50 members of the First Congregational Church of Dighton; 90 members of the First Universalist Church, 162 members of Central Methodist Episcopal Church, 156 members of the Woman's Christian Temperance Union, and 51 members of Winslow Publishing Co., all of Taunton, all in the State of Massachusetts, favoring national prohibition; to the Committee on Rules.

Also, petition of Albert Reed and 1,992 others of Fall River, and Joseph Taylor and 263 others of Taunton, all in the State of Massachusetts, protesting against national prohibition; to the Committee on Rules.

By Mr. HAY: Petition of 200 citizens of Bridgewater, Va., favoring national prohibition; to the Committee on Rules.

By Mr. HOWELL: Petition of Kahn Bros. Co., W. S Henderson Wholesale Co., Symns Utah Grocer Co., Anderson-Taylor Co., and other firms of Salt Lake City, Utah, favoring the passage of House bill 13305, the Stevens bill; to the Committee on Interstate and Foreign Commerce.

Also, petitions from certain citizens of Price and Eureka, Utah, protesting against national prohibition; to the Committee on Rules.

By Mr. KENNEDY of Rhode Island: Petition of Rhode Island State Federation of Women's Clubs, against further acquisition by the United States of foreign territory; to the Committee on Foreign Affairs.

Also, petition of Warfield-Pratt-Howell Co., of Sioux City, Iowa, favoring passage of House bill 15988, relative to false statements in the mails; to the Committee on the Post Office and Post Roads.

By Mr. KIESS of Pennsylvania: Petition from sundry citizens of the fifteenth congressional district of Pennsylvania, favoring the Hobson prohibition amendment; to the Committee on Rules.

By Mr. LOBECK: Petition of 25 citizens of Omaha, Nebr., favoring national prohibition; to the Committee on Rules.

Also, petition of 27 citizens of Douglas County, Nebr., against national prohibition; to the Committee on Rules.

By Mr. LONERGAN: Petition of Fred Goetz, of Hartford, Conn., protesting against national prohibition; to the Committee on Rules.

By Mr. MAGUIRE of Nebraska: Petition of citizens of College View and Lincoln, Nebr., favoring national prohibition; to the Committee on Rules.

By Mr. MERRITT: Petition of 150 citizens of Plattsburg, N. Y., and 135 citizens of Keeseville, N. Y., favoring national prohibition; to the Committee on Rules.

Also, petition of the Musicians' Mutual Protective Union, Local No. 6, San Francisco, Cal., against national prohibition; to the Committee on Rules.

By Mr. J. I. NOLAN: Protests of Gail Harrington and 7 other women voters; Joseph T. Sager and 49 other citizens; William B. Travers and 36 other citizens; John Hughes and 49 other citizens; G. C. Gunther and 56 other citizens; and John J. Brogan and 41 other citizens, all of San Francisco, Cal., against the passage of the Hobson nation-wide prohibition resolution; to the Committee on Rules.

By Mr. PAIGE of Massachusetts: Petitions of sundry citizens of Fitchburg and Gardner, Mass., favoring national prohibition; to the Committee on Rules.

Also, petitions of various business men of Fitchburg, Clinton, Webster, Oxford, North Brookfield, Brookfield, Warren, West Warren, and Thorndike, all in the State of Massachusetts, favoring the passage of House bill 5308, relative to taxing mail-order houses; to the Committee on Ways and Means.

Also, petition of Allison C. Hinds, of Orange, Mass., protesting against national prohibition; to the Committee on Rules.

By Mr. RAINEY: Memorial of the Methodist Episcopal Church of Griggsville, Ill., protesting against polygamy in the United States; to the Committee on the Judiciary.

Also, petition of W. M. Potts and 17 other citizens of White Hall, Ill., favoring national prohibition; to the Committee on Rules.

Also, petition of 23 citizens of Boardstown, Ill., protesting against national prohibition; to the Committee on Rules.

By Mr. J. M. C. SMITH: Petition of 295 citizens of Battle Creek, Mich., favoring national prohibition; to the Committee on Rules.

Also, petition representing 18,000 club women of Michigan, against acquiring land in Mexico by conquest; to the Committee on Foreign Affairs.

By Mr. STEVENS of Minnesota: Petition of 75 citizens of Bald Eagle Lake, Minn., and 31 citizens of St. Paul, Minn., favoring national prohibition; to the Committee on Rules.

By Mr. TAVENNER: Petition of E. Siever, of Keithsburg, Ill., favoring Stevens price bill; to the Committee on Interstate and Foreign Commerce.

By Mr. TEMPLE: Petition of John H. Nelson and 12 others, of New Castle; R. Frank McGowan and 21 others, of Beaver Falls; and sundry citizens of New Castle, all in the State of Pennsylvania, favoring national prohibition; to the Committee on Rules.

By Mr. THACHER: Petition of sundry citizens of Massachusetts, relative to national prohibition constitutional amendment; to the Committee on Rules.

By Mr. VOLLMER: Petitions signed by P. W. Knapp and 54 others, protesting against House joint resolution 168 and Senate joint resolutions 88 and 50 and all other prohibition measures introduced in Congress; to the Committee on Rules.

By Mr. WINGO: Petition of sundry citizens of Magazine, Ark., favoring Federal censorship of motion pictures; to the Committee on Education.

SENATE.

WEDNESDAY, *June 3, 1914.*

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

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, we seek Thee, we trust, with true hearts, that our inward life may be brought into conformity with Thy will. By Thy grace may we be enabled to understand the things that we see. By Thy guidance may our wills be brought into harmony with Thy will, our consciences with Thy law, and our hearts with Thy love, so that our lives may be God-centered and may be expressive of God's will in the world. For Christ's sake. Amen.

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

DISPOSITION OF USELESS PAPERS.

The VICE PRESIDENT. The Chair lays before the Senate a communication from the Secretary of the Treasury, transmitting schedules of useless papers in the office of the Auditor for the Navy Department, the offices of collectors of internal revenue, and in the office of the collector of customs, Duluth, Minn., which are not needed in the transaction of the public business and have no historical value. The communication and accompanying papers will be referred to the Joint Select Committee on the Disposition of Useless Papers in the Executive Departments, and the Chair appoints the Senator from Vermont [Mr. PAGE] and the Senator from Oregon [Mr. LANE] members of the committee on the part of the Senate. The Secretary will notify the House of Representatives of the appointment thereof.

IMPORTATION OF CONVICT-MADE GOODS.

The VICE PRESIDENT. The Chair lays before the Senate a communication from the Secretary of the Treasury, which will be read.

The Secretary read as follows:

TREASURY DEPARTMENT,
Washington, June 2, 1914.

The PRESIDENT OF THE SENATE.

SIR: I have the honor to acknowledge the receipt of a resolution of the Senate of May 23, 1914, directing me to furnish to the Senate a detailed statement indicating all commodities the importation of which would be affected by H. R. 14330, now pending in the Senate.

This department is not now in possession of sufficient information as to prison labor to furnish the Senate with the information desired.

I shall at once take steps to secure the information and will furnish it to the Senate at as early a date as practicable.

Respectfully,

C. S. HAMLIN, *Acting Secretary.*

The VICE PRESIDENT. The communication will lie on the table for the present.

RETURN OF CASES TO COURT OF CLAIMS.

The VICE PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, requesting, by order of the court, the return of the case of William A. Watkins, deceased, against the United States, which case was certified to the Senate December 19, 1913, as being dismissed for nonprosecution, which was referred to the Committee on Claims and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, requesting, by order of the court, the return of the case of John R. McGinniss against the United States and of the case of Minor Knowlton, deceased,

against the United States, which cases were recently certified to the Senate for nonprosecution, which were referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by J. C. South, its Chief Clerk, announced that the Speaker of the House had signed the enrolled bill (S. 2860) providing a temporary method of conducting the nomination and election of United States Senators, and it was thereupon signed by the Vice President.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented petitions of sundry citizens of Fosterburg, Brighton, and Indianola, in the State of Illinois; of Rochester, Carmichaels, Juniata, and Callery, in the State of Pennsylvania; of Dayton, Ohio; of Hightstown, N. J.; of Truxton, Mo.; of Wheeling, W. Va.; and of Milo, Iowa, praying for the adoption of an amendment to the Constitution to prohibit polygamy, which were referred to the Committee on the Judiciary.

Mr. NELSON presented memorials of sundry citizens of St. Paul, Minneapolis, Owatonna, and Duluth, all in the State of Minnesota, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Minneapolis, Motley, Owatonna, Pine Island, and Beardsley, all in the State of Minnesota, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of the Woman's Christian Temperance Union of Evansville, of the Minnesota Woman Suffrage Association, and of sundry citizens of St. Paul and Duluth, all in the State of Minnesota, praying for the adoption of an amendment to the Constitution granting the right of suffrage to women, which were ordered to lie on the table.

Mr. BRANDEGEE presented resolutions adopted by the Young People's Society of Christian Endeavor and of the Woman's Christian Temperance Union of Goshen, Conn., favoring the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. BRADY presented memorials of I. P. Bailey and 27 other citizens of Bonner County, Idaho, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

Mr. KENYON presented petitions of sundry citizens of Page County and Davis County, in the State of Iowa, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of the Congregational Conference of Iowa and of the Oskaloosa Friends Meeting, of Iowa, praying for the employment of peace methods to the very limit of their effectiveness in the Mexican situation, which were referred to the Committee on Foreign Relations.

