resumed, and the Secretary read paragraph G, on pages 220 and 221, as follows:

G. That if any consignor, seller, owner, importer, consignee, agent, or other person or persons, shall enter or introduce, or attempt to enter or introduce, into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance whatsoever, or shall make any false statement in the declarations provided for in paragraph F without reasonable cause to believe the truth of such statement, or shall aid or procure the making of any such false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, or shall be guilty of any willful act or omission by means whereof the United States shall or may be deprived of the lawful duties, or any portion thereof, accruing upon the merchandise, or any portion thereof, embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement, or affected by such act or omission, such person or persons shall upon conviction be fined for each offense a sum not exceeding $5,000, or be imprisoned for a time not exceeding two years, or both, in the discretion of the court: *Provided*, That nothing in this section shall be construed to relieve imported merchandise from forfeiture by reason of such false statement or for any cause elsewhere provided by law.

Mr. SMOOT. I simply wish to say that as paragraph F stands at present this statutory definition of a crime means nothing, for, as already pointed out, paragraph F does not require any statements to be made in the declaration. As I say, this statutory definition of a crime, under those conditions, will amount to nothing unless a change is made in paragraph F.

The reading of the bill was resumed.

The next amendment of the Committee on Finance was, in paragraph H, page 222, line 5, after the word "relates," to insert:

That the arrival within the territorial limits of the United States of any merchandise consigned for sale and remaining the property of the shipper or consignor, and the receipt of a false or fraudulent invoice thereof, or the existence of any other facts constituting an attempted fraud, shall be deemed to be an attempt to enter such merchandise, for the purposes of this paragraph, notwithstanding no actual entry has been made or offered.

The amendment was agreed to.

Mr. BRANDEGEE. Mr. President, on page 221, in line 9, I notice this language:

That if any consignor * * * shall * * * attempt to enter or introduce into the commerce of the United States any imported merchandise by means of any * * * invoice * * * or by means of any false statement—

And so forth.

Why should he not be prohibited from entering it or punished for entering it into the United States at all, whether he puts it into commerce or not?

Mr. WILLIAMS. To what line is the Senator referring?

Mr. BRANDEGEE. I happened to notice this language, in passing, on page 221, line 9. It seems to me, without any knowledge of the subject except what is suggested by reading the paragraph, that the offense ought to consist in the fraudulent importation of the article into this country and not necessarily the fraudulent entry accompanied by an introduction into the commerce of the country. The mere evasion by fraud of the revenue law ought to be enough, it seems to me, without introducing the article into commerce.

I merely suggest that to the chairman of the committee.

Mr. WILLIAMS. That is the existing law, and it has been successfully administered. The House undertook, in a different part of the bill, to change the existing law along the line indicated by the Senator and to provide that the arrival of goods at a port, if I understand correctly, should be considered an introduction into the commerce of the country. We got to looking into the matter, and we found this situation: Here are men who receive goods as agents, let us say. Here are other men who receive goods as purchasers. Sometimes a man may receive an invoice of goods shipped to him that he does not want to accept at all. He finds out that those goods are sent to him under a fraudulent invoice, and he wants to amend the invoice. He wants an opportunity voluntarily to correct any injustice that has been done by the exporter abroad.

Mr. BRANDEGEE. The point I make, Mr. President, is that the bill provides, on page 221, at line 7:

That if any consignor, seller, owner, importer, consignee, agent, or other person or persons shall enter or introduce, or attempt to enter or introduce, into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice—

And so forth.

If an importer or a consignor fraudulently enters a large cargo of goods and puts it in a bonded warehouse, for instance, I desire to know whether or not he has introduced it into the commerce of the United States.

Mr. WILLIAMS. Oh, undoubtedly.

Mr. BRANDEGEE. I am not so sure about it.

Mr. WILLIAMS. This is the language of the existing law, and under the existing law that has been construed to be the case.

Mr. BRANDEGEE. If the Senator is positive that the mere entering of the cargo through the customhouse is entering it into the commerce of the United States, I have nothing further to say.

Mr. WILLIAMS. That raises another point. The Senator a moment ago said, "if it went into a bonded warehouse."

Mr. BRANDEGEE. I said that for one instance. That is not the entire case, however.

Mr. WILLIAMS. This sort of a case might happen, and it would not be entering it into commerce: The Senator might be in New York, for example, and I might be a German merchant who had been dealing with him, and I might undertake to ship him certain goods on trial, or trusting to him to take them, or otherwise, and he might refuse to take them. He might refuse to have anything to do with them. He might leave them there to be sent back or to be sold; or he might discover that the goods had been undervalued in a fraudulent manner, and he might not want to be connected with the transaction.

Mr. BRANDEGEE. Why, yes; but this paragraph provides that if the consignor shall fraudulently enter the goods into the commerce of the United States, a certain penalty shall apply. Suppose the consignor fraudulently enters the goods through the customhouse?

Mr. WILLIAMS. And suppose the consignee refuses to take them?

Mr. BRANDEGEE. Yes.

Mr. WILLIAMS. Then they are not entered into the commerce of the United States.

Mr. BRANDEGEE. Very well.

Mr. WILLIAMS. They are subject to forfeiture and sale, however.

Mr. BRANDEGEE. Ought not somebody to be punished for the fraudulent entry?

Mr. WILLIAMS. You can not punish the consignor, because he is a foreigner, and you have no jurisdiction over him. You ought not to punish the consignee for a thing of which he is guiltless; but you do punish the consignor indirectly, because you forfeit and sell the goods.

Mr. BRANDEGEE. If the consignee fraudulently enters the goods, it seems to me he ought to be punished.

Mr. WILLIAMS. Well, he is punished. This refers to the consignor, not to the consignee, however.

Mr. BRANDEGEE. This refers to both of them, Mr. President. It refers to either the consignor or the seller or the owner or the importer or the consignee or the agent—or either of them, I suppose—or other person or persons. It refers to everybody who has anything to do with the fraud.

Mr. WILLIAMS. Yes; I understand that, if the Senator pleases; but it refers to them at different times. The consignor has committed a fraud with the shipment of the goods and their landing at the port. The consignee has not become particeps criminis until he accepts the goods—until he makes himself a party to the transaction by putting them into the commerce of the country—that is, by accepting them and paying the duty. Why should he be left free not to pay it and let the goods go?

Mr. BRANDEGEE. Suppose the importer imports a large amount of goods for a large structure in this country for his own use and enters them without putting them into the commerce of the country at all; he ought to be punished for the fraud he commits whether he introduces them into the commerce of the country or not.

Mr. WILLIAMS. Oh, well, if a man imports a thing for his own use, it enters into the commerce of the country just as much as if he sold it to somebody else who used it.

Mr. BRANDEGEE. I am not at all satisfied as to that.

Mr. WILLIAMS. That is the language of the existing law; it has been administered very successfully, and the importer has not had much more chance than a one-legged man at a kicking match.

Mr. BRANDEGEE. The importer is getting his chance pretty well under this bill, I think.

Mr. WILLIAMS. He has not hitherto had it, and this is the old law.

Mr. SUTHERLAND. Mr. President, I suggest to the Senator from Mississippi that for the sake of the grammatical integrity of the provision it would be better to transpose the phrase "for the purpose of this paragraph" to follow the word "deemed" in line 10 on page 222. It reads:

shall be deemed to be an attempt to enter such merchandise, for the purposes of this paragraph.

Of course the Senator does not mean that.

Mr. WILLIAMS. What is the suggestion of the Senator?

Mr. SUTHERLAND. My suggestion is that the phrase ought to follow the word "deemed," so as to read, "shall be deemed, for the purposes of this paragraph, to be an attempt to enter such merchandise."

Mr. WILLIAMS. I think that would do no harm, and it would do some good.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. In the committee amendment, line 9, transpose the words "for the purposes of this paragraph" so that they shall follow the word "deemed," in line 10.

The amendment to the amendment was agreed to.

Mr. ROOT. Mr. President, I would like to inquire of the Senator from Mississippi somewhat as to the meaning of this proposed amendment. The provision which is here marked "H," I will say to the Senator from Connecticut [Mr. BRANDEGEE], is a very old provision. It is in the terms of the existing law, and what has been the law for a great many years. It has been very frequently construed by the courts, and it covers not merely the entry of merchandise by means of fraudulent devices, but attempts to enter. Unquestionably, taking goods and putting them into a bonded warehouse, having the entries liquidated, as they would have to be, would be an attempt at entry quite irrespective of whether they were ever taken out of the warehouse or not. It covers also the introduction of goods by any fraudulent device whatever. So I should think it would be wise to leave this language exactly as it is, because it has been so long the basis of judicial enforcement.

Mr. WILLIAMS. Of course, when an importer goes up and settles and lets his goods go into the bonded warehouse, he has rendered himself a party to the transaction. If he accepts the goods in any way he is guilty either of fraud or an attempt to commit it.

Mr. ROOT. Now, as to the amendment, I doubt whether that has the precision which a new criminal provision ought to have. It is:

That the arrival within the territorial limits of the United States of any merchandise consigned for sale and remaining the property of the shipper or consignor, and the receipt of a false or fraudulent invoice thereof, or the existence of any other facts—

And so forth, shall be deemed an attempt. The receipt by whom? An attempt by whom?

Mr. WILLIAMS (reading)—

That the arrival within the territorial limits of the United States of any merchandise consigned for sale and remaining the property of the shipper or consignor, and the receipt of a false or fraudulent invoice thereof——

Mr. ROOT. A receipt by whom?

Mr. WILLIAMS. That is a receipt by the agent, of course, who gets the goods.

Mr. ROOT. Necessarily.

Mr. WILLIAMS (reading)—

or the existence of any other facts constituting an attempted fraud, shall be deemed to be an attempt to enter such merchandise——

Mr. ROOT. Attempted fraud by whom?

Mr. WILLIAMS (reading)—

notwithstanding no actual entry has been made or offered.

Mr. ROOT. Does the receipt by me of a paper sent from Europe constitute a fraud on my part, though I make no use of it, though I may not have known of it? I may repudiate it the moment I see the paper. I may see that it is a fraudulent paper and I may not make any use of it. Nevertheless, under this provision I suppose I would be guilty of a fraud. I think that ought to be revised.

Mr. SIMMONS. If the Senator from New York will pardon me, that means a receipt by the consignee or by an agent of the consignor.

Mr. BRANDEGEE. Why not say so, then?

Mr. SIMMONS. I believe it would be better to make it more specific. I am inclined to think, although I am not quite sure of it, that the mere entrance of these goods into the territorial limits of the United States has been considered and held to be an attempt to introduce the goods into the commerce of the United States.

Mr. ROOT. I do not doubt that, Mr. President.

Mr. SIMMONS. It was to avoid that that we adopted this change of language.

Mr. WILLIAMS. I will state to the Senator from New York that this amendment was drawn up at the department. It seems to me that his criticism is just as to the mere bare receipt, without a voluntary acceptance of it. I think we ought to say there "the acceptance" instead of "the receipt," so as to read "the acceptance of a false or fraudulent invoice."

Mr. ROOT. Now, let me make a suggestion about that. The Treasury Department takes cognizance of the property, ownership, and values of things, and thus in their suggestions which led to this amendment they had in mind circumstances leading to forfeiture. It is all right to denounce certain acts as cause for forfeiture of the goods without any regard to who is responsible for the acts, but when you come to put a provision of that kind into a section which imposes personal liability for crime, then you have got to deal with the person who is responsible for the acts. You can not impute criminal responsibility because of an act unless you have some known participation in it. The trouble with this, I should say, is that it intended to do the two things in the same breath.

Mr. SMOOT. Mr. President, I asked for information in relation to this particular provision from one of the appraisers at New York, and I was informed that the amendment was undoubtedly prompted by the case of the United States *v.* Twenty-five Packages of Panama Hats (195 Fed. Rep., 438), in which the Government undertook to forfeit the hats. Notwithstanding the Government proved the arrival of the goods in the country and proved the existence of a false and fraudulent consular invoice, the libel of forfeiture was dismissed, because no actual entry or attempt at entry had been made, the court holding that under the terms of subsections 6 and 9 there was

no criminal act, and there could be no forfeiture of the goods. That of course was a case under the present law. It is found at One hundred and ninety-fifth Federal Reporter, No. 438, Treasury Decisions 33737. This amendment was prompted no doubt to meet just such a case.

Mr. President, I believe it is proper that a provision of this kind should be in the law, and I have no doubt but that it was placed there for that purpose.

Mr SIMMONS. I will say to the Senator that the amendment was drawn by the department.

Mr. SMOOT. I am aware of that.

Mr. SIMMONS. I really think the Senator from New York is right in the suggestion that we ought to define more specifically the term "receipt," so as to show what is meant by that word.

Mr. WILLIAMS. Mr. President, I agree with the Senator from New York that this language is somewhat too indefinite for this sort of a statute. I move to strike out the word "receipt," in line 8, and substitute for it the word "acceptance," and then after the word "thereof" to insert the words "by the consignee or the agent of the consignor."

Mr. SIMMONS. That is right.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. In the committee amendment, page 222, line 8, it is proposed to strike out the word "receipt" and to insert in lieu the word "acceptance," and at the end of the same line, after the word "thereof," to insert "by the consignee or the agent of the consignor."

The amendment to the amendment was agreed to.

Mr. BRISTOW. Mr. President, I have here collected the tables which the junior Senator from North Dakota [Mr. GRONNA] presented during the discussion of the agricultural schedule, which I thought would be very valuable. The series, which he devoted a great deal of time to, I have here collected, and I ask that it may be made a public document.

Mr. SIMMONS. I can not hear the Senator.

Mr. WILLIAMS. What is it?

Mr. BRISTOW. The tables which the junior Senator from North Dakota [Mr. GRONNA] prepared during the consideration of the agricultural schedule. I regard them as very valuable. He spent a great deal of time on them. I have had them collected from the RECORD as they appeared, and I ask that they be made a public document.

Mr. SMOOT. It is no part of the Senator's speech, but just the tables?

Mr. BRISTOW. Just the tables, the statistical information.

The VICE PRESIDENT. Is there objection?

Mr. WILLIAMS. I shall not object, but if we make public documents out of all the tables constructed there will be no end to it.

Mr. SIMMONS. Does the Senator from Kansas mean the tables the Senator from North Dakota gave in connection with the various and sundry speeches he made upon the agricultural schedule?

Mr. BRISTOW. Yes.

Mr. SIMMONS. That would look very much like publishing portions of the speech of the Senator as a public document.

Mr. BRISTOW. It is not the speech; it is simply the tables.

Mr. SIMMONS. I should have no objection if the Senator from Kansas desired to make a speech himself and present those tables; but it does not seem to me it is quite right to be collecting from the various and sundry speeches of a Senator extracts and publishing those extracts as a public document.

Mr. BRISTOW. This is not a speech, I will say, and it contains none of the comments of the Senator at all. It is simply statistical information which he collected and submitted at various times.

Mr. WILLIAMS. Where were the tables collected from?

Mr. BRISTOW. It is stated here. I have written a statement here which I will read to the Senator.

Mr. WILLIAMS. They were collected from public documents already printed?

Mr. BRISTOW. Yes, of course they were; but it required a great deal of labor to collect them.

Mr. SIMMONS. But, Mr. President, I ask the Senator from Kansas, did not the Senator from North Dakota sometimes present a table from the Agricultural Yearbook; and did he not sometimes present tables that had been gotten up for him probably by some expert, and in presenting these various and sundry tables he each time explained to the Senate the source and authority for his statements?

Mr. BRISTOW. Yes.

Mr. SIMMONS. Now, does the Senator do that in this proposed document?

Mr. BRISTOW. I will read exactly the preliminary comment I made on the tables:

The figures in the following tables, as to imports and exports, are taken from Commerce and Navigation of the United States, 1912. Those as to production in the United States are taken from the 1912 Agricultural Yearbook, except in the following cases:

Where the production figures are for 1909 they are taken from the Abstract of the Tenth Census. The production figures for cotton are from the 1912 Statistical Abstract. The figures as to production in other countries and as to international trade are from the 1912 Agricultural Yearbook.

That is the preliminary statement that is made, and then the tables follow. I think it will be a very valuable document.

Mr. SIMMONS. I should like, at least, to make a temporary objection and examine them. I may withdraw the objection later.

Mr. BRISTOW. I am perfectly willing to send them to the Senator's desk and let him examine them.

Mr. BORAH. Mr. President, just a moment of the Senate's time.

Day before yesterday I made some statements with reference to personal property taxation, and those statements were challenged as to accuracy. I do not like to make statements which leave the impression upon my colleagues that I speak without authority or without regard to the accuracy of my statements.

While I am not going to take up the time of the Senate to read, I want to ask permission to insert in the RECORD a very brief excerpt from the Massachusetts Commission on Taxation report in 1897.

Also the New York Special Tax Commission report of 1907.

Also a brief excerpt from the speech of ex-President Harrison upon this subject and an excerpt from an article in the Forum of 1897 upon the subject of the inheritance tax.

These are the sources from which I derived my information, and I desire to insert them in the RECORD, as they bear out fully the statements which I made.

The VICE PRESIDENT. That may be done without objection.

The matter referred to is as follows:

The total valuation of personal property assessed for taxation by the local assessors in 1896 was $582,319,634. The amount of taxes assessed upon personal property was $8,398,980.

* * * * * * *

The total property, real and personal, assessed by the local assessors in 1896 was $2,622,520,278, of which $2,040,200,644 was real estate and $582,319,634 was personal estate. (Massachusetts Commission on Taxation report, 1897, pp. 13, 44.)

First. That the assessed value of all real estate in the State is approximately $7,000,000,000.

Second. That the assessed value of all personal property is approximately $800,000,000.

Third. That the market value of all real estate is but slightly in excess of its assessed valuation.

Fourth. That the value of all personal property owned by the citizens of this State is not less than $25,000,000,000.

Fifth. That the income from investments made in real estate is of much lower percentage than that derived from personal property.

Sixth. That the richer a person grows the less he pays in relation to his property or income.

Seventh. That the owners of personal property have advocated and voted for local improvements without any substantial contribution on their part until the taxes on real estate has become a great burden.

Eighth. Experience has shown that under the present system personal property practically escapes taxation for either local or State purposes. As proof of this the following table showing the amount assessed against well-known multimillionaires for personal property is as follows for the year 1907 in the city of New York:

August Belmont	$100,000
Oliver H. P. Belmont	200,000
Cornelius Bliss	100,000
Andrew Carnegie	5,000,000
Henry Clews	100,000
William E. Corey	100,000
Morris K. Jesup	100,000
John W. Gates	250,000
Frank J. Gould	50,000
John D. Rockefeller	2,500,000
John D. Rockefeller, jr	50,000
William Rockefeller	300,000
H. H. Rogers	300,000
Russell Sage	2,000,000
Alfred G. Vanderbilt	250,000
Cornelius Vanderbilt	150,000
Elsie F. Vanderbilt	100,000
Fred W. Vanderbilt	250,000
George W. Vanderbilt	50,000
William K. Vanderbilt	100,000
John Jacob Astor	300,000
George Ehret	200,000

(From the report of the special tax commission of the State of New York, 1907, pp. 58, 59.)

In 1870, in the State of New York, the personal property assessed amounted to 22 per cent of the total property assessed. In 1896 the proportion of personal property assessed had fallen to 12.4 per cent.

Comptroller Roberts of that State declares that as a rule this class of property escapes taxation. The taxable value of real estate in the State of New York increased betwen 1870 and 1895, 155 per cent, while the value of taxable personal property, as shown by the assessment, within the same time increased less than 6 per cent.

* * * * * * *

He states that from two and one-half to three billion dollars of personal property taxable by law in New York escapes taxation every year.

* * * * * * *

The tax commission of Massachusetts, which reported to the governor a few months ago, shows that the total valuation of real estate in that State for taxation was in 1896, $2,040,200,644, and the total valuation of personal property assessed in the same year was $582,319,634, about one-fourth. (From Views of an Ex-President, Benjamin Harrison, pp. 343–345.)

I think it will be readily conceded that in personal property New York is proportionately the richest of all the States. And yet, in the percentage of its assessed personalty to its assessed realty, it is the lowest among the wealthier States. The assessed value of real estate in New York is $3,952,451,417, and of personal property, $539,863,305, or 12⅛ per cent that of the realty. The following table shows that the same difference exists elsewhere, though not in so marked a degree.

State.	Real property.	Personal.	Per cent.
New Jersey	$640,188,332	$134,210,000	17 4/10
Ohio	1,215,540,454	528,977,260	30
Illinois	687,510,306	143,800,000	17
Indiana	813,820,000	286,000,000	26
Massachusetts	1,964,834,106	577,614,889	22 9/10
Pennsylvania	2,471,000,000	647,000,000	20 6/10

Some interesting facts may be gathered from a comparison by counties of New York's table of valuations. The proportion which the personalty bears to the realty in the various counties ranges from six-tenths of 1 per cent in Richmond County to 22⅛ per cent in New York. The counties which show the largest percentage of personalty in the rural districts are Washington County, with nearly 20 per cent; Livingston, with nearly 14 per cent; and Jefferson and Genesee, with 13 per cent. Kings County, containing the city of Brooklyn, has but 4⅛ per cent; Monroe County, with the city of Rochester, has but 5 7/10 per cent; Erie County, with the city of Buffalo, has but 6 4/10 per cent; Onondaga County, with the city of Syracuse, has but 6 7/10 per cent. The counties in the first group are largely devoted to farming. Does anyone for a moment suppose that these farming counties have a larger percentage of personal property than the counties in which are located the flourishing cities named?

The amount of equalized personalty paying taxes to the State of New York in 1896 was $459,859,526; and, by the report of the superintendent of the banking department, it appears that the capital, surplus, and undivided profits of the banks, trust companies, and safe-deposit companies of the State was $311,386,372. Under the law these institutions could not escape taxation. They are required to pay on the value of their capital stock; and that includes the surplus and undivided profits. There was then only $148,473,154 of personal property over and above the banking and trust-company capital which paid taxes in 1896. In 1857 Sanford E. Church, then comptroller, felt called upon in his annual report to direct the attention of the legislature to the way in which personal property was escaping taxation. He reported the amount of personalty then paying taxes to the State to be $319,897,155, of which $110,000,000 was banking capital, leaving $209,897,155 of other personal property then paying taxes; that is to say, in round numbers there was $61,000,000 more of such personal property paying taxes in 1857 than in 1896. Yet everybody knows that personal property in the State of New York has increased enormously in the last 40 years.

One hundred and seven estates were selected at random in the comptroller's office, with the amount of appraised personal property found after death; and the amount of personal property on which the decedent in each case was assessed the year before death was ascertained. The estates were selected from various portions of the State. Of the one hundred and seven estates, 34, ranging from $54,550 to $3,319,500, were assessed the year before decedent's death absolutely nothing whatever. The following table gives the figures in the remaining 73 cases:

Amount of appraised personal property after death.	Amount assessed to decedent year before death.	Amount of appraised personal property after death.	Amount assessed to decedent year before death.
$3,544,343	$15,000	$247,358	$10,000
2,544,008	10,000	221,353	5,000
1,400,000	15,000	3,592,846	20,000
2,756,323	20,000	2,188,710	5,000
10,252,857	500,000	319,986	10,000
1,222,116	10,000	107,233	5,000
1,000,000	10,000	2,876,387	18,000
1,167,015	5,000	645,147	15,000
1,303,057	15,000	2,327,075	55,000
3,458,408	80,000	121,858	18,000
1,083,928	12,000	102,432	6,412
1,146,101	5,000	166,290	51,000
3,800,000	100,000	160,960	30,000
4,703,424	220,000	1,016,227	28,000
3,060,238	75,000	1,649,018	10,000
1,100,000	12,000	2,125,577	400,000
1,500,000	100,000	1,374,039	12,000
1,077,357	100,000	3,284,819	25,000
1,484,265	87,000	1,056,809	10,000
934,164	50,000	2,770,570	200,000
1,160,629	10,000	342,672	3,000
1,063,406	75,000	411,212	5,000
1,000,000	100,000	6,685,735	100,000
1,600,000	50,000	217,844	10,000
1,500,000	50,000	388,429	20,000
6,500,000	160,000	410,058	30,000
800,000	40,000	1,435,816	10,000
800,000	50,000	1,160,656	20,000
3,500,000	20,000	1,117,908	5,000
1,296,516	34,000	361,678	5,000
80,000,000	500,000	943,979	30,000
170,655	10,000	947,504	10,000
260,214	5,000	441,543	3,000
526,585	25,000	2,015,852	5,000
312,894	35,000	677,644	3,000
263,266	20,000	306,133	2,000
539,552	10,000		

No names have been given in this table, because these cases are neither singular nor exceptional. The decedents were not sinners above all the men that dwelt in New York, but they simply did that which everybody in the community was doing. These 107 estates disclosed personalty to the appraiser aggregating $215,132,366; and yet the decedents, the year before their respective deaths, had been assessed in the aggregate on personal property to the amount of $3,819,412, or on 1⅞ per cent of the actual value of the property. (From The Forum, 1897.)

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

The amendment as amended was agreed to.

The Secretary continued the reading of the bill.

The next amendment of the Committee on Finance was, in subsection I, page 222, line 15, after the word "merchandise," to strike out "but not after either the invoice or the merchandise has come under the observation of the appraiser," so as to read:

That the owner, consignee, or agent of any imported merchandise may, at the time when he shall make entry of such merchandise, make such addition in the entry to or such deduction from the cost or value given in the invoice or pro forma invoice or statement in form of an invoice, which he shall produce with his entry, as in his opinion may raise or lower the same to the actual market value or wholesale price of such merchandise at the time of exportation to the United States in the principal markets of the country from which the same has been imported.

Mr. SMOOT. Mr. President, under the present law the person who makes entry of merchandise has the privilege at the time of entry, but not afterwards, of either adding to the invoice or deducting therefrom in order to make his entry value conform to the prevailing market value. The present law prohibits a change afterwards, and the law to-day uses the words "but not afterwards." The House struck out the phrase "but not afterwards" and substituted for it "but not after either the invoice or the merchandise has come under the observation of the appraiser." The Senate committee struck out this latter phrase but did not restore the former phrase of the present law. The reason for the action of the House in this amendment is given in a report accompanying H. R. 3321—that is, this bill—as follows:

We recommend substituting for the word "afterwards" the words "after either the invoice or the merchandise has come under the observation of the appraiser."

This is in accord with the present practice of the Treasury Department. It will give the importers a proper length of time within which to correct errors, without extending the privilege to such an extent as to permit them to be "tipped off" by appraising officers as to the values about to be set upon their merchandise.

I believe that if the Senator will reconsider this paragraph and use the words of the law, "but not afterwards," which were stricken out, then there would be no objection whatever to the wording of the paragraph.

I think it happened, Mr. President, in this way: The House struck out the words "but not afterwards" and inserted "but not after either the invoice or the merchandise has come under the observation of the appraiser"; and in striking out that language of the House bill the Senate committee failed to put in the words of the present law, "but not afterwards." I think that they ought to be inserted.

Mr. WILLIAMS. Mr. President, the present practice has grown up regardless of the phrase to which the Senator refers. The phrase was a phrase of restriction, not a phrase of extension. Notwithstanding the phrase of restriction people have been permitted a reasonable time within which to make corrections in invoices. The language is this:

That the owner, consignee, or agent of any imported merchandise may, at the time when he shall make entry of such merchandise—

Then there follows the totally unnecessary words, "but not afterwards."

When you say that a man may at the time when he shall make entry of such merchandise do certain things, it means that that is the time at which he must do them. Then there were added, as if to strengthen the restriction to that particular time, the words "but not afterwards." Notwithstanding that, there has been given a leeway for honest men to make corrections in invoices where they themselves thought that they had perhaps bought the goods at a lower price than the market value in the foreign countries, which frequently happens. A man may buy bankruptcy merchandise or something of that sort, and it is invoiced to him at the price at which he bought. Then he wants the opportunity to correct it, and that opportunity he has been given under the practice of the department. Certainly adding the words "but not afterwards" will not increase his leeway; it would rather restrict it; and adding the language of the House bill is not permissible at all, for the language of the House bill is—

But not after either the invoice or the merchandise has come under the observation of the appraiser.

The appraiser may see it before the consignee sees it.

Mr. SMOOT. I am not defending the House provision.

Mr. WILLIAMS. I understand that.

Mr. SMOOT. But I do believe that the language of the present law is preferable.

Mr. WILLIAMS. I understand precisely. The Senator wants to restore the words "but not afterwards."

Mr. SMOOT. That is it.

Mr. WILLIAMS. Well, I do not want them there, first, because I think they are unnecessary; secondly, because, if they mean anything, they are still further restrictive of the right of an honest man to correct his invoice. I think this language is all sufficient:

That the owner, consignee, or agent of any imported merchandise may, at the time when he shall make entry of such merchandise, make such addition in the entry to or such deduction from the cost or value given in the invoice—

As he may choose.

Mr. SMOOT. Mr. President, I am not worried about a restriction of the honest importer; it is the dishonest importer that I want restricted; and, if those words are placed in the law, the dishonest importer will be restricted.

If there is any collusion between an appraiser and a dishonest importer, without those words, it seems to me as the House provision stands, the appraiser could tip off the dishonest importer before the case is to be tried or passed upon. He could then change his invoice, and he would always be sure, through this collusion, of not being caught in trying to import goods at an undervaluation.

Mr. WILLIAMS. Mr. President, when the law prescribes the time at which a thing may be done it is totally unnecessary and superfluous to add the words "but not afterwards," and I think the committee was right.

The PRESIDING OFFICER (Mr. POMERENE in the chair). The question is on the committee amendment.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Finance was, on page 223, line 8, after the word "entry," to insert "by more than 5 per cent," so as to read:

And if the appraised value of any article of imported merchandise subject to an ad valorem duty or to a duty based upon or regulated in any manner by the value thereof shall exceed the value declared in the entry by more than 5 per cent, there shall be levied, collected, and paid, in addition to the duties imposed by law on such merchandise, an additional duty of 1 per cent of the total appraised value thereof for each 1 per cent that such appraised value exceeds the value declared in the entry.

Mr. OLIVER. Mr. President, I should like the Senator from Mississippi to explain the reason for this amendment.

Mr. WILLIAMS. Mr. President, the Senator from Pennsylvania will observe, if he will read the remainder of the paragraph, that it is substantially an antidumping clause. It fixes a heavy penalty upon undervaluations—a penalty of "an additional duty of 1 per cent of the total appraised value thereof for each 1 per cent that such appraised value exceeds the value declared in the entry." It could run up to 70 per cent of the value of the goods in addition to the duty.