Mr. THORNTON presented a memorial of Local Union No. 215, Woman's International Union Label League, and Trades Union Auxiliary, of Shreveport, La., remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

Mr. SHIVELY presented petitions of Lee Burkman, I. E. Elliott, W. J. Schuit, and A. Huesuth, of Elkhart, Ind., praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented memorials of Harry F. Peats, Leslie Wright, Harry Jones, Luigi Gili, John Cinotto, Joe Hervath, and 94 other citizens of Indianapolis, Fort Wayne, Terre Haute, Vincennes, Clinton, and Marion, all in the State of Indiana, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of the Common Council of Michigan City, Ind., praying for the enactment of legislation to grant pensions to certain civil-service employees, which was referred to the Committee on Civil Service and Retrenchment.

Mr. BRISTOW presented a petition of sundry citizens of Burlington, Kans., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. MYERS presented a memorial of Federal Labor Union, No. 12648, of Helena, Mont., remonstrating against national prohibition, which was referred to the Committee on the Judiciary.

Mr. ROOT presented petitions of sundry citizens of Brooklyn, New York City, Buffalo, Syracuse, and Albany, all in the State of New York, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of New York City, Yonkers, Brooklyn, Auburn, Buffalo, Newburgh, and Prospect, all in the State of New York, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of the presidents of sundry trust companies of Brooklyn, N. Y., praying for the enactment of legislation permitting the deposit of postal savings funds in qualified banks, whether or not they are members of the Federal reserve system, which were referred to the Committee on Banking and Currency.

He also presented a petition of sundry citizens of New York, praying for the adoption of an amendment to the Constitution to prohibit polygamy, which was referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Troy, N. Y., praying for the enactment of legislation to provide for the purchase of the Chesapeake & Delaware Canal by the Federal Government, which was referred to the Committee on Commerce.

He also presented a petition of Local Union No. 2, Woman's Christian Temperance Union, of Syracuse, N. Y., praying for the enactment of legislation to provide for Federal censorship of motion pictures, which was referred to the Committee on Education and Labor.

Mr. WEEKS presented a memorial of the New England Shoe & Leather Association, remonstrating against the passage of the so-called interstate trade commission bill, which was referred to the Committee on Interstate Commerce.

Mr. CHAMBERLAIN presented a petition of sundry citizens of Oregon, praying for the enactment of legislation to provide for Federal censorship of motion pictures, which was referred to the Committee on Education and Labor.

He also presented a petition of sundry citizens of Oregon, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

He also presented a memorial of sundry citizens of Oregon, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

Mr. McLEAN presented petitions of the Woman's Home Missionary Society of New Haven; of the First Methodist Church of New Haven; of the Bridgeport Pastors' Association, of Bridgeport; and of sundry citizens of Rockville and Waterbury, all in the State of Connecticut, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented a petition of the Business Men's Association of Middletown, Conn., praying for the enactment of legislation to provide for the retirement of superannuated civil-service employees, which was referred to the Committee on Civil Service and Retrenchment.

Mr. DU PONT presented memorials of sundry citizens of Wilmington, Del., remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Dover, Del., praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. BURLEIGH presented petitions of sundry citizens of South Paris, Howland, Woolwich, and Byron, all in the State of Maine, praying for national prohibition, which were referred to the Committee on the Judiciary.

Mr. TOWNSEND presented petitions of sundry citizens of Cass County, Petoskey, Lapeer, Spring Arbor, South Haven, Detroit, Allegan, Wolverine, Calumet, and Battle Creek, all in the State of Michigan, praying for national prohibition, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of Isabella, Sault Ste. Marie, Detroit, Escanaba, Rapid River, Grand Haven, Watson, Cornell, Gladstone, Ann Arbor, East Saginaw, and Kalamazoo, all in the State of Michigan, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of Limecreek Grange, Patrons of Husbandry of Michigan, praying for the Government ownership of telephone and telegraph lines, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of Central City Lodge, No. 95, International Association of Machinists, of Jackson, Mich., praying for the enactment of legislation to provide a more thor-

ough inspection of locomotive boilers and appurtenances thereto, which was referred to the Committee on Interstate Commerce.

REPORTS OF COMMITTEES.

Mr. MYERS, from the Committee on Public Lands, to which was referred the bill (S. 4180) to validate title to certain town sites in the State of Montana, reported it without amendment and submitted a report (No. 579) thereon.

Mr. SMOOT, from the Committee on Public Lands, to which was referred the bill (H. R. 3334) authorizing the quitclaiming of the interest of the United States in certain land situated in Hampden County, Mass., reported it without amendment and submitted a report (No. 580) thereon.

INTERNATIONAL TRIBUNAL OF ARBITRATION.

Mr. SUTHERLAND, from the Committee on Foreign Relations, to which was referred Senate resolution 376, requesting the President to open diplomatic negotiations for the settlement of the Panama Canal tolls question by international arbitration, reported it with amendments and submitted a report (No. 581) thereon.

CENTENNIAL CELEBRATION OF STAR-SPANGLED BANNER.

Mr. O'GORMAN. From the Committee on Foreign Relations I report back favorably, without amendment, the joint resolution (S. J. Res. 148) authorizing the President to extend invitations to foreign Governments to participate, through their accredited diplomatic agents to the United States, in the National Star-Spangled Banner Centennial Celebration, and I submit a report (No. 578) thereon. I ask unanimous consent for the present consideration of the joint resolution.

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

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which was read, as follows:

Resolved, etc., That the President be, and he is hereby, authorized to extend invitations to foreign Governments to be represented by their accredited diplomatic agents to the United States at the National Star-Spangled Banner Centennial Celebration to be held at the city of Baltimore, Md., in September, 1914: *Provided*, That no appropriation shall be granted by the United States for expenses of delegates or for other expenses incurred in connection with said invitation.

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

FLATHEAD INDIAN RESERVATION.

Mr. ASHURST. I ask that the bill (S. 647) to amend an act entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," approved April 23, 1904 (33 Stat. L., p. 302), as amended by the act of March 3, 1909 (35 Stat. L., p. 796), being Order of Business 492 on the calendar, be recommitted to the Committee on Indian Affairs.

The VICE PRESIDENT. Without objection, the bill will be recommitted to the Committee on Indian Affairs.

BILLS INTRODUCED.

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

By Mr. BRADY:

A bill (S. 5721) granting an increase of pension to Thomas Mullen (with accompanying papers); to the Committee on Pensions.

By Mr. SHAFROTH:

A bill (S. 5722) granting an increase of pension to Isaiah Mitchell; and

A bill (S. 5723) granting an increase of pension to Frederick D. Bailey; to the Committee on Pensions.

By Mr. McCUMBER:

A bill (S. 5724) granting an increase of pension to Ray W. Burkdoll; to the Committee on Pensions.

By Mr. BRISTOW:

A bill (S. 5725) granting an increase of pension to Anna M. Foster (with accompanying papers);

A bill (S. 5726) granting an increase of pension to May O. Jones (with accompanying papers); and

A bill (S. 5727) granting an increase of pension to Arthur E. Strimple; to the Committee on Pensions.

By Mr. WORKS:

A bill (S. 5728) granting an increase of pension to Joseph S. Pray (with accompanying papers); to the Committee on Pensions.

By Mr. SHIVELY:

A bill (S. 5729) granting a pension to William Gehlback (with accompanying papers); to the Committee on Pensions.

By Mr. HUGHES:

A bill (S. 5730) granting a pension to Julia E. Robinson; and

A bill (S. 5731) for the relief of William Cronly; to the Committee on Pensions.

DONATION OF CANNON.

Mr. BRANDEGEE submitted an amendment intended to be proposed by him to the bill (S. 5495) authorizing the Secretary of War to make certain donations of condemned cannon and cannon balls, which was ordered to lie on the table and be printed.

THE COMMITTEE ON INTEROCEANIC CANALS.

Mr. O'GORMAN submitted the following resolution (S. Res. 385), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the provisions of resolution of April 6, 1914, authorizing the Committee on Interoceanic Canals to employ temporarily a stenographer, be extended for 30 days from the adoption of this resolution.

LIABILITY OF COMMON CARRIERS.

The VICE PRESIDENT. The Chair lays before the Senate a resolution coming over from a preceding day.

The SECRETARY. Senate resolution 384, by Mr. CUMMINS——

Mr. CUMMINS. I ask unanimous consent that we take up Senate bill 4522, it being the bill which was under consideration for a short while yesterday.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 4522) to amend an act entitled "An act to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission," approved June 29, 1906.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

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

Ashurst	Hitchcock	Perkins	Stephenson
Brady	Jones	Pittman	Sterling
Brandegee	Kenyon	Pomerene	Thomas
Bristow	Kern	Ransdell	Thompson
Bryan	La Follette	Reed	Thornton
Burton	Lane	Saulsbury	Tillman
Catron	Lea, Tenn.	Shafroth	Walsh
Chamberlain	McCumber	Sheppard	West
Clark, Wyo.	Martine, N. J.	Sherman	White
Crawford	Myers	Simmons	Williams
Cummins	Nelson	Smith, Ariz.	Works
Gallinger	Norris	Smith, Ga.	
Goff	O'Gorman	Smith, Mich.	
Gronna	Page	Smoot	

Mr. WHITE. I wish to announce that my colleague [Mr. BANKHEAD] is unavoidably absent, and that he is paired with the Senator from West Virginia [Mr. GOFF]. This announcement may stand for the day.

The VICE PRESIDENT. Fifty-three Senators have answered to the roll call. There is a quorum present. The pending amendment is the amendment offered by the Senator from Georgia [Mr. SMITH].