We will say, here is a man who is engaged in importing goods and he buys certain goods in Germany, he has an agent over there representing his house for the purpose of purchasing certain goods, or he has an agent in France representing his house, buying wines in one place and something else in another. The natural course is that whatever he pays for those goods is the price that is stated in the invoice. We have established a principle that, regardless of what a man pays for the goods he imports, the duty must be levied upon them in proportion to the market value of the country of export. He may buy his goods cheaply for very many reasons; he may be a very large dealer, or it may be, as I said a moment ago, that somebody over there has made an assignment and is selling the goods very cheaply. To say that a man whose invoice undervalues his goods one-half of 1 per cent or one-fourth of 1 per cent is to be regarded as a criminal and visited with this punishment we thought was too much. We found that this leeway of 5 per cent was allowed in import-tax laws of other countries, and we thought it but fair and reasonable not to visit a man with this punishment when he had not varied from the market value of the goods more than 5 per cent, especially as the Government will lose nothing anyway, for it collects its import duties. The invoice is corrected in order that it may correspond with the wholesale market value in the country whence the goods were exported. To go further than that and to punish him with this penal tax, when he has not varied by more than a very small percentage from the wholesale price, which he himself perhaps had no method of ascertaining, struck us was wrong.

Mr. OLIVER. Mr. President, the Senator's explanation furnishes, to my mind at least, a very strong argument against the adoption of this provision allowing 5 per cent leeway. In this legislation we are departing very largely from specific duties and turning to ad valorem duties as a basis of taxation on imports. The very men who best know the market value abroad of the commodities in which they deal are the men who, through their agents in foreign countries, ship the goods to themselves in this country, and it seems to me that this amendment is simply equivalent to extending to them an invitation toward undervaluation to the extent of 5 per cent. In adopting the ad valorem principle every safeguard should be thrown around it, so as to provide against undervaluation.

Mr. SIMMONS. Why does the Senator say it is an invitation to undervalue to the extent of 5 per cent? If they undervalue 4 per cent, they would, upon the reassessment by the appraiser, have to pay upon the additional valuation. We simply do not impose the penalty of the additional 1 per cent unless the undervaluation is 5 per cent——

Mr. OLIVER. I understand all that.

Mr. SIMMONS. But for any undervaluation the importer would not be able to protect himself against the actual valuation as ascertained by the appraiser if that valuation did not conform to his valuation.

Mr. OLIVER. He will take the chances of a reappraisement, because he understands more about the market value abroad than do the appraisers themselves. I think that, in order to hold these people who understand what they are doing to a rigid compliance with the law, a penalty should be imposed to the extent of any undervaluation, so that if there is any undervaluation to the extent of 1 per cent the importer will have to stand an additional 1 per cent, and if 2 per cent there shall be 2 per cent added, and so on. In that way the importer will be careful to see that if any error is made it is made upon the side of the Government and not upon the side of himself. I think, Mr. President, that the provision in the House bill is exactly right and that this leeway should not be allowed.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Finance was, in paragraph "I," page 223, line 20, after the words "limited to," to strike out "75" and insert "70,' so as to read:

Provided, That the additional duties shall only apply to the particular article or articles in each invoice that are so undervalued and shall not be imposed upon any article upon which the amount of duty imposed by law on account of the appraised value does not exceed the amount of duty that would be imposed if the appraised value did not exceed the entered value, and shall be limited to 70 per cent of the appraised value of such article or articles. Such additional duties shall not be construed to be penal, and shall not be remitted nor payment thereof in any way avoided except in cases arising from a manifest clerical error, nor shall they be refunded in case of exportation of the merchandise, or on any other account, nor shall they be subject to the benefit of drawback.

The amendment was agreed to.

The next amendment was, on page 224, line 3, before the words "per cent," to strike out "75," and insert "70," so as to read:

Provided, That if the appraised value of any merchandise shall exceed the value declared in the entry by more than 70 per cent, except when arising from a manifest clerical error, such entry shall be held to be presumptively fraudulent, and the collector of customs shall seize such merchandise and proceed as in case of forfeiture for violation of the customs laws, and in any legal proceeding other than a criminal prosecution that may result from such seizure, the undervaluation as shown by the appraisal shall be presumptive evidence of fraud, and the burden of proof shall be on the claimant to rebut the same, and forfeiture shall be adjudged unless he shall rebut such presumption of fraudulent intent by sufficient evidence.

The amendment was agreed to.

The next amendment was, on page 224, line 15, after the word "apply," to insert "only," and in the same line after the words "to the," to strike out "whole of the merchandise or the value thereof in the case or package containing the," so as to read:

The forfeiture provided for in this section shall apply only to the particular article or articles in each invoice which are undervalued.

Mr. SMOOT. Mr. President, I do not know that I care in detail to go into what that amendment really means. One effect will be that if a case of merchandise is imported into this country and the invoice recites the fact that the case contains a dozen and there should happen to be 15, under this provision the importer could be penalized for the undervaluation on the dozen, but not on the three extra. Of course, I do not know that that is sufficiently important to require a change in the bill. The present law reads in that way, but it has developed in many cases that through an error—not a willful error, but through a mistake—an additional amount has been inclosed in a case over and above what the invoice called for.

Mr. ROOT. Mr. President, I think the House provision is right.

Mr. SMOOT. So do I.

Mr. ROOT. Under the provision reported by the Senate committee I do not think the penalty is severe enough to check attempts at fraud. A man may get caught once in 40 times, and if he loses nothing but the particular article which he is attempting to bring in fraudulently, he will make money out of it.

The provisions in this section of the bill are pretty liberal. There is allowed 5 per cent for an honest difference of opinion between the importers and the appraisers, with no penalty. Then, presumption of fraud does not attach to an undervaluation until it reaches 70 per cent.

Mr. WILLIAMS. That is a conclusive presumption.

Mr. ROOT. No; that is only presumptively fraudulent. Here is the provision:

Provided, That if the appraised value of any merchandise shall exceed the value declared in the entry by more than 70 per cent, except when arising from a manifest clerical error, such entry shall be held to be presumptively frudulent, and the collector of customs shall seize such merchandise and proceed as in case of forfeiture for violation of the customs laws.

That undervaluation is only presumptive, and the presumption can be rebutted. That is certainly pretty liberal. Five per cent without any penalty and 65 per cent more with only proportional penalties, and no presumption until you get to 70 per cent; and then that can be rebutted. I think that is exceedingly liberal for a revenue statute. I think that the penalty forfeiting only the particular article, instead of forfeiting the package, is too light to secure respect for the law. It will be perceived that the present law and the bill as passed by the House is an intermediate between the heaviest and the lightest penalties. The heaviest penalty would be to forfeit the invoice; the lightest possible penalty would be to forfeit one of the articles; and the intermediate penalty would be to forfeit the package in which the article is contained, leaving the rest of the invoice to come through without penalty. I think, if this proposed law is to be respected, the House provision should be retained.

Mr. WILLIAMS. Mr. President, frequently the importer imports an invoice of goods, and the various packages and the various articles are distributed after they are received here. The provision of the House would punish one man for the undervaluation of goods by another. I think we have acted wisely in leaving the law as it is.

The PRESIDING OFFICER. The question is on the adoption of the committee amendment on lines 15 and 16, page 224.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Finance was, on page 225, line 1, after the word "value," to insert "unless by direction of the Secretary of the Treasury, after consideration of the particular case, and the Secretary of the Treasury shall accompany his direction with a statement of his conclusion and the reasons for it," so as to read:

The duty shall not, however, be assessed in any case upon an amount less than the entered value, unless by direction of the Secretary of the Treasury, after consideration of the particular case, and the Secretary of the Treasury shall accompany his direction with a statement of his conclusion and the reasons for it.

Mr. SMOOT. Mr. President, that is a new provision, not only to the House bill but to the present law. It gives authority to the Secretary of the Treasury to permit duty to be assessed upon less than the entered value. No administrative provision in any tariff bill before has ever given the Secretary of the Treasury that power. The law heretofore has always directed that in no case shall the duty be assessed at less than the entered value. This statutory direction was based upon the very reasonable assumption that the importer of merchandise knew what he paid for it and what its value was, and that having ascertained its value he was estopped from claiming an assessment of duty on a lower amount than that which he had previously said his goods were worth.

It may be that the law worked an occasional hardship, for example, where a man with more money than brains paid a large sum of money for a curious antique, or something of that kind, but such a case is the only class in which the question would arise.

If, however, this amendment is to be adopted, it should be amended so as to require that the statement of the conclusion and reasons of the Secretary of the Treasury, required by the amendment, shall be published weekly in connection with the other rulings of the Treasury Department and the Board of General Appraisers, provided for in paragraph Q, I believe, of the bill.

Mr. LODGE. Mr. President, may I ask the Senator a question?

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

Mr. SMOOT. I yield.

Mr. LODGE. Assuming, of course, that you have a Secretary of the Treasury who takes proper views of the revenue laws, this provision would encourage importation, would it not?

Mr. SMOOT. Why, certainly. I think that is the object of the amendment.

Mr. LODGE. Precisely; and the amendment the Senator suggests would hamper the Secretary. I think the Senator must see that the amendment he suggests would hamper the Secretary of the Treasury in enlarging the importations.

Mr. SMOOT. That is why I suggest it.

Mr. WILLIAMS. I have no objection, nor has anybody over here, to amending that language by adding that these statements of the Secretary's conclusions and the reasons for them shall be published. Of course nobody ought ever, in an official capacity, to make a decision and give a statement of his conclusions and reasons for it without being willing to have that statement published.

If the Senator will draw up an amendment to be inserted right after that language, we shall very willingly accept it. We do not want anything done in the dark.

Mr. SMOOT. I should like to ask the Senator while he is on his feet, if he has no objection, why is this amendment offered? Why should the Secretary of the Treasury be allowed to assess a duty lower than the entered value?

Mr. WILLIAMS. Because it is perfectly possible, now and then, that the entered value may be too high. The man who receives the goods does not make the entered value, as the Senator seems to think. The value is made in the invoice by the shipper, the man in the other country.

Mr. SMOOT. That is true.

Mr. WILLIAMS. Frequently goods are sent to agents, and sometimes to people who receive them and afterwards try to sell them.

Mr. SMOOT. Has the Senator ever heard of a case in the history of the United States of a foreign manufacturer or a foreign exporter fixing an invoice on which was stated a price greater than the real value of the article?

Mr. WILLIAMS. I never have had any experience at the customhouse, neither has the Senator.

Mr. SMOOT. My experience has been universally that the invoice price is under the value of the goods, if any difference at all is shown.

Mr. WILLIAMS. If such a case will never arise, then the clause will not operate. That is the answer to that objection.

Mr. SMOOT. This is an invitation for it to arise.

Mr. CLARK of Wyoming. Mr. President, I desire to ask a question for information.

I understand that when these invoices are to come here they are sworn to before the consul of the United States in the particular port from which they are sent. It occurs to me that a sworn invoice should at least bind the man who makes the invoice and sells the goods and the other party to the transaction, who purchases the goods.

I was going to ask the same question that has been asked by the Senator from Utah—why our Treasury should set a price for imports, particularly under an ad valorem system, that is less than the purchaser agreed to pay and the seller agreed to take, as shown by the particular invoice? I ask for information.

Mr. WILLIAMS. The price never would be less than that, but it might be less than the entered value. It is possible to suppose even a clerical mistake in the entered value. It is possible to suppose a great many cases where the goods might be entered at a greater price or a different price from that at which they were bought and sold.

The Senator seems to think goods are entered at the prices at which they are bought and sold. They are not. They are entered on the theory which we built up about the market value in the country of export. If the man got the market value in the country of export too high, as he possibly might have done, why not allow the Government itself to correct the error? It is not allowing him to do it, but it is allowing the Government to do it through the Secretary of the Treasury.

Mr. CLARK of Wyoming. But the Senator, of course, understands that it never would be done except on the application of the owner of the goods.

Mr. WILLIAMS. Oh, of course, I understand that.

Mr. CLARK of Wyoming. It occurs to me that it would be an invitation to lower duties.

Mr. WILLIAMS. A man is never pardoned, either, except upon his own application; but that is no reason why he should not be pardoned.

Mr. ROOT. I think the radical vice in this amendment is that it authorizes the Secretary of the Treasury to admit goods upon the payment of a duty on a basis other than that fixed by law.

In the statute we prescribe with great care and particularity the basis upon which all imports shall be taxed. We say that the duties shall be assessed upon the foreign market value; we provide various ways for ascertaining the foreign market value; we require that the importer shall enter the goods at that foreign market value; and we require the collector to assess the duties upon that value.

This amendment would permit the Secretary of the Treasury to let in goods upon another value, so that instead of exacting duties from all importers on the same basis fixed by law you exact them from importers generally on the basis fixed by law, but you permit the Secretary of the Treasury to impose duties upon a different basis, fixed by himself.

That opens the door to favoritism. It opens the door to partiality. It opens the door to importunity, to influence, to scandal. I do not think we ought to introduce any such element into our revenue laws.

Mr. WILLIAMS. Mr. President, this provision reads:

Provided further, That all additional duties, penalties, or forfeitures applicable to merchandise entered by a duly certified invoice shall be alike applicable to merchandise entered by a pro forma invoice or statement in the form of an invoice, and no forfeiture or disability of any kind incurred under the provisions of this section shall be remitted or mitigated by the Secretary of the Treasury.

The next clause is to be taken in connection with that:

The duty shall not, however, be assessed in any case upon an amount less than the entered value, unless by direction of the Secretary of the Treasury, after consideration of the particular case, and the Secretary of the Treasury shall accompany his direction with a statement of his conclusion and the reasons for it.

The Senator from New York talks about our changing the basis fixed by law. We are not changing it at all. There rests the power, wherever the entered value is less than the foreign wholesale market value, to raise it; and hitherto, wherever it was more, whether by mistake or otherwise, it could not be corrected.

If it shall be corrected in one direction, why shall it not be corrected in the other? The Secretary in correcting it in either event, or the appraiser in correcting it in the first event, corrects it back to the basis fixed by law, to wit, the market value in the country of export.

Senators say this will never happen. If it will never happen, the clause will never operate, so it can not hurt anything.

Mr. ROOT. I do not say it will never happen. I say it will happen if you have this provision.

Mr. WILLIAMS. I was just challenged by the Senator from Utah to cite a case.

Mr. SMOOT. I say we never have had——

Mr. WILLIAMS. The Senator——

The PRESIDING OFFICER. Does the Senator from New York yield, and to whom?

Mr. ROOT. I yield to everybody.

Mr. SMOOT. Mr. President, I did not say it would not happen. I said it had not happened, and of course it would not happen under the present law.

Mr. WILLIAMS. If it shall happen that any goods imported into the United States by clerical error or mistake about the market quotations or otherwise have been entered at a price higher than the wholesale market price in the country of export, the error ought to be corrected, and the power ought to rest with the Government to correct it upon the application of the injured party if the Government chooses to do it. If it will never happen, then this provision will be inoperative. That is the answer to both alternatives.

Mr. ROOT. Mr. President, this provision is not one correlative to the power to raise an entry to make market value. It is not merely a provision to lower an entry to make market value. It is a provision under which the Secretary of the Treasury can depart altogether from the standards fixed by law for the imposition of duties.

Mr. WILLIAMS. No, Mr. President; there the Senator is losing sight of the other provisions of the bill which fix the manner in which valuations shall be made.

The other provisions of the bill, which must be taken with this in construing the bill, fix the basis, which is the market value in the country of export. So the Secretary of the Treasury will have no authority under this bill to raise or to lower a duty—that is, no rightful authority; of course if you presume that he is going to act fraudulently, that is a different proposition—except by direction of the bill itself with regard to the manner in which valuations shall be fixed.

Mr. ROOT. But there is no such limitation imposed upon him. The entry has to be the entry of foreign market value. This language authorizes the Secretary of the Treasury to impose the duty upon a lower value than the entered value; that is to say, the foreign market value.

Mr. WILLIAMS. That assertion assumes that the entered value is the foreign market value. That is precisely what we are trying to cover.

Mr. ROOT. It has to be.

Mr. WILLIAMS. Why, frequently it is not. Sometimes it is below the foreign market value and sometimes it is above it.

Suppose I import a pipe of wine from Burgundy or from the Loire country. I am perfectly ignorant of the foreign market value. All I know about it is what I paid for it. Then I get to the customhouse with it, and the customhouse, advised by the consular agent abroad, says that the foreign market value of this wine is so much, and it is fixed at that. Suppose, being perfectly ignorant, I should pay $5 a gallon for wine that was worth $3, and should ascertain the fact, am I to be cut off from having the Government itself reduce the rate to the foreign market value?

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on page 225, lines 1 to 5, inclusive.

The amendment was agreed to.

The reading of the bill was continued.

The next amendment was, on page 228, line 10, after the word "or," to insert "profits not to exceed 8 per cent and," so as to read:

The actual market value or wholesale price, as defined by law, of any imported merchandise which is consigned for sale in the United States, or which is sold for exportation to the United States, and which is not actually sold or freely offered for sale in usual wholesale quantities in the open market of the country of exportation to all purchasers, shall not in any case be appraised at less than the wholesale price at which such or similar imported merchandise is actually sold or freely offered for sale in usual wholesale quantities in the United States in the open market, due allowance by deduction being made for estimated duties thereon, cost of transportation, insurance and other necessary expenses from the place of shipment to the place of delivery, and a commission not exceeding 6 per cent, if any has been paid or contracted to be paid on consigned goods, or profits not to exceed 8 per cent and a reasonable allowance for general expenses and profits (not to exceed 8 per cent) on purchased goods.

The amendment was agreed to.

The next amendment was, on page 228, line 11, after the word "expenses," to strike out "and profits," so as to read:

A reasonable allowance for general expenses (not to exceed 8 per cent) on purchased goods.

The amendment was agreed to.

The next amendment was, on page 228, line 12, after the word "goods," to strike out "and with reference to the appraisement of all imported merchandise, whether purchased or consigned, the Secretary of the Treasury is authorized and empowered to determine the existence or nonexistence of a foreign market, and such determination shall be binding and conclusive upon all persons and interests."

The amendment was agreed to.

The next amendment was, on page 229, line 15, after the words "a fee of $1," to strike out the words "with respect to each appraisement objected to," so as to read:

If the collector shall deem the appraisement of any imported merchandise too low, he may, within 60 days thereafter, appeal to reappraisement, which shall be made by one of the general appraisers, or if the importer, owner, agent, or consignee of such merchandise shall deem the appraisement thereof too high, and shall have complied with the requirements of law with respect to the entry and appraisement of merchandise, he may within 10 days thereafter appeal for reappraisement by giving notice thereof to the collector in writing. Such appeal shall be deemed to be finally abandoned and waived unless within two days from the date of filing thereof the person who filed such notice shall deposit with the collector of customs a fee of $1.

Mr. ROOT. Mr. President, I wanted to call the attention of the Senator from Mississippi to a provision on this page. The Senator from Indiana [Mr. SHIVELY] is now in charge of the bill. I will ask him to look at the provision in line 7, on page 229.

That is a case, and there is one other very similar, in which the House undertook to change the language of the law and the Senate committee omitted to put it back in accordance with the general policy that was described to us by the Senator from Mississippi yesterday. I think, at all events until after the joint committee provided for has had an opportunity to make its revision and consider the subject, it would be unfortunate to change the law. I will state what the change is and the reason why I think it should not be made without further consideration.

The present law provides that when a general appraiser has fixed the value of goods his finding shall be conclusive against all parties interested unless the importer, owner, consignee, or agent of the merchandise shall be dissatisfied with such decision and shall within five days thereafter give notice, and so on, and seek to review it on appeal. That is contained in section 13 of the present statute.

Then there is another provision in section 14 of the present statute which relates to the classification of goods by the collector; that is, that his decision is conclusive in fixing what class of goods comes under the statute, unless within 15 days persons interested, if dissatisfied with such decision, file a protest and seek a review.

That is the law as it is now. Anybody having an interest in the importation who is dissatisfied with the decison of the appraiser as to value or with the decision of the collector as to classification can have a review by following the formalities prescribed by law.

The House changed the provision about the appraiser, on page 229, by making it read that the decision shall be conclusive unless the owner, agent, or consignee, and so forth, "shall deem the appraisement thereof too high," and, on page 232, there is a similar change in regard to the collector. Instead of giving a right of review from the collector's decision as to classification to anyone who is dissatisfied, the House limits the right of review to the person upon whom the decision imposes "a higher rate of duty or a greater charge, fee, or exaction than he shall claim to be legally payable."

I hope I make clear the precise change to which my remarks are directed. Under the existing law anyone interested in the importation who is dissatisfied with the decision of the appraiser as to value or with the decision of the collector as to classification can secure a review of that decision by the Board of General Appraisers or in proper cases by the courts upon filing his protest and taking the proper proceeding. The House has changed that provision so as to limit the right of review to the person from whom more money is exacted by reason of the decision, and it cuts off the right that now exists of any person interested in the importation to secure a review of an erroneous decision, even though it may not exact more money from him on that particular importation.

There are two things which can be guarded against under the present law which could not be guarded against if this change were made which the House proposes. They are, first, the effect upon a class of importers of having some appraiser through whimsy or through prejudice or through favoritism or through corruption fix too low a value upon some one man's importations to the detriment of the remainder of the class. There is no way to review that under the present bill as the House has changed it. The Secretary of the Treasury can not control it; the law vests in him no power to control it; and very great injury may result from the uncontrolled exercise of discretion of a subordinate officer acting under prejudice or favoritism or worse. Very great prejudice may result without any power to control it unless it goes so far that you can make it the foundation of criminal proceedings or establish a basis on which to go to the President and ask him to remove an officer. Those are not very practical remedies for men who are engaged in business and losing money.

The other thing which can be guarded against under the present law and could not be under the law as proposed is the equalization as between imports into different ports. I ask the committee to consider now what effect it would have upon importations if an appraiser and a collector at the port of Philadelphia, we will say, wishing to increase the trade of Philadelphia as against New York and Baltimore, were to put excessively low valuations or low classifications upon a certain kind of goods, while the appraisers and collectors in New York and Baltimore acted upon a different idea of their duty and put high values on or high classifications. Would not all the trade go to Philadelphia immediately?

Mr. LODGE. Of course it would.

Mr. ROOT. Of course it would. And how are you going to control it? There is no power to control it under the proposed law. It can not be brought before the general appraisers; it can not be brought before the courts; the Secretary of the Treasury can not do anything about it; and by the time a great hubbub is raised and the President is taken away from his proper duties to discipline an officer, that particular kind of business is past and something else has come into the field.

So I say until this joint committee, which I think is very wisely provided for, has had an opportunity to see whether there may be some way to meet this difficulty which is more suitable, the only existing way to meet it ought not to be cut off by a change. I think that the policy of the Senate committee in restoring the administrative provisions of the existing law pending that revision ought to be applied in this particular case, and that would call for an amendment in line 7, on page 229, striking out the word "deem" and inserting the words "be dissatisfied with."

Mr. WILLIAMS. Where is that line and page?

Mr. ROOT. On page 229, line 7, to strike out "deem" and insert "be dissatisfied with"; and then at the last of that line and the first of the next strike out the words "too high"; and a similar insertion of the words "of such dissatisfaction" after the word "writing," in line 11. Then a similar change should be made on page 230, line 1, by striking out the words "deem the reappraisement of the merchandise too high" and inserting the words "be dissatisfied with such decision"; and on page 232 strike out, in lines 11 and 12, the words "imposing a higher rate of duty, or a greater charge, fee, or exaction than he shall claim to be legally payable." That is simply restoring the words of the existing statute. I think there is nothing more.

The PRESIDING OFFICER. Does the Chair understand the Senator from New York to be offering an amendment or simply as making a suggestion to the committee?

Mr. ROOT. It is a suggestion which I hope the committee will consider.

Mr. WILLIAMS. Mr. President, a part of the suggestions of the Senator from New York are purely clerical—the suggestion on page 229 to insert "be dissatisfied with" instead of "shall deem," and after the word "writing" the words "of such dissatisfaction." There is, however, a point of cardinal difference between us or between his viewpoint and mine. It has been the habit in this country for very many years of special interests which are protected by the tariff laws to come in and raise questions in connection with importations where they have no personal interest of any description, and with a view of prevailing upon the appraisers and Customs Court to fix a higher rate, not for the purpose of protecting the Treasury but for the purpose of protecting them.

Legislation by hypothesis is about the most dangerous thing that I know of, and the Senator this morning has made several hypotheses that he wants us to legislate upon. He has figured us that the Philadelphia appraiser who would want to make trade for Philadelphia by lowering the entered value, thereby lowering the import duties and thereby increasing the imports into Philadelphia, and somebody in New York, who was more patriotic and did not want to do that, and he has drawn a horrible picture of New York suffering in that way. The plain answer to that is that if that sort of thing ever happened the remedy is in the discharge of the employee who was dishonestly engaged in doing something else besides his duty.

Mr. LODGE. Mr. President——

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

Mr. WILLIAMS. Yes.

Mr. LODGE. The Senator, with his large experience in customs matters, must certainly be aware——

Mr. WILLIAMS. I have the largest of any man in the country except the Senator from Utah [Mr. SMOOT].

Mr. LODGE. The Senator must be aware that difference of appraisal is constantly happening at different ports.

Mr. WILLIAMS. Absolutely; all the time.

Mr. LODGE. It can not be helped, even if done perfectly honestly; and if there is no means by which you can check too low appraisements and check too high appraisements, you will have all the goods going to the low port.

Mr. WILLIAMS. In that the Senator is mistaken.

Mr. LODGE. That has happened in many cases.

Mr. WILLIAMS. In that the Senator is mistaken, when I take his observation parallel with the observation made by the Senator from New York in arguing a hypothesis.

Mr. LODGE. It is not a hypothesis; it is a thing that happens every day.

Mr. WILLIAMS. I understand the thing which the Senator from Massachusetts says happens does happen every day, but the thing which the Senator from New York says might happen has never happened yet, and that is that some appraiser at some particular port would become interested in the business of reducing the charge on imports so as to help the commerce of that port. Thus far that has never happened, and there is no particular reason to assume that it will happen; and if it should happen, the proper remedy is the discharge of the scoundrel who is engaged in that sort of performance of public duty.

Mr. LODGE. That is rather a remote remedy.

Mr. WILLIAMS. Of course it is perfectly palpable that an entry of pineapples may be made at San Francisco to-day, another at New Orleans, and another in New York, and all of them at different entry values. That does happen, and it happens in spite of the fact that we have our consular officers whose business it is to tell us what the wholesale-market price is.

That is not all. In pursuing this investigation I discovered that five ships landed with pineapples in one port of the United States one day, and that the entry values of every one of them were different. It grew out of the fact that some of the pineapples were bought prior to the time of the ripening of the pineapples at a contract price; some of them were bought later at another price; and some still later at still another price.

All of them, as it happened, were delivered in the city of New York upon the same day. Now, it just happened that the appraiser went to work and fixed all those pineapples at a certain price.

Mr. LODGE. I thought pineapples have a specific rate.

Mr. SMOOT. Why should the appraiser do so?

Mr. WILLIAMS. I may be mistaken in saying it was pineapples.

Mr. LODGE. He may have to make allowance for injured or destroyed fruit, but the rate is specific; he could not have changed the valuation.

Mr. WILLIAMS. It may be I am wrong in saying they were pineapples, but I do remember that that fact occurred in connection with some sort of tropical fruit.

Now, the answer to most of what the Senator from New York has said is that when the Senator from Massachusetts imports goods and they are fixed in their entered value by the appraiser, that does not have anything to do with an importation the Senator from New York makes the next day or that I make the week after. His argument seems to travel upon the ground that after an appraiser has fixed the value somewhere, that controls the question of entered values. It does not. Each case stands upon its own merit.

Now, Mr. President, to come to the point of difference, it is plainly this: The Senator from New York contends that somebody not interested in the lawsuit at all, either upon the side of the revenue or upon the side of the importer, ought to have a right to intervene in order to protect his domestic industry.

Mr. ROOT. No, Mr. President; I do not suggest anything of the kind. I do not want to have it extended to anyone who is not interested in the importation.

Mr. WILLIAMS. What does the Senator mean by "interested in the importation"? A direct party to the importation?

Mr. ROOT. I meant to substitute a brief expression for the words of the statute. The statute provides that if the importer, owner, consignee, or agent of the merchandise shall be dissatisfied with such decision he shall have this right. No one else has any right, and I do not claim that anyone else should have any right.

Mr. WILLIAMS. But under the existing law, whether they had any right or not, they have been permitted to appear before the appraiser and before the Customs Court and to set up the fact that a different rate ought to prevail. In one case that the Senator, I think, will recall some of our domestic appraisers became alarmed about the sale of bullfrogs. The tariff law had not taken care of bullfrogs' legs and things of that sort. So they made a case and had them declared to be dressed poultry, subject to a certain duty.

If the existing law is not amended, the existing practice will continue, and the existing practice under the existing law is that a man representing some special interest, who is not financially interested in the slightest degree in the transaction between the Government of the United States and John Smith upon importation No. 1 or 2 or 3 or 5, will appear before the appraisers and will appear in the department and will appear before the Customs Court to make claims that the goods were imported at too small a duty or at too small a value.

Mr. ROOT. Mr. President——

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

Mr. WILLIAMS. I do.

Mr. ROOT. I do not know that an American appraiser, assuming the case stated by the Senator from Mississippi, has any more special interest than a foreign importer or that there is anything wrong in the court allowing an American who bears a part of the burdens of American taxation to be heard as to the equalization of burdens of taxation, just as under all civilized taxing systems the owners of property can be heard for the purpose of remedying inequalities in the taxation upon their property and upon their neighbors' properties. If my house is taxed more highly than all the other houses in the block, the law provides an opportunity for me to complain of the inequality.

What the Senator from Mississippi is complaining of is that a practice has grown up under which the American producers who have to sell their goods in competition with imported articles have an opportunity to complain of the inequalities of taxation by which they are injured.

But that, Mr. President, is not what this provision of law authorizes, for the law as it stands now permits no one except a person with a legal interest in the importation to complain and have a review. The amendment which I suggest, putting back the language of the law, would give no right to anyone except the importer, the consignee, the owner, or an agent of theirs to call for a review.

But, Mr. President, I will waste no more time arguing this question. Nothing that can be said is in the nature of anything but an appeal to the judgment of the committee. If the judgment of the committee is against me there can be no other review but that which is left to the American producer under the amended law.