Mr. CUMMINS. I am informed that the Senator from Missouri [Mr. REED] has an amendment which he desires to present and he wishes a little further time to prepare it. Therefore I am willing that the bill shall be laid aside, and I give notice that to-morrow morning at the close of the routine business I shall again ask for unanimous consent to consider it.

Mr. SMITH of Georgia. I hope the Senator from Missouri [Mr. REED] and I can agree with the Senator from Iowa [Mr. CUMMINS] as to whether certain amendments which each of us has suggested are necessary. I am disposed now to believe that the one I suggested is not necessary. I should like to look at the authorities called to my attention by the Senator from Iowa, and I believe we can speed the measure. I think that my amendment will probably be out of the way to-morrow. I will confer with the Senator from Missouri and I hope he will confer with the Senator from Iowa, and possibly we may eliminate any further discussion and be able to take up the bill to-morrow and vote upon it to-morrow——

Mr. CUMMINS. I hope so.

Mr. SMITH of Georgia. Because we are both just as warmly in favor of the measure as is the Senator from Iowa.

Mr. CUMMINS. I have no other desire save to secure speedy action on the bill, and I suggest that course. I do not know just what motion I ought to make or what consent I ought to ask in order to accomplish it.

Mr. SHEPPARD. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Texas?

Mr. CUMMINS. I yield.

Mr. SHEPPARD. I have a few amendments which I desire to offer to this bill, but I can offer them to-morrow as well as to-day.

Mr. CUMMINS. Mr. President, in order to get what I want before the Senate, I ask unanimous consent that to-morrow morning immediately after the conclusion of the routine morning business the bill be taken up for consideration.

Mr. SMITH of Georgia. That would require a roll call under the rules before we could vote on it. I do not believe the unanimous consent would be now given, but I believe it will be given to-morrow morning. If we can work it out so that the bill can be disposed of in an hour, I am sure that there will be no one on this side who will not join with the Senator from Iowa.

Mr. CUMMINS. I am quite willing to accept the suggestion of the Senator from Georgia; and, with that understanding, the unanimous consent I asked for a moment ago may be vacated, if that can be done.

The VICE PRESIDENT. By unanimous consent the bill will go back to the calendar.

Mr. CUMMINS. Very well.

Mr. POMERENE. I desire to give notice of an amendment intended to be proposed by me to the bill (S. 4522) to amend an act entitled "An act to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission," approved June 29, 1906, which I ask may lie on the table and be printed in the RECORD.

There being no objection, the amendment was ordered to lie on the table and to be printed in the RECORD, as follows:

On line 12, page 3, strike out the words "to such property caused by it or by" and insert in lieu thereof the words "occurring to such property while in its possession, or under its care, or while in the possession or under the care of."

PANAMA CANAL TOLLS.

Mr. O'GORMAN. Mr. President, I ask unanimous consent that the Panama Canal tolls bill be laid before the Senate, so that the Senator from North Carolina [Mr. SIMMONS] may address himself to it.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. SHAFROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HITCHCOCK in the chair). The Secretary will call the roll.

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

Ashurst	Hughes	Oliver	Stephenson
Borah	James	Page	Sutherland
Brady	Kern	Perkins	Swanson
Brandegee	La Follette	Ransdell	Thomas
Bristow	Lane	Reed	Thompson
Catron	Lea, Tenn.	Root	Thornton
Chamberlain	Lee, Md.	Shafroth	Vardaman
Chilton	Lippitt	Sheppard	Walsh
Colt	McCumber	Shively	Weeks
Crawford	McLean	Simmons	West
Cummins	Martin, Va.	Smith, Ariz.	White
Gallinger	Martine, N. J.	Smith, Ga.	Williams
Goff	Nelson	Smith, Md.	Works
Gore	Newlands	Smith, Mich.	
Gronna	Norris	Smith, S. C.	
Hitchcock	O'Gorman	Smoot	

Mr. KERN. I desire to announce the unavoidable absence, on official business, of the Senator from Delaware [Mr. SAULSBURY] and the junior Senator from Ohio [Mr. POMERENE].

I also desire to announce the unavoidable absence of the senior Senator from Arkansas [Mr. CLARKE], the junior Senator from Arkansas [Mr. ROBINSON], the junior Senator from New Hampshire [Mr. HOLLIS], the senior Senator from Texas [Mr. CULBERSON], the senior Senator from Florida [Mr. FLETCHER], the senior Senator from North Carolina [Mr. OVERMAN], and the senior Senator from Maine [Mr. JOHNSON], all of whom are paired. This announcement may stand for the day.

Mr. CHILTON. I wish to announce the unavoidable absence of the Senator from New Mexico [Mr. FALL]. He is paired with me.

Mr. SMITH of Michigan. My colleague [Mr. TOWNSEND] is unavoidably absent from the Senate. I understand that he is paired to-day with the junior Senator from Florida [Mr. BRYAN]. I make this announcement to stand for the day.

The PRESIDING OFFICER. Sixty Senators have answered to their names. A quorum is present. The Senator from North Carolina will proceed.

Mr. SIMMONS. Mr. President, I dislike very much to interfere with the notice given by the Senator from Mississippi [Mr. VARDAMAN]. That Senator, however, is not here, and we have given notice that we would desire, beginning with to-day, that the bill be constantly kept before the Senate. Inasmuch as no other Senator is ready to proceed, I shall do so myself.

Mr. President, following the example set by the distinguished Senator from New York [Mr. O'GORMAN], who opened this debate against repeal, and of other Senators who have reduced their remarks to writing and read them to the Senate, I ask my colleagues to refrain from interruption while I am proceeding with my statement.

Mr. President, the opponents of repeal rely upon the decision of the Supreme Court of the United States in the case of Olsen against Smith as an authority for their contention that the exemption of our coastwise trade through the canal from tolls does not entitle other nations to claim like exemption for their vessels. I deny that there is any analogy between that case and the one now under discussion.

If the question presented in the Olsen case had been the question here presented, the jurisdiction of the Supreme Court would have been, to say the least, questionable; and a decision without jurisdiction is mere dictum. If a case of this sort was justiciable by the Supreme Court, we would not have the proposal of both ex-President Taft and the learned Senator from Montana—himself a great lawyer—to confer by congressional action jurisdiction upon that court to hear and decide the controversy here involved. But if the question here involved were justiciable by that court, and if that court had decided it in an analogous case in favor of the contention now made, Great Britain would not be any more bound by that decision than we would be bound by a decision to the contrary by the court of last resort of Great Britain.

But, putting aside this technical objection, the two cases upon their merits are in no important particular alike. The clause of the treaty referred to in the Olsen case, and so often quoted in this discussion, applies to ships and not to traffic, as does the provision in the Hay-Pauncefote treaty now under discussion. That this clause in the treaty of 1815 applies only to vessels and not to traffic, appears not only from the language of the clause itself, but from the circumstance that the terms and condition of traffic between the two countries are prescribed in an altogether different clause from the one relating to vessels.

But, independently of these facts, it is obvious that only oversea vessels were intended to be embraced, or could, in the nature of things, be embraced, in the clause quoted in the Olsen case, because, by the plain language of that treaty, the reciprocal commerce in which these vessels were to be engaged is confined to "commerce between the territories of the United States of America and all the territories of Great Britain in Europe." As trade between territories separated by an ocean must of necessity be carried in over-sea vessels, it is clear that only oversea traffic was contemplated.

That coastwise vessels were not included in that clause is further evidenced by the fact that at the close of the article containing the clause with respect to vessels there is a separate clause which deals with commerce between the United States and the West Indies and Canada—dependencies of Great Britain—which expressly provides that with respect to such intercourse "each party to the contract should remain in the complete possession of its rights."

In further corroboration of this construction, there is also a provision in a subsequent article of that treaty with respect to commercial intercourse between the United States and the territories of Great Britain in the East Indies which expressly excludes the vessels of the one country from engaging in the coastwise traffic of the territories and possessions of the other.

Comparing the provisions of the treaty of 1815, upon which the Olsen case was decided, with the provisions of the Hay-Pauncefote treaty, involved in this controversy, it is impossible to escape the conclusion reached with respect to this matter by ex-Secretary of State Richard Olney, one of America's greatest lawyers, when he expressed the positive opinion that "there was no analogy or resemblance between the two cases."

"VESSELS OF COMMERCE."

It has been contended by some Senators that the phrase "vessels of commerce," used in this treaty, is a purely technical phrase, and in legal intendment means not vessels engaged in general commerce, but only vessels engaged in foreign trade. The junior Senator from New York, who raised this contention, based it upon the authority of a few lines from an English law dictionary and a clipping from an English newspaper.

Mr. President, the phrase "vessels of commerce" was incorporated in our statutory law over 60 years ago and has been

given judicial construction which has never to this day been questioned.

The Circuit Court of the United States in the case of the United States *v.* Cutler (1 Curtis, U. S. Circuit Rept., at pp. 503 to 515) decided this very question in 1853 and decided it directly contrary to the interpretation now sought to be given it by the Senator from New York and other Senators who have followed his lead. The decision in that case turned upon the meaning of the term "vessels of commerce" in the act of 1850. The act referred to will be found in the Ninth Statute at Large, page 515, and contains the following proviso:

Provided, That flogging in the Navy and on board of vessels of commerce be, and the same hereby is, abolished from and after the passage of this act.

The question involved in that case was whether a whaling vessel was included in the meaning of the words "vessels of commerce" as used in this act, and it was held—that distinguished jurist, Judge Curtis, then a justice of the United States Supreme Court, delivering the opinion—that the term "vessels of commerce" used in that act meant all vessels which are a subject of jurisdiction within the constitutional power of Congress, within its power to regulate commerce with foreign nations and among the several States. "In the strictest sense, therefore," says the court, "such vessels (meaning whaling vessels) are engaged in commerce, and may be called, though it is in legislation a new phrase, 'vessels of commerce.' In this sense," says the judge delivering the opinion, "I shall construe that Congress used the words, intending to embrace all vessels within the commercial power of Congress."

It will be seen that by this decision the court held that the term "vessels of commerce" includes all vessels over which Congress has jurisdiction, both vessels engaged in foreign commerce and vessels engaged in commerce between the States.

THE JURISDICTION OF THE TREATY-MAKING POWER.

The Senator from Louisiana [Mr. RANSDELL], in an elaborate argument, contends that while the Constitution confers upon the treaty-making power certain jurisdiction in the matter of *regulating* foreign commerce, under the Constitution Congress alone can regulate commerce between the States, and he strenuously contended that the controverted provision of the Hay-Pauncefote treaty is null and void because, he argued, it attempts to regulate interstate commerce, over which Congress, by the Constitution, is given exclusive jurisdiction. If the soundness of the argument of the Senator, with respect to the treaty provisions or stipulations which are alleged to affect interstate commerce, was admitted—and it is not admitted—his argument in this behalf is completely answered by the fact that the Hay-Pauncefote treaty does not in any way attempt to regulate domestic commerce. It does not attempt to fix the rates of tolls charged against vessels of the United States, but it leaves the settlement of that question entirely to the United States. Congress can impose such tolls as it sees fit upon our domestic or over-sea vessels, or it can exempt them altogether if it sees proper. The treaty in no way attempts to interfere with the right of Congress to do as it pleases in this matter. It merely provides that if Congress, in the exercise of its right to regulate these charges, shall decide to impose tolls upon our vessels, it shall impose no greater rate of tolls upon foreign vessels, and if it shall decide to exempt our vessels it shall also exempt foreign vessels from such payment.

The provisions of the Hay-Pauncefote treaty are in this respect the same as those contained in practically all of our treaties of commerce and navigation with respect to the duties and charges of vessels embraced in the terms of those treaties.

Clearly, I submit, the argument of the Senator from Louisiana is without force in its application to the facts in the case under discussion.

OUR COASTWISE TRADE AND NAVIGATION LAWS.

Mr. President, the argument most relied upon by the opponents of repeal is their contention that our coastwise trade is not included in the terms and stipulations of the Hay-Pauncefote treaty, not because it is expressly or impliedly excluded, but because under our navigation laws only domestic vessels are permitted to engage in this trade.

In the consideration of this argument it is important that there should be a clear understanding of the function of the canal in connection with general commerce and of the conditions against which it was sought by that treaty to safeguard such commerce as might seek passage through it.

In the interest of clarity in the presentation I shall make, let me state my understanding of that situation.

The United States was getting ready to undertake the construction of a canal at some point across the Isthmus connecting the two oceans. It was to become a great international interoceanic highway for commerce of all kinds and of all nations. It was, of course, foreseen by all that the United States would impose a charge for the use of the canal which would in the course of time pay the cost of its operation and amortize the capital expended in its construction.

In these conditions two things became of paramount importance to the prospective customers of this waterway represented in this treaty by Great Britain:

First, it was of the utmost importance that all commerce through the canal, without regard to the kind or the character of vessels in which it was carried, or from whence it came or where it was going, should contribute its equitable and pro rata part to this general fund.

Second, it was of still greater importance that there should be no discrimination against citizens of different countries in the conditions and charges imposed for the use of the canal which would abridge or disturb the equal opportunity of competition and intercourse in the markets of the world to which, of right, they were equally entitled; in other words, that the canal should not be made the instrument of revolutionizing and upsetting the established equilibrium of world commerce.

The provisions of the treaty for equality of treatment of vessels and against traffic discrimination must be interpreted in the light of the purposes embraced in these two general propositions—propositions in which the United States as builder, as well as the other nations as customers, were interested.

From this standpoint I propose to consider the argument that the exemption in the act of 1912 of our coastwise trade does not contravene the treaty, because only domestic vessels can engage in that trade under our navigation laws.

The Hay-Pauncefote treaty does not, as does the treaty of 1815—referred to in the Olsen case—differentiate between vessels engaged in different kinds of trade. It refers to vessels only as vehicles of trade. It is directed mainly to traffic. It seeks to put traffic—the commerce—of all countries upon an equal footing with respect to canal charges, and to this end it stipulates that the canal shall be open to vessels of all nations upon terms of entire equality, so that there may be no discrimination in the use of the canal between the citizens of one nation in favor of those of another nation in the conditions or charges of traffic or otherwise.

Therefore the paramount object sought is the protection of those interested in this merchandise, whether as seller or buyer, against discrimination, and any regulation with reference to the vehicles in which this merchandise is conveyed which has the effect of placing a burden upon the merchandise of the citizens of one country from which the citizens of another country are exempt necessarily violates the treaty guaranty of equal treatment.

It is true that no foreign vessel can engage in our coastwise trade. But it is equally true that vessels of practically all countries enjoy unrestricted freedom of trade in any and all ports upon our two coasts. Foreign vessels are just as free to sell their incoming cargoes and to buy their return cargoes of merchandise in the cities of New York or San Francisco as an American coasting vessel. They can not engage in coastal or intercoastal trade, but at every port in the United States the trade in which they are permitted to engage comes in direct competition with the trade in which the American coastwise vessels engage.

Is it not clear under these circumstances, when they both use the canal in reaching their destination, the law which this bill repeals will inevitably work a discrimination against the merchandise in the foreign vessel and in favor of the merchandise in the domestic vessel?

CONCRETE ILLUSTRATION OF DISCRIMINATORY EFFECT OF EXEMPTION.

Let me illustrate with a concrete example which will be of everyday occurrence and which will show the result I have indicated:

When the canal is opened the Pacific coast will buy its coal, let us say, either from Wales or from some Atlantic coast port of the United States. If from Wales, it will have to be transported in a foreign vessel or in an American over-sea vessel which, like a foreign vessel, will be required to pay tolls. If shipped from our Atlantic coast, say Baltimore or Norfolk, it will have to be transported in an American coastwise vessel. Both of these vessels will have to pass through the canal—the one from Wales will pay tolls and the one from Baltimore or Norfolk will pay no tolls. Their cargoes of coal will be sold in San Francisco or some other Pacific port of the United States—the one burdened and the other not burdened with a charge for passing through the canal, at the rate of $1.20 per net registered ton.

This illustration makes it clear that the fact that foreign vessels can not engage in our coastwise trade is immaterial in so far as competition at the place of sale upon the other coast of this country is concerned, and therefore that exemption of our coastwise vessels from tolls will be just as much a discrimi-

nation against foreign vessels trading in these ports in coal as would be a similar exemption of our over-sea vessels trading in coal at the same ports.

This is exactly what the statement of the British chargé d'affaires, Mr. A. Mitchell Innes, meant in his letter of July 18, 1912—a detached excerpt of which has been quoted by Senators so as to give it a meaning the very reverse of which the full text imports—when he said: "It appears to my Government that it would be impossible to frame," that is, for the Government of the United States to frame, "regulations which would prevent the exemption" of United States coastwise vessels "from resulting, in fact, in preference to United States shipping and consequently in an infraction of the treaty."

It is exactly what Sir Edward Grey, of the British foreign office, meant in his letter to Mr. Knox, our former Secretary of State, when he said that "coastwise," meaning American coastwise, "trade can not be circumscribed so completely that the benefits conferred upon it will not affect vessels engaged in the foreign trade, and thereby constitute a discrimination in plain contravention of the provisions of the treaty."

But let me give another illustration of the practical workings of this exemption of our coastwise vessels in its discriminatory effect upon vessels in the over-sea trade which not only establishes the point I am now making, but which will at the same time establish one or more other controverted propositions which have been asserted in this discussion.

STATEMENTS OF FACTS WHICH SUPPORT SEVERAL CONTROVERTED CONTENTIONS.

In the hearings before the Interoceanic Canal Committee there appeared some gentlemen from the Pacific coast—from the Oregon and Washington country—who developed strong opposition to the pending bill. They said, among other things, that lumber was a great industry of the section from which they came. This section, they declared, manufactured large quantities of fir pine, much of which was of a low grade, and for which there was no adequate market on the Pacific coast. They wanted to ship this low-grade lumber to the Atlantic coast of the United States, to be sold in competition with like lumber, the product of the Atlantic Coast States, and wished exemption from tolls in part to better enable them to meet this competition. But they said that the manufacture of the same kind and grade of lumber was also one of the chief industries of British Columbia—located just across the border from the State of Washington—with which lumber they would also have to compete in their prospective trade with our Atlantic coast. This Oregon and Washington lumber, they said, would have to be shipped in American coastwise vessels, while the lumber of British Columbia would be shipped in foreign vessels, and they contended that by reason of the lesser cost of construction and operation of these foreign vessels they would be put at a disadvantage in this competition, and they therefore argued if our coastwise vessels were exempt from tolls, while foreign vessels were required to pay tolls, it would tend to equalize this difference in the cost of transportation and, to that extent, the conditions of competition between their lumber and that of British Columbia at our Atlantic ports would be measurably equalized. This character of argument ran through much of the testimony that was presented to the committee.