Mr. WILLIAMS. Mr. President, the phrase "an interest in the importation" is a pretty broad one.

Mr. ROOT. I said "a legal interest in the importation."

Mr. WILLIAMS. Ah, hitherto it has been construed to mean that any man whose business might be interfered with by an importation at a rate which he thought was too low had a right to come in and question the rate, and they have been coming in and questioning it. This bill fixes it so that nobody shall have anything to do with the lawsuit between the importer and the Government except the importer or his agent or consignee or consignor or somebody directly interested in the particular lawsuit. There is nothing peculiar about it. That is the general law which applies to all lawsuits in the world, and which has always applied to all lawsuits except a lawsuit between the importer and the Government of the United States.

The PRESIDING OFFICER. The question is on the adoption of the committee amendment on page 229, in lines 15 and 16.

Mr. BRANDEGEE. Mr. President, before the vote is taken I should like to ask the Senator from Mississippi what he understands the amendment proposed by the Senator from New York [Mr. ROOT], on page 229, at line 7, to be.

Mr. WILLIAMS. The amendment was to strike out the word "deem" and to insert the words "be dissatisfied with," and also to strike out the word "too," in line 7, and the word "high," at the beginning of line 8. The first part of the amendment, to insert the words "be dissatisfied with" instead of "deem," is clerical.

Mr. ROOT. It is clerical only by striking out a word which means one thing and putting in words which mean an entirely different thing.

Mr. WILLIAMS. It will, provided the Senator's next amendment is agreed to, but if it is not, it is purely clerical. The second amendment, to strike out the words "too high," goes to the very gist of the discussion that we have just had.

Mr. BRANDEGEE. Of course, if the words "be dissatisfied with" were inserted in place of the word "deem," and the words "too high" were left in, there would be no sense to the language of the provision, because it would then read:

> Or consignee of such merchandise shall be dissatisfied with the appraisement thereof too high.

That would not make sense.

Mr. WILLIAMS. We would have to make it read "as too high" in order to make it make sense, so that it would read:

> Be dissatisfied with appraisement thereof as too high.

Mr. BRANDEGEE. Assuming that the amendment proposed by the Senator from New York were adopted and that the importer, owner, agent, or consignee of such merchandise could appeal for a reappraisement if he were dissatisfied with the appraisement thereof, how does somebody else get into that appeal of the importer?

Mr. WILLIAMS. I will tell the Senator, and it will be such a simple explanation that it may perhaps astonish him. Every now and then a protected manufacturer in this country himself imports some goods in order to get a test case to fix a rate, or he has some agent of his do it. Then he quarrels with the rate as between him and the Government, not because the Government has charged him too much, but because the Government has charged him too little upon his importation. Several cases of that sort have been tried out. By the way, the Steel Trust imported at one time—I have forgotten what it was they imported—but they did import something, and they made a point upon the rate of duty.

Mr. BRANDEGEE. Well, Mr. President, if an importation is being made at a rate which a review would show was in fact too low, it seems to me that the Government, at least, risks nothing by having a reappraisement of the goods made to see whether they are being brought into the country at too low a rate. I do not myself see how the public or the Government would stand to lose anything.

Mr. WILLIAMS. The Treasury would stand to lose something.

Mr. BRANDEGEE. The appraisal at an alleged too low rate could be at least tested or inquired into.

Mr. WILLIAMS. Now, let us suppose the Senator from Connecticut makes an importation. Of course his direct interest in the payment of the duty is to pay as little duty as is just and right; but suppose he makes an importation for the purpose of trying to get a higher rate. Then there comes about a fictitious suit between him and the Government, both of them on the same

side, the Government, of course, anxious to put all the money in the Treasury from the importations that it can, and the Senator, although nominally on the other side of the lawsuit, really is on the side of the Government. He represents a wealthy protected interest, he has good lawyers, and his lawyers and the Government lawyers try that alleged law case. There is no difference between them except that the Senator wants the duty a little bit higher even than that at which the Government is willing to put it if the Government is actuated by proper motives. In other words, this provision as we have worded it here just simply kills such fictitious lawsuits.

No man is allowed to complain in an ordinary court of justice unless he is hurt, unless he is injured, unless he is damaged. Under the practice now the man complains because he is not damaged, because he is not fined, because he is not tollgated, because he is not taxed; and this fictitious suit arises with all the lawyers on both sides really on the same side. We want to abolish that practice.

Mr. BRANDEGEE. Of course, I am perfectly aware that fictitious suits can be made up and are made up continually, and until they are discovered to be such the influence of a decision rendered therein may have some effect, but how——

Mr. WILLIAMS. The Senator will admit, if he will pardon me just one moment, that in an ordinary law case a man is never permitted to come in and complain that he has been benefited by the decision of the court below.

Mr. BRANDEGEE. Well, Mr. President, this seems to be a somewhat peculiar situation. There are two sides to this question. Fictitious suits may be brought by either party to a controversy, and while it might not be a commendable thing for an importer to claim that he had been assessed too low, still, supposing somebody induced some importer to import something which is in fact assessed too low, and that is used as a precedent for the assessment of large quantities of other goods, thereby facilitating large imports of goods at rates too low, there is a situation where I think there would be very little remedy; and if the bill as it stands should prevail——

Mr. WILLIAMS. Oh, no; the Senator is mistaken about that.

Mr. BRANDEGEE. I can see no objection whatever to the language of the law as it stands and as it is proposed to be restored by the Senator from New York. I should like the yeas and nays on this amendment, Mr. President, when the vote is taken.

Mr. WILLIAMS. If the valuation is too low, of course the ordinary law pertaining to undervaluations applies. I shall not make the point of there being no quorum, but let us have a yea and nay vote on this question, so as to get the Senate present.

Mr. SIMMONS. I want to ask the Senator from Connecticut [Mr. BRANDEGEE] a question. Suppose an importer is dissatisfied with the valuation and insists that it is too high, it being to his interest to get the goods in as low as possible, and there is some protected industry which has a contrary interest in it, whose interest is that the merchandise should be valued higher, would the Senator contend that the representative of the protected industry should be permitted to intervene in that suit and set up his controversy as against the controversy of the importer?

Mr. BRANDEGEE. Not at all. I do not claim that anybody should be allowed to intervene.

Mr. SIMMONS. Would the Senator insist that anyone should be permitted in any way whatever to come in and raise a different issue from that which the actual importer raises?

Mr. BRANDEGEE. Not at all.

Mr. SIMMONS. The importer is interested in the lowest possible rate, and his objection is based upon the ground that the rate is too high, but there is somebody else interested in a higher rate. Does the Senator insist that that somebody else, whoever he may be, should come in and set up the claim that the rate is too low, and thereby have a double issue in the same proceeding, one made by a party who was actually in interest and the other made by a party who has an indirect, collateral, and incidental interest?

Mr. BRANDEGEE. Mr. President, I have no objection to the Senator from North Carolina stating a case and then himself demolishing it; but the case he demolishes is not my case.

Mr. SIMMONS. I was simply making an inquiry.

Mr. ROOT. That is not my case either. I proposed nothing of the sort.

Mr. SIMMONS. I did not say the Senator from New York did, but I said the Senator from Connecticut did.

Mr. BRANDEGEE. The Senator from North Carolina entirely misunderstood me. What I say is that the amendment proposed by the Senator from New York [Mr. ROOT] does not open the door to any intervention by anybody else, except, under the language of the bill as it stands, to the importer, the owner, the agent, or the consignee of the merchandise. The Senator from New York proposes to fix it so that the importer shall be allowed to have a reappraisement if he is dissatisfied with the appraisement, and I see no objection to having a legal trial about the merits of his dissatisfaction as to whether or not the rate is proper. I ask for the yeas and nays on the amendment if the amendment is to be now offered.

Mr. ROOT. Mr. President, then I will offer the amendment, so that we may have a vote on it. On page 229, line 7, I move to strike out the word "deem" and to insert in lieu thereof the words "be dissatisfied with"; and in lines 7 and 8 to strike out the words "too high." That is all one amendment.

Before the vote is taken let me say—the Senator from Mississippi [Mr. WILLIAMS] has spoken about a fictitious suit—that I think it would be fairer to contemplate the possibility of the bringing of a test suit in order to determine the fact, which may be of vital interest to a great number of business concerns, as to the true market value of a particular line of goods.

Mr. WILLIAMS. Does not the Senator from New York admit that the test suit brought by a party not really a party in interest is a fictitious suit?

Mr. ROOT. No; the test suit would be by a party in interest, because it would be by the party who actually imports the goods.

Mr. WILLIAMS. Ah! In that case, then, does not the Senator concede that a lawsuit brought for the purpose of making the Government make a man pay more money than he otherwise would have to pay is a fictitious suit?

Mr. ROOT. No; I do not.

Mr. WILLIAMS. Well, I do.

Mr. ROOT. I think a test suit, properly brought for the purpose of having the value of a particular line of goods in which the complainant proposed to trade properly established——

Mr. BRANDEGEE. Or their classification.

Mr. ROOT. Or their classification——

Mr. WILLIAMS. I know of no court in Christendom where a man was ever permitted to come in and contend that he had been fined too little and ought to be fined more.

The PRESIDING OFFICER. The Chair is of the opinion that the question on the committee amendment should first be put, it having been stated.

Mr. BRANDEGEE. Which is the committee amendment?

The PRESIDING OFFICER. The committee amendment is to strike out a part of lines 15 and 16. The question is on agreeing to that amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on the adoption of the amendment proposed by the Senator from New York [Mr. ROOT], which the Secretary will state.

The SECRETARY. On page 229, line 7, after the word "shall," it is proposed to strike out "deem" and insert the words "be dissatisfied with"; and in the same line, after the word "thereof," to strike out the words "too high."

Mr. BRANDEGEE. I have already asked for the yeas and nays on that amendment.

Mr. ROOT. The yeas and nays have been demanded.

The PRESIDING OFFICER. The yeas and nays have been demanded. Is there a second?

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

Mr. BANKHEAD (when his name was called). I have a general pair with the Senator from West Virginia [Mr. GOFF]. I transfer that pair to the Senator from Louisiana [Mr. THORNTON] and will vote. I vote "nay." I ask that this announcement of the transfer of my pair stand for the day.

Mr. CHILTON (when his name was called). I have a pair with the junior Senator from Maryland [Mr. JACKSON]. In his absence, I withhold my vote.

Mr. McCUMBER (when Mr. GRONNA's name was called). I desire to announce that my colleague [Mr. GRONNA] is necessarily absent. He is paired with the junior Senator from Illinois [Mr. LEWIS]. I will allow this statement to stand for all votes that may be taken to-day.

Mr. LEWIS (when his name was called). I am paired with the junior Senator from North Dakota [Mr. GRONNA].

Mr. LODGE (when his name was called). I am paired with the Senator from Georgia [Mr. SMITH]. I transfer that pair to the junior Senator from Illinois [Mr. SHERMAN] and will vote. I vote "yea."

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from Ohio [Mr. BURTON], which I transfer to the Senator from Oklahoma [Mr. GORE], and vote "nay."

Mr. TILLMAN (when his name was called). I announce my pair with the junior Senator from Wisconsin [Mr. STEPHENSON] and withhold my vote. I will let this announcement stand for the day.

Mr. JONES (when the name of Mr. TOWNSEND was called). I desire to state that the junior Senator from Michigan [Mr. TOWNSEND] is necessarily absent. He is paired with the Senator from Florida [Mr. BRYAN]. I ask that this announcement stand for the day.

Mr. WILLIAMS (when his name was called). I wish to inquire if the Senator from Pennsylvania [Mr. PENROSE] has voted?

The PRESIDING OFFICER. The Chair is informed that he has not voted.

Mr. WILLIAMS. Then I withhold my vote, as I have a pair with that Senator.

The roll call was concluded.

Mr. GALLINGER.. I have a general pair with the junior Senator from New York [Mr. O'GORMAN], which I transfer to the junior Senator from Maine [Mr. BURLEIGH], and vote "yea."

Mr. SUTHERLAND (after having voted in the affirmative). I am informed that the Senator from Arkansas [Mr. CLARKE] has not voted. As I have a pair with that Senator, I withdraw my vote.

Mr. SMOOT. I desire to announce that the junior Senator from Wisconsin [Mr. STEPHENSON] and the senior Senator from Delaware [Mr. DU PONT] are detained from the Senate on account of illness.

Mr. TILLMAN. I transfer my pair with the Senator from Wisconsin [Mr. STEPHENSON] to the junior Senator from Mississippi [Mr. VARDAMAN] and vote "nay."

Mr. REED. I will transfer my pair with the Senator from Michigan [Mr. SMITH] to the Senator from Nevada [Mr. PITTMAN] and vote "nay."

Mr. BRYAN. I have a pair with the junior Senator from Michigan [Mr. TOWNSEND], which I transfer to the senior Senator from Maryland [Mr. SMITH] and vote "nay."

Mr. REED (after having voted in the negative). A moment ago I transferred my pair with the Senator from Michigan [Mr. SMITH] to the Senator from Nevada [Mr. PITTMAN] under the impression that the Senator from Nevada was not here. I see he has entered the Chamber and voted, and therefore I withdraw my vote.

Mr. CHILTON. I transfer my pair, announced a moment ago, with the Senator from Maryland [Mr. JACKSON] to the senior Senator from Nebraska [Mr. HITCHCOCK] and will vote. I vote "nay."

Mr. GALLINGER. I am requested to announce the following pairs: The Senator from Delaware [Mr. DU PONT] with the Senator from Texas [Mr. CULBERSON]; the Senator from West Virginia [Mr. GOFF] with the Senator from Alabama [Mr. BANKHEAD]; and the Senator from Rhode Island [Mr. LIPPITT] with the Senator from Tennessee [Mr. LEA].

The result was announced—yeas 28, nays 36, as follows:

YEAS—28.

Borah	Clark, Wyo.	Kenyon	Perkins
Bradley	Colt	Lodge	Poindexter
Brady	Crawford	McLean	Root
Brandegee	Cummins	Nelson	Smoot
Bristow	Dillingham	Norris	Warren
Catron	Gallinger	Oliver	Weeks
Clapp	Jones	Page	Works

NAYS—36.

Ashurst	James	Pittman	Simmons
Bacon	Johnson	Pomerene	Smith, Ariz.
Bankhead	Kern	Ransdell	Smith, S. C.
Bryan	Lane	Robinson	Stone
Chamberlain	Martin, Va.	Saulsbury	Swanson
Chilton	Martine, N. J.	Shafroth	Thomas
Fletcher	Myers	Sheppard	Thompson
Hollis	Overman	Shields	Tillman
Hughes	Owen	Shively	Walsh

NOT VOTING—31.

Burleigh	Gronna	Newlands	Stephenson
Burton	Hitchcock	O'Gorman	Sterling
Clarke, Ark.	Jackson	Penrose	Sutherland
Culberson	La Follette	Reed	Thornton
du Pont	Lea	Sherman	Townsend
Fall	Lewis	Smith, Ga.	Vardaman
Goff	Lippitt	Smith, Md.	Williams
Gore	McCumber	Smith, Mich.	

So Mr. ROOT's amendment was rejected.

The reading of the bill was resumed.

The next amendment of the Committee on Finance was, in section 4, subdivision M, page 230, line 13, after the word "merchandise," to strike out "and in so doing may exercise both judicial and inquisitorial functions. In such cases hearings may, in the discretion of the general appraiser or Board of General Appraisers before whom the case is pending, be open and in the presence of the importer or his attorney and any duly authorized representative of the Government, who may in like discretion examine and cross-examine all witnesses produced" and insert "In such cases the general appraisers and the Board of General Appraisers shall give reasonable notice to the importer and the proper representative of the Government of the time and place of each and every hearing, at which the parties or their attorneys shall have opportunity to introduce evidence and to hear and cross-examine the witnesses for the other party, and to inspect all samples and all documentary evidence or other papers offered. Hearsay evidence and unsworn statements shall not be admitted, but affidavits of persons whose attendance can not be procured may be admitted in the discretion of the general appraiser or Board of General Appraisers"; and on page 231, line 20, after the word "same," to insert "where no party in interest had demanded the inspection of such merchandise or samples," so as to read:

In such case the general appraiser and Board of General Appraisers shall proceed by all reasonable ways and means in their power to ascertain, estimate, and determine the dutiable value of the imported merchandise. In such cases the general appraisers and the Board of General Appraisers shall give reasonable notice to the importer and the proper representative of the Government of the time and place of each and every hearing, at which the parties or their attorneys shall have opportunity to introduce evidence and to hear and cross-examine the witnesses for the other party, and to inspect all samples and all documentary evidence or other papers offered. Hearsay evidence and unsworn statements shall not be admitted, but affidavits of persons whose attendance can not be procured may be admitted in the discretion of the general appraiser or Board of General Appraisers. The decision of the appraiser, or the person acting as such (in case where no objection is made thereto, either by the collector or by the importer, owner, consignee, or agents), or the single general appraiser in case of no appeal, or of the board of three general appraisers, in all reappraisement cases, shall be final and conclusive against all parties and shall not be subject to review in any manner for any cause in any tribunal or court, and the collector or the person acting as such shall ascertain, fix, and liquidate the rate and amount of the duties to be paid on such merchandise, and the dutiable costs and charges thereon, according to law; and no reappraisement or re-reappraisement shall be considered invalid because of the absence of the merchandise or samples thereof before the officer or officers making the same where no party in interest had demanded the inspection of such merchandise or samples.

The amendment was agreed to.

The next amendment was, in subdivision N, page 232, line 18, after the word "thereon," to strike out "Each protest shall be limited to a single article or class of articles, and to a single entry or payment; and issues of classification shall not be joined with other issues in the same protest"; so as to read:

N. That the decision of the collector as to the rate and amount of duties chargeable upon imported merchandise, or upon merchandise on which duty shall have been assessed, including all dutiable costs and charges, and as to all fees and exactions of whatever character (except duties on tonnage), shall be final and conclusive against all persons interested therein, unless the owner, importer, consignee, or agent of such merchandise, or the person paying such fees, charges, and exactions other than duties, shall, within 30 days after but not before such ascertainment and liquidation of duties, as well in cases of merchandise entered in bond as for consumption, or within 15 days after the payment of such fees, charges, and exactions, if dissatisfied with such decision imposing a higher rate of duty, or a greater charge, fee, or exaction, than he shall claim to be legally payable, file a protest or protests in writing with the collector, setting forth therein distinctly and specifically, and in respect to each entry or payment, the reasons for his objections thereto, and if the merchandise is entered for consumption shall pay the full amount of the duties and charges ascertained to be due thereon. Such protest shall be deemed to be finally abandoned and waived unless within 30 days from the date of filing thereof the person who filed such notice or protest shall have deposited with the collector of customs a fee of $1 with respect to each protest. Such fee shall be deposited and accounted for as miscellaneous receipts, and in case the protest in connection with which such fee was deposited shall be finally sustained in whole or in part, such fee shall be refunded to the importer, with the duties found to be collected in excess, from the appropriation for the refund to importers of excess of deposits.

The amendment was agreed to.

The next amendment was, on page 233, line 7, after the word "deposits," to insert: "No agreement for a contingent fee in respect to recovery or refund under protest shall be lawful. Compliance with this provision shall be a condition precedent to the validity of the protest and to any refund thereunder, and a violation of this provision shall be punishable by a fine not exceeding $500, or imprisonment for not more than 1 year or both."

Mr. BRANDEGEE. Mr, President, does that mean that if anybody makes an agreement for a contingent fee, in the event of a successful protest he is liable to be sent to State's prison for it?

Mr. WILLIAMS. Yes.

Mr. BRANDEGEE. I should think that was a pretty serious penalty for a mere agreement for a contingent fee.

Mr. WILLIAMS. We want to do away with all this contingent-fee business. It causes endless litigation and has become a sort of petty trade.

Mr. ROOT. I think the amendment is right.

The PRESIDING OFFICER. The question is upon agreeing to the committee amendment.

The amendment was agreed to.

The next amendment was, on page 233, line 24, after the word "Appeals," to insert "or in a United States Circuit Court of Appeals," so as to make the paragraph read:

Upon such payment of duties, protest, and deposit of protest fee, the collector shall transmit the invoice and all the papers and exhibits connected therewith to the board of nine general appraisers, for due assignment and determination as provided by law; such determination shall be final and conclusive upon all persons interested therein, and the record shall be transmitted to the proper collector or person acting as such, who shall liquidate the entry accordingly, except in cases where an appeal shall be filed in the United States Court of Customs Appeals or in a United States circuit court of appeals within the time and in the manner provided for by law.

Mr. WILLIAMS. Mr. President, this is a case where the committee has come to the conclusion that it has made a mistake. I desire to strike out "or in a United States circuit court of appeals"; and I should like to have the Secretary read some letters submitted to the committee on this subject. When we get to page 273 I wish to have a similar change made. I might as well attend to both matters now.

Mr. LODGE. As I understand, the Senator asks that this amendment shall be disagreed to.

Mr. WILLIAMS. Yes.

The PRESIDING OFFICER. The Chair so understood it.

Mr. WILLIAMS. On page 273, lines 11 to 17, this language occurs:

That the circuit courts of appeal of the United States shall have concurrent jurisdiction with the Court of Customs Appeals in all matters within the jurisdiction of the last-named court, but no appeal to the circuit courts of appeal shall be allowed unless the amount in controversy, either in the case appealed or in pending cases involving the same issue, shall exceed $100.

We put in this provision for concurrent jurisdiction on the part of the circuit court of appeals because the Customs Court, which has the right to meet anywhere, has persisted in meeting here in Washington all the time, and that has resulted in a good deal of discomfort to litigants; that is to say, we thought it had. We had that idea in our minds at the time. About 70 per cent of these cases arise in the port of New York. I never have seen any reason why this court should not hold its sessions in the port of New York, and in fact I thought it ought to do so. The law permits it to do so if it will; but it never has held but one session outside of the city of Washington. My own opinion is that the members of the court have been led to adopt that course by considerations of their own personal comfort, rather than by any consideration for the public interest.

In attempting to correct that condition we thought we would give concurrent jurisdiction to the circuit court of appeals. But after we got to looking into the matter we realized, of course, that this court is altogether an appellate court; and the litigants themselves are not dragged here, although their attorneys are. It is a badge of our tribe—the attorneys' tribe—that, of course, we charge the litigants every time we get a chance to do so for traveling expenses, and so the lawyers do charge these people for their trips to Washington.

Now, as a matter of fact, very frequently these customs lawyers have to be here anyhow in connection with business before the Treasury Department, and I find upon investigation that the Customs Court has set its cases to suit the convenience of the attorneys. The main idea in our minds at first was that there would be matters over in San Francisco or down in New Orleans that had to come here, but there are very few cases of that sort.

In connection with the reconsideration of what we have done, I should like to have read by the Secretary the matter I send up to the desk, except the part I have struck out, which seemed to me to be a little personal toward another party. I should like to have the rest of it read.

I move to strike out——

Mr. GALLINGER. The question will be upon agreeing to the amendment.

Mr. WILLIAMS. I move, first, to strike out the language in lines 24 and 25, reading "or in a United States circuit court of appeals." Then I move to strike out the language on page 273 which I read a moment ago.

Mr. ROOT. The Senator means to move to disagree to the amendment, not to strike out. He can not strike out this part, because the Senate has not yet agreed to insert it.

Mr. GALLINGER. The motion would be upon agreeing to the amendment.

Mr. WILLIAMS. Yes; disagreeing to the Senate amendment.

Mr. GALLINGER. If the Senator wishes to have it disagreed to, we will disagree to it on a vote.

Mr. WILLIAMS. The language I wish to disagree to on page 273 is all the language contained in lines 11 to 17, inclusive.

Rather than have the Secretary read the matter I have referred to, I ask that it may be inserted in the RECORD. It is rather long.

The PRESIDING OFFICER. In the absence of objection, it will be so ordered.

The matter referred to is as follows:

NOTES ON PROPOSED PROVISIONS OF THE CUSTOMS ADMINISTRATIVE LAW AFFECTING APPELLATE JURISDICTION IN CUSTOMS CASES.

These provisions are two in number; first, on page 233, lines 24 and 25, of the pending Senate act, the words, "or in a United States circuit court of appeals"; and, second, on page 273, the paragraph as follows:

"That the circuit courts of appeal of the United States shall have concurrent jurisdiction with the Court of Customs Appeals in all matters within the jurisdiction of the last-named court, but no appeal to the circuit courts of appeal shall be allowed unless the amount in controversy either in the case appealed or in pending cases involving the same issue shall exceed $100."

It is further intimated that the court was created to decide questions according to prejudged partisan ideas. The falsity of that statement is demonstrated by an examination of the CONGRESSIONAL RECORD.

The idea of the Court of Customs Appeals first took form in 1904, when a bill for the same, drafted by Marion De Vries, a Democrat, then a member of the Board of General Appraisers at New York, was introduced in the House of Representatives by Representative Needham, of California, at the request of its author, a legal resident of Mr. Needham's district. It was subsequently introduced in the several Congresses until its final adoption in 1909. When the customs adminstrative features of the Payne-Aldrich tariff act were considered by the Finance Committee, and particularly the provisions creating the Court of Customs Appeals, the whole committee, including the Democrats, participated in the deliberations. These provisions were neither deemed nor treated as partisan legislation. Senator Simmons and Senator Bailey were both members of that committee active in the consideration of the provisions creating the Customs Court. The matter was the referred to a committee consisting of representatives from the Attorney General's office, a representative from the Treasury Department, and representatives from the Board of General Appraisers, whose printed report favoring the court as now constituted in law is on file with the Finance Committee of the Senate. There was open and full discussion at all times upon the subject, and its framework is made up of both Democratic and Republican suggestions, mostly the former. When this provision of the bill was finally voted upon in the Senate seven Democrats, including Senators Simmons, Bacon, Bailey, Bankhead, McEnery, Money, and Newlands, voted for the measure. (See vol. 44, pt. 4, p. 4225, CONGRESSIONAL RECORD, 61st Cong., 1st sess.) The statement, therefore, which denounces the creation of this court as a Republican party measure, created as a partisan measure for the purpose of deciding questions according to certain predetermined views rather than according to law, is disproven by the CONGRESSIONAL RECORD, and reflects discredit upon the present chairman of the Finance Committee and other able and prominent Democrats of the Senate cooperating and aiding in its establishment.

The true reasons supporting and amply warranting the creation of the court are set forth in the report of the Committee on Finance thereupon setting forth the then condition of customs litigation in precise detail and the necessities for a single tribunal of final authority and prompt decision in such cases. This report will be found printed in the volume of the CONGRESSIONAL RECORD above stated, pages 4202 to 4225, inclusive.

In brief, the controlling purposes were twofold:

1. The expedition of customs decisions. Under the old practice it was found that the average life of a customs appeal was four and one-half years. That ofttimes it required more than 10 or 12 years to secure ultimate decision in a customs case. For a long list of such cases by title see CONGRESSIONAL RECORD, page 4205, et seq. Of all classes of litigation in which early final decision is both desirable and necessary, customs cases are the most urgent. The decision not alone affects the particular importation, but definitely determines a disputed question as to the rate or amount of the particular duty on like importations for the entire remaining life of the tariff act. A doubtful provision of the tariff law is not complete nor the rate of duty settled until finally adjudicated by the court of last resort. The law is finally enacted when finally adjudicated. Since the creation of the Court of Customs Appeals the average life of a customs appeal has been reduced from four and one-half to less than one year.

2. Uniformity of decision. Under the old system, as set forth in the report stated, cases coming up from different ports of the country and being decided by different circuit courts and circuit courts of appeal resulted in numerous conflicting decisions between different circuit courts and circuit courts of appeal, with the result that a tariff law being the same was enforced differently in different parts of the country. For a long list of such decisions by title see CONGRESSIONAL RECORD, page 4214, et seq. The report stated sets forth the title of the cases and numerous instances of this kind. This was and ever will be the result of coordinate final appellate authority in customs cases with judges of conscientious convictions for the distinctions are more often than not technical, narrow, and of doubtful construction. Since the creation of the Court of Customs Appeals this is, of course, impossible. The purpose and inevitable result of these amendments is a return to the old system. Instead of having a single final authority in customs cases there will be 10 of final authority as before. Or, assuming that the cases going to the circuit courts of appeal will go to the Supreme Court there will be two courts of final authority upon the same subject. The result will be, as it was before, that the tariff law will be construed differently in application in different parts of the country.

It is urged, however, and, I am informed, that it is a controlling argument, that litigants at different ports have a right to a hearing at their respective ports. This is true as to the trial of cases but not as to requirements in appellate courts such as is the Court of Customs Appeals.

Appended hereto, marked "Exhibit A," is a statement of the cases docketed to June, 1913, in the Court of Customs Appeals. It will be found that 80 per cent of these cases arose at the port of New York, and 50 per cent of the remainder at eastern ports. If there is any cogency in this argument it would result in the removal of the Court of Customs Appeals from Washington to New York, but there is no virtue in the argument. It excludes by quiescence the true facts of the situation. Of course every man is entitled to a trial of his case in his vicinage;

but that does not and has never been held to apply to the argument of cases upon appeal in State or Federal courts. The Court of Customs Appeals hears cases solely upon printed records and briefs sent up from the trial tribunal. Oral arguments are afforded by the court when desired. It makes no difference to the party whether he be in Boston or New York or Washington or San Francisco or New Orleans, he submits his evidence before a board of general appraisers at the port whereat he resides, if he chooses. He can under the law be present at the trial with his counsel and witnesses. The case on appeal is made up on a printed record on appeal. He does not appear in court on appeal and his presence in court can not have any effect upon his case. I venture the suggestion that under the old system, as would be true under the proposed amendments, not one litigant in a hundred would be present at the argument of his case on appeal to a circuit court of appeals.

It is preposterous, for example, to suppose that an importer at Seattle would go to San Francisco to be present at the argument of his case on appeal. If it is vicinage trial that is desired he has it now, for the Board of General Appraisers affords it; if it is vicinage argument, as the proposed amendments provide, it would be but slightly better afforded under these amendments than is now had, is something never availed of or desired. And the present is the precise method of procedure of the United States Supreme Court and all other supreme appellate courts.

The appeals to the Court of Customs Appeals are largely handled by New York City customs attorneys. The important cases throughout the country are usually handled by some of these attorneys. They are more particularly skilled in that line of work and introduce the testimony, prepare briefs, and argue the case before the court. These attorneys always have similar protests and it is to the advantage of the distant attorney that his case be decided upon a record made up in one of the larger cities. In proof of this the records show that from February, 1912, to June, 1913, there were actually argued in the Customs Court 188 appeals. The attorneys appearing were from the following ports: In 172 cases from New York; in 10 cases from Boston; in 3 cases from Washington; in 2 cases from Chicago; and in 1 case from Cleveland, Ohio. As a matter of fact, the experience of the court has taught it that there is no demand that the court should be traveling about the country to hear arguments. The court has studiously observed the convenience and the rights of the litigants before it. All customs attorneys are necessarily called to Washington in their dealings with the Treasury Department at frequent intervals. The court so arranges its calendars that the cases of any attorney proceeding to Washington can be heard while here, and there has absolutely been no complaint. Nor could any be made that litigants have not been afforded an opportunity for hearing. I have no hesitancy in saying that every one of the attorneys appearing in these outside cases during their pendancy visited Washington on business with the Treasury many times, and could have without inconvenience or additional expense been heard by the court, and the court has always observed that condition and accommodated it. Those distant counsel who do not visit Washington have representatives here or in New York who do. This fact makes Washington a peculiarly appropriate place for the hearing of such cases.

The requirement is the same as that of the Supreme Court of the United States in exactly the same class of cases, and there is absolutely no hardship worked upon the litigants by having their cases submitted on briefs or by having their cases argued orally in Washington. The reason that the court has not sat outside of the city of Washington is, first, because there is no demand for it; second, there is no reason for it; and thirdly, it means a needless public expense. If it were a nisi prius court taking testimony it would be different, but it is an appellate court and arguments before it might as well be submitted by brief or by attorneys without the presence of the litigant. It is a court of final Federal jurisdiction, and for this reason anything prompting a change in its procedure would for the same reason prompt a change in the proceedings of the Supreme Court of the United States.

But does not the procedure proposed by these amendments lead to the same result? It is proposed to go to the circuit court of appeals and thence to the Supreme Court for final decision. Will the Supreme Court travel about the country when it takes up customs cases? If the argument is sound it should, or the moving purpose of the amendments be lost.

It is said that this amendment follows a provision relating to the Court of Claims. In part this is true, in part it is not. The provision relating to the Court of Claims affected cases of comparatively small moment. They were confined to cases under $1,000 in district courts and cases under $10,000 in circuit courts. (See sec. 2, act of Mar. 3, 1887.) The idea of that act was for the convenience of the litigants in introducing testimony. It affected a nisi prius situation wherein parties having a claim must go before the court with their witnesses and prove their cases. It was expressly confined to minimum cases, whereas this provision relates to cases above a maximum. It was essential to subserve the party litigant in presenting this testimony, but in this case no such purpose is subserved. There are no witnesses here, there is but an oral argument which may well be submitted by brief as orally or through many eminent customs attorneys near at hand.

Indeed, the proposition ignores the essential character of customs cases. In most customs cases of any moment protests arise on the issue at all ports of the country. Whenever a point is made by an attorney at New York or some other port, immediately it is taken up by the attorneys and brokers at all other ports. Sometimes it is urged at one port and sometimes at another, but if the theory is to be carried out in this case the court would have to sit at every port for the hearing in the single issue. Otherwise, but one of several parties to the issue would be benefited. As a matter of fact, most of the evidence is had at New York or one of the larger eastern ports, and the more experienced customs attorneys are at New York; and while the issue arises at all ports the same issue is usually carried to completion at and from the port of New York.

It should be particularly noted that these provisions, while conferring jurisdiction in circuit courts of appeal in custom cases, provide no procedure whereby those appeals are to be taken into those courts and provide no procedure; nor is such otherwise provided by law, whereby they may be reviewed in the Supreme Court of the United States. The language proposed confers jurisdiction upon courts without providing any procedure whatever for the mode of exercise of that jurisdiction or a review of the decisions of the court in such cases. This condition would, therefore, result in constant litigation. When coordinate jurisdiction in claims cases was conferred upon district and circuit courts that act provided (sec. 4) for the procedure controlling in such appeals. And so in the creation of the United States circuit courts of appeal. When such courts were created and their jurisdiction prescribed and vested in them the act vesting that jurisdiction also prescribed the procedure for the exercise thereof. (See act of Mar. 3, 1891.) So when the customs administrative law previously provided appeals to the circuit courts that act, prior to the creation of this court, prescribed how such appeals were to be taken and how they might be reviewed by circuit courts of appeal and the Supreme Court of the United States. Likewise does the organic act creating this court so provide. Here we have a jurisdiction vested, but we have no procedure provided for or how it should be exercised. If this jurisdiction is to be granted there should be further provision made as to its exercise; otherwise we simply provide a statute of confusion.

The inevitable effect, however, of these provisions would not be that there would be hearings at the different ports of the country, but that the United States Circuit Court of Appeals at New York will be constituted the customs court of appeals of the country. As stated, 80 per cent of these appeals arise at that port. The procedure would be more desirable by customs attorneys and brokers for the reason that it would extend such litigation from an average of one year to an average of four and one-half years in each case, as was the case under the old system. The result would further be that more judges would of necessity have to be added to that court, and there would be great delay in final decision in these cases.

When the act of May 27, 1908, passed the House of Representatives it provided that all appeals from the Board of General Appraisers should be taken directly to the United States circuit courts. When it went before the Finance Committee of the Senate for consideration, the judges of that court, learning of this provision, wrote a protest to the Finance Committee against its passage, upon the ground that it would throw the vast bulk of customs cases into that court and would seriously retard if not render impossible the business of that court. That protest caused the provision to be stricken from the act as it became a law. Their protest in writing is now on file with the Finance Committee. It was one of the reasons prompting the creation of this court, and is found in the report of the Finance Committee, cited supra, CONGRESSIONAL RECORD, supra, 4208. It is as follows:

UNITED STATES CIRCUIT COURT OF APPEALS, SECOND CIRCUIT,
New York, April 22, 1908.

Hon. NELSON W. ALDRICH,
United States Senate, Washington, D. C.

DEAR SIR: We have just learned that a bill has been passed by the House of Representatives and is now before the committee of which you are chairman, making certain changes in the procedure touching the review of assessments for duty on imported merchandise.

With one provision of the bill only is this court concerned. Had we known sooner that such legislation was in contemplation we should have furnished your committee and the Committee on Ways and Means of the House with the following information, which would seem to be entitled to consideration before making the particular change in the procedure which is referred to. The bill abolishes appeals from the Board of General Appraisers to the circuit court and from the circuit court to the circuit court of appeals, and substitutes therefor an appeal direct from the Board of General Appraisers to the circuit court of appeals.

It would seem that the immediate result of the passage of the bill as now framed would be very greatly to increase the amount of business to be disposed of by the circuit court of appeals. The consequence might very well be that this court would become so congested as to be unable to dispose of its calendar each year. This we consider a most serious matter, because circuit courts of appeal were originally constituted for the express purpose of disposing in each year of all the appeals which might be taken to them.

We offer for your consideration the following figures:

Appeals heard and disposed of.

OCTOBER.

1898–1899	157
1899–1900	163
1900–1901	156
1901–1902	143
1902–1903	185
1903–1904	199
1904–1905	234
1905–1906	273
1906–1907	285

When the calendar did not present more than 160 cases to be disposed of the circuit judges were able to hold sessions of three weeks for the hearing thereof with recesses of two weeks each between for the disposition of the same. Since the great increase of the past three years the recesses between sessions, during which the opinions have to be written, have necessarily been reduced to one week each. What the result might be if the present calendar of 285 cases were suddenly increased by adding 200 additional appeals it would be difficult to forecast.

We remain,
Very respectfully, yours,

E. HENRY LACOMBE.
ALFRED C. COXE.
H. G. WARD.
WALTER C. NOYES.

If the work, then, of that court was too much for additional labor, what would it now be with customs appeals added?

I therefore conclude that there is no sound reason in fact supporting the amendments. If it was desirable or necessary or at all practicable that local hearings be given the arguments, the court stands ready to afford them, but there has been no demand for such, and in the interests of the public revenue and justice to all litigants there is no necessity for them. That this was the view of the Appropriations Committee of the House appears from a letter addressed them on the subject, no sufficient appropriation having been made in the premises. I think their position was correct. See copy of letter, Exhibit B, hereto attached.

The adoption of these amendments will result in 10 courts of final jurisdiction in customs cases or in 2 courts of final jurisdiction in customs cases, to wit, the United States Supreme Court and the Court of Customs Appeals. The United States Supreme Court, of course, will not go to the ports to afford a hearing in customs cases and therefore there would be no betterment by these amendments.

Since the creation of the Court of Customs Appeals the accumulation of customs appeals has been disposed of in the three years of its existence. The court is up to date, and every case ready to be argued, has been argued and submitted and, with the exception of three, been decided. The calendars of all other Federal courts have been cleaned of

these cases. There is no court, either State or Federal, better up in its work.

I am reliably informed that these amendments do not meet the approval of, but are opposed by the Treasury Department, the Attorney General, and the Assistant Attorney General in charge of customs cases.

In view of the provision following that is in the Senate act creating a commission to consider and report a complete code of customs administrative laws it is respectfully urged that this most important and far-reaching amendment which will undoubtedly divert all customs appeals from the Court of Customs Appeals be eliminated.

EXHIBIT A.

Origin of cases before the United States Court of Customs Appeals.

VOLUME 1 OF DOCKET, CASES NOS. 1–500.

From New York	367
Philadelphia	18
Boston	30
Baltimore	10
Providence	4
Chicago	31
St. Louis	4
New Orleans	6
Seattle	8
San Francisco	7
14 other places	15
Total	500

Of these, 347 were old cases transferred from other courts.

VOLUME 2 OF DOCKET, CASES NOS. 501–1000.

From New York	424
Boston	25
Philadelphia	4
Baltimore	2
Chicago	21
San Francisco (7 were on one issue)	11
10 other places	13
Total	500

Of these, 47 were old cases, transferred from other courts.

VOLUME 3 OF DOCKET, CASES NOS. 1001–1200.

From New York	165
Boston	11
Burlington, Vt.	1
Philadelphia	1
Newark, N. J.	1
Chicago	13
Milwaukee	1
Cleveland	1
Niagara Falls	1
St. Louis	1
Sandusky, Ohio	1
San Francisco	1
Port Townsend	1
Los Angeles	1
Total	200

RECAPITULATION.

From New York	956
Other eastern ports	107
Middle West	103
Pacific coast	34
Total	1,200

EXHIBIT B.

WASHINGTON, D. C., *May 4, 1912.*

Hon. JOHN J. FITZGERALD,
Chairman Committee on Appropriations,
House of Representatives.

DEAR SIR: In examining the bill making appropriations for legislative, executive, and judicial expenses, Union Calendar No. 216, H. R. 24023, I find on page 136 appropriations for the expenses for this court include the following item:

"For necessary traveling expenses of members of the court and clerk, $330."

This provision is made in view of the provision of law authorizing the court to hold terms of court at places other than the city of Washington. In submitting the estimate for these provisions, I separated the traveling expenses from the expense for subsistence of members of the court and clerk, which are of course also provided for by law, and the expenses for subsistence appear to have been omitted in the bill as reported.

If we hold one or more terms of court, for instance, in New York, the amount for traveling expenses would clearly be inadequate for the subsistence of the members of the court during a term of any reasonable length.

I direct your attention to it, thinking perhaps that the omission may have been an oversight or have resulted from misunderstanding. As stated in my estimate furnished the committee, it is by no means certain that we shall have occasion to hold any terms outside of Washington, but as provision is made for it in the organic act, and as conditions might arise which would make it seem necessary, or at least proper, to do so, it was thought that provision for the expenses should be embodied in the appropriation bill.

This letter is not written with a view to any criticism of any decision the committee may have made under that question, but to direct attention to the fact that the item for traveling expenses would be inadequate to enable the court to hold such term or terms of court if in the view of the court it should be deemed wise.

Yours, very truly,

R. M. MONTGOMERY,
Presiding Judge.

Mr. ROOT. As to the Court of Customs Appeals, I wish to say that at the time the court was constituted there was a pretty full discussion in the Senate as to the place where its principal place of session should be. I think the impression was, and I know my feeling was very strong, that it was better that the court should sit here than that it should sit in the city of New York. I would rather have the court in the free atmosphere of Washington, where there is no importation to speak of, than to have its members sitting as a subordinate tribunal in the city of New York, surrounded by the attorneys who are piling up these enormous masses of protests, and living and breathing in that atmosphere.

Mr. WILLIAMS. Oh, undoubtedly their sitting here is a sort of discouragement of litigation, because often a man does not care to pay his lawyer's traveling expenses when he may be willing to pay the lawyer himself. But the fatal defect in the amendment which we adopted in committee—and I do not say this in criticism of the committee, but in criticism of myself—consists in the fact that if the Customs Court made decisions and the circuit court of appeals at New York made some, and the circuit court of appeals at New Orleans made some, and the circuit court of appeals at San Francisco made some we would not have a homogeneous line of decisions in connection with customs appeals.

The PRESIDING OFFICER. The question is on disagreeing to the committee amendment——

Mr. GALLINGER. The question is on agreeing to the committee amendment, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on page 233, lines 24 and 25.

The amendment was rejected.

The PRESIDING OFFICER. Does the Chair understand it is desired to have the amendment put which is stated on page 273?

Mr. WILLIAMS. Yes. It is precisely the same subject matter, and I should like to have it considered now.

Mr. SMOOT. Let it come in its regular order.

Mr. ROOT. No; let us dispose of it now.

The SECRETARY. On page 273, the committee proposes to insert:

That the circuit courts of appeals of the United States shall have concurrent jurisdiction with the Court of Customs Appeals in all matters within the jurisdiction of the last-named court, but no appeal to the circuit courts of appeals shall be allowed unless the amount in controversy either in the case appealed or in pending cases involving the same issue shall exceed $100.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Mr. SIMMONS. I understood that the Senator from Mississippi moved to disagree to the amendment.

The amendment was rejected.

The reading of the bill was resumed.

The next amendment of the Committee on Finance was, on page 234, line 7, after the word "thing," to strike out "which they, or either of them, may deem," so as to read:

O. That the general appraisers, or any of them, are hereby authorized to administer oaths, and said general appraisers, the boards of general appraisers, the local appraisers, or the collectors, as the case may be, may cite to appear before them, and examine upon oath any owner, importer, agent, consignee, or other person touching any matter or thing material respecting any imported merchandise then under consideration, etc.

Mr. SMOOT. Mr. President, the striking out of the words "which they, or either of them, may deem," refers to the materiality of questions asked by the examining officers. This amendment would seem to weaken very much the authority of these officers. Under the present law and the wording of the House bill, a question was material if the general appraiser or the collector or the local appraiser deemed it so. But apparently, under this amendment, the person being examined would have an equal voice with the examining officer in determining whether or not a given question was material.

I believe if you strike out those words, the question will arise hereafter as to what authority the appraiser or the collector or even the local appraiser had in deciding as to what may be a material question. In the event of a disagreement, who is to pass upon this point? I ask that question of the Senator from Mississippi.

Mr. WILLIAMS. Of course in the first instance, where the appraiser is sitting as a judge, he must be and is the judge of the materiality of any questions presented to him. Therefore it was utterly absurd to say "which they, or either of them, may deem material," in so far as a trial before him was concerned. When the trial goes up from him to the three appraisers, or to the Customs Court, we want the question as to whether or not a thing is material determined as it is in all law cases—not by the lower court merely arbitrarily saying that it is material; but if it is appealed from there, of course whether or not a question that they considered material was really material becomes a question in the court above.

Mr. SMOOT. I should like to ask the Senator another question. Suppose there was an obstinate witness, who declined to answer a question upon the ground that it was immaterial?

Mr. WILLIAMS. And who took an appeal upon that point?

Mr. SMOOT. No; he would not necessarily have to take an appeal.

Mr. WILLIAMS. Then he would be subject to be dealt with summarily, unless he answered.

Mr. SMOOT. Not under this bill.

Mr. WILLIAMS. Oh, yes; there is not in any statute book in the world any language which says that that shall be material which the court in which the proceeding is initiated deems material. It is material before that court, of course, because that court makes all the decisions upon points of evidence.

Mr. SMOOT. That would be the case if it were specifically stated.

Mr. WILLIAMS. But with this language there, when the case went up there would be no power to review the decision of the lower court as to what was or was not material. That would be material which the lower court had said was material, whether it was really material or not, even in the court above.

Mr. ROOT. Mr. President, this is not a court proceeding.

Mr. SMOOT. It is simply a hearing.

Mr. ROOT. This is not a proceeding inter partes. It is an inquisitorial proceeding. The provision authorizes these appraisers, whose duty it is to ascertain certain facts, to send for the people interested and get information from them. It is not a proceeding in court.

Mr. WILLIAMS. Oh, but still the Senator must admit that the appraiser does act in a judicial capacity when he makes a decision, and unless that decision is appealed from and carried higher it is final.

Mr. SMOOT. Mr. President, from what the Senator has already said I can see now why the last words of this paragraph were inserted—that is, lines 19 and 20:

And such evidence shall be given consideration in all subsequent proceedings relating to such merchandise.

In other words, the Senator from Mississippi has taken the proceeding before the local appraiser as a court proceeding, whereas it is only a hearing. I quite agree with the Senator from New York that if it is only a hearing the law must specifically state whether or not they shall have the power to determine as to the materiality of a question.

Mr. WILLIAMS. Any hearing which results in mulcting me or any other citizen of a certain amount of money is necessarily judicial as far as the victim is concerned.

Mr. SMOOT. The present law specifically gives them that authority, in these words:

Which they, or either of them, may deem.

Meaning the general appraiser or the collector or the local appraiser. The House provision had those words in it, but the Senate committee have stricken them out.

Mr. BRISTOW. Mr. President, I should like to make an inquiry of the Senator from Mississippi. As the provision stood before those words were stricken out it gave the appraisers authority to examine into anything which they thought material, did it not?

Mr. WILLIAMS. In the first place, the language which we have stricken out was not in the old law.

Mr. SMOOT. Oh, yes, Mr. President, those very words are in the present law.

Mr. WILLIAMS. I do not think so. I may be mistaken about that.

Mr. SMOOT. They are in subsection 15 of the present law. The Senator will find those words in that subsection.

Mr. BRISTOW. Could not the question of materiality here be made a subject of litigation?

Mr. WILLIAMS. Yes; of course.

Mr. BRISTOW. Under the language as it came from the House it could not be?

Mr. WILLIAMS. It could not be.

Mr. BRISTOW. And now it can be?

Mr. WILLIAMS. Now it can be, if our amendment striking out the House language is embodied in the bill.

Mr. BRISTOW. Does the Senator think the question as to whether the board of appraisers should inquire into a thing ought to be opened up and made a matter of litigation?

Mr. WILLIAMS. Why, absolutely. I do not know of any provision in any law in the world, on any statute book, that does not make the question of materiality the subject of litigation in the court above when it is appealed from. Of course, practically, it is not a subject of litigation before the appraiser himself, because, sitting as he does, he determines in the first instance that the thing about which he wants the information is material.

Mr. BRISTOW. Could he not be enjoined from making this inquiry on the ground that it was not material?

Mr. WILLIAMS. I think so.

Mr. BRISTOW. Does not the Senator think that would be, or might be, a handicap upon the administration of the law?

Mr. WILLIAMS. Not to any unjust extent. If an appraiser wanted to go too far in the espionage business or the inquisitorial business, there ought to be some power to stop him.

Mr. SMOOT. Here is the present law, subsection 15.

Mr. WILLIAMS. It is not this language by any manner of means.

Mr. SMOOT. It says:

That the general appraisers, or any of them, are hereby authorized to administer oaths, and said general appraisers, the boards of general appraisers, the local appraisers, or the collectors, as the case may be, may cite to appear before them, and examine upon oath any owner, importer, agent, consignee, or other person touching any matter or thing which they, or either of them, may deem material respecting any imported merchandise, in ascertaining the dutiable value or classification thereof; and they, or either of them, may require the production of any letters, accounts, or invoices relating to said merchandise, and may require such testimony to be reduced to writing, and when so taken it shall be filed in the office of the collector, and preserved for use or reference until the final decision of the collector or said board of appraisers shall be made respecting the valuation or classification of said merchandise, as the case may be.

That is the language of the law to-day.

Mr. WILLIAMS. I was mistaken about that. The Senator is right. I thought the language of the Payne-Aldrich bill differed somewhat from the language of the House. The intent of the two was the same, but I did not think the language was identical. It seems, however, that the language is identical.

Mr. SMOOT. Referring again to what the Senator from Kansas says, I think he is perfectly right. Under the present law it is impossible to take even the testimony before the local appraiser before the board of appraisers; but they have tried under this provision to require that that testimony shall be taken before the board of appraisers by inserting these words:

And such evidence shall be given consideration in all subsequent proceedings relating to such merchandise.

In hearing a classification case, where the question at issue is the rate of duty, the board of appraisers is conducting a regular judicial proceeding, and it follows the rule of evidence; but the rule of evidence is never followed before the local appraisers. Here they are trying to change the law and change the procedure, and are requiring that whatever evidence a local appraiser may have found out in any way shall be taken before the Board of General Appraisers as evidence, and considered as such. The Senator knows that in the very preceding paragraph they have excluded hearsay evidence, which, before the local appraisers, has always been taken under consideration at least, if not received as evidence.

Mr. WILLIAMS. This language is, "such evidence shall be given consideration." That does not mean that it shall be accepted as true.

Mr. BRISTOW. I think to make it possible for an investigating officer to be served with an injunction preventing him from undertaking to get evidence to satisfy himself in an inquiring way is a very serious handicap to put upon his official conduct. I think it is a very unfortunate thing to do.

Mr. WILLIAMS. It may be; but it ought to be done.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER (Mr. SAULSBURY in the chair). Does the Senator from Kansas yield to the Senator from North Carolina?

Mr. BRISTOW. I do.

Mr. SIMMONS. I think this change simply makes this provision conform to every known and settled principle of evidence of any court of judicature in this country.

Mr. BRISTOW. But this is not a court.

Mr. SIMMONS. There is no prohibition here upon the appraiser investigating and interrogating the witness as to any matter which is material to the controversy or the issue, whatever it may be. That is the case with every court in this country.

Mr. SMOOT. This is not a court, though.

Mr. SIMMONS. They are permitted to receive in evidence testimony which is material to the issue; but if the court shall receive testimony which it thinks is material, but which afterwards, in a court of appeal, is determined not to be material, it was in error in admitting that testimony.

Under this change the appraiser would have a right to ask any question which he thought material; but when this testimony was taken up for use by the collector, or the appraiser, or the board of appraisers, as the section provides it shall be, if that tribunal should hold that the interrogatory of the lower court was not material to the issue it would not be considered, as we have written it. But if we permit the words that are

stricken out to remain in the statute, then the collector, the appraisers, or the board of appraisers for whom the testimony would be taken and who in a subsequent proceeding on appeal would have to consider it, would not be permitted freely to decide whether it was material testimony or not. The question before them would be simply the question of whether or not the appraiser considered it to be material.

We have not interfered here with any question which is material, but we have simply provided that a thing shall not become material when it is not material simply because the appraiser thinks it is material. That is all we have done.

Mr. BRISTOW. But if the Senator will just permit me a moment, I should like to invite the attention of the Senator from North Carolina to the paragraph in the bill we are considering. Let me read it:

That the general appraisers, or any of them, are hereby authorized to administer oaths, and said general appraisers, the boards of general appraisers, the local appraisers, or the collectors, as the case may be, may cite to appear before them, and examine upon oath any owner, importer, agent, consignee, or other person touching any matter or thing material respecting any imported merchandise then under consideration in ascertaining the classification or dutiable value thereof or the rate or amount of duty.

The purpose of the appraisers or collectors is to find out what is the value of these goods that are being imported if they question that a proper value has been placed upon them by the parties in interest. In order to ascertain what is the value, if they have cause to believe that the value is not a proper one, they are given authority under the present law to summon people before them on any point they think is material. Now you change the law by saying that they may summon them upon any material point. The question of materiality, therefore, is a question to be determined. Suppose the witness is called, and the question is asked him by the court, and he says, "That is not material; I decline to answer it," then it becomes a question of litigation at once, does it not?

Mr. SIMMONS. No; if the collector shall decide, notwithstanding the objection of the witness, that it is material, he would have to answer the question.

Mr. BRISTOW. But you take from him the very authority which the present law gives him.

Mr. SIMMONS. No; we do not take from him that authority, but we provide that if this matter shall become the subject of litigation before any other tribunal, upon appeal or otherwise, if he has forced from the witness an answer on a matter which is not material, then it shall be eliminated.

Mr. WILLIAMS. I suppose the Senator from Kansas has pretty much the same system of courts in his State that we have in ours. There is a lower court and then an intermediate court and then a higher court, by whatever names they are known. Does the Senator know of any statute anywhere which ever said that any court could examine into anything which the court deemed to be material? Is it not always "any matter material to the controversy"?

As a matter of fact, the way it practically works, of course, in the lower courts whatever the court deems material is material until the case gets out of that court, because the court says so, and that determines it. Now, what the Senator wants to do is to keep the question of materiality itself from being litigated.

Mr. BRISTOW. That is not so.

Mr. SIMMONS. If the Senator will pardon me——

Mr. BRISTOW. Yes.

Mr. SIMMONS. Let me take for an illustration a controversy in the superior court of any State in the Union. The question of the materiality of any testimony that may be offered is a question which the judge must in the first instance decide. If he decides the question of materiality erroneously and upon an appeal he is overruled, the case is considered when it comes back as if that immaterial testimony had not been admitted at all. That is what we seek to do in this case. Of course the appraiser before whom the witness is subpœnaed must necessarily decide, in the first instance, whether a particular matter he wishes to inquire into is material or immaterial. If he decides that it is material, the witness must answer. But that does not conclude the matter, as the Senator will see if he will read further down in the section.

Mr. BRISTOW. If the Senator will pardon me a minute just there, it seems to me, as the Senator says, that the collector in this inquiry which he makes must necessarily decide whether the information he wants is material.

Mr. SIMMONS. Yes, but he must decide it according to legal rules. He must decide it correctly.

Mr. BRISTOW. But he decides under the present law——

Mr. SIMMONS. If he decides it incorrectly, then he does it at his hazard. But if you leave in the words "which he or either of them may deem material" it will not make any difference whether the question he asks is a material question or not.

Mr. WORKS. Mr. President——

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

Mr. BRISTOW. I do.

Mr. WORKS. It seems to me we are splitting hairs here.

Mr. SIMMONS. I think we are myself.

Mr. WORKS. And we are taking up the time on nonessentials. What difference does it make whether this language is here or not? What right would the examining officer have to ask for or to receive immaterial evidence, if there was no such limitation in the bill? It seems to me it is utterly immaterial whether it is in it or out of it.

Mr. SMOOT. It may be immaterial. Under the bill if this amendment prevails the witness need not answer the question at all.

Mr. WORKS. He would have the same right if this limitation were not in the bill. He would not have to submit to an immaterial examination in any case.

Mr. SMOOT. That would be the case if it were a court, but this is not a court.

Mr. WORKS. It does not make any difference whether it is a court or not.

Mr. SMOOT. In order that the local appraiser may have that power, it must be conferred upon him by statute. The present law confers it on him by the words "which they, or either of them, may deem material." You strike out those words. This is what the law is to-day touching any matter; not whether it is a material question, but the thing itself must be material.

Mr. WORKS. Mr. President, the language in the bill is simply equivalent to saying that they may receive material evidence. I take it that using the language "which seems to them material" does not alter the situation in the least.

Mr. SMOOT. It would not in the case of court. There is no question about that.

Mr. WORKS. I do not think it makes any difference, I will say to the Senator from Utah, whether it is a court or some examining officer; the rule is precisely the same.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The next amendment was, on page 234, line 9, after the word "consideration," to strike out "or previously imported"; in line 10, before the word "classification," to strike out "dutiable value or"; in the same line, before the word "thereof," to insert "or dutiable value"; and in line 10, after the word "thereof," to insert "or the rate or amount of duty," so as to read:

O. That the general appraisers, or any of them, are hereby authorized to administer oaths, and said general appraisers, the boards of general appraisers, the local appraisers, or the collectors, as the case may be, may cite to appear before them and examine upon oath any owner, importer, agent, consignee, or other person touching any matter or thing material respecting any imported merchandise then under consideration in ascertaining the classification or dutiable value thereof or the rate or amount of duty.

The amendment was agreed to.

The next amendment was, on page 235, after line 2, to strike out the following:

To be summarily imposed by the collector or chief officer of customs in the customs collection district where the citation issued; and upon the report of such officer to the district court in the judicial district where such citation issued, the amount of such penalty shall be forthwith entered upon the docket of such court against the person so fined, and such entry shall have the full force and effect of a judgment of said court.

The amendment was agreed to.

The next amendment was, on page 236, paragraph Q, line 7, after the word "important," to strike out the words "and of the decisions of each of the general appraisers, and boards of general appraisers, which abstract shall contain" and to insert "to be published either in full, or if full publication shall not be requested by the Secretary or by the board, then by an abstract containing," so as to make the paragraph read:

Q. That all decisions of the general appraisers and of the boards of general appraisers respecting values and rates of duty shall be preserved and filed, and shall be open to inspection under proper regulations to be prescribed by the Secretary of the Treasury. All decisions of the general appraisers shall be reported forthwith to the Secretary of the Treasury and to the Board of General Appraisers on duty at the port of New York, and the report to the board shall be accompanied, whenever practicable, by samples of the merchandise in question, and it shall be the duty of the said board, under the direction of the Secretary of the Treasury, to cause an abstract to be made and published of such decisions of the appraisers as they or he may deem important, to be published either in full, or if full publication shall not be requested by the Secretary or by the board, then by an abstract containing a general description of the merchandise in question, a state-

ment of the facts upon which the decision is based, and of the value and rate of duty fixed in each case, with reference, whenever practicable, by number or other designation, to samples deposited in the place of samples at New York, and such abstracts shall be issued from time to time, at least once in each week, for the information of customs officers and the public.

The amendment was agreed to.

The next amendment was, in paragraph T, page 238, line 13, after the word "claimant," to strike out the words "and in all actions or proceedings for the recovery of the value of merchandise imported contrary to any act providing for or regulating the collection of duties on imports or tonnage, the burden of proof shall be upon the defendant," so as to make the paragraph read:

T. That in all suits or informations brought, where any seizure has been made pursuant to any act providing for or regulating the collection of duties on imports or tonnage, if the property is claimed by any person, the burden of proof shall lie upon such claimant: *Provided*, That probable cause is shown for such prosecution, to be judged of by the court.