Is it not apparent that this argument admits several things?

First, it admits that the benefit of the remission of tolls to our coastwise vessels would be appropriated by the owners of these vessels to overcome the lesser operating expenses of their foreign competitors.

Second, it admits that the exemption would be a discrimination against the citizens of British Columbia competing with citizens of our Pacific coast for the lumber trade of the Atlantic ports of the United States.

Third, it admits that a cargo of British Columbia lumber passing through the canal in a foreign vessel and a cargo of Oregon and Washington State lumber passing through the canal in a coastwise vessel would eventually meet upon common ground and be sold in competition, the one with the other, say, in Baltimore, Philadelphia, or New York, to the identical extent that the respective cargoes of two coastwise vessels loaded with lumber, the product of the State of Washington or Oregon, would eventually meet upon common ground and be sold in competition, the one with the other, at these ports of our Atlantic coast.

Could the case of discrimination of the very kind denounced in the treaty be more conclusively established than by the grounds upon which exemption from tolls in this case was advocated and demanded?

SERIOUS SITUATION WITH REFERENCE TO OUR CONTINENTAL NEIGHBORS.

In order to press home the seriousness of the situation with respect to our trade relations, especially with our continental neighbors to the north and to the south, which will inevitably result from the proposed discriminatory canal rates, it is only necessary to contrast the present conditions of transit from coast to coast of this continent with the conditions which will exist when the canal is opened, unless the bill under consideration is passed. Under present conditions the Pacific coast trade of the United States, of Canada, and of South and Central America is upon a basis of absolute equality so far as transit across the continent is concerned, whether that transit be by the Tehuantepec route or by the Panama Railroad or around the Horn. This is true not only with respect to European traffic but it is equally true with respect to the traffic of these Pacific coast countries with the Atlantic ports of the United States.

Under present conditions the Atlantic coast traffic of the United States, of Canada, and of South and Central America with the Orient and the Pacific ports of the United States is likewise upon terms of absolute equality so far as transit across the continent is concerned by either of the three presently available routes.

When the canal is opened, whether that event occurs this year, next year, or later, this situation would be changed and the present conditions of equality will cease.

Does anyone believe that our neighbors to the north and to the south will view with complacency the discriminatory conditions following the opening of the canal which I have described? Does anyone doubt that this discrimination, not only against their commerce but against their vessels, will arouse antagonism? Does anyone doubt it will not only prejudicially affect our present friendly relations with them but will tend to defeat one of the main objects we had in view in the construction of this canal, namely, to further cement our political relations and to extend our trade and commerce with the countries of this hemisphere?

In view of the consequences certain to result from these discriminatory rates, is it not apparent, even if we were under no treaty guaranty of equality, if we were absolutely free and untrammeled to do what we pleased with respect to charges and conditions of traffic through the canal, that a sound and wise public policy, in the interest of peace and amity and of commerce, would dictate that we should not for a small and, to say the least, doubtful, advantage deliberately pursue a course which will inevitably lead to such disastrous consequences to our political and trade relations with our neighbors and friends upon this continent, to say nothing about similar though less acute complications in our commercial and political relations with the other nations of the world?

TAFT'S CONTEMPORANEOUS ACTS AND SUBSEQUENT DECLARATIONS ANALYZED.

Ex-President Taft is cited as a great lawyer who believes we have the right under the treaty to discriminate in favor of our coastwise trade, and his declaration to that effect when he signed the act which it is sought to repeal is referred to as the statement of a great lawyer acting under the heavy responsibility of public duty. Mr. President, I submit that the grounds upon which ex-President Taft based that opinion, as shown both in his contemporaneous act and in his subsequent declarations upon the subject, disclose the fact that he entertained grave doubts as to the soundness of the views he expressed then and is tantamount to an admission of the principle for which those who advocate repeal of that act now contend. If the ex-President had no misgivings as to the correctness of the opinion then expressed, why, then, did he supplement his approval of the canal act of 1912 with a memorandum suggesting the passage of an act by Congress submitting the question of our right to make this discrimination to the Supreme Court of the United States for its advice and decision?

If ex-President Taft had no misgivings as to our rights in the premises, why his emphatic declaration made in his speech at the International Peace Forum in New York January 18, 1913, of his willingness—yes, even his eagerness—to submit this question to the arbitration and settlement of an impartial tribunal?

But infinitely stronger than this recommendation and this speech of the ex-President as showing not only his misgivings but the state of his mind with reference to this question is the basis upon which he fixed the rate of tolls for passage through the canal, namely, assuming the payment of tolls by our coastwise vessels, and the statement made in his Ottawa speech, delivered in January of this year, in support of his contention that with the adjustment of the tolls as fixed in his proclamation the exemption did not contravene the treaty.

In that speech Mr. Taft, speaking to a Canadian audience, said:

> Tolls have been fixed on the canal for all the world on the assumption that coastwise traffic is to pay tolls. Our giving it immunity from tolls does not, in our judgment, affect the traffic of other countries in any other way than it would affect it if we voted a subsidy equal to the tolls remitted to our ships.

That is to say, paid the tolls for them. And then he adds:

If Canada is affected that way, she, too, can subsidize her trade from Quebec to Vancouver.

In other words, according to the views expressed in this speech, the ex-President based the validity of the act of 1912 upon a subsequent act of the Executive and his assumption that the remission of tolls was equivalent to their payment by the Government of the United States.

Verily, the ex-President in this exposition comes dangerously near admitting, if indeed he does not in fact admit, the principle contended for by those who favor repeal.

NEGOTIATORS ACT UPON SENATE RECORD AND NOT UNDISCLOSED MOTIVES OF SENATORS.

Again, Mr. President, those who contend that our coastwise vessels and trade are not included in the terms of the treaty find themselves upon the very threshold of this controversy confronted by the adverse vote upon the amendment offered in the Senate to the first Hay-Pauncefote treaty by ex-Senator Bard, of California, expressly exempting our coastwise trade from the operation of the treaty. To avoid the effect of this adverse vote, which would otherwise have to be admitted as a controlling fact in this controversy, it is suggested that some Senators voted against the amendment not on its merits but because they thought it unnecessary. That is a way of disposing of a deliberate act of a legislative body which, I take it, will not appeal very strongly to the public. However that may be, after everything by way of explaining away this vote is said that can be said, the fact remains that the motives which actuate Senators in casting their votes, even when the debates upon questions are taken down and preserved, very frequently remain locked in their breasts; but where the vote is in executive session, where the discussions are not taken down and preserved, as in this case, the outside public, at least, has nothing but the concrete action of that body to guide it in reaching a conclusion as to the basis of its action. Looking to the record, which is supposed to import verity as the certain expression of the thought and purpose of the Senate with respect to this amendment and upon which the public, especially foreign Governments, had the right to rely, what is disclosed?

It discloses two concrete record facts, each of tremendous import in this controversy, namely, the report to the Senate of the majority members of the Committee on Foreign Relations and the vote of the Senate on the Bard amendment.

The Committee on Foreign Relations had maturely considered the treaty; it had reached a conclusion. The treaty was favorably reported, and accompanying it was a majority report, drawn by the chairman, ex-Senator Cushman Davis, admittedly a great lawyer and as profoundly familiar with the subject and its history as any public man of that day. This report declared in terms it was impossible to misunderstand that in entering into this treaty the United States had no purpose of reserving to itself any exclusive benefit in the use of the canal; that it was to be constructed for the equal use of mankind; that it would be unworthy of the United States, in view of its professions with respect to this project, stretching over a half century, to seek any selfish advantage or preferential rights over other nations in the use of this waterway.

The action of the Senate upon the Bard amendment, taken by itself and speaking for itself, was a clear, emphatic declaration that the Senate disapproved of so amending the treaty as to reserve to the United States the right to exempt from tolls its coastwise vessels through the canal without exempting those of other nations.

NO EVIDENCE OF MOTIVES OF SENATORS DISCLOSED TO NEGOTIATORS.

While the motives of Senators with respect to their votes upon this amendment were of course known to themselves, they were not known to the public; there is no evidence that they were made known to Mr. Hay or to our Secretary of State; there is no evidence that they were made known to our ambassador to Great Britain, Mr. Choate, or to Mr. White, our chargé d'affaires. There is no evidence that they were made known to Lord Pauncefote or Lord Lansdowne, the British negotiators; or that they were made known to the members of the British cabinet, which approved the second treaty, or to the members of the British Parliament. But while these men, representing the high contracting parties in negotiating and making the second treaty, had no knowledge of the motives of Senators in the votes cast by them in secret executive session in the consideration of the first treaty, they did have knowledge, Mr. President—because it was a matter of public record—of the report of the majority members of the Committee on Foreign Relations, prepared by its chairman, Senator Davis; and they did have knowledge of the adverse vote of the Senate on the Bard amendment, and they had the right to consider these record facts as correctly reflecting the sentiments of the Senate, and there is no reason to suppose they did not so consider them.

I submit it would be unreasonable to suppose, so far as these negotiators were concerned, especially the British negotiators—and so far as the British cabinet, which approved the treaty, and the Parliament of Great Britain, which adopted it, are concerned—that in making the second treaty they acted without a thorough knowledge of these solemn, official declarations and acts as expressing the thought and purpose of this Government in regard to the rule of equality "in conditions or charges or otherwise" which was to obtain with respect to the use of the canal by the nations of the world, including Great Britain and the United States.

IS "ALL NATIONS" INCLUSIVE OR EXCLUSIVE OF THE UNITED STATES?