The amendment was agreed to.

The next amendment was, on page 238, after line 18, to strike out paragraph U in the following words:

U. That if any person, persons, corporations, or other bodies, selling, shipping, consigning, or manufacturing merchandise exported to the United States shall fail or refuse to submit to the inspection of a duly accredited investigating officer of the United States, when so requested to do, any or all of his books, records, or accounts pertaining to the value or classification of such merchandise, then the Secretary of the Treasury, in his discretion, is authorized while such failure or refusal continues to exclude from entry any and all merchandise sold, shipped, consigned, or manufactured by such person, persons, corporations, or other bodies and imported into the United States.

The amendment was agreed to.

The next amendment was, on page 239, to strike out paragraph V, in the following words:

V. That if any person, persons, corporations or other bodies, engaged in the importation of merchandise into the United States or engaged in dealing with such imported merchandise, shall fail or refuse to submit to the inspection of a duly accredited investigating officer of the United States, upon request so to do from the chief officer of customs at the port where such merchandise is entered, any or all of his books, records, or accounts pertaining to the value or classification of any such imported merchandise, then the Secretary of the Treasury, in his discretion, is authorized, while such failure or refusal continues, to exclude from entry any and all merchandise consigned or shipped, or intended for delivery, to such person, persons, corporations, or other bodies so failing or refusing.

The amendment was agreed to.

The next amendment was, on page 239, to strike out paragrap W, in the following words:

W. That there shall be established in each of the consulates of the United States a registry of commissionaires or purchasing agents; that no persons shall be permitted to register as such except upon some affirmative showing of his agency by affidavit indicating the scope of such agency, the parties thereto, the duration, the merchandise to which it relates, the terms and conditions of its exercise, and the commissions involved, the truth of each of which affidavits shall be verified by investigation of the consul before registration is permitted; no such registration shall be permitted unless the agency is operative in the open market exclusively and the commissions provided for are the usual and ordinary commissions prevalent in the trade. Each invoice in which an item of commission appears covering merchandise shipped from any consular district where such registry has been established shall have included in the certificate of the consul a statement that the party claiming in the invoice to be the agent of the purchaser appears on the registry of the consulate as such, and in the absence of such certificate no officer shall allow as nondutiable any item of commission appearing on such invoice or claimed on behalf of any importer.

No consular officer shall certify any invoice unless he is satisfied that the person making oath thereto is the person he represents himself to be and that he is a credible person and that the statements made under such oath are true, and he shall thereupon, by his certificate, state that the person is the person he represents himself to be, is a credible person, and he believes the statements made in his oath to be true. No consular officer shall certify to the truth of the values stated in any invoice.

The amendment was agreed to.

The next amendment was, in paragraph X, page 241, line 8, after the word "this," to strike out "Act" and insert "section."

The amendment was agreed to.

The next amendment was, in paragraph Y, page 242, line 3, after the words "per cent," to insert "of the value of the contents of any box, package, or other container, or if in bulk to 10 per cent," so as to read:

Nor shall any allowance be made for damage, but the importers may within 10 days after entry abandon to the United States all or any portion of goods, wares, or merchandise of every description included in any invoice and be relieved from the payment of duties on the portion so abandoned: *Provided*, That the portion so abandoned shall amount to 10 per cent of the value of the contents of any box, package, or other container, or if in bulk to 10 per cent or more of the total value or quantity of the invoice.

The amendment was agreed to.

The reading of the bill was continued.

The next amendment was, on page 247, after the subhead "Section," to strike out "IV" and insert "V."

The amendment was agreed to.

The next amendment was, in Section V, on page 247, line 10, after the word "rejection," to insert the following additional proviso:

And provided further, That whenever the President shall ascertain as a fact that any county, dependency, colony, province, or other political subdivision of government imposes any restrictions, either in the way of tariff rates or provisions, trade or other regulations, charges or exactions, or in any other manner, directly or indirectly, upon the importations into or sale in such foreign country of any agricultural, manufactured, or other product of the United States which unduly or unfairly discriminates against the United States or the products thereof; or whenever he shall ascertain as a fact that any such country, dependency, colony, province, or other political subdivision of government imposes any restriction or prohibition upon the exportation of any article to the United States which unduly or unfairly discriminates against the United States; or whenever he shall ascertain as a fact that any such country, dependency, colony, province, or other political subdivision of government does not accord to the products of the United States reciprocal and equivalent treatment, he shall have the power and it shall be his duty to suspend by proclamation the operation of the provisions of this act relative to the rates of duty to be assessed upon the importation of the following specified articles, or such of them as he may deem just, and to substitute therefor the rates of duty hereinafter prescribed upon such articles when imported directly or indirectly from such country, dependency, colony, province, or other political subdivision of government:

Fish, fresh, smoked, and dried, pickled, or otherwise prepared; coffee; tea; earthen, stone, and china ware; lemons; cheese; wines of all kinds; malt liquors; knitted goods; silk dresses and silk goods; leather gloves; laces and embroideries, of whatever material composed, and articles made wholly or in part of the same; toys; jewelry, precious and semiprecious and imitation precious stones, suitable for use in the manufacture of jewelry; sugars, tank bottoms, sirup of cane juice and concentrated molasses, testing by the polariscope not above 75°; molasses; wool; vegetable oils.

On the issuance of such proclamation and until its revocation there shall be levied, collected, and paid upon all articles covered thereby, when imported directly or indirectly from the place mentioned therein, the following rates:

On fish, fresh, smoked, and dried, pickled, or otherwise prepared, 1 cent per pound; on coffee, 3 cents per pound; on tea, 10 cents per pound; on the following articles one and one-fourth times the rate specified in section 1 of this act, namely, on earthen, stone, and china ware; expressed oils; lemons; cheese; wines of all kinds; malt liquors; knitted goods; silk dresses and silk goods; leather gloves; laces and embroideries, of whatever material composed, and articles made wholly or in part of the same; toys; jewelry and precious, semiprecious, and imitation precious stones, suitable for use in the manufacture of jewelry. On the following, in addition to the duties as provided in section 1 of this act, the duties specified below:

On sugars, tank bottoms, sirup of cane juice and concentrated molasses, testing by the polariscope not above 75 degrees, fifteen-hundredths cent per pound, and for every additional degree by the polariscope test, one one-hundredth cent per pound; on molasses, 2 cents per gallon.

On wool of the sheep, hair of the Angora goat, alpaca, and other like animals, and all wools and hair on the skins of such animals, and all wool wastes by whatever description known, 15 per cent ad valorem.

That whenever the President shall ascertain as a fact that such restriction or prohibition or lack of accord of reciprocal and equivalent treatment has ceased, he shall have the power and it shall be his duty to revoke such proclamation, whereupon the articles covered thereby, when imported from the place mentioned therein, shall pay the rates of duty otherwise provided by law. But this provision shall not be applicable beyond the period of three years after the date of the passage of this act unless Congress shall otherwise prescribe.

So as to read:

A. That for the purpose of readjusting the present duties on importations into the United States and at the same time to encourage the export trade of this country, the President of the United States is authorized and empowered to negotiate trade agreements with foreign nations wherein mutual concessions are made looking toward freer trade relations and further reciprocal expansion of trade and commerce: *Provided, however*, That said trade agreements before becoming operative shall be submitted to the Congress of the United States for ratification or rejection: *And provided further*, That whenever the President shall ascertain as a fact that any country, dependency, colony, province, or other political subdivision of government imposes any restrictions, etc.

Mr. OLIVER. I move to amend the amendment by inserting, on page 248, at the beginning of the line 18, the words "mechanically ground wood pulp and paper produced therefrom."

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Pennsylvania to the amendment of the committee.

The amendment to the amendment was rejected.

Mr. McCUMBER. I offer an amendment to the amendment, to be inserted after line 4, on page 250.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. On page 250, after line 4, insert the following proviso:

Provided further, That when such Government, dependency, or subdivision thereof imposes such undue and unfair restrictions against any particular product of the United States, the President may impose a duty upon the same kind of product when imported from such country, dependency, or subdivision equivalent to the duty imposed by such country, dependency, or subdivision upon the product of the United States.

Mr. McCUMBER. Mr. President, that will need a little explanation. Reducing the provision on pages 247, 248, and 249 to the simplest form of expression, you will find this:

And provided further, That whenever the President shall ascertain as a fact that any country, dependency, colony, province, or other political

subdivision of government imposes any restrictions, either in the way of tariff rates or provisions * * * upon the importations into or sale in such foreign country of any agricultural—

I call especial attention to that word—

Agricultural, manufactured, or other product of the United States which unduly or unfairly discriminates against the United States or the products thereof; or whenever he shall ascertain as a fact that any such country, dependency, colony, province, or other political subdivision of government imposes any restriction or prohibition upon the exportation of any article to the United States which unduly or unfairly discriminates against the United States; or whenever he shall ascertain as a fact that any such country, dependency, colony, province, or other political subdivision of government does not accord to the products of the United States reciprocal and equivalent treatment, he shall have the power and it shall be his duty to suspend by proclamation the operation of the provisions of this act relative to the rates of duty to be assessed upon the importation of the following specified articles, or such of them as he may deem just, and to substitute therefor the rates of duty hereinafter prescribed upon such articles when imported directly or indirectly from such country, dependency, colony, province, or other political subdivision of government.

The provision then proceeds to set out a few articles upon which the President may exercise his judgment in a discriminatory manner upon "fish, pickled or otherwise prepared; coffee; tea; earthen, stone, and china ware; lemons; cheese; wines of all kinds; malt liquors; knitted goods; silk dresses and silk goods; leather gloves; laces and embroideries, of whatever material composed, and articles made wholly or in part of the same; toys; jewelry, precious and semiprecious and imitation precious stones, suitable for use in the manufacture of jewelry; sugars, tank bottoms, sirup," and so forth.

Then the President is to issue a proclamation carrying into effect such provisions as he may make. It then proceeds to determine what the rates of duty shall be upon any one of these particular articles which it has mentioned.

Mr. President, again I find that everywhere there is this eternal discrimination against agricultural products. It is specially provided in this bill, and I call the attention of the Senator from North Carolina [Mr. SIMMONS] to the provision, that if a discrimination is made in any country, either against our agricultural products or our manufactured products, you allow a retaliation in the shape of an increased duty on a few manufactured products. Why should not that include some of the agricultural products? For instance, if Canada discriminates against our meat, the only provision you have here is that we may turn around and discriminate against Canadian molasses.

Has the Senator made a computation of the amount of molasses that would probably be imported from Canada? And, again, if Canada discriminates against our grains, we will punish her by imposing an extra duty upon Canadian lemons, but nothing upon Canadian grain. And, again, if Canada discriminates against the importation of American cattle, we shall punish her by increasing the duties on Canadian coffee.

I should like to have the Senator point out one thing that Canada, for instance, produces and exports that we could levy a duty upon to compensate for any discrimination against any one of our agricultural products. The proposition seems to be everywhere in the bill that no matter how any country treats our agricultural products we shall make no objection, but we will allow their agricultural products in every instance to come in absolutely free.

The provision which I have asked to be inserted in the bill provides that if Canada discriminates against our meats the President shall have authority to levy a tariff upon Canadian meats equivalent to the Canadian tariff upon our meats. Can there be any reasonable objection to a provision of that kind? If Canada passes some discriminatory law against the importation of American cattle and horses, this amendment to the amendment would allow the President of the United States to provide that the tariff on the product paid by the Canadian importer should be equivalent to the tariff charged by Canada against the like import to the United States.

I think that that should apply to manufactures as well as to products of the farm. It is fair, it is equitable in all respects, and I can conceive of no reason why the Democratic Party should object to at least an equal trade between this country and Canada upon our agricultural products. It certainly will not be maintained that it costs more in Canada to produce any of these articles than it costs in the United States, and it must be admitted that, as a rule, it costs more in the United States. We would labor under a disadvantage, even though we had absolute reciprocal relations with Canada upon the products of the two countries; but certainly there can be no reason on earth for discriminating against the American agricultural product and in favor of the Canadian product. I should hope that the Senator would readily agree with this amendment, whereby we can place the American farmer nearer on an equality with the Canadian farmer.

Mr. WILLIAMS. Mr. President, one of the curious things developed by the discussion of this tariff bill is that, whenever the name "Canada" is mentioned it puts my friend, the Senator from North Dakota, into "a fine frenzy." As a matter of fact, this bill carries a countervailing duty upon wheat, flour, semolina, and the other products of wheat. The Senator has challenged somebody to mention anything that Canada produces that we have provided for. Among the provisions in the bill are some in relation to wool, sheep, and all that. Canada undoubtedly produces wool.

Then, the Senator has said that we have not given any of the agricultural implements a place in this bill. In a separate place, where a countervailing duty upon wheat appears, we have given wheat this punitive treatment, we have given sugar in this very clause the same treatment, and we have given wool in the same clause the same treatment.

I do not suppose over here we care much about how many different things we put on this list. Some few of us, of whom I am one, are of the opinion that there is nothing more absurd than saying that just exactly in proportion as some foreign country is afraid of a so-called invasion of our products we ought to be afraid of an invasion of theirs, and that we ought to regulate our import duties by their import duties, upon the general principle, I suppose, that if they think we can undersell them we ought to think they can undersell us.

If the Senator has an amendment to offer to put some agricultural product upon this list, and will take his choice, I do not suppose there will be any very material objection over here to leaving the President to deal with that product in this way.

What is the underlying gravamen of the Senator's complaint? It is that Canada can send to the United States cattle and wheat cheaper than we can furnish them, because, if they are to invade us at all they must invade us in that way. They do not come as an armed enemy, bringing these things and giving them to us to eat out of philanthropy; they do not come with arms in one hand and food in the other. We would have nothing to do with such a transaction. If they come with food which we purchase, it would be because we think the food is worth more to us than the money we pay for it. After alarming himself to death about that condition of affairs, that they may invade us with valuable products at a cheap price, the Senator then wants to make the measure of our protection against that invasion the standard that they have fixed against our products. Just in proportion as Canada gets scared to death for fear we can undersell her with our products in her market, the Senator wants us to get scared to death for fear Canada may undersell us with her products in our market.

So far as I am individually concerned, I have never seen much sense in a countervailing duty, unless in general language there was enacted a minimum tariff to be given as a reward to countries which gave our producers minimum taxes upon our exportations to their citizens but the general idea that, because Canada punishes her consumers by taxing valuable things that may come in cheaply to them, we are to turn around and say, "If you do not quit punishing your consumers by taxation, we are going to injure you by punishing our consumers by taxation" never peculiarly appealed to me.

Mr. McCUMBER. Mr. President, I think certainly the Senator misunderstands the scope of the amendment when he clings to that argument. This is not a question of equalizing the tariff on each side; it does not apply to cases where Canada may have a higher or a lower tariff than ours; it is directed toward that particular amendment which deals with undue discrimination against any of our products. That is all the amendment is aimed at. If Canada's rate, which may be higher than ours, is not an undue discrimination or an improper discrimination against our articles, this would not apply at all. We have got, however, to have some measurement of countervailing duty on this side. Therefore, I thought it was better to take their own duty as the measurement of a countervailing duty rather than to take an ad valorem duty or some such other duty as has been given in the paragraph preceding the amendment.

Mr. WILLIAMS. Now, the Senator says that the object of his amendment is not to equalize duties. This is the way the amendment reads:

Provided further, That when such Government, dependency, or subdivision thereof imposes such undue and unfair restrictions against any particular product of the United States, the President may impose a duty upon the same kind of product when imported from such country, dependency, or subdivision equivalent to the duty imposed by such country, dependency, or subdivision upon the product of the United States.

The mere reading of the amendment answers the Senator's argument. Let us say that the United States and Canada are

engaged in raising wheat; that one of them can raise wheat cheaper than the other and sell it cheaper, which as a matter of fact it can. As a matter of fact, one part of the United States will raise wheat cheaper than any part of Canada, and a part of Canada will raise wheat cheaper than any part of the United States except that part. It depends upon the part of Canada and the part of the United States you are talking about. Let us say, however, for the sake of the argument, that Canada can raise wheat cheaper than the United States can raise it. If Canada puts a duty upon wheat, it is for the purpose of protecting, in accord with all the Republican precedents, our wheat producers; it is because she thinks that the United States can undersell her or overproduce her at the same cost. If the United States can undersell Canada as regards wheat, and Canada is right in the position she has taken, then what good would there be in imposing a duty on our side of the border against Canadian wheat? We can already undersell her, if she is right in framing her tariff law, or we can already overproduce her at the same cost of production—one or the other.

What sort of logical connection is there, even from a protectionist standpoint—a pretty hard standpoint for me to take, even for argument—but what sort of connection is there between the duty that Canada from a protective standpoint ought to levy on wheat coming from America and the duty which we ought to levy on wheat coming from Canada?

Mr. SMOOT. Canada may be levying her duty as against Argentina and not against the United States, the same as the United States may be levying a duty against Argentina and not against Canada.

Mr. WILLIAMS. That may be; but I am arguing that point now without regard to Argentina; I am arguing it as between Canada and the United States, for that is a favorite position of my friend, the Senator from North Dakota. Of course, these provisions placed here are intended to apply to the entire world. They do not apply alone to Canada and the United States.

The Senator's amendment is that we shall punish somebody, anybody, anywhere, who is afraid of our competition by levying a duty upon the thing that they are afraid that we will send to them at a lower price than they can sell it for in their own market. The Senator's amendment is that we shall fix an equivalent duty. If, for example, Germany to-morrow should fix a duty on cotton imported from the United States, if the Senator's amendment should be accepted, we would fix a duty on cotton, though we never get any cotton from Germany, because Germany does not raise any.

Mr. McCUMBER. That is wholly untrue. The Senator from Mississippi insists on misinterpreting this amendment.

Mr. WILLIAMS. I did not misinterpret it. I read it.

Mr. McCUMBER. Well, Mr. President, let me explain, if the Senator will give me a little time. The amendment would not apply though Germany should levy ten times the duty upon her products that we would levy upon German products. It simply applies to the same cases to which the preceding portion of the section applies, where there is an undue discrimination—not undue in the shape of having a higher or a lower tariff. The other section will not apply to a case where one country has a higher tariff than the other.

Mr. WILLIAMS. That is not the question.

Mr. McCUMBER. Nor would this amendment apply. The only thing is that we shall have some measurement. If the Senator can conceive of a better standard of measurement than that which I have provided to meet a case where there is undue discrimination against our agricultural products, the same as in the case of our manufactured products, I would agree with him upon any specific duty, the same as is provided for in the case of sugar and molasses—that is, so much on sugar and so much on molasses—but I considered that the other standard was better.

Mr. WILLIAMS. Evidently the Senator must have drawn his amendment very hastily, because he has not considered what it means. So, of course, he must have done it hurriedly. The amendment reads:

Provided further, That when such Government, dependency, or subdivision thereof imposes such undue and unfair restrictions against any particular product of the United States the President may impose a duty upon the same kind of product when imported from such country, dependency, or subdivision equivalent to the duty imposed by such country, dependency, or subdivision upon the product of the United States.

The language speaks for itself. There can not be any dispute about what it means.

Mr. McCUMBER. Mr. President, I do not care to rediscuss the countervailing duty upon wheat and flour, mentioned by the Senator. Whenever the Canadian Government wishes to enter flour or wheat from that country into the United States all the Canadian Government has to do is to have a bill introduced in Parliament fixing the duty at a lower rate. The bill when introduced by the Government takes effect until it is acted upon, so far as it relates to those duties—a method in the Canadian Parliament which certainly does not have any equivalent in any other legislative body, so far as I know. Whenever it would be to her advantage to drop her duty of 12 cents a bushel upon our wheat, as I understand, all she has to do is to have a bill introduced into Parliament for that purpose; and, without even passing it, the reductions will be made until that bill is finally acted upon in some way by the Parliament.

The Senator has taken perhaps the worst kind of a case he could have selected to show the trade relations between this country and Canada. Now, let us take a case that will be in point. Suppose that Canada should impose a 20 per cent duty upon cattle imported from any country outside of Great Britain. The fact that we only impose 10 per cent upon cattle would not make her tariff an undue discrimination, therefore my amendment would not apply in that event; but suppose Canada should impose against the importation of American cattle other restrictions that would be unreasonable and unjust, so that we could not export them at all. The Canadian duty might not be 5 per cent; but wholly irrespective of the duty, she might impose restrictions against this country—and that is what my amendment is aimed at—which would prevent the importation of cattle from this particular country. Then we would have the right to say that the duty upon Canadian cattle imported to this country should be equivalent to the duty imposed by Canada upon American cattle. That is all the amendment means.

If the Senator will notice where the amendment comes in, he will see that it relates only to impositions and restrictions outside of the tariff, although there might be a special rate against the United States which would be discriminatory in every respect.

I mention Canada when I come to discuss the question of agricultural products probably because Canada is our chief competitor. Argentina might, under your free-trade bill, become a strong competitor in some products. She is already exporting an immense quantity of flax to the United States.

The State in which I live produces about one-half of the flax crop of the entire United States, so that every bushel that is imported from Argentina comes in competition with our product. Canada is also a heavy exporter of flaxseed to the United States. I do not suppose that, under any circumstances, the conditions would be such that it would be very profitable for us to export the same products to Canada which Canada sends to the United States. There might be conditions, if the Senator's contention is correct, that it costs just as much to produce in Canada as it does in the United States, under which we might desire to export cattle to some sections of Canada. Well, if we should do that, then we would have the Canadian tariff of, I think, 30 per cent ad valorem, or its equivalent at least, upon our meat products—I think 25 per cent upon cattle and 3 cents a pound upon meat products—and we would not be able to get into the Canadian market at all. If Canada should provide some other restrictions than those of tariff rates, we ought to be in such a position that we could treat the agricultural products the Canadians ship to us the same as we treat those countries which ship to us manufactured products.

It is provided in the amendment reported by the committee that in case any country discriminates against us as to any manufactured product, we may retaliate against her by adding to the tariff against certain articles from that country a given amount, which is specified; but that relates only to manufactured products. Why should it not relate to agricultural products as well? That is all that I am asking for in my amendment.

I disagree with the Senator from Mississippi that cattle can be raised as cheaply in this country as in Canada. I know that it can not be done.

Mr. SIMMONS. Where does the Senator find authority in this bill for the statement that the amendment reported by the committee only relates to manufactured products?

Mr. WILLIAMS. How does the Senator arrive at the conclusion that this provision is confined to manufactured products when the provision reads:

Upon the importations into or sale in such foreign country of any agricultural, manufactured, or other product of the United States.

Mr. McCUMBER. That is, if another country discriminates against our agricultural products we may add a duty to their manufactured products. You specify the things against which you can levy the additional duty.

Mr. WILLIAMS. Fish is not a manufactured product.

Mr. McCUMBER. There is not an agricultural product mentioned in the list, with the exception of something that would

not in all probability be exported to this country from any country likely to discriminate against us.

Mr. WILLIAMS. Wool is not a manufactured product; fish is not a manufactured product; the hair of the goat is not a manufactured product; cheese is not a manufactured product.

Mr. McCUMBER. I said there is not mentioned an agricultural product of any country that would be likely to discriminate against this country. You have included wool in the list, and I admit that you have included molasses, if you call that an agricultural product. I would call it a manufactured product after it is in the form of molasses.

Mr. WILLIAMS. We have included cheese.

Mr. McCUMBER. Why have you not included cattle in the list? Why have you not included poultry and all agricultural products?

Mr. WILLIAMS. I have just said to the Senator that he can offer to add anything he desires to this list of articles.

Mr. McCUMBER. I am going to do so if my amendment shall be defeated.

Mr. WILLIAMS. We have no objection to that; but we have an objection to this kind of an amendment, because it goes upon the foolish theory that whatever duty we fix upon the product must be fixed regardless of the condition of the market and must be simply equivalent to the duty the other country levies against us.

Mr. McCUMBER. I think that is as reasonable as saying that if we are punished by any country by reason of a discrimination against our agricultural products we will charge them 2 cents a gallon on molasses, whether they produce molasses or not.

Mr. WILLIAMS. But the rate on molasses is fixed with some regard to the condition of molasses in the market.

Mr. CLAPP. Mr. President——

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

Mr. CLAPP. I understood the Senator from North Dakota had concluded.

Mr. McCUMBER. I yield the floor to the Senator.

Mr. CLAPP. That is what I understood. I want to say to the Senator from Mississippi [Mr. WILLIAMS] that I appreciate his generosity in offering the Senator from North Dakota [Mr. McCUMBER] the option of adding some particular item to the list of articles covered by the committee amendment. Will he extend that privilege to all other Senators, so that each one of us can pick out some item that he would like to have covered?

Mr. WILLIAMS. I do not think there would be the slightest objection to putting anything upon this list of things that you choose, provided you accompany it with a sensible instruction to the President as to the rate of duty to be fixed upon it. That rate of duty should be fixed in accordance with the market conditions of importation and exportation concerning the product itself, as well as the conditions of domestic consumption and production.

Mr. CLAPP. I was so much impressed with the generosity of the Senator from Mississippi in offering to allow the Senator from North Dakota the option of picking out one item to be inserted that I wondered if the same privilege would be extended to other Senators.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from North Dakota [Mr. McCUMBER] to the amendment of the committee.

The amendment to the amendment was rejected.

Mr. SMOOT. Mr. President, there is one thing I should like to ask the Senator from Mississippi in connection with the committee amendment on page 248. I read the portion of the amendment to which I refer:

> Or whenever he shall ascertain as a fact that any such country, dependency, colony, province, or other political subdivision of government does not accord to the products of the United States reciprocal and equivalent treatment, he shall have the power and it shall be his duty to suspend by proclamation the operation of the provisions of this act relative to the rates of duty to be assessed upon the importation of the following specified articles, or such of them as he may deem just.

Why are the words "or such of them as he may deem just" included? It seems to me that the President should not be given the right to decide as to whether or not a thing is just. If a discrimination against the United States exists, it is his duty to enforce the provision. It reads:

> He shall have the power and it shall be his duty to suspend by proclamation—

And so forth. I do not see why the President should say that fresh fish should be dutiable and that smoked fish should be free.

Mr. WILLIAMS. I think I can answer that, and I think I will answer it to the Senator's full satisfaction. We put in the language "or such of them as he may deem just" merely as a matter of comon sense. Suppose, for example, that Newfoundland, as a Province of Canada, was treating us unjustly. It would not do any good for the President to put a duty on sugar to punish Newfoundland. Suppose Cuba was treating us unjustly and discriminating against us. It would not do any good to put a duty on fish coming from Cuba. Suppose that Argentina was treating us unfairly. It would not do any good for us to punish her by putting a duty on fish or sugar. We would probably put it on wool. So, instead of having the President impose the additional duty on all the specified articles when a case of discrimination arises, we left him free to impose a duty on all or such of them as he might deem just.

Mr. SMOOT. What I want to learn is, why should not all of them be named by the President? Why should he be given the right to name one article specified in the amendment and not another? Let the whole list apply whether or not the particular Government exports such goods to this country.

Mr. WILLIAMS. Then, if you increase the list sufficiently, you will restore the protective system.

Mr. SMOOT. Not at all; I am not asking to have the list increased; I am simply referring to the list that is already made. It seems to me if any country is unduly discriminating against this country that this provision ought to go into effect automatically as soon as the President ascertains that a discrimination exists. It does not apply to all articles, but only those enumerated here, but I believe that it ought to apply to all.

Mr. SIMMONS. I want to say to the Senator that the committee in adopting this provision had no such purpose in view as he seems to think we had. The committee had reference to a situation which often arises in relations between nations. One nation might discriminate unjustly against us in favor of other nations, and we wanted to provide a method by which the President of the United States, representing this Government, might make reprisals as to that nation in order to force it to do justice to and to deal fairly with us.

We selected a great many articles and we tried to select—we may not have succeeded—articles that were valuable exportations of various countries of the world; and we give the President authority, in case any one of these countries discriminates against us, to select any of the specified articles which that country might export to us, and, for the purpose of punishing her for her discrimination against us, raise the duty upon that specific article. Now, what good would it do to raise the duty on all of these articles where we were trying to meet the situation of discrimination on the part of a particular nation?

Mr. SMOOT. Let us take a specific case, so that I may bring it home to the Senator.

Suppose any country, we will say, that raises wool and hair from the Angora goat, such as Australia, should discriminate against us, and the President declared that it had unduly discriminated against the United States. Under this bill the President has the authority to say: "I will not impose the 15 per cent duty on Angora goat hair. That is used in some part of the United States which I do not think ought to be subjected to that additional duty, but I will impose it upon the wool of the sheep." Under this bill he has that authority.

Why should he have it? Why should not those words be stricken out? When any country discriminates against the United States, why should it not be penalized by whatever rates are named in this part of the bill and upon all items so named?

Mr. WILLIAMS. The Senator's illustration is peculiarly unfortunate, because, unless I am misinformed, in that particular case what the President would do if he was sensible would be to impose a duty so as to restrain the importation of the wool and not to impose a duty upon the hair of the Angora goat, because, if I am correctly informed, Australia does not send us any of the hair of the Angora goat, but she does send us wool.

Mr. SMOOT. Of course I used that only as an illustration. The Senator knows perfectly well that other items in this bill can be named——

Mr. SIMMONS. As a sensible thing, now, let us take wool from Australia, for instance.

Mr. SMOOT. There are goats in Australia.

Mr. SIMMONS. Suppose Australia is discriminating against us in an unjust way, and the President wants to bring her to terms, to force her to deal fairly with us. The President has authority to impose a duty on wool, not from all the world, but from Australia.

Mr. SMOOT. That is right.

Mr. SIMMONS. So by his proclamation he declares that wool coming in from Australia shall pay a duty, but wool

coming in from any other country in the world shall not pay a duty.

Mr. SMOOT. We all understand that.

Mr. SIMMONS. Suppose there is some other product that Australia exports to this country. The President might add that to wool if he wanted to; but, on the other hand, he might wait and see whether Australia would be brought to terms by the imposition of the duty on wool. If she was not brought to terms by that, he might add the duty upon the other exports from Australia to this country, leaving it in the discretion of the President.

Mr. SMOOT. It gives the President the power to pick out any of the articles named that may in his judgment——

Mr. SIMMONS. We are leaving the power in the hands of the President to impose these duties as in his discretion he may think will bring about fair treatment on the part of the discriminating countries. That is the purpose of it.

Mr. SMOOT. The present law and all other retaliatory measures in tariff laws have provided that wherever there has been a discrimination made by any country there was an addition to the rates imposed upon all of the items in the tariff bill.

Mr. SIMMONS. But the Senator loses sight of the fact that the President may impose these duties against the discriminating country—not against the world, but against the discriminating country.

Mr. SMOOT. Everybody knows that.

Mr. SIMMONS. Let me ask the Senator, as a matter of common sense, what good it would do for him to impose these duties upon all of the things enumerated in this paragraph against Australia, for instance? What good would it do? What would it accomplish toward bringing about the result we have in view?

Mr. SMOOT. It would bring about the result a great deal quicker if this duty were imposed upon all the articles named in the bill.

Mr. SIMMONS. Suppose Australia produces and exports to this country only one of the things enumerated here. What good would it do to impose a retaliatory duty upon a product which Australia does not produce, and does not export, and does not sell to us, and has no interest at all in our duty upon, in bringing Australia to terms?

Mr. SMOOT. If Australia were prevented from exporting to this country all of the articles that are mentioned in the bill, she would very much more quickly yield and remove the discrimination against this country.

Mr. WILLIAMS. Before the Senator takes his seat, I wish to ask him a question. Following up the instance of Australia, suppose Australia did discriminate. Suppose the President put the duty specified here upon the wool of Australia. Does the Senator imagine that putting the specified duty on sugar from Australia would help bring Australia to terms at all? In other words, if the imposition of the duty on wool had not done it, does he think the addition of the duty on sugar would do it?

Mr. SMOOT. No; but there may be other items named that would.

Mr. WILLIAMS. It happens, however, that there are none in the case of Australia.

Mr. SMOOT. I think that in going through the bill it will be found that there are items that Australia could export to this country.

Mr. LODGE. Mr. President, as this power is to be given to the President under this amendment, I should like to ask the Senator from Mississippi if he does not think it would express the purpose of the amendment better to say "such as he may deem to be applicable"? This is not a question of justice; this is a question of selecting the article that is effective and applicable to the case.

Mr. WILLIAMS. I should have no objection to putting in the word "applicable."

Mr. SIMMONS. I think that is a better word.

Mr. WILLIAMS. I should have objection to taking out the word "just," because there are two things involved in it. The two ideas are, such duty as might be applicable to the situation, and also such duty as might be just to our own people. So I would rather have it "just and applicable."

Mr. LODGE. "Just and applicable"—I think that would improve it, if he is to be given the power of selection.

Mr. SIMMONS. I think that is a very valuable suggestion.

Mr. LODGE. I also want to ask the committee, Mr. President, to amend the words "reciprocal and equivalent," in line 9.

Mr. SIMMONS. If the Senator will permit me, before he goes on to the other matter, I should like to state that this amendment was drawn by the department.

Mr. SMOOT. That seems to be a universal excuse.

Mr. SIMMONS. Oh, no; I do not mean anything by that except to say that we are not absolutely responsible for the language. I do not think the word "just," by itself, is properly descriptive.

Mr. LODGE. I think "applicable" improves it.

Mr. SIMMONS. I think if our attention had been called to it we would have used some other words.

Mr. LODGE. But these words, "reciprocal and equivalent," are very broad and somewhat indefinite.

Mr. ROOT. They are in the old law.

Mr. LODGE. The Senator from New York suggests that they are taken from the old law, which may well be the case, but it struck me, in looking at them, that they might give rise to a good deal of question.

Mr. WILLIAMS. If the Senator will pardon me an interruption, I think the word "equivalent" there is pretty indefinite, and I do not see what "equivalent treatment" means. I supposed it meant "equal treatment."

Mr. LODGE. For example, take the first article here in the list, "fish": We are to admit fish free under this bill. Canada imposes a duty of 1 cent a pound upon fish and also gives a bounty to her fishermen. If we admit her fish free, and she puts a duty of a cent a pound on our fish, I should not think that was either reciprocal or equivalent. I should think clearly it would be neither reciprocal nor equivalent. Yet I have a certain doubt about those words, as to their being rather broad and indefinite. I should think "equal" would be a better word than "equivalent."

Mr. WILLIAMS. I am clearly of that opinion.

Mr. LODGE. I do not desire to delay the bill, and I merely offer that as a suggestion. I offer no amendment.

Mr. WILLIAMS. I will offer an amendment in a minute. The word "equivalent," especially when used in connection with "reciprocal," might mean that they gave us a duty or an exemption equal to that which we gave them. What the bill is really seeking is that they shall treat us equally with other nations.

I therefore move, Mr. President, to strike out the word "equivalent," just before the word "treatment," and substitute the word "equal."

Mr. ROOT. Mr. President, I recall that the word "equivalent" was put into the law of 1909 because it was broader than "equal." The idea that was expressed in the discussion upon the framing of the section in the Finance Committee itself was that there might be some country which, though unable to give us equal treatment upon the particular article involved, because of some special relations that she had with some other country, might nevertheless make it up to us by treatment which was equivalent, by a benefit that was equivalent to the injury, so that there would be real reciprocity of treatment, and no reprisals justified. The word was used ex docet.

Mr. SIMMONS. I will ask the Senator why it would not meet the situation, then, if we were to use the words "equal or equivalent"?

Mr. ROOT. That would answer perfectly.

Mr. WILLIAMS. All right; let us do that.

Mr. CUMMINS. Mr. President, unlike my friend from Utah, my objection to this provision is not because it gives the President too much power, but because it gives him too little power.

I think that in order to be effectual a retaliatory provision like this must be very considerably enlarged. You have said that if the President of the United States finds that any country unduly or unfairly discriminates against us, or if he finds that the treatment accorded to us by any country is not equivalent to our treatment of that country, the President may retaliate upon that country by increasing the duties upon certain commodities. The Senator from North Carolina very properly expressed the idea when he said that the President was given this power in order to compel fair treatment or even treatment. If that is true, you must give the President the power to increase the duty on something in which that country is interested.

Suppose the President should find that Canada does not treat our country fairly, or discriminates unfairly against our country: You ought to give him the power to increase the duty on something that Canada wants to export to the United States. That is true of every other country as well. You have so narrowly limited the articles upon which the additional duty may be imposed that many a country can discriminate against the United States and the President will have no power of retaliation. I think you ought to give him much more latitude than you have given here in the way of bringing about justice in our international dealings.

I hope the suggestions that have been made this afternoon will so impress the committee that you will clothe the Executive

with the power to do what you really desire him to do, namely, to increase the duties upon the commodities or the articles which the offending country desires to export to the United States.

Mr. SIMMONS. I wish to say to the Senator that it was the purpose of the committee to select articles which the various nations with which we have trade are interested in selling to our people. It may be that we have failed to enumerate certain articles that we ought to include in order to accomplish the main purpose that we have in view. As the Senator from Mississippi has indicated, we shall be glad to include additional articles if they are suggested and it appears that they are articles which are imported into this country and upon which we might with advantage place this discriminatory duty in carrying out our main purpose.

Mr. CUMMINS. But I do not think it would be necessary to name a specific duty for every article that could be brought into the scheme of retaliation. You can arrange it so that the duty will be increased upon a very large list of articles without naming the specific duty upon each.

Mr. SIMMONS. The committee desired to avoid any possible constitutional question with regard to the delegation of legislative authority, and the committee felt that if they picked out the articles and specified the duties that might be imposed upon those articles by the President upon the finding of certain facts or the happening of certain contingencies, they would run no risk of complications from a constitutional standpoint.

Mr. CUMMINS. The point I make, however, does not involve the constitutional question. That is already in the bill. It will not be rendered more doubtful by enlarging the list of articles which the President may use in a retaliatory course.

Mr. SIMMONS. I entirely agree with the Senator, if the bill also prescribes the rate of duty and authorizes the President to apply it upon the happening of certain contingencies.

Mr. CUMMINS. Precisely; and that could be very easily done by using a percentage. I agree with the Senator from North Carolina that the President ought not to be required to increase the duty upon every article in the tariff schedules or which might be imported from the offending country. You have already given him the discretion to select from a small class of articles. While there may be some doubt about that, I am not questioning it at this time. But the doubt certainly would not be made more serious if the list of articles were increased and the duties raised by a percentage rather than by specifically naming them.

Mr. SIMMONS. The Senator will notice that we have prescribed specific rates as to only a few articles—for instance, fish, and so forth, 1 cent per pound; coffee, 3 cents per pound; tea, 10 cents per pound. Then we say:

On the following articles 1¼ times the rate specified in section 1 of this act.

So under that we might add as many articles as we wish to add, because that fixes a rate.

Mr. CUMMINS. That could be very easily increased by including every article in the tariff schedules, and then you would have clothed the President with the power to accomplish your purpose, whereas now he may find it utterly impossible to correct the injustice that may be inflicted upon us by other nations, because in the list of articles which you give there may be none in which the offending country is particularly concerned.

The VICE PRESIDENT. The Chair and the Secretary are in doubt as to whether the Senator from Mississippi offered an amendment or whether he did not offer it.

Mr. SIMMONS. As to what matter, Mr. President?

The VICE PRESIDENT. Page 248, line 9, with reference to the word "equivalent."

Mr. SIMMONS. Yes; his suggestion was that we add the words "equal or," so that it would read, "equal or equivalent." I offer that amendment now.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. On page 248, line 9, before the word "equivalent" it is proposed to insert the words "equal or," so that if amended it will read:

Reciprocal and equal or equivalent treatment.

The amendment to the amendment was agreed to.

The VICE PRESIDENT. The amendment on line 13 will be stated.

The SECRETARY. After the word "just," on line 13, page 248, it is proposed to insert the words "and applicable."

Mr. SIMMONS. The Senator from Mississippi also offered that amendment, as I understood. If he did not, I offer it now.

The amendment to the amendment was agreed to.

Mr. JONES. Mr. President, I offer an amendment to the amendment of the committee, which I send to the desk.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The SECRETARY. In line 3, page 249, after the word "oils," it is proposed to insert the word "lime"; and in line 18, after the word "jewelry," it is proposed to insert the words "on lime, three and one-half times the rate provided in section 1 of this act."

Mr. JONES. Mr. President, the Senate will remember that when I offered an amendment to the preceding section of the bill I called attention to the fact that the tariff on lime in one of the countries adjoining the United States is 17½ per cent. The committee in this bill places the rate at 5 per cent. I called attention to the conditions in our section of the country especially, where the lime industry is developed slightly across the border, and they bring the lime into our markets and sell it cheaply and come to our people and say, "Here, now, unless you buy us out we are going to break down the market." In other words, they use the tariff wall that Canada has had against us to break down our own industry. This amendment is to make our rates equivalent to the rates that Canada imposes on lime coming from this country. I hope the chairman of the committee will accept it.

Mr. SIMMONS. Let me see if I understand the Senator. Where does the Senator propose to have his amendment come in?

Mr. JONES. In line 3, page 249, I propose to put in the word "lime" after "oils," making that one of the articles named at the top of page 249.

Mr. SIMMONS. Then where does the Senator propose to insert another amendment?

Mr. JONES. Down in line 18, after the word "jewelry," I propose to insert:

On lime, three and one-half times the rate provided in section 1 of this act.

That makes it 17½ per cent, the same as the Canadian rate.

Mr. SIMMONS. Three and a half times what?

Mr. JONES. Three and a half times 5 per cent.

Mr. SIMMONS. Three and a half times the present rate?

Mr. JONES. Yes; three and a half times the rate provided in section 1.

Mr. SIMMONS. Mr. President, I do not feel like consenting to the rate. I have no objection to adding lime and fixing the rate; but I will ask the Senator if he will not offer the amendment and let it go to the committee.

Mr. JONES. That will be entirely satisfactory to me.

Mr. SIMMONS. I do not object to including lime, but I do not care to agree to a certain rate at this time.

Mr. JONES. Very well. I shall be very glad to have the amendment go to the committee.

The VICE PRESIDENT. The amendment offered by the Senator from Washington to the amendment of the committee will be referred to the committee.

The question is on agreeing to the amendment of the committee as amended.

The amendment as amended was agreed to.

Mr. NORRIS. Mr. President, I should like to say to the Senator from North Carolina that at this point in the bill I desire to offer an amendment that covers the Coffee Trust situation. It will take me some time to discuss it. I understand the Senator from North Carolina is anxious to finish this part of the bill this evening. I myself would a little rather not take up the matter to-night. If it is agreeable to the Senator—if he wants to finish these provisions to-night—I should like to pass over that amendment.

Mr. SIMMONS. That is entirely satisfactory to me, and I shall be very glad to have the Senator pursue that course with reference to it.

The VICE PRESIDENT. The Chair is compelled to announce again that the bill is open to amendment either in Committee of the Whole or after it comes into the Senate.

Mr. NORRIS. Then, I will formally offer the amendment now, so that it may be read. I should like to call the attention of the chairman and the members of the committee to it, and perhaps they can give it some consideration, because I expect to convince them before we get through that they ought to adopt either this amendment or something similar to it.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 250, after line 13, it is proposed to insert:

That whenever the President shall ascertain as a fact that any country, dependency, state, colony, province, or other political subdivision of government is a party to any conspiracy or combination to monopolize and control the trade or commerce between the United States and such foreign country, dependency, state, colony, province, or other political subdivision of government of any of the products of such country, whereby the prices of such products are increased to the consumers of the United States, or has any law, rule, or regulation

legalizing any such combination or conspiracy, or has any law, rule, or regulation valorizing any of the products of such foreign country by purchasing any part of the same and holding the same out of the markets of the world, whereby the price of the same is increased to the consumers of the United States, he shall have the power, and it shall be his duty, to suspend, by proclamation, the operation of the provisions of this act relative to the rates of duty to be assessed upon the products of such country, dependency, state, colony, province, or other political subdivision of government when imported into the United States; and thereafter, in addition to whatever rate of duty is assessed against the products of such country by this act, all the products of such country, dependency, state, colony, province, or other political subdivision of government shall, when imported into the United States, pay a duty of 25 per cent ad valorem.

Mr. CUMMINS. I move to strike out paragraph B, on page 250.

The VICE PRESIDENT. The Secretary will read the paragraph.

The Secretary read paragraph B, on page 250, as follows:

B. That nothing in this act contained shall be so construed as to abrogate or in any manner impair or affect the provisions of the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on the 11th day of December, 1902, or the provisions of the act of Congress heretofore passed for the execution of the same.

Mr. CUMMINS. Mr. President, I have already submitted to the Senate my argument upon this subject. I do not intend to repeat it. I shall content myself with its restatement.

We have in the bill already impaired and affected the provisions of the treaty to which reference is made in the paragraph. The Senate in committee has decided that after March 1, 1916, all sugar from whatever part of the world it may come shall enter the ports of the United States free. In my opinion such a law will impair our treaty with Cuba.

The proposition I have just made was not controverted when the matter was under debate a few days ago. It is obvious that a provision for free sugar is in violation or at least impairs the provisions of a treaty by which we have undertaken to give Cuba a preference of 20 per cent upon sugar.

I am not now questioning the propriety of admitting sugar free. The debate upon that subject has occurred. I take it it would be of no avail to repeat it. But let us not put ourselves in the position of saying that nothing in the act shall be construed to impair or affect any provision or any obligation in the treaty when we have already impaired or affected a provision in the treaty. It is a mockery. To me it would be and ought to be very offensive to Cuba for us to reassert the obligation to give her a preference upon sugar when we in the same act take away that preference.

Mr. BRANDEGEE. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Connecticut?

Mr. CUMMINS. I yield to the Senator from Connecticut.

Mr. BRANDEGEE. It seems to me that this provision would be an effective one if it stated in the bill that it would prevent the reduction of the duty upon sugar.

Mr. SIMMONS. I did not catch what the Senator said.

Mr. CUMMINS. I suggested that the other day, and it may be——

Mr. SIMMONS. I want to say that the committee has an amendment to meet that suggestion, and the Senator from Mississippi intends to offer it and probably will do so before we adjourn this afternoon.

Mr. CUMMINS. To meet what situation?

Mr. SIMMONS. The one just referred to by the Senator from Connecticut, as I understood him. I understood the Senator from Connecticut to say that it seemed to him there would be no duty at all upon sugar between now and the time when this provision becomes operative, which is next March. Did I understand the Senator correctly?

Mr. BRANDEGEE. Of course this purports upon its face to be the official interpretation of the act, and it says that nothing in the act shall interfere with the provisions of the treaty.

Mr. SIMMONS. It may be that I misunderstood the Senator.

Mr. BRANDEGEE. It is understood that it does infringe the provisions of the treaty.

Mr. SIMMONS. I misunderstood the Senator. I thought he was talking about the point made by the Senator from Iowa the other day, that as the bill now stands under the amendment made by the Senate there would be no duty on sugar at all between now and the 1st day of next March.

Mr. CUMMINS. Oh, no.

Mr. SIMMONS. I misunderstood the Senator.

Mr. CUMMINS. I am saying that after the 1st of March, 1916, under the bill there will be no duty on sugar, and after that time Cuba will have no preference upon the imports of sugar, and our treaty with her will have been impaired or our obligation to her will have been recalled or canceled.

Now, I am not suggesting that we have not the power to recall the obligation; I am not even arguing now that it is not wise to recall the obligation; but I do hope that the Congress of the United States will not put itself in the position in one paragraph of taking away the preference we have granted to Cuba and in another paragraph of the same bill asserting that Cuba shall continue to have the preference that we granted to her in 1902, I believe. One or the other of these legislative declarations ought to be eliminated from the bill.

I have assumed that there is no hope of preserving any duty on sugar. Therefore let us treat Cuba fairly, as though she were, as she is, a friendly and responsible nation, and frankly refrain from reasserting the continuing obligation to extend to her a preference upon this subject.

Mr. CLARK of Wyoming. Mr. President, I should like to ask the Senator from North Carolina whether this particular provision, in view of the general provision of the bill, is not an impossibility?

Mr. SIMMONS. You mean section B?

Mr. CLARK of Wyoming. Section B, to which the amendment is directed. Is not that an impossibility?

Mr. SIMMONS. What does the Senator mean by saying that it is an impossibility?

Mr. CLARK of Wyoming. I mean, summing up what the Senator from Iowa has said, that you provide that sugar from all countries shall be free at a definite time.

Mr. SIMMONS. In three years from now.

Mr. CLARK of Wyoming. In three years from now?

Mr. SIMMONS. Yes. We do not provide that sugar shall be free immediately. If we did, undoubtedly we would abrogate by an act of legislation the treaty. It is competent, of course, to do it. Any general statute passed after a treaty would be the law of the land and paramount to the treaty. If the bill provided for free sugar at once, I think the Senator is right about it, and it would be an abrogation of the treaty. But I take it that what this is intended to mean is that during the next three years, while there is a duty upon sugar, and while Cuba can have her preferential rate of 20 per cent, the provision that at some future day sugar is to be on the free list shall not be assumed and taken to mean an abrogation by statute of that treaty during that period of time.

Mr. CLARK of Wyoming. Then paragraph B, as I understand the Senator, is only intended to preserve the preferential rate which Cuba now has from the present time to 1916?

Mr. SIMMONS. I take it that the meaning of it is that, so far as we are concerned, as for three years we are going to retain a duty upon sugar, Cuba will have 20 per cent preferential during that time, and we do not mean this on our part as an abrogation of the treaty. Of course the right would be given to Cuba by reason of this action, if she wanted to do so, to abrogate it herself.

Mr. LODGE. The treaty with Cuba reserves to both parties the right to modify or change their tariffs in any way they please. If either party to the treaty thinks that it is injured or the changes made by the other party are not to its advantage, it can then terminate the treaty on six months' notice. But the right to make any tariff changes is explicitly reserved in the treaty.

Mr. CLARK of Wyoming. What I was trying to get at was the incomprehensible absurdity, as it occurred to me, of saying that the treaty should remain in force and then taking away the very thing that does keep it in force.

Mr. LODGE. And destroy it.

Mr. SIMMONS. We have not destroyed it.

Mr. WILLIAMS. The Senator from Wyoming, I think, happened not to be here some days ago when this question was brought up, and the Senator from Iowa [Mr. CUMMINS], the Senator from Massachusetts [Mr. LODGE], and I discussed it quite fully. I think on examining into it he will find there is absolutely nothing in the theory that there is any discrepancy between this clause as it appears in the bill and the treaty.

Mr. CLARK of Wyoming. Undoubtedly if I had heard the discussion between the Senators I would have been convinced, but I am not convinced by the paragraph that is under consideration.

Mr. WILLIAMS. I merely meant to furnish an excuse for not saying the same thing over again that I said before.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Iowa [Mr. CUMMINS].

The amendment was rejected.

The reading of the bill was continued.

The next amendment of the Committee on Finance was, on page 251, line 3, after the word "both," to strike out "or which do not contain foreign materials to the value of more than 50

per cent of their total value, or 20 per cent in case of manufactures of tobacco, upon which no drawback of customs duties has been allowed therein," so as to read:

C. That there shall be levied, collected, and paid upon all articles coming into the United States from the Philippine Islands the rates of duty which are required to be levied, collected, and paid upon like articles imported from foregin countries: *Provided*, That all articles, the growth or product of or manufactured in the Philippine Islands from materials the growth or product of the Philippine Islands or of the United States, or of both, coming into the United States from the Philippine Islands shall hereafter be admitted free of duty.

The amendment was agreed to.

Mr. LODGE. After the word "duty" I offer the following amendment.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. At the end of line 8, page 251, insert:

Except cigars in excess of 150,000,000 cigars, which quantity shall be ascertained by the Secretary of the Treasury under such rules and regulations as he shall prescribe.

Mr. LODGE. That, Mr. President, is a repetition of the present law, putting a limitation on the number of cigars to be imported from the Philippines free of duty. The cigar makers of the country believe that the competition from the Philippine Islands in cheap cigars, which are what they chiefly make, will be extremely severe and detrimental to them, and they desire to have the limitation of the present law preserved. I do not know how many cigars were brought in, because the customs report gives only pounds, but under the existing law there came in from the Philippine Islands last year $1,330,000 worth of cigars and cheroots, and their capacity I suppose is unlimited.

I know that the amendment will not be agreed to, but I desire to read the statement I have received in regard to it. The letter is addressed to me.

BOSTON CENTRAL LABOR UNION,
Boston, July 16, 1913.

Hon. HENRY CABOT LODGE,
United States Senator for Massachusetts.

HONORABLE AND RESPECTED SIR: At a regular meeting of the Boston Central Labor Union the inclosed resolutions were adopted. Hoping you will take such action as the subject matter warrants,

I have the honor to be,
Very respectfully, yours, HENRY ABRAHAMS, *Secretary.*

BOSTON, July 16, 1913.

Whereas at a meeting of Cigar Makers' Union No. 97, of Boston, a resolution protesting against a measure now pending in the Congress of the United States, which measure puts the cigar makers and other organized workers against Mongolian, Asiatic, and oriental hand labor of the Philippine Islands, was unanimously adopted, because of the following reasons:

One-half of the cigar factories in Manila, P. I., are owned by Chinese, whose employees work from 10 to 12 hours per day, while organized cigar makers here work 8 hours per day.

The Third Annual Report of the Bureau of Labor of the Philippine Islands shows that in 53 factories the annual wages averaged $93.50, which is less than $2 per week, or about 30 cents per day. The cigar trade is practically a hand industry; practically no machinery is used in the production of cigars.

Owing to the difference in the standard of living there and here, in the cost of living, in the wages and the hours of labor the hand workers of this country can not successfully compete with the hand labor of the Mongolian, Asiatic, oriental coolie handworker of the Philippine Islands and should not in justice be asked to do so. If the product of this oriental cheap labor comes into this country the result will be ruinous to the industry here and would in a measure impair and partly nullify the Chinese-exclusion act.

Resolved by the Boston Central Labor Union in regular session assembled, That we, the delegates, fully indorse and concur in the position and protest of the affiliated organized cigar makers and cigar packers' union of Boston for the reasons stated, and instruct our secretary to immediately forward a copy of this resolution to the secretary of the Cigar Makers and Packers' Union of Boston.

Resolved, That nothing in the foregoing resolutions commits the Boston Central Labor Union, its officers, or members, individually or collectively, to a protective tariff, a low tariff, a tariff for revenue only, or any kind of a tariff, and that the resolution and our action thereon is solely an indorsement of the protest of our affiliated organized workers being pitted against the Mongolian, Asiatic, oriental, and coolie hand labor of the Philippine Islands.

They state their case. I have heard nothing from any of the manufacturers of cigars, but simply from the handworkers.

Mr. WORKS. Mr. President, I have received numerous communications from organizations of cigar makers in my State to the same effect. They evidently are thoroughly impressed with the idea that the coming of free cigars into this country will cripple or destroy their business or affect them very seriously. Therefore I join in what has been said by the Senator from Massachusetts on that subject.

Mr. SHERMAN. Mr. President, I wish very briefly to join with the Senator from California [Mr. WORKS] and for the same reason. It is a very large industry in the State I have the honor to represent in part, and from all the manufacturing centers there have come the same protests. The International Cigar Makers' Union, together with all the local unions in the principal manufacturing cities of Illinois, have sent in such protests.

I therefore wish to allude here to those protests and the reasons they have given. They are all summarized very shortly in the wages paid in the colonial dependencies, and the standard of living and the conditions under which the manufacture takes place, all of which are greatly inferior to the conditions in this country. If these cigars are brought in as provided in this bill, it will create a competition that the petitioners say they can not withstand.

Mr. LODGE. Mr. President, I have learned that of the number of cigars which have been brought in during the last year 123,000,000 were imported from the Philippines, which is an increase of 59,000,000 over the number imported during 1912, showing how rapidly the exportations of cigars from those islands to this country goes on under the present restrictions. They have nearly reached the limit, and, if this duty were taken off, the increase in the importation would be much faster.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Massachusetts [Mr. LODGE].

The amendment was rejected.

Mr. WILLIAMS. In behalf of the committee, I offer the amendment which I send to the desk. The amendment was drawn by the Senator from West Virginia [Mr. CHILTON], and we have concluded that it ought to go into the bill.

The VICE PRESIDENT. The amendment proposed by the Senator from Mississippi will be stated.

The SECRETARY. On page 248, line 20, before the word "cheese," it is proposed to insert the following:

Coal, bituminous, culm slack, and shale and compositions used for fuel in which coal and coal dust is the component material of chief value whether in briquets or other.

On page 250, line 4, after the words "ad valorem," to insert:

On coal, bituminous, and shale, 45 cents per ton of 28 bushels, 80 pounds to the bushel; coal slack or culm, such as will pass through a half-inch screen, and briquets of which coal and coal dust is the component part of chief value, 15 cents per ton of 28 bushels, 80 pounds to the bushel.

And the President may provide for drawbacks for the refunding of the duty paid upon any such coal, culm or slack imported for the purpose of being used for fuel upon vessels propelled by steam and engaged in trade with foreign countries or between Atlantic and Pacific ports of the United States and which vessels are registered under the laws of the United States.

Mr. LODGE. May I inquire if that is an addition to the articles on which retaliation is to be made?

Mr. WILLIAMS. Yes. I have looked into it and I think the duty is reasonable in comparison with the conditions of the trade.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Mississippi on behalf of the committee.

The amendment was agreed to.

The reading of the bill was resumed, and continued to the end of the following proviso beginning in line 14, on page 251:

And provided further, That the free admission, herein provided, of such articles, the growth, product, or manufacture of the United States, into the Philippine Islands, or of the growth, product, or manufacture, as hereinbefore defined, of the Philippine Islands into the United States, shall be conditioned upon the direct shipment thereof, under a through bill of lading, from the country of origin to the country of destination.

Mr. LODGE. On page 251, in line 20, near the bottom of the page, I wish to call the committee's attention to the words which are proposed to be inserted in the present law which really relate to the article of hemp. The words are "that shall be conditioned upon the direct shipment thereof." Those words were put into the bill regulating the Philippine tariff, which was one of the bills reported from the Philippines Committee when I was its chairman a good many years ago. By the words "shall be conditioned upon the direct shipment thereof, under a through bill of lading, from the country of origin to the country of destination," the great hemp business was really transferred from London to New York. Somebody, I do not know who, has inserted in the House bill the words "under a through bill of lading." That would enable hemp to go through London, and I am afraid would undo all that has been done in that direction.

Mr. WILLIAMS. Mr. President, for the purpose of having that matter considered in conference, I think it would be very well to strike out the words "under a through bill of lading," and then we shall take the matter up.

Mr. LODGE. I am very glad to hear that, although I think the Senator will find that is a rather risky sentence to put in.

The VICE PRESIDENT. The amendment proposed by the Senator from Mississippi will be stated.

The SECRETARY. On page 251, line 20, after the word "thereof," it is proposed to strike out "under a through bill of lading."

The amendment was agreed to.

Mr. WILLIAMS. Mr. President, on page 259, line 2, paragraph H, subsection 2, the word "section" should be stricken out and the word "subsection" inserted. I refer to the word following the word "preceding."

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. In paragraph H, subsection 2, page 259, line 2, after the word "preceding," it is proposed to strike out "section" and to insert "subsection," so as to read:

H. Subsection 2. That any person convicted of a willful violation of any of the provisions of the preceding subsection shall be fined not exceeding $500, or imprisoned not exceeding one year, or both, in the discretion of the court.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Finance was, on page 259, after line 4, to strike out:

I. That all goods, wares, articles, and merchandise manufactured wholly or in part in any foreign country by convict labor shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited, and the Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of this provision.

And to insert:

I. That no goods, wares, articles, and merchandise—except immediate products of agriculture, forests, and fisheries—manufactured wholly or in part in any foreign country by convict labor, or principally by children under 14 years of age in countries where there are no laws regulating child labor, shall be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited. Any shipment consigned for entry at any of the ports of the United States of goods, wares, articles, and merchandise—except immediate products of agriculture, forests, and fisheries—manufactured in any foreign country, province or dependency, where the industrial employment of convicts is not prohibited by law, or of children not regulated by law, shall be accompanied by an affidavit of the shipper of such merchandise, or his legal agent, to the effect that the merchandise covered by the invoice has not been manufactured wholly or in part by convict labor or principally by children under 14 years of age, the form of the affidavit to be prescribed by the Secretary of the Treasury, who is also authorized and directed to issue such further regulations and to collect all information pertinent thereto through cooperation with the Consular Service of the United States, as may be necessary for the enforcement of the provision.