The other contention upon which the opponents of repeal most rely is that the phrase "all nations," as used in the guaranty of equality, means all "other" nations and does not include the United States.

It has been intimated that ex-Secretary of State Hay, who negotiated the treaty, and in whose knowledge, sincerity, and patriotism all repose implicit confidence, did not think the United States were included in the term "all nations," and his great name has been invoked in support of that contention.

I have read the correspondence between Mr. Hay and our ambassador, Mr. Choate, and Lord Pauncefote and Lord Lansdowne. There is not a line in this correspondence to sustain this contention. On the contrary, it is incredible to me that anyone who has carefully read that correspondence can doubt what Mr. Hay's intentions were—can conclude that he intended that the treaty as agreed to should reserve to the United States any preferential right or exclusive benefit in the use of the canal. Mr. Choate's letters since Mr. Hay's death, as well as their correspondence when the treaty was under negotiation, would seem to make this clear.

"ALL MEANS ALL"—MR. HAY'S VIEWS AND STATEMENT TO MR. W. FLETCHER JOHNSON.

In the Clayton-Bulwer treaty equality between the United States and Great Britain was in express terms provided for, and all other nations were to come in on like terms. Those provisions seem to have been always present in the minds of Mr. Hay, Mr. Choate, and Mr. White, and there was never any expression used by either of them in this correspondence of a different import.

That was the basic idea pervading the entire negotiations, and, although it at times found expression in the general term of "all nations," yet on several occasions there was particular mention made of equality as between the United States and Great Britain, and as between the United States and all other nations.

In his letter to Secretary of State Hay, dated August 20, 1901, Mr. Choate, in suggesting a modification of the proposed article 4, which was intended to extend the general principle of this treaty to future canals, asked the question, "Assuming that some such article must be retained, how would this do?" And then he outlined in the following terms his opinion of what the proposition should be, namely:

In view of the permanent character of this treaty whereby the general principle established by article 8 of the Clayton-Bulwer treaty is reaffirmed, the United States hereby declares (and agrees) that it will impose no other charges or conditions of traffic upon any other canal that may be built across the Isthmus (or between the Atlantic and Pacific Oceans) than such as are just and equitable, and that such canals shall be open to the subjects and citizens of the United States and of all other nations on equal terms.

This question shows beyond peradventure Mr. Choate's idea as to what it was intended the treaty should provide with respect to equality of terms of treatment of commerce through the canal.

Well knowing Mr. Choate's mind, Col. Hay, on September 2, 1901, replying to Mr. Choate's letter of the 20th of August, and referring to the views expressed by him in that letter, used this language:

Your views are so clear and definite and so entirely in accord with my own that I find it unnecessary to give you any extended instructions as to this very important matter.

These two letters not only show that Mr. Hay and Mr. Choate were in entire accord, but it discloses what, in their opinion, should be the scope and purport of the agreement between the two countries with respect to equality of treatment.

But if the record we have of Mr. Hay's connection with this transaction does not make his attitude clear beyond peradventure, we have the positive testimony of a reputable and distinguished journalist of a conversation with Mr. Hay upon this identical subject and point which leaves no room for doubt as to what Mr. Hay understood and intended and as to what he thought the treaty as drawn accomplished in this regard. I

refer to the statement of Mr. William Fletcher Johnson, published in the May, 1914, issue of the North American Review, who claims to recall distinctly a conversation he had with Mr. Hay upon this subject in 1904. I quote Mr. Johnson's words. He says:

I asked Col. Hay plumply if the treaty meant what it appeared to mean on its face, and whether the phrase "vessels of all nations" was intended to include our own shipping or was it to be interpreted as meaning "all other nations." The Secretary smiled, half indulgently, half quizzically, as he replied:

"'All' means all. The treaty was not so long that we could not have made room for the word 'other' if we had understood that it belonged there. 'All nations' means all nations, and the United States certainly is a nation."

"That was the understanding between yourself and Lord Pauncefote when you and he made the treaty?" I pursued.

"It certainly was," he replied. "It was the understanding of both Governments, and I have no doubt that the Senate realized that in ratifying the second treaty without such an amendment it was committing us to the principle of giving all friendly nations equal privileges in the canal with ourselves. This is our golden rule."

WHY ANTI-REPEALERS WOULD ELIMINATE OUR TRADITIONAL POLICY.

Mr. President, I do not wonder at the eagerness of the opponents of repeal to have us leave the history of these canal treaties and our traditional policy of equality of treatment of all vessels of all nations out of this discussion and have us decide the debated questions with regard to the correct interpretation on the cold reading of the treaty, because, as I see and understand it, every line of that policy and of that history condemns their contention.

The United States to-day has treaties of commerce and navigation with nearly every nation of importance in the world. These treaties provide for the reciprocal and equal treatment of the vessels of the contracting parties in the matter of duties and charges. By similar arrangement nearly all the leading nations of the world to-day are under contract to grant to foreign vessels equal treatment with the vessels of their own country. This equality of treatment has become a fixed and settled principle of international maritime intercourse. The benefits that have accrued from it have been mutual and incalculable alike in the promotion of amity, peace, civilization, and commerce. What nation, I ask, Mr. President, was the pioneer in the inauguration and bringing about these happy international relations? I answer with pride, Mr. President, it was the United States of America!

In 1815, after a third of a century of fruitless effort, we concluded our present subsisting treaty of navigation and commerce with Great Britain, by which each of the contracting parties put the vessels of the other upon an equal footing with their own with respect to duties and charges. It was a radical innovation from the customary policy pursued by nations up to that time. It was a forerunner of the abolition of the old restriction and discrimination practiced toward each other by nearly all the maritime nations of the world. It was a great advance in international friendship and amity.

It is now insisted, because we have built a canal at a heavy cost, we shall, for a doubtful advantage, repudiate this great principle of reciprocal equality which we ourselves inaugurated and established as the great corner stone in the regulation of commercial relations between modern nations, and become the leader among the nations of the world in a reactionary movement to reestablish the old principle of selfishness and isolation which it supplanted.

But there is more of this history. For nearly one-half a century before the adoption of the Hay-Pauncefote treaty we had periodically sought a modification of the Clayton-Bulwer treaty. We wanted to be released from the copartnership and arrangement of that treaty. We wanted the right to build and own the canal in severalty. We wanted the right to fortify and defend it. Repeatedly during these years we appealed through our State Department and otherwise to Great Britain for a modification of the treaty in these respects, and in these respects alone.

Let me impress upon you, Senators, the fact that in all of these communications, from that of Mr. Reeves to Lord Palmerston, 1853; that of Mr. Cass, in 1857; that of Mr. Blaine, then Secretary of State, in 1881; and those of Mr. Hay and others, while various other modifications were sought, there was never so much as a suggestion that this Government wanted or sought relief or release from the obligations of the provisions of the Clayton-Bulwer treaty with reference to the free and equal passage of the ships of the world through the canal on equal terms with our own.

STATEMENT OF EX SECRETARY OF STATE JAMES G. BLAINE.

I wish, with the consent of the Senate, to have printed as an appendix to my remarks extracts from these official statements with regard to our purpose and position in this matter, as well as extracts from the diplomatic correspondence bearing upon the same subjects. I will not take the time of the Senate to read these extracts except the one from ex-Secretary James G. Blaine. I wish to read this statement of Mr. Blaine's because for 30 years he was a bright, particular star in our political firmament and because his brilliant and masterful account of the political and economic occurrence of that period in his work entitled "Thirty Years in Congress" establishes his right to speak with authority upon this subject. For these reasons I would especially invoke the authority of his great name in behalf of a fair and liberal interpretation of our written promises in this matter and an ungrudging performance of them in spirit as well as in letter.

Now, let me read to you, Senators, Mr. Blaine's significant and emphatic statement:

Nor does the United States seek any exclusive or narrow commercial advantage. It frankly agrees, and will by public proclamation declare, at the proper time, in conjunction with the Republic on whose soil the canal may be located, that the same rights and privileges, the same tolls and obligations for the use of the canal shall apply with absolute impartiality to the merchant marine of every nation on the globe; and equally in time of peace the harmless use of the canal shall be freely granted to the war vessels of other nations.

Mr. President, in all these years the first suggestion that we have any selfish motive on our part in this matter—that we wanted any preferential treatment for our own ships—that we did not accept in the fullest measure the rule of equality prescribed in article 8 of the Clayton-Bulwer treaty, was in 1912, when the canal was nearing completion, and then for the first time the voice of the new "dollar diplomacy," which came into being during the administration of President Taft and Secretary of State Knox, was heard pleading for preferential consideration for our ships—especially our coastwise ships—already enjoying special favors and exceptional privileges under our navigation laws.

Mr. President, it is now proposed to reverse this well-established policy, to repudiate all these assurances with respect to our purposes toward the commerce of other nations should we build the canal—and by a technical, not to say shrewd, ex parte interpretation of the letter of the contract establish our right to pursue a course of unrestricted discrimination in favor of our own ships engaged in coastwise or foreign trade.

CHANGE GUARANTORS DOES NOT AFFECT OR IMPAIR GENERAL PRINCIPLE.

To accomplish this purpose without properly repudiating the treaty, it becomes necessary to construe the eighth article of the Clayton-Bulwer treaty and the general principles of neutrality as defined in it out of the Hay-Pauncefote treaty. The argument relied upon to support this construction is based upon two propositions.

First. The contention that the general principle of equality guaranteed in the eighth article of the Clayton-Bulwer treaty is conditioned upon the stipulated guaranty of the joint protection of the canal wherever it should be decided to construct it, and that therefore the agreement for equality ceased to be effective when Great Britain was released from the obligation of protection.

Second. The contention that no part of article 8 of the old treaty is efficaciously incorporated in the new treaty.

Mr. President, article 8 embraces two propositions—one is the establishment of the general principle that the vessels of all nations, including those of the contracting parties, Great Britain and the United States, shall have the right of passage through the canal on terms of entire equality. This is the so-called principle of neutralization.

The other proposition is a stipulation for the joint protection of the canal, by whatever route constructed, by the United States, Great Britain, and other nations using it. These two propositions, though coupled as interdependent stipulations, are in fact separate and distinct things. The general principle of neutralization provided in this article is one thing and the guaranty of protection is quite another and different thing, and I submit that a change made in the personnel of the guarantors of protection by the mutual agreement of the contracting parties can in no way affect the validity of the general principle, especially when the agreement for a change of the guarantors is accompanied with an agreement for the retention of that principle.

The Hay-Pauncefote treaty relieves Great Britain and all other foreign nations using the canal from the duty and obligation growing out of the stipulated guaranty of protection in article 8, and devolves that duty exclusively upon the United States; but it is stipulated that this change in guarantors shall not in any way impair or abridge the general principle of equality therein enunciated. On the contrary, the general principle is to remain intact, indeed, is reaffirmed, not only in the preamble but in article 4, and it is reiterated in the treaty with Panama by which we secured our title to the territory upon

which the canal is built. In every way known to diplomacy it is asserted and buttressed.

MISCONSTRUCTION OF TREATY.

The opponents of repeal do not stop with the misconstruction of this article of the old treaty, and the effect of its modified incorporation in the new treaty, but to make assurance doubly secure they go further and seek by construction to eliminate it from the new treaty altogether. The ground upon which they seek to throw it out is the contention that the preamble in which it is first affirmed is not a part of the treaty except in so far as it may throw light upon the interpretation of any doubtful provisions; and that its reaffirmation in the fourth article does not make it a part of the treaty so far as the canal we have constructed is concerned, and that the treaty should therefore be construed as if it did not mention the general principle of neutralization or article 8 of the Clayton-Bulwer treaty at all. This is an amazing contention in view of the undisputed facts in connection with the negotiation of this treaty and its ratification by Great Britain. Speaking generally, there can be no question about the fact that while Great Britain yielded to our demands for the modification of the old treaty; to our demands for the right of exclusive construction, ownership, and management; to our demands in regard to the right of fortification, at every stage of the procedure, throughout all the conferences, she demanded that the general principle of neutrality embodied in article 8 of the Clayton-Bulwer treaty should be retained in all of its vitality and vigor, and there was no dissent on the part of our negotiators or our Government. She made it plain through her representatives that unless that was retained and written in the treaty in such a way as to leave no doubt that it was retained that neither the cabinet, the Parliament, nor the people of Great Britain would consent to the modification which we sought of the original treaty.

In the light of these facts we are asked to accept the proposition implied, in the arguments advanced here, that the treaty was so unskillfully, so inartificially, so incompetently drafted as to leave out of it the only principle which Great Britain was specially anxious to put in it, and which, with the free hand in this behalf our representatives willingly accorded her, she tried in every known way to securely write into it and ingraft upon it.

"ALL NATIONS OBSERVING THESE RULES."

It will be interesting and helpful to examine for a moment the argument the opponents of repeal rely upon as conclusively proving their construction that the term "all nations" does not include the United States. This so-called conclusive argument is based upon the phrase "all nations observing these rules," used in the first clause of the third article. The use of these words, they contend, makes it clear and certain that the United States is not included in the words "all nations," because, they confidently assert, the maker of rules of action is under no obligation to observe them himself.

I do not wish to argue either the logic or morals of that proposition further than to express my dissent. But, Mr. President, these words which they claim excludes the United States from the all-nations provisions of the second Hay-Pauncefote treaty, it will be noted, do not appear in the corresponding clause or elsewhere in the first Hay-Pauncefote treaty. The language of that clause of the first treaty, is "The canal shall be free and open in times of war as in times of peace to vessels of commerce and of war of all nations, upon terms of entire equality," and so on, and that clause of the treaty was adopted by an almost unanimous vote of the Senate when that treaty was ratified by that body.

If the insertion of the words "observing these rules" in the clause of the second treaty under discussion proves that the United States is not included in its "all nations" clause, their omission in the corresponding clause of the first treaty would seem to logically prove that the United States was included in the "all nations" clause of that treaty, and that its inclusion at that time was acceptable to the Senate.

WHO ASKED FOR THE INSERTION OF THESE WORDS?

It is important, in view of these facts, to inquire at whose instance the words "observing these rules," which did not appear in the first treaty, were inserted in the second treaty? Did Mr. Hay ask it? Did Mr. Choate ask it? The Senate certainly did not ask it. While many amendments were offered and several adopted to the first treaty, none to this effect were either offered or adopted. Who, then, asked it? The diplomatic correspondence answers: It was Lord Lansdowne who asked their insertion. He did not originally suggest the exact language used in the final draft. His original suggestion was "all nations agreeing to these rules." Neither Mr. Choate nor Mr. Hay desired the emendation. Mr. Choate strongly objected to the word "agreeing." He thought it might be construed to imply an invitation to foreign nations, which he did not wish his Government to make, and he suggested the word "observing" in place of the word "agreeing"; and that change of verbiage was accepted by Lord Lansdowne and the phrase was so worded.

So that we have the astonishing proposition that the British foreign office being offered a treaty which included the United States in the term "all nations," deliberately refused to accept it, and demanded an amendment the effect of which, it is contended, excludes the United States from the term "all nations," and produced the result the British negotiators had been so strenuously endeavoring to forestall and prevent.

The true purpose of the British Government in asking for inclusion of these words in this clause of the treaty is made clear by the diplomatic correspondence.

Lord Lansdowne evidently thought that the makers of these rules would be bound by them. He did not agree with Senators who now claim that the maker of these rules is not bound by them. Lord Lansdowne knew that his Government, being a party to the contract in which these rules were made, in legal intendment assented to the rules, and although it did not assume the obligation of enforcing them it was, by virtue of its assent and being a party to the contract in which they were promulgated, logically bound by them, and very naturally he insisted that other countries should not enjoy the benefit of the canal without being also bound to comply with them.

UNITED STATES DID NOT WANT GREAT BRITAIN'S HELP IN MAKING OR GUARANTEEING RULES.

The argument that, if the United States is included in the "all nations" provision of the first treaty, it is because in that treaty Great Britain and the United States jointly adopted rules of neutrality and jointly guaranteed those rules, and that the United States is not included in the "all nations" provision of the second treaty because under that treaty the United States alone adopted rules and guaranteed their observance is an argument which can not be sustained in the light of the facts of the case.

The United States did not want Great Britain to help in making these rules, or in guaranteeing them. On the other hand, the United States was almost, if not quite, as anxious to be relieved from the copartnership with Great Britain in making these rules and in protecting them as she was to be relieved from the copartnership with Great Britain provided in the Clayton-Bulwer treaty in the construction of the canal. Great Britain was well aware of this feeling, and she knew she did not have to surrender anything, especially the only thing she had demanded for herself in connection with this whole business in order to secure release from the obligation of protection involved in the joint making of the rules of neutrality.

It is not reasonable to suppose that Great Britain consented to a change in the second treaty, which denied her ships equal treatment with those of the United States, in order to get release from an obligation from which she knew the United States was anxious to relieve her.

RIGHTS OF BELLIGERENCY.

Much stress is laid by those opposed to this bill upon the contention that if the five last rules of the Hay-Pauncefote treaty relating to belligerency do not apply to the United States equally with other nations, that likewise the first rule thereof relating to equal charges against vessels and merchandise passing through the canal do not apply to the United States.

The argument is plausible if you look only to the letter of the treaty, but in the light of the radical changes in the determinative facts respecting belligerency between the time of the making of that treaty and the building of the canal the argument is, I think, clearly unsound. The Hay-Pauncefote treaty antedated the Panama treaty by two years. When therefore these rules were prescribed we had not acquired sovereignty over the canal territory; nor indeed had it been settled where the canal would be located or whether the United States would build it or secure its construction by private capital under its auspices and protection. When, in 1903, the United States acquired sovereignty over the canal territory through the treaty with Panama that fact, coupled with the right to fortify it and the duty of policing it, settled our right to exercise belligerent rights for our own protection, and the right has never since been questioned by Great Britain or anyone else.

The common sense of mankind could not refuse to recognize the controlling effect of these changes in conditions upon the stipulations in the rules pertaining to belligerency. But with respect to rule 1, relating to equality in charges of the commerce passing through the canal, it is a question not of changed conditions, but it is a question of original construction.

Great Britain was promised that her commerce should be put upon an equal footing with the commerce of the United States

in the matter of charges and conditions of transit through the canal. The fact that the United States as a result of subsequent acquisition built the canal through its own land instead of through the leased land of some one else does not in the least change the status or the interest of the two contracting parties in the matter of equal terms of transit.

The effect of discrimination against the commerce of Great Britain would be the same in the one case as in the other, and the effect upon the United States of equality of treatment would be the same in the one case as in the other.

In addition to this, Mr. President, it seems to me that the sovereignty argument is effectually disposed of by the provision in the fourth article to the effect that no change of territorial sovereignty of the country or countries traversed by the canal should affect the general principles of neutralization, which means the principle of equality of treatment prescribed in the eighth article of the Clayton-Bulwer treaty.