Mr. ROOT. Mr. President, I do not want to let this amendment go without saying that, while I fully sympathize with the policy of the amendment as an American policy, and while I should like to see it enforced everywhere in America, and should like to see all countries in the world adopt and enforce the same policy, I do not think we have any right to attempt to enforce our policy upon the domestic affairs of a foreign country by refusing to receive their goods in the ordinary methods of commerce unless they conform to our ideas rather than to their own.

Mr. BORAH. Mr. President——

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

Mr. ROOT. I do.

Mr. BORAH. Have we not a right to say that we will not receive goods into our country except upon such conditions as suit us?

Mr. ROOT. Oh, yes; we have a right to stop all commercial intercourse if we choose; there is no doubt about that.

Mr. BORAH. It seems to me if it is a wise policy not to have our goods manufactured in that way by reason of humane principles, we ought to be willing not to accept goods that are manufactured in that way.

The only regret that I have about the amendment, Mr. President, is that it is not strong enough. I had submitted an amendment to the bill, and I presume the committee had it under consideration, or, at least, I understood it had, but that they preferred the amendment as they have emasculated it, and it would be useless, therefore, for me to urge the amendment. The amendment as it reads provides:

I. That no goods, wares, articles, and merchandise—except immediate products of agriculture, forests, and fisheries—manufactured wholly or in part in any foreign country by convict labor, or principally by children under 14 years of age.

Of course that would mean no exclusion at all, because it is scarcely ever a fact that goods are ever manufactured principally by child labor. Child labor may enter into an industry, but it is not the principal labor, and therefore the amendment really will have no effect at all in excluding that kind of goods. As I understand, the committee considered the amendment which was offered in lieu of it and thought that it was too drastic. Is that true?

Mr. WILLIAMS. What is that?

Mr. BORAH. The amendment which I submitted and which I intended to offer reads as follows:

That all goods, wares, articles, and merchandise manufactured wholly or in part in any foreign country by convict labor; or by children under 14 years of age; or by children under 16 years of age employed for more than 8 hours per day or 48 hours per week; or by boys under 18 years of age or women over 16 years of age employed for more than 9 hours per day or 54 hours per week, shall not be entitled to entry at any ports of the United States, and the importation thereof is hereby prohibited; and the Secretary of the Treasury is authorized and directed to provide such regulation as may be necessary for the enforcement of this provision.

Mr. WILLIAMS. I do not remember at whose instance we had it under consideration, but we had it under consideration.

Mr. BORAH. I understand the Senator to say that the committee had under consideration the amendment which I have read.

Mr. HUGHES. Mr. President, I will say to the Senator that I do not recollect the committee having that particular amendment under consideration, although I presume it had; but we had under consideration another amendment different in form from the amendment which now appears in the bill. I urged the amendment upon the committee in its original shape.

Mr. WILLIAMS. We had under consideration the amendment offered by the Senator from New Jersey [Mr. HUGHES], and we had under consideration the amendment just read by the Senator from Idaho [Mr. BORAH]. I do not remember whether we considered it as having been proposed by the Senator from Idaho or whether we had it in some different way; but substantially, and I think identically, the same amendment was under consideration.

Mr. BORAH. It is the substance of the amendment to which I am referring rather than to the particular author of a particular amendment.

Mr. HUGHES. The question of the Senator, as I understand, was as to whether or not his amendment was abandoned because it was regarded as too drastic. I do not know that I have ever read the Senator's amendment. I prepared an amendment before I knew the Senator had submitted one, and in the shape in which it was prepared it was considered and, I think, was passed upon by the committee. There were some protests against it, which led me to make an investigation of the child-labor laws of foreign countries, and I was amazed to find that in nearly every foreign country whose goods it was expected would be affected by the amendment the laws restricting child labor were better than the laws on the subject prevailing in this country. I found that in countries from which it was predicted goods would be excluded there were regulations with reference to the age at which children should be allowed to work, the time when they should be permitted to go to school, and in very many other respects there were laws which were infinitely better than I had any idea of when I drew the amendment.

Mr. BORAH. Mr. President, I found it to be true, upon investigation, that foreign countries in many instances had better child-labor laws than we have; but as to those countries the amendment would do no harm.

Mr. HUGHES. I will say to the Senator that even as affecting Calcutta protests were made against this amendment with considerable force and with considerable justice, I suppose, from the standpoint of those interested. A strong protest came from the men who import bagging from Calcutta. The machinery and instrumentalities are not available in this country to supply the demand for bagging if the Calcutta supply were suddenly shut off, and we found that, even in Calcutta, child labor was regulated and restricted.

Mr. SMOOT. Then they do not enforce it in Calcutta; do they?

Mr. HUGHES. Yes.

Mr. SMOOT. Mr. President, I have in my office photographs of employees in cotton-bagging mills and burlap mills showing children at work that I am positive are not over 10 years old.

Mr. HUGHES. Children under certain years of age are permitted to work for certain hours, provided they have done certain other things—provided they have been to school a certain length of time, or there are special circumstances—showing that at any rate the Government is making an effort to meet this situation. It was a total surprise to me, I will say to the Senator, to find——

Mr. ROOT. That is to say, the Government of India has its own public policy.

Mr. HUGHES. Yes.

Mr. ROOT. And has framed and is applying certain regulations designed to preserve the health of its people; and we make the doing of business with us contingent or conditional upon their complying with our ideas of what the regulations ought to be.

Mr. HUGHES. Not so far as this amendment is concerned. This particular amendment is innocuous so far as that is concerned.

Mr. SMOOT. Yes; I think that is true, and so far as any other country is concerned, the way it is worded.

Mr. HUGHES. I do not claim there is much virility in the amendment.

Mr. ROOT. It is innocuous because there are no means by which we can sit in judgment on the processes by which mer-

chandise can be produced in other countries; but it is a declaration of intention to compel other countries to comply with our public policies in the manufacture of their goods, by refusing to have commercial intercourse with them unless they do. Innocuous and impossible of application as it may be, I do not think we ought to put it in a statute.

Mr. BORAH. As I view the statute, it was not intended to enforce, and of course no one could enforce, upon a foreign country a policy that that country did not desire to adopt; but we have a right to say whether or not we shall avail ourselves of goods manufactured in establishments where children 5 and 6 years of age are worked from 10 to 12 hours a day.

If there is any humanity left in us on this question it should not be confined to State or national lines. I have never thought that such a thing as religion or humanity was subject to State or county or national lines. If we are not willing to see that sort of thing go on in our country, there is no reason why we should not say that we are not willing to avail ourselves of cheaper goods because they are made by children working under those conditions.

It is a perfectly humane policy; it is a perfectly just policy. We can not enforce it upon those countries, but we can say, so far as we are concerned, that we will not share in that kind of infamy.

Mr. KENYON. Mr. President, this seems to be an effort to stop the shipment into this country of goods made by what is commonly called child labor. As long as we premit in this country the shipment in interstate commerce, from State to State, of goods that are made by child labor are we not rather in the position of giving better care to the children in foreign countries than we give to the children in our own country?

Mr. BORAH. There is a constitutional inhibition with reference to the shipment of goods between State and State that does not embarrass us when we come to deal with the shipment of goods from another country into this country.

Mr. KENYON. As I understand, child-labor bills were introduced here some years ago; in fact, I introduced one myself at the beginning of this session which has slept in the committee ever since. It seems to me we are a little more concerned about the foreign children than about our own children. If we are going to permit in this country the shipment in interstate commerce of goods manufactured by children, I can not see very much reason why we should prevent it in the case of foreign children.

Mr. BORAH. I am sure I know the Senator from Iowa well enough to know that he is glad to do a humane thing in any part of the world.

Mr. KENYON. Yes; and I will vote for this amendment; and I hope it is an indication that Congress may adopt a national standard for this country prohibiting the shipment in interstate commerce of goods made by child labor in this country.

Mr. BORAH. If we can do that under the Constitution, I think it will shortly be done.

Mr. KENYON. Has the Senator any doubt about it?

Mr. BORAH. Yes; I have very serious doubt about it.

Mr. KENYON. I have not.

Mr. OLIVER. Mr. President, I wish to call the attention of the committee to the fact that this prohibition with regard to the products of child labor applies only to goods coming from countries where there are no laws regulating child labor. They may come from a country that has the weakest kind of laws relating to child labor or laws that are not enforced, and still they would not come under this prohibition at all. If we are going to prohibit them I think we should not prohibit them solely from countries having no laws relating to child labor.

This provision reads:

> Or principally by children under 14 years of age in countries where there are no laws regulating child labor.

I would suggest that the words "in countries where there are no laws regulating child labor" be stricken out, or that something be done so that this language will apply as well to countries where the laws relating to child labor are either not sufficiently severe or not sufficiently enforced.

Mr. WILLIAMS. Mr. President, the observations made by the Senator from Pennsylvania must go back of the tariff bill and establish themselves substantially upon the amendment offered by the Senator from Idaho, because if we undertake to say that the entry of these goods shall be prohibited when they come from countries where they have no regulations as to child labor we shall be compelled to go into the business of prescribing the sort of regulations they shall have for child labor.

Mr. OLIVER. I know the Senator from Mississippi does not like to hear a hypothetical case; but let us suppose that some country has a law that allows the labor of children down to 12 or even 10 years. There is a law relating to child labor, but still we admit those goods under this language.

Mr. WILLIAMS. I was coming right to that. People sometimes forget how big the earth is and how diverse are the conditions, climatic and otherwise, under which people live. A Hindu girl is a wife and a mother and a widow by the time she is 12 years of age. The consequence is that child-labor laws in India take into consideration much younger ages than they do in a temperate country. Even in our own great country a boy or a girl of 15 in Florida and a boy or a girl of 15 in Maine are totally different creatures.

Mr. OLIVER. I suppose that is the reason they work them so young down in that part of the country.

Mr. WILLIAMS. Mr. President, it is true that man or woman, boy or girl reaches a certain stage of maturity much earlier in tropical countries than in temperate countries, and much earlier in temperate countries than in frozen countries. That has been the case since the world began. I did not originate that law at all. God originated it. The Senator must not think I am responsible for it.

For us to attempt, as the Senator from Idaho does in this amendment, to prescribe certain years as the years under which children shall not be permitted to work or else the products of those countries shall not come into the United States, is an illustration, just as I said in the beginning, of a total forgetfulness of the fact that a child in one country at 14 is more matured than a child in another country at 18, and a child of still another country is more matured at 12 than in either of the other countries.

Mr. BORAH. Strange as it may seem, I was familiar with that piece of universal knowledge.

Mr. WILLIAMS. I am willing to admit that it is strange that the Senator should be familiar with the fact, because he has offered this amendment, which would tend to prove that the Senator was not familiar with the fact at all. His amendment reads:

> That all goods, wares, articles, and merchandise manufactured * * * by children under 14 years of age; or by children under 16 years of age employed for more than eight hours per day * * * or women over 16 years of age employed for more than nine hours per day, and so forth.

In other words, the Senator is prescribing an age limit for child labor that shall apply to India and to Norway at the same time.

It may be true that it is strange, as the Senator said it was, that he was acquainted with that fact, but he evidently had lost sight of it temporarily when he drew up this amendment.

As I said a moment ago, if the Senator's amendment should be adopted it would absolutely cut off our entire commerce with Japan and nearly all of our commerce with Hindustan. We can not undertake to enter into the details of child-labor laws in other countries. The utmost we can do is what we have done here.

The adverb "principally," in line 15, has been criticized. We put it in on purpose. If you take our trade with Japan, for example, it would be difficult to find anything that is produced in Japan that is not produced partially by child labor.

Mr. BORAH. Mr. President, the Senator criticizes the fact that I put in the age at 14. I think I will show the Senator in a moment that this amendment of his, as it was drawn, was not designed to do anything, because you say, "children under 14 years of age."

Mr. WILLIAMS. Yes; but we use the word "principally."

Mr. BORAH. Exactly; and by its use you render the provision worthless.

Mr. WILLIAMS. But if the Senator will notice, the difference between his amendment and ours is just this: We say, "principally by children under 14 years of age in countries where there are no laws regulating child labor." Then we leave to the countries which have laws regulating child labor the business of fixing their own age limit.

Mr. BORAH. Exactly. Now, if you desired to have nonimportation from countries where children are not permitted to labor under 14 years of age, you would not have said where it is "regulated" by law, but you would have said where it is "prohibited" by law, because otherwise a country might pass a law saying that children should be permitted to labor under 14 years of age, and it would then come under this provision.

Mr. WILLIAMS. No.

Mr. BORAH. Exactly.

Mr. WILLIAMS. The Senator misunderstands me.

Mr. BORAH. I do not misunderstand the proposed statute.

Mr. WILLIAMS. The provision that the Senator has referred to applies to the countries which do not have any child-labor laws. Now, take a country like India, for example, which

has a child-labor law. Unless my memory fails me, one of the ages for a certain sort of work is 9 years; another age is 12—and, in point of maturity, a 12-year-old girl in Calcutta is the equal of a 19-year-old girl in Idaho.

Mr. BORAH. She may be the equal in mere question of age. I desire to ask the Senator a question and to see if I am correct in regard to it. Suppose Japan or some other oriental country had a law providing that all children under 14 years of age should be permitted to labor, say, 8 or 10 hours a day down to the age of 6. Would this language have any effect at all? In such a case child labor would be regulated by law, but the law would not be prohibitory, but, rather, permissive.

Mr. WILLIAMS. If the Senator can really suppose that any country would be absurd enough to have that sort of regulation——

Mr. BORAH. Mr. President, it is no absurdity at all, because it does exist.

Mr. WILLIAMS. That some countries have an age limit of 6 years?

Mr. BORAH. No; not that; but much under 14.

Mr. WILLIAMS. That is what the Senator stated.

Mr. BORAH. But they have an age limit under 14 years of age.

Mr. WILLIAMS. Oh, yes; and they ought to have.

Mr. BORAH. Then, the Senator's amendment would have no effect whatever, because child labor is regulated by law; but it is not in any way prohibited.

Mr. WILLIAMS. The Senator is right in saying that wherever the country itself has a law regulating child labor, this provision does not apply.

Mr. BORAH. Mr. President, having been able to agree with the Senator on one thing, I am willing to take the vote.

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

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment was, in section 5, paragraph J, subsection 4, page 262, line 2, after the word "thereof," to insert "models of women's wearing apparel imported by manufacturers for use as models in their own establishments," and to strike out, before the word "samples," in line 4, the words "commercial travelers'," so as to make the subsection read:

J. Subsection 4. That machinery or other articles to be altered or repaired, molders' patterns for use in the manufacture of castings intended to be and actually exported within six months from the date of importation thereof, models of women's wearing apparel imported by manufacturers for use as models in their own establishments, samples solely for use in taking orders for merchandise, articles intended solely for experimental purposes, and automobiles, motor cycles, bicycles, aeroplanes, airships, balloons, motor boats, racing shells, teams, and saddle horses, and similar vehicles and craft brought temporarily into the United States by nonresidents for touring purposes or for the purpose of taking part in races or other specific contests, may be admitted without the payment of duty under bond for their exportation within six months from the date of importation and under such regulations and subject to such conditions as the Secretary of the Treasury may prescribe: *Provided*, That no article shall be entitled to entry under this section that is intended for sale or which is imported for sale on approval.

The amendment was agreed to.

The next amendment was, in paragraph J, subsection 5, page 262, line 19, after the words "construction of," to insert "naval vessels of the United States," so as to read:

J. Subsection 5. That all materials of foreign production which may be necessary for the construction of naval vessels of the United States, vessels built in the United States for foreign account and ownership, or for the purpose of being employed in the foreign or domestic trade, and all such materials necessary for the building of their machinery, and all articles necessary for their outfit and equipment, may be imported in bond under such regulations as the Secretary of the Treasury may prescribe; and upon proof that such materials have been used for such purposes no duties shall be paid thereon.

Mr. GALLINGER. I ask that subsection 5 and subsection 6 may go over for the day. I did not expect that we would reach this part of the bill to-day. I promise that there will be no delay about it at all.

Mr. WILLIAMS. We are perfectly willing to agree to that.

Mr. JONES. And also subsection 7, relating to the same matter; I ask that it may go over.

Mr. WILLIAMS. We have not reached that yet.

Mr. SIMMONS. The committee propose to strike out subsection 7.

Mr. JONES. I ask that it may go over, in connection with subsections 5 and 6.

Mr. STONE. Let subsections 5 and 6 and 7 go over without reading.

Mr. WILLIAMS. We strike out subsection 7.

Mr. JONES. I want to have the question of adopting the amendment of the committee, striking out subsection 7, to go over.

Mr. WILLIAMS. Very well.

The VICE PRESIDENT. The subsections will go over.

The reading of the bill was continued.

The next amendment of the committee was, in paragraph M, on page 266, line 4, after the word "manufacture," to insert "including waste derived from cleaning rice in bonded warehouses under act of March 24, 1874," so as to make the proviso read:

Provided, That the waste material or by-products incident to the processes of manufacture, including waste derived from cleaning rice in bonded warehouses under act of March 24, 1874, in said bonded warehouses may be withdrawn for domestic consumption on the payment of duty equal to the duty which would be assessed and collected, by law, if such waste or by-products were imported from a foreign country. All labor performed and services rendered under these provisions shall be under the supervision of a duly designated officer of the customs and at the expense of the manufacturer.

The amendment was agreed to.

The next amendment was, on page 267, line 5, after the word "therefrom," to insert the following proviso:

Provided, That cigars manufactured in whole of tobacco imported from any one country, made and manufactured in such bonded manufacturing warehouses, may be withdrawn for home consumption upon the payment of the duties under such regulations as the Secretary of the Treasury may prescribe, and the payment of the internal-revenue tax accruing thereon in their condition as withdrawn, and such cigars shall be stamped to indicate their character, origin of tobacco from which made, and place of manufacture.

Mr. BRANDEGEE. I suppose it means that the packages containing the cigars shall be stamped.

Mr. WILLIAMS. Yes.

Mr. BRANDEGEE. It says the cigars shall be stamped. They could not put all that statement on the cigars, I presume.

Mr. WILLIAMS. It means the packages containing the cigars. I move, after the word "and," in line 12, page 267, to insert "the boxes or packages containing," so as to read, "and the boxes or packages containing such cigars shall be stamped," and so forth.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The reading of the bill was continued to line 17, on page 267.

Mr. WILLIAMS. I ask that paragraph N, beginning at line 18, on page 267, and ending on page 268 with line 16, be recommitted. We want to consider further the question about the metals, and all that, in bonded warehouses.

The VICE PRESIDENT. Without objection the paragraph will be recommitted.

The reading of the bill was continued.

The next amendment was, on page 268, line 22, before the words "per centum," to strike out "1" and insert "3," so as to read:

O. That upon the exportation of articles manufactured or produced in the United States by the use of imported merchandise or materials upon which customs duties have been paid, the full amount of such duties paid upon the quantity of materials used in the manufacture or production of the exported product shall be refunded as drawback, less 3 per cent of such duties.

The amendment was agreed to.

The reading of the bill was continued to line 12, on page 269.

Mr. WILLIAMS. On page 269, line 11, before the words "per cent," I move to strike out "1" and insert "3." By an omission the amendment made in line 22, of the previous page, was not inserted here.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. In line 11, page 269, before the words "per cent," strike out "1" and insert "3," so as to read:

Where no duty is accessible upon the importation of a corresponding by-product, no drawback shall be payable on such by-product produced from the imported material; if, however, the principal product is exported, then on the exportation thereof there shall be refunded as drawback the whole of the duty paid on the imported material used in the production of both the principal and the by-product, less 3 per cent, as hereinbefore provided.

The amendment was agreed to.

The reading of the bill was continued to line 23, on page 271, the last paragraph read being as follows:

Q. That on and after the day when this act shall go into effect all goods, wares, and merchandise previously imported, for which no entry has been made, and all goods, wares, and merchandise previously entered without payment of duty and under bond for warehousing, transportation, or any other purpose, for which no permit of delivery to the importer or his agent has been issued, shall be subjected to the duties imposed by this act and to no other duty, upon the entry or the withdrawal thereof: *Provided*, That when duties are based upon the weight of merchandise deposited in any public or private bonded warehouse, said duties shall be levied and collected upon the weight of such merchandise at the time of its entry.

Mr. WILLIAMS. The junior Senator from Utah [Mr. SUTHERLAND] has an amendment lying on the table to be offered at this stage of the bill. Would it be convenient for him to offer it now?

Mr. SUTHERLAND. I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be read.

The SECRETARY. On page 271, strike out subdivision Q of section 5 and insert in lieu thereof the following:

Q. That all goods, wares, and merchandise imported prior to the day when this act shall go into effect for which no entry has been made, and all goods, wares, and merchandise previously entered without payment of duty and under bond for warehousing, transportation, or any other purpose, for which no permit of delivery to the importer or his agent has been issued shall be subjected, upon the entry or the withdrawal thereof, to the duties in force when such goods, wares, and merchandise were imported or previously entered, respectively.

Mr. SUTHERLAND. Mr. President, unless the committee is prepared to accept this amendment, of course, I realize that there is no hope of its being adopted. At the same time, I desire to be heard very briefly with reference to it.

The first proposition to which I desire to direct the attention of the Senate is the effect which subdivision Q as now found in the proposed bill will have upon the revenues of the Government. The Secretary of the Treasury, in response to a resolution asking for the information, reports that the value of merchandise in the bonded warehouses of the United States on August 1, 1912, was seventy-one million and some odd thousand dollars, and that the value of merchandise in bonded warehouses for the corresponding period of 1913, one year later, was one hundred and four million and some odd thousand dollars, an increase of over $30,000,000. The duties under the existing tariff law upon those goods would amount to over $58,000,000. The estimated duties upon the same merchandise under the proposed bill would be something over $48,000,000.

So if these goods are permitted to be withdrawn upon the payment of the duties proposed by the pending bill there will be a loss to the Government of the United States of approximately $10,000,000. I think the estimate of the Treasury Department is under rather than over that amount, because I find from a report which is unofficial, but which I believe to be entirely accurate, that in the bonded warehouses of New York alone, which of course would carry the greater proportion of all these goods, there was during July, exactly what date I do not recall, $80,000,000 worth of goods in bond, the duties upon which would have been between $40,000,000 and $50,000,000.

On the 30th day of April of the present year there were in the bonded warehouses of Boston over 40,000,000 pounds of wool alone. The duties upon that wool, being accurately computed, amount to $4,106,319.75. Under the proposed bill, of course, this wool will be admitted free, and that entire amount of revenue will be lost. On July 21 of the present year there was in New York in the bonded warehouses 21,000,000 pounds of wool, the duties upon which would have been over $2,000,000. So upon that one item of wool in those two cities the loss of revenue under this bill would be over $6,000,000.

It is perfectly apparent that the amount of wool on deposit has increased since those dates. There is certainly more in Boston to-day than there was April 30, and more in New York than there was July 1. So I think the estimate made by the Secretary of the Treasury respecting the loss is too little. At any rate, this was the estimate made for August 1. By the time this bill goes into operation it will be still more, probably reaching anywhere from $12,000,000 to $15,000,000.

Now, it seems to me to be worth while to save this amount of revenue to the Government.

In the next place, if these goods are withdrawn and the duties paid under the proposed law, the Government will be compelled to reclassify, to reexamine, to a very large extent, these importations. The duties which have already been fixed and which could be paid automatically upon the withdrawal of these goods will all have to be reliquidated. It has been estimated that there are about 40,000 different entries in the New York warehouses alone. I undertake to say that in other ports of the country that would be swelled to 50,000. In other words, there are 50,000 separate entries of goods in these bonded warehouses. Each of these entries must be reexamined.

We have, for example, changed the method of estimating the duties upon cotton goods. Every one of the importations of cotton goods will have to be taken from the bonded warehouses, carried over to the appraiser's warehouses, and there reclassified, reexamined, and the duties reliquidated under the provisions of the new law. It means weeks, if not months, of additional labor upon the part of the customs officers of the United States, and that is to be done at Government expense. It means no one can estimate how much Government expense; it will undoubtedly run into the hundreds of thousands of dollars.

So by permitting these duties to be paid under the new law instead of under the old law there will not only be a direct loss to the Treasury of the United States of $12,000,000 or $15,000,000 but, in addition, a tremendous expense incurred in order to reliquidate the duties.

In addition to that, demands will be made for immediate delivery upon the part of many of the importers, which will result in hurry and confusion, in the clogging of the business of the customhouses, in great loss of revenue, and in great expense to the Government.

The third consideration that must be borne in mind is the effect which, upon the payment of these reduced duties, the dumping of an abnormal quantity of goods will have upon the American market. To the extent that we are producing in this country goods of like character, and to the extent that goods of a like character which have been imported are now held by merchants in this country, the disastrous effect upon their business can scarcely be overestimated. We dump within a few weeks upon the American market perhaps one-half or more of this great volume of $104,000,000 worth of imported goods. It seems to me that the effect upon the American producer can not be other than demoralizing.

It is said that the importers have put their goods in bond upon the belief that they would be permitted to withdraw them upon paying the duties provided by the new law, and that the Government is under some sort of moral obligation to carry that understanding into operation. The effect of providing for the bonded-warehouse system was to extend credit to importers. Nobody knows precisely whether the bonded-warehouse system was adopted for that reason alone, but we do know that in the very early history of the Government there were no bonded warehouses and that the Government adopted a plan of extending credit directly; and it is probable, although it is not certain, that the Government, because of losses which it sustained in that way, devised the bonded-warehouse system.

One result of holding goods in bond is that they become security for the payment of the amount of the duty for which credit is extended. The Government is not benefited in any way whatever by the bonded-warehouse system. It would be far better, so far as the fiscal operations of the Government are concerned, if it required payment of these duties immediately upon the importation of the goods; but in order to allow the importing merchants credit, to enable them to defer the payment of duties pending the time when they may want to use their goods, the Government has generously extended this credit to them.

Mr. GALLINGER. Mr. President——

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

Mr. SUTHERLAND. I yield.

Mr. GALLINGER. The Senator from Utah says that the Government gets no benefit from this extension of the time of payment to the importer. I ask the Senator if the Government does not sustain a very considerable loss on that account?

Mr. SUTHERLAND. Oh, yes; the Government not only gets no benefit, but it carries on the bonded-warehouse system at a very great expense. It must keep books of account, and it must maintain a certain sort of supervision over the operations, all of which costs money.

Mr. GALLINGER. And pay the employees.

Mr. SUTHERLAND. Yes; and all as a pure matter of generosity to the importers. Instead of the moral argument being on the side of the importers, it is upon the Government's side. The importers take advantage of the generosity of the Government in extending credit to them to pile up abnormal quantities of goods for the sole purpose of taking advantage of the greatly reduced duties. In doing so they not only rob the Treasury of the United States, but they do injury to our own American producers. There is no reason in good morals why they should not be compelled to pay the duties which were assessed against those goods at the time they were imported.

Mr. President, I think I have said all I care to say about the question, and I ask for the yeas and nays upon the proposed amendment.

Mr. WILLIAMS. Mr. President, when the Government deprives a man of his natural right to buy wherever he can buy cheapest and to bring his goods home, and taxes him and puts obstacles in his way, I do not see that there is so much generosity in allowing him a little delay in the payment of duties.

As the Senator from Utah says, the Government will lose a certain amount of money, whatever it is, but the Senator forgets that the people will gain identically that same amount of money by not being required to pay these duties. As a partial reply to the Senator from Utah, I ask that the letter which I send to the desk, which was addressed to the Senator from New Jersey [Mr. HUGHES] by one of his constituents, be read.

The provision in this bill is identical with the provision that was in the law of 1909. It has been in every other tariff law which we have ever enacted; so there is nothing new about it. There is no reason why a different provision should be in a law reducing taxes from that which has been in all the laws raising taxes.

The VICE PRESIDENT. Is there objection to the reading of the letter asked for by the Senator from Mississippi? The Chair hears none, and the Secretary will read.

The Secretary read as follows:

DEMAREST, N. J., *July 31, 1913.*

HON. WILLIAM HUGHES,
United States Senate, Washington, D. C.

SIR: We desire to address you with respect to the Sutherland amendment, submitted to the Senate by Senator SUTHERLAND on Friday, July 18 (CONGRESSIONAL RECORD, p. 2467). That amendment, if adopted finally in the tariff bill, would have the effect of suspending the operation of the tariff as to a great deal of bonded goods for many months. It seems to us to be opposed to the principles upon which the Democratic Party went into power last fall. It was then held out that immediately as practicable the party would give to the people a revision which would sincerely and without subterfuge allow lower duties upon imported merchandise.

Doubtless in the expectation of such a reduction being enacted, many merchants have made large importations—too large for present handling. These they have warehoused, with the idea of withdrawing them after the new rates were in effect. They had every reason to believe that there would be retained the long-existing provision, under which goods in warehouses when withdrawn paid the duties that are fixed by the law at the time of the withdrawal. (See subsection 19 of section 28 of the tariff of 1909, which is a reenactment of section 20 of the customs administrative act of June 10, 1890; see also section 10 of the tariff act of March 3, 1883.)

In his statement in support of his proposed amendment Mr. SUTHERLAND argues two points: (1) That unless the practice subsisting during the past 30 years, i. e., that goods in bond when withdrawn shall pay the duties prescribed in the tariff in force at the time of the withdrawal, be adopted, then the Treasury of the United States faces a loss of revenue of very large proportions; and (2) that the unloading of this accumulation of warehoused goods immediately upon the going into effect of the pending tariff bill will tend to a commercial "demoralization."

As to this first point, it is generally conceded that the present duties have been in large part if not altogether prohibitive at least unduly in restraint of importation. That is the condition which is sought to be ended by the pending measure. That also is a condition which Mr. SUTHERLAND'S amendment would cause to continue for many months. Now, if the duties prescribed in the present tariff are either prohibitive or unduly restraining the importation of some of this merchandise that has been warehoused, then that merchandise, or a large part of the same, will be reexported, thus leaving the field to the protected domestic industries and prolonging a situation which the public has come to regard as intolerable.

As to the second point: He expresses apprehension that the unloading of this "vast accumulation" of these warehoused goods will result in some sort of "demoralization." This argument assumes too great a degree of commercial ignorance on the part of the domestic interests. They have for some months had in prospect the enactment of a new tariff which will lower duties. Undoubtedly they have made their arrangements accordingly, so as not to leave themselves in a position to suffer by reason of the situation which Senator SUTHERLAND fears. They may say otherwise, but we should doubt the sincerity of such statements, since they would indicate a lack of business acumen not at all probable. A second feature to be considered is that the domestic producer can do business even under this proposed bill. The various reports in the House and in the Senate and the statistics indicate very clearly that as to the great preponderance of items enumerated in the bill these interests have had a degree of protection that enabled them to make disproportionate profits and to export and sell much of their product at lower prices in foreign markets than what the consumer in this country was obliged to pay.

In short, this amendment would operate to a large extent to perpetuate over many months a state of unfair advantage or absolute monopoly. Furthermore, it is to be considered that when the avowedly protective tariffs of 1890 and 1897 were adopted by the Republican Party the increased rates were clapped upon all merchandise in warehouse at the date of the enactment of the bills, notwithstanding that such a course was prejudicial to the importers by depriving them of the advantage of the former rates and also hurtful to the consuming public by automatically driving up the prices of the commodities of which they had need.

There is a further consideration that we should like to present to you that has a special relation to our line. You will understand that there are many businesses that must have an accumulation of stock to be drawn upon as the same is called for, such is particularly true of our business which covers a line inclusive of about 1,000 patterns, even the same pattern may vary in color or some slight detail. It is impossible for us to anticipate just what pattern, or style of pattern, will be called for. In order therefore to keep our business going we must at all times have at hand considerable stock to draw upon. With that in view we have accumulated a large collection to add to our reserve stock. This we have done in a perfectly legitimate way with no purpose of evading or defeating the tariff. If we could sell our entire reserve stock to-day, we should doubtless do so. Consider our position, however, when the new tariff goes into effect, according a lower duty upon our article and such lower duty is denied us as to our warehoused stock. We should be placed in a very serious dilemma. Either we should have to let our business come to a standstill or draw upon our stock and sell it at a substantial loss because of a lower duty going into effect as to new importations.

The amendment of Senator SUTHERLAND promises to be ineffective in very large measure. We are advised that, in anticipation of the enactment of the new tariff bill, accumulations of merchandise have been made at the different ports of shipment in the various foreign countries. Immediately upon the going into effect of the new tariff these goods will be transported here as fast as they can be ladened upon ships. The demoralization which Mr. SUTHERLAND seems to fear would therefore be threatened even in spite of his amendment by reason of these great accumulations of merchandise abroad. I might state, further, that concerns like ours, that have been doing for years in a regular way business upon a substantial scale and have paid whatever duties have been prescribed under the different tariffs, would be at a very considerable disadvantage as against new concerns especially organized to do business under the lower rates that may be accorded in the new tariff. We have done business with the Government for years and have relied upon the preservation of this old clause that warehouse goods should be subjected to the duties in effect at the time of their withdrawal. If this provision is to be abolished, we, who have some standing in this country, will be exposed to the unfair advantage thus conferred upon many new concerns of no standing comparable to ours.

We therefore respectfully insist that the Sutherland amendment above mentioned should be rejected. We understand that this amendment will shortly come up for discussion in your committee, and we therefore pray that the points we have presented may have the benefit of your examination at this time.

Respectfully,

JACOB & JOSEF KOHN.
Per WALTER SCHMITS, *Manager.*

Mr. GALLINGER. I will ask if there is a business heading to that letter? In other words, in what line of business are the men who sign the letter engaged?

The VICE PRESIDENT. The Chair is informed by the Secretary that there is no business heading on the letter.

Mr. WILLIAMS. I think they are importers; but they present a very sound argument.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Utah [Mr. SUTHERLAND], on which the yeas and nays have been demanded.

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

Mr. CHILTON (when his name was called). I again announce my pair, as on the previous vote, with the Senator from Maryland [Mr. JACKSON], and transfer it to the Senator from Nebraska [Mr. HITCHCOCK] and will vote. I vote "nay."

Mr. GALLINGER (when his name was called). I transfer my pair with the junior Senator from New York [Mr. O'GORMAN] to the junior Senator from Maine [Mr. BURLEIGH] and vote "yea."

Mr. LEWIS (when his name was called). I am paired with the Senator from North Dakota [Mr. GRONNA].

Mr. SUTHERLAND (when his name was called). I inquire whether the Senator from Arkansas [Mr. CLARKE] has voted?

The VICE PRESIDENT. The Chair is informed that he has not.

Mr. SUTHERLAND. I am paired with that Senator, and therefore withhold my vote.

Mr. WILLIAMS (when his name was called). I am paired with the senior Senator from Pennsylvania [Mr. PENROSE]. If he were present, I should vote "nay."

The roll call was concluded.

Mr. THOMAS. I transfer my pair with the Senator from Ohio [Mr. BURTON] to the junior Senator from Oklahoma [Mr. GORE] and vote "nay."

Mr. BRYAN. I am paired with the junior Senator from Michigan [Mr. TOWNSEND]. I transfer that pair to the senior Senator from Oklahoma [Mr. OWEN] and vote "nay."

Mr. SUTHERLAND. I transfer my pair with the Senator from Arkansas [Mr. CLARKE] to the Senator from New Mexico [Mr. FALL] and will vote. I vote "yea."

Mr. JAMES. I have a general pair with the Senator from Massachusetts [Mr. WEEKS]. I transfer that pair to the junior Senator from Tennessee [Mr. SHIELDS] and vote "nay."

Mr. COLT (after having voted in the affirmative). I have a general pair with the junior Senator from Delaware [Mr. SAULSBURY], who is absent, so I withdraw my vote.

Mr. REED. I transfer my pair with the Senator from Michigan [Mr. SMITH] to the Senator from Nevada [Mr. PITTMAN] and vote "nay."

Mr. PERKINS (after having voted in the affirmative). I inquire if the junior Senator from North Carolina [Mr. OVERMAN] has voted?

The VICE PRESIDENT. The Chair is informed that he has not.

Mr. PERKINS. I have a general pair with that Senator, and therefore withdraw my vote.

Mr. WILLIAMS. I transfer my pair with the senior Senator from Pennsylvania [Mr. PENROSE] to the senior Senator from Virginia [Mr. MARTIN] and will vote. I vote "nay."

Mr. LEWIS. I transfer my pair with the Senator from North Dakota [Mr. GRONNA] to the Senator from Arizona [Mr. ASHURST] and will vote. I vote "nay."

The result was announced—yeas 23, nays 35, as follows:

YEAS—23.

Bradley	Crawford	La Follette	Sherman
Brady	Cummins	McLean	Smoot
Brandegee	Dillingham	Nelson	Sterling
Bristow	Gallinger	Norris	Sutherland
Catron	Jones	Oliver	Warren
Clark, Wyo.	Kenyon	Page	

NAYS—35.

Bacon	Johnson	Reed	Smith, S. C.
Bankhead	Kern	Robinson	Stone
Bryan	Lane	Shafroth	Swanson
Chamberlain	Lewis	Sheppard	Thomas
Chilton	Martine, N. J.	Shively	Thompson
Fletcher	Myers	Simmons	Vardaman
Hollis	Poindexter	Smith, Ariz.	Walsh
Hughes	Pomerene	Smith, Ga.	Williams
James	Ransdell	Smith, Md.	

NOT VOTING—37.

Ashurst	Goff	Newlands	Smith, Mich.
Borah	Gore	O'Gorman	Stephenson
Burleigh	Gronna	Overman	Thornton
Burton	Hitchcock	Owen	Tillman
Clapp	Jackson	Penrose	Townsend
Clarke, Ark.	Lea	Perkins	Weeks
Colt	Lippitt	Pittman	Works
Culberson	Lodge	Root	
du Pont	McCumber	Saulsbury	
Fall	Martin, Va.	Shields	

So Mr. SUTHERLAND'S amendment was rejected.

The reading of the bill was resumed.

The next amendment of the Committee on Finance was, on page 271, after line 23, to strike out:

R. That whenever articles are exported to the United States of a class or kind made or produced in the United States, if the export or actual selling price to an importer in the United States, or the price at which such goods are consigned is less than the fair market value of the same article when sold for home consumption in the usual and ordinary course in the country whence exported to the United States at the time of its exportation to the United States, there shall, in addition to the duties otherwise established, be levied, collected, and paid on such article on its importation into the United States a special duty (or dumping duty) equal to the difference between the said export or actual selling price of the article for export or the price at which such goods are consigned, and the said fair market value thereof for home consumption, provided that the said special duty shall not exceed 15 per cent ad valorem in any case and that goods whereon the duties otherwise established are equal to 50 per cent ad valorem shall be exempt from such special duty.

"Export price" or "selling price" or "price at which such goods are consigned" in this section shall be held to mean and include the exporter's price for the goods, exclusive of all charges thereon after their shipment from the place whence exported directly to the United States.

The Secretary of the Treasury shall make such rules and regulations as are necessary for the carrying out of the provisions of this section and for the enforcement thereof.

The amendment was agreed to.

The next amendment was, in paragraph S, page 273, line 9, after the word "message," to insert "if deemed important in the public interest," so as to read:

S. That the President shall cause to be ascertained each year the amount of imports and exports of the articles enumerated in the various paragraphs in section 1 of this act and cause an estimate to be made of the amount of the domestic production and consumption of said articles, and where it is ascertained that the imports under any paragraph amount to less than 5 per cent of the domestic consumption of the articles enumerated he shall advise the Congress as to the facts and his conclusions by special message, if deemed important in the public interest.

The amendment was agreed to.

The next amendment was, on page 273, after line 17, to insert:

A joint committee of the Senate and House of Representatives is hereby constituted, to consist of three members of the Finance Committee of the Senate, to be appointed by the President of the Senate, and of four members of the Ways and Means Committee of the House, to be appointed by the Speaker of the House, whose duty it shall be to investigate and consider the revenue administration laws of the United States with the view of simplifying, harmonizing, revising, and codifying the same. The said committee is hereby given power to subpœna and compel the attendance of witnesses, to administer oaths, to hear testimony, to record and print hearings, to employ an expert clerk at not exceeding $250 per month, and a stenographer or stenographers, at a cost not to exceed the sum of $1 per printed page, to make a final report, to print the same for the use of the Senate and House; and it is hereby made their duty to file said final report and their recommendations with the Committee on Ways and Means of the House of Representatives not later than February 1, 1914. The sum of $15,000, or so much thereof as is needed, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to carry out the provisions of this paragraph.

The amendment was agreed to.

The next amendment was, in paragraph T, page 274, line 22, after the word "construed," to insert "to permit any oaths to be demanded or fees to be charged except as provided in this act nor," so as to read:

T. That, except as hereinafter provided, sections 1 to 42, both inclusive, of an act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909, and all acts and parts of acts inconsistent with the provisions of this act, are hereby repealed: *Provided*, That nothing in this act shall be construed to permit any oaths to be demanded or fees to be charged except as provided in this act nor to repeal or in any manner affect the following numbered sections of the aforesaid act approved August 5, 1909, etc.

Mr. SMOOT. I should like to ask the Senator why those words are included?

Mr. WILLIAMS. The Senator from Utah has anticipated me in connection with that very matter. I am afraid it might be claimed that this amendment, if enacted into law, would prohibit the Secretary of State from directing consuls to require oaths to consular certificates. I had therefore designed, and I now request, that this matter may go back to the committee to be made clear.

Mr. SMOOT. That was the reason I asked the question. I thought the Senator would give that as the reason.

Mr. WILLIAMS. I am a little afraid it might be subject to that construction, although I am not convinced that it would be. I want to make it clear, anyway.

I ask that the proviso on page 21 be recommitted.

The VICE PRESIDENT. The proviso will be recommitted.

The reading of the bill was resumed.

The next amendment of the Committee on Finance was, on page 275, line 21, after the word "effect," to insert:

And provided further, That an excise tax upon the doing of business, equivalent to 1 per cent upon their entire net income, shall be levied, assessed, and collected upon corporations, joint-stock companies or associations, and insurance companies, of the character described in section 38 of the act of August 5, 1909, for the period from January 1 to February 28, 1913, both dates inclusive, which said tax shall be computed upon one-sixth of the entire net income of said corporations, joint-stock companies or associations, and insurance companies, for said year, said net income to be ascertained in accordance with the provisions of subsection G of section 2 of this act: *Provided further*, That the provisions of said section 38 of the act of August 5, 1909, relative to the collection of the tax therein imposed shall remain in force for the collection of the excise tax herein provided, but for the year 1913 it shall not be necessary to make more than one return and assessment for all the taxes imposed herein upon said corporations, joint-stock companies or associations, and insurance companies, either by way of income or excise, which return and assessment shall be made at the times and in the manner provided in this act.

Mr. BRISTOW. I should like an explanation as to just what effect that has on the income-tax provision.

Mr. GALLINGER. It is a corporation tax.

Mr. BRISTOW. I know it is a corporation tax; but it connects up with the income tax, does it not?

Mr. WILLIAMS. I will state the object. When we tax the income of a preceding year in the present law, there are two months in which we had no constitutional power to tax incomes at all. We have attempted to continue the old excise law in existence for those two months, and to make the income-tax law operative for the other 10 months.

Mr. BRISTOW. I understand now. I had forgotten just the reference.

Mr. BRANDEGEE. Mr. President, I should like to ask the Senator a question with relation to this amendment which provides that an excise tax—

upon the doing of business * * * shall be levied, assessed, and collected upon corporations.

My recollection is that the language of the present corporation tax, which I think was sustained by the Supreme Court of the United States, was that "an excise tax with respect to the transaction of business" was imposed upon the corporation. This language imposes an excise tax "upon the doing of business" upon the corporation.

While I do not know that it is at all material, I simply wish to suggest, if the committee cares to do so, that it consider whether it would be wise to preserve the language of the existing law.

Mr. WILLIAMS. Will the Senator read that language to me again, please?

Mr. BRANDEGEE. It is found at the bottom of page 275.

Mr. WILLIAMS. But I say, will the Senator read to me again the language of the existing law?

Mr. BRANDEGEE. I have stated it simply from my recollection of the present corporation-tax law, which levies the tax upon the corporation "with respect to the transaction" of its business.

Mr. WILLIAMS. I think it will be safer and better to keep up the language of the existing law, and not to run the risk of any new construction.

Mr. BRANDEGEE. I simply suggest it for the consideration of the committee.

Mr. WILLIAMS. I thought we had the same language here. I think this language is used in part of the existing law. However, I will look into the matter.

Mr. BRANDEGEE. The Senator may be correct. It is simply my recollection of a year or two ago.

Mr. WILLIAMS. I think both phrases are used.

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

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment was, on page 277, after line 13, to insert:

U. If any clause, sentence, paragraph, or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of said act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

The amendment was agreed to.

Mr. BRANDEGEE. Mr. President, this language on page 277 strikes me as somewhat peculiar. It is in the House bill. It provides:

All acts of limitation, whether applicable to civil causes and proceedings or to the prosecution of offenses, or for the recovery of penalties or forfeitures, embraced in, or modified, changed, or repealed by this act, shall not be affected thereby.

That seems to me to be a contradiction in terms. Of course, if they are changed or repealed by this act, they certainly are affected by it.

Mr. WILLIAMS. What is the suggestion of the Senator with regard to that?

Mr. BRANDEGEE. The suggestion is that I do not understand what it means when it says that these things that have been "modified, changed, or repealed by this act shall not be affected thereby."

Mr. WILLIAMS. No; it says all acts of limitation shall not be modified, changed, or repealed.

Mr. BRANDEGEE. Read the whole of it.

Mr. WILLIAMS. "All acts of limitation, whether applicable to civil causes and proceedings or to the prosecution of offenses, or for the recovery of penalties or forfeitures."

Mr. BRANDEGEE. Yes.

Mr. WILLIAMS. That merely takes care of existing limitations, so that they will not be barred by the statute.

Mr. BRANDEGEE. It says that acts of limitation that are affected by this act or repealed by it "shall not be affected thereby."

Mr. WILLIAMS. No; it says:

All acts of limitation, whether applicable to civil causes and proceedings or to the prosecution of offenses, or for the recovery of penalties or forfeitures, embraced in, or modified, changed, or repealed by this act, shall not be affected thereby.

Mr. BRANDEGEE. Is this the language of the existing law?

Mr. WILLIAMS. I do not remember.

Mr. BRANDEGEE. I think, at any rate, it could be improved if it said "no act of limitation shall be affected thereby." All the acts may not be affected, but some of them may be.

Mr. WILLIAMS. I think the Senator is clearly right about that, too.

Mr. BRANDEGEE. I have no suggestion to make about it.

Mr. WILLIAMS. It ought to read "no act of limitation."

Mr. BRANDEGEE. Let the committee look it over when it meets.

Mr. WILLIAMS. Yes; we will do that.

Mr. President, on page 275 there is a provision as to the sections and subsections of the previous law which are not intended to be repealed by this act. I ask that that go back to the committee, because I am afraid we have not taken sufficient pains with regard to tobacco or some of the internal-revenue schedules.

I therefore ask that the matter on page 275 may go back to the committee.

The VICE PRESIDENT. Without objection, that order will be made.

The reading of the bill was resumed.

The next amendment was, on page 277, line 21, to strike out the letter "U" and insert "V."

The amendment was agreed to.

The reading of the bill was concluded.

Mr. POINDEXTER. I offer an amendment which I send to the desk, to be inserted at this point.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. It is proposed to add at the end of the bill a new section, as follows:

SEC. 6. First. There is hereby constituted and established a commission to be known and officially designated as the Tariff Commission. The Tariff Commission shall consist of five members, to be appointed by the President by and with the advice and consent of the Senate. The term of office of each member of the commission shall be 15 years, subject to removal at any time by a majority vote of the Congress of the United States; and the salary of each member of the commission shall be $12,500 per annum: *Provided, however,* That the terms of the first members of the commission shall be as follows: One for 3 years, one for 6 years, one for 9 years, one for 12 years, one for 15 years; it being the intention of this act that the term of one member shall expire and his successor be appointed each three years, and the President shall designate the term, in accordance with the foregoing, of each of the first members of the commission. Thereafter the term of each shall be 15 years as specified above.

Second. It shall be the duty of the Tariff Commission to ascertain as nearly as possible such facts and information concerning the production and manufacture of articles of trade and commerce in this country and foreign countries as will enable said commission to determine the comparative cost of production and manufacture of the same in this country and abroad; and shall also ascertain as nearly as possible all other facts, circumstances, and conditions of production and manufacture, including the amount consumed, the amount produced, and the amount imported into this country of the several articles under investigation as will enable said commission to decide approximately what rate of duty upon the several articles would place the domestic and foreign producer and manufacturer upon an equal and fair competitive basis in our home market: *Provided,* That the cost of transporting the several articles from the foreign country to the United States shall not be taken into account, but a rate shall be ascertained which will give our domestic producers or manufacturers any natural advantage which they may have by reason of such cost of transportation.

Third. When said commission shall have decided upon such rate in any particular case or item it shall have power to issue an order changing the existing rate so as to make it conform or more nearly conform to such fair competitive rate mentioned above; but in making such changes the commission shall avoid such sudden and extensive changes as will, in the opinion of the commission, unsettle the general business of the country, it being the intention of this act that such changes shall be made by degrees if necessary, but at the same time as speedily as possible, so as to adjust tariff rates to the principle of just protection and fair competition stated above, and to keep the same so adjusted from time to time according to changing conditions of trade and industry. Every rate so adjusted by the commission shall at all times be subject to change or modification by Congress.

Fourth. In the performance of its duties as aforesaid the commission shall at all times consider the amount of revenue received by the Government from the tariff rates in force and shall estimate as nearly as possible and report in its annual reports both the revenue of the current year and the estimated revenue of the ensuing year from tariff duties upon each item. In adjusting rates as provided herein the commission shall segregate all purely revenue rates upon items where the element of protection is not involved, and as to such purely revenue rates the commission shall make no changes but shall leave the same as fixed by Congress. In adjusting protective rates as herein provided the commission shall deal only with items upon which rates of duty shall have been levied by Congress. As to such rates the commission shall have power to raise or lower the same within the rule stated above, item by item, in such manner as will best accomplish the purpose stated above and also in such manner as will avoid any unnecessary violent disturbance of business. The commission shall not have power to add new items to the schedules.

Fifth. The Tariff Commission shall make and print an annual report to Congress, properly indexed, fully setting forth in clear and succinct form all of its doings under this act, with a tabulated statement in logical sequence of its decisions, conclusions, and orders, together with any recommendations which it may see fit to make to Congress on the levy or administration of tariff duties.

Sixth. For the purpose of performing its duties, as provided by this act, the Tariff Commission shall have authority, unless otherwise supplied with the same by the Government, to rent adequate quarters and furnish the same; to employ such clerks, experts, and assistants, and to incur such traveling or other expenses as in its discretion may be required, having at all times a due regard for economy and efficiency of administration, and all such expenditures before being paid shall be approved in writing by the chairman or by a majority of the commission.

Seventh. The commission shall organize by the election of one of its members as chairman and by the appointment of a secretary at a salary and for such term as shall be determined by the commission. The commission shall fix the term of office and functions of its chairman, and shall adopt such rules for its conduct and method of transacting business as in its judgment shall promote efficiency, economy, and expedition in the performance of its duties. The commission shall have power to hold hearings, to summon and compel the attendance of witnesses, to examine the books and operations of producers or manufacturers, and to compel the production of papers and documents. Any person willfully refusing to obey a summons of said commission, or to exhibit books or operations, or to produce papers or documents upon the order of the commission shall be guilty of a misdemeanor, and on conviction in any court of competent jurisdiction shall be punished by a fine not exceeding $1,000 or by imprisonment in jail not exceeding one year or by both such fine and imprisonment, in the discretion of the court.

Mr. WILLIAMS. Mr. President, if the Senator from Washington will permit me, in order to get rid of a routine matter here——

Mr. POINDEXTER. Certainly.

Mr. WILLIAMS. I ask to go back to line 4, on page 277, so as to clarify the matter to which the Senator from New Jersey [Mr. HUGHES] called attention. Beginning with line 4, on page 277, before the word "acts," I move to strike out "all" and insert "no"; in line 5, after the word "limitation," to insert "now in force"; in line 8, after the word "shall," to strike out the word "not" and after the word "thereby" to strike out the semicolon and the words "and all" and insert "so far as they affect"; and in line 11, after the word "act," to insert the word "which."

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 277, line 4, strike out the word "all" and insert the word "no" before the word "acts"; in line 5, after the word "limitation," insert "now in force"; in line 8, after the word "shall," strike out the word "not," and after the word "thereby," in the same line, strike out the semicolon and the words "and all" and insert "so far as they affect"; and in line 11, after the word "act," insert the word "which," so as to read:

No acts of limitation, now in force, whether applicable to civil causes and proceedings or to the prosecution of offenses or for the recovery of penalties or forfeitures embraced in or modified, changed, or repealed by this act, shall be affected thereby, so far as they affect suits, proceedings, or prosecutions, whether civil or criminal, for causes arising or acts done or committed prior to the passage of this act, which may be commenced and prosecuted within the same time and with the same effect as if this act had not been passed.

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

The amendment was agreed to.

Mr. POINDEXTER. Mr. President——

Mr. GALLINGER. Will the Senator from Washington permit me?

Mr. POINDEXTER. Certainly.

Mr. GALLINGER. I presume the Senator proposes to discuss his amendment.

Mr. POINDEXTER. Yes; but I do not desire to discuss it this evening. My purpose in addressing the Chair was to ask that it might go over to some other time.

Mr. GALLINGER. It will go over if no action is taken. I was about to suggest that we have put in a long day and it is Saturday. I presume the Senator from North Carolina is ready to lay the bill aside.

Mr. SIMMONS. I suppose the Senator from Washington simply offered his amendment this afternoon for future discussion?

Mr. POINDEXTER. Yes.

Mr. SIMMONS. The hour of 6 o'clock having arrived, I will ask that the bill be laid aside.

ALEXANDER HAMILTON'S REPORT ON MANUFACTURES (S. DOC. NO. 172).

Mr. SMOOT. Mr. President, if the bill is laid aside, I wish to make a request.

I ask unanimous consent that a communication to the House of Representatives on December 5, 1791, by Alexander Hamilton, Secretary of the Treasury, on the subject of manufactures, and particularly the means of promoting such as will tend to render the United States independent of foreign nations, and so forth, be printed as a public document.

Mr. WILLIAMS. Mr. President, I think if we did that I should like to have Robert J. Walker's report printed.

Mr. SMOOT. Robert J. Walker's report was printed by the Senate as a document in the last Congress.

Mr. WILLIAMS. Have Gallatin's reports under Jefferson and Madison ever been printed?

Mr. SMOOT. If the Senator wants to have those printed he himself can ask to have it done. Does the Senator object?

Mr. WILLIAMS. Yes; if you challenge me to object, I do. [After a pause.] Mr. President, being assured that the Senator from Utah smiled when he addressed me in that tone of voice a moment ago, I will withdraw my objection to his request.

The VICE PRESIDENT. The objection is withdrawn, and if there be no further objection, it is so ordered.

EXECUTIVE SESSION.

Mr. BACON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 5 minutes spent in executive session the doors were reopened, and (at 6 o'clock and 10 minutes p. m.) the Senate adjourned until Monday, September 1, 1913, at 11 o'clock a. m.

CONFIRMATIONS.

Executive nominations confirmed by the Senate August 30, 1913.

POSTMASTERS.

MICHIGAN.

William J. Nagel, Detroit.

NORTH DAKOTA.

F. F. Burchard, University.

OKLAHOMA.

George E. Baker, Gage.
L. E. Chase, Westville.
C. N. Fluke, Boynton.
J. P. Ford, Konawa.
M. B. Hickman, Coalgate.
J. N. Hopkins, Boswell.
Blanche Larkin, Delaware.
W. S. Livingston, Seminole.

HOUSE OF REPRESENTATIVES.

SATURDAY, *August 30, 1913.*

The House met at 11 o'clock a. m., and was called to order by Mr. HAY as Speaker pro tempore.

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

O Thou great Jehovah, King of Kings and Lord of Lords, our Father, whose wisdom is attested in an infinite variety of ways and means, whose power is revealed in the stupendous worlds around us swayed by Thy will, whose love pours out upon us in a thousand blessings day by day, awaken in our hearts a holier reverence, a profounder faith, a larger hope, a love supreme, that we may conform our thoughts to Thy thoughts, our ways to Thy ways, as they have been revealed to us in the sublime life and character of Thy Son, Jesus Christ. Amen.

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

RESIGNATION OF A MEMBER.

The SPEAKER pro tempore laid before the House the following communication:

HOUSE OF REPRESENTATIVES,
Washington, August 29, 1913.

Hon. CHAMP CLARK,
Speaker of the House of Representatives.

SIR: I beg leave to inform you that I have this day transmitted to the governor of West Virginia my resignation as a Representative in the Congress of the United States from the first district of West Virginia.

Respectfully, JNO. W. DAVIS.

HETCH HETCHY.

Mr. FERRIS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the Hetch Hetchy bill, H. R. 7207, and pending that I ask unanimous consent that the general debate be concluded at 1 o'clock. That will give us two hours, one hour to be controlled by gentlemen on the other side, either the gentleman from Illinois [Mr. MANN] or the gentleman from Wyoming [Mr. MONDELL], as they prefer, and one hour to be controlled by myself, in charge of the bill.

The SPEAKER pro tempore. The gentleman from Oklahoma asks unanimous consent that the general debate in Committee of the Whole be concluded in two hours.

Mr. FERRIS. At 1 o'clock.

The SPEAKER pro tempore. One hour to be controlled by the gentleman from Oklahoma [Mr. FERRIS] and one hour by the gentleman from Illinois [Mr. MANN]. Is there objection?

Mr. MANN. Reserving the right to object, the gentleman from Idaho, Mr. FRENCH, desires 30 minutes; my colleague from Illinois, Mr. THOMSON, desires 30 minutes, both being in favor of the bill. The gentleman from Minnesota, Mr. STEENERSON, desires 30 minutes in opposition to the bill. The gentleman from California, Mr. KAHN, desires 25 minutes, and the gentleman from California, Mr. BELL, yesterday desired not more than 10 minutes. The gentleman from California, Mr. KENT, desires some time.

Mr. FERRIS. I want all of these gentlemen to have time, just as the gentleman does.

Mr. MANN. And the gentleman from New Hampshire [Mr. REED] desires some time.

Mr. FERRIS. As I understand, the gentleman from New Hampshire [Mr. REED] does not desire a long time.

Mr. REED. Five or ten minutes.

Mr. MANN. Who else on that side desires time?

Mr. FERRIS. I do not know of anyone else. Mr. KENT is a member of the committee, Mr. THOMSON is a member of the committee, Mr. FRENCH is a member of the committee.

Mr. MANN. I suggest to the gentleman from Oklahoma that he make his request, then, that in the general debate the gentleman from Illinois, Mr. THOMSON, be given 30 minutes, the gentleman from Idaho, Mr. FRENCH, 30 minutes, the gentleman from Minnesota, Mr. STEENERSON, 30 minutes, the gentleman from California, Mr. KAHN, 25 minutes, the gentleman from California, Mr. KENT, 10 minutes, and the gentleman from New Hampshire, Mr. REED, 10 minutes, and that the general debate be then closed.

Mr. FERRIS. How much time will that make?

Mr. MANN. Make the request in that way, and if anyone else wants to be heard, he can be heard under the five-minute rule.

Mr. FERRIS. Perhaps we had better save 10 minutes for the committee. That will make 2 hours and 25 minutes in all.

Mr. MANN. Do not limit it by fixing the time, but give the time to the gentlemen named.

Mr. FERRIS. I think that is proper. Then, Mr. Speaker, I ask unanimous consent that at the end of the time which I will designate general debate be closed; that the gentleman from Idaho, Mr. FRENCH, have 30 minutes and the gentleman from Minnesota, Mr. STEENERSON, 30 minutes, the gentleman from Illinois, Mr. THOMSON, 30 minutes, the gentleman from California, Mr. KAHN, 25 minutes, the gentleman from California, Mr. KENT, 10 minutes, and the gentleman from New Hampshire, Mr. REED, 10 minutes, and I will reserve 10 minutes for the committee in the event that some one may come in and want it.

The SPEAKER pro tempore. The gentleman from Oklahoma, Mr. FERRIS, asks unanimous consent that the gentleman from Idaho, Mr. FRENCH, have 30 minutes, the gentleman from Illinois, Mr. THOMSON, 30 minutes, the gentleman from Minnesota, Mr. STEENERSON, 30 minutes, the gentleman from California, Mr. KAHN, 25 minutes, the gentleman from New Hampshire, Mr. REED, 10 minutes, the gentleman from California, Mr. KENT, 10 minutes, and the gentleman from Oklahoma, Mr. FERRIS, 10 minutes.