WELLAND CANAL.

It is said by the opponents of repeal that the Welland Canal case has no analogy to the case under consideration. This conclusion seems to be based upon the theory that Canada and Great Britain, after having refused to yield to our contention that they were proceeding in violation of our treaty rights, were ultimately persuaded by the retaliatory measures adopted by us to yield as a matter of policy, though not admitting our contention. I am not particularly concerned about Canada's attitude in that matter, or why she receded from her position. I do not think, so far as this controversy is concerned, it makes any difference whether she receded because of our retaliatory legislation, or because she finally become convinced that she did not have the right to disregard our construction of the contract with her, and to act upon her own construction. What I am concerned about in connection with this historical incident is what we ourselves did—the position that we took and maintained in that controversy—and whether, if we were right then, we are not wrong now. As I see it, our contention then was substantially the same as Great Britain's contention is now. We contended then that Canada, by virtue of its agreement through Great Britain with us, had promised equality of treatment to our commerce passing through her canal, and that by her order in council she had discriminated against our commerce in favor of her own commerce passing through the canal, and we asked that she desist from this discrimination. When she refused to desist, we resorted to retaliation. Great Britain has not gone that far, and we did not go that far for a long time. Whether Great Britain will eventually go that far is for the future to determine.

EFFECT OF CANADA'S ACTION ON HER RELATIONS WITH THE WORLD.

It is said that Canada has not suffered in her relation with the balance of the world by reason of her refusal to consider our protest and rescind her arbitrary order in council except under the pressure of retaliation. I am not so sure about that. There is in this Senate to-day an anti-British feeling—an anti-Canadian feeling. The same sentiment obtains with many throughout the country. Who will say what part this little episode in our history has played in keeping alive that feeling of irritation and hostility which has existed to a greater or less extent throughout our whole history against the one great nation of the world who is "bone of our bone and flesh of our flesh"? Who can say that but for this little incident there might not have been a different sentiment, if not a different relationship, between this country and our neighbor at the north from that which now exists and has obtained for years?

Suppose all the balance of the world had been interested in opposition to the action of Canada in this matter to the same extent as all the balance of the world is interested in opposition to our attitude with reference to the exemption from canal tolls of our coastwise vessels. Who in that case would undertake to measure the possible effect the action of Canada in the Welland Canal matter might have had upon the sentiments of amity and friendship of the balance of the world toward her and the extent to which her political and commercial fortunes might have been affected.

WE ARE SOVEREIGNS OF THE CANAL ZONE, BUT UPON WHAT ASSURANCES WAS IT ACQUIRED?

Elaborate arguments have been made to show that we own the Canal Zone—that our title and sovereignty over it is as complete as that over the ground upon which this Capitol is built. O Mr. President, I suppose we own this Canal Zone.

Let us dismiss all question about the legality of our title and sovereignty over the Canal Zone. Still the question remains, How did we get that title and acquire that sovereignty? I have no reference now to the secession of Panama from Colombia and her recognition by us and the balance of the world as an independent Republic. I refer solely to our acquisition of this 10-mile-wide strip of land from ocean line to ocean line through the very heart of her territory.

The $10,000,000 we paid for this strip of land and its appurtenances of inestimable value is a mere bagatelle compared with its actual value. The payment of this money was not the real consideration for this extraordinary territorial and political concession. The real consideration was the assurance and promise, ungrudgingly given by us and implicitly relied upon by Panama, that we would construct a canal through the center of this strip sufficient to accommodate the largest seagoing vessels and maintain and operate it in perpetuity, on terms of entire equality to the interoceanic commerce of the world, thus bringing this great world traffic through the eastern and western gateway and past the very doors of the little infant Republic.

GREAT BRITAIN NOT ALONE CONCERNED, BUT ALL THE WORLD.

This question has been discussed as if nobody was concerned in the guaranty of equality except Great Britain. Even Panama's rights have been ignored in order to more effectually twist the lion's tail. That is wide of the mark. Great Britain and Panama alone have contractual rights in this behalf, it is true, but all the world, under the terms of the treaty, are joint beneficiaries of the promises and guaranties made to these two countries.

If we should repudiate these guaranties, neither Great Britain nor Panama would go to war with us about it—neither would the other beneficiaries. But not only Great Britain and Panama, but all the balance of the world, would be disappointed in their just expectations. They would be aggrieved. They would be resentful. Their antipathy would be aroused and their distrust excited. And while we would not be confronted with a world in arms, we would be confronted with what would be equally as serious a matter to us in our political and commercial relations with mankind, namely, a world-wide public sentiment of chagrin, distrust, disapproval, and resentment.

What would be the effect of this situation upon our commercial and political relations with the balance of the world, especially with our neighbors of the American Continent, no man can foretell.

WHO WILL GET BENEFITS OF EXEMPTION.

Let me devote a few minutes to the question as to who will get the benefit of the remission of these tolls and its effect upon transcontinental railroad rates. Of course it is clear that exemption from tolls of coastwise vessels will take that much money out of the Treasury which the people will have to make good, but will the people in some other way get this money back? Will the shipowners appropriate it all to themselves or will they give it all to the shipper or to the consumer, or will they divide it up between themselves and the shipper and the consumer? Will it tend to the reduction of transcontinental railroad rates, as was suggested at the time the canal act was passed, or will it result simply in the transcontinental railroads hopelessly losing this trade to the new water route and recouping their losses by such increases as the Interstate Commerce Commission may allow under the circumstances upon rates to interior points?

From our experience with special privileges we may fairly assume that in this case, as in other cases, the consumer will get nothing except what the owners of the boats are absolutely compelled to allow him, and as whatever the consumer gets will first have to filter through the hands of the boat owner, the strong probability is that he will get about the same share of this subsidy as the consumers of tariff-taxed articles get from a prohibitive tariff.

SHIPPING TRUST AND CONFERENCE-MADE RATES.

Opponents of repeal ridicule the idea of a shipping trust in connection with the canal. According to them there is to be unrestricted competition for the benefit of the consumer. I do not know whether there is a shipping trust or not in our coastwise trade, but the evidence before the committee showed that these boats were now making enormous profits, paying big dividends, and, in some instances, annually carrying to surplus two or three times as much as the amount paid in dividends.

Experts assured the committee that if the combinations now alleged to exist between those boats were broken up, or if they were put under the control of the Interstate Commerce Commission, rates would hereafter be fixed, as are railroad rates and prices in other lines of competitive business, by conference agreements, and that the rates charged by all would likely be practically the same; and that these rates would be fixed just low enough to get the business, and that within that limitation they would be as much as the business would bear.

The exemption from tolls of our coastwise shipping, we are told, will reduce transcontinental railroad rates. That argument was greatly stressed two years ago. Since the hearings before the Committee on Interoceanic Canals it has not been so much relied upon, because these hearings practically exploded it. Still much is sought to be made out of the opposition of these railroads to the canal, both before and since its construction.

It is true, Mr. President, that the railroads opposed the construction of the canal, and it is true that now that it is about to be opened for traffic they regard it as a menace to their prosperity.

I have no doubt many of them would rejoice if an earthquake should come and blow it up. Why did the railroads oppose the canal, and why do they still fear it? For the simple reason they know, as everybody knows, that, tolls or no tolls, the canal is going to cut enormously into their present business.

EFFECT OF WATER COMPETITION ON TRANSCONTINENTAL RAILROAD RATES.

Mr. Dunn, one of the star witnesses against repeal before the committee, calculated that of the 3,000,000 tons through traffic now carried by the transcontinental railroads, when the canal is opened, 2,000,000—or two-thirds of the amount—would be lost by the railroads to boats. This will result from the fact that the difference between the cost of transportation by water and rail would be so great that there could be no competition in such heavy and bulky articles as usually seek waterway transportation, and, competition being impossible, the railroads will simply let the business go. He estimated that by using petroleum instead of coal, lumber could be carried by water from the Pacific coast to New York for $4 per thousand, and other heavy and bulky things in like proportion. Manifestly, the railroads could not meet such competition, even though the toll charges were several times greater than is proposed. Would forcing the transcontinental railroads out of these lines of business result in a reduction of their freight rates upon the business which they would retain?

The boats can only carry the traffic from port to port. Relatively, only a small part of the coastwise trade passing through the canal will be consumed by the seaport cities. It will have to be distributed by the railroads. It is assumed that the back haul of this traffic will not extend much more than 500 miles from the coast. That will leave a strip outside of this back-haul zone—infinitely greater than the zone itself—stretching 2,000 miles across the continent and 1,500 miles up and down the continent, which will have to be supplied with coast products exclusively by the railroads, as at present. Will they be allowed to recoup the loss of revenue resulting from losing two-thirds of their through haul by an increase in the rates both upon the back haul and into the broad zone beyond the back haul? Doubtless they will increase these rates, and so recoup themselves if the Interstate Commerce Commission shall find it expedient to allow them to do so, in order that they may realize a reasonable profit and continue as going concerns.

Undoubtedly the canal will greatly stimulate traffic between our two coasts. It will be of inestimable benefit to this country, as well as to the world. It will operate, undoubtedly, to some extent in regulating rail rates. But its benefits will be greatest to our seaports and the country adjacent and commercially tributary to those ports. Indirectly all parts of the country will be benefited, but that there will be any appreciable reduction in transcontinental rail rates is exceedingly problematical, to say the least.

EXEMPTION HANDICAPS COMPETITION BETWEEN DOMESTIC AND FOREIGN WATER CARRIERS.

But let us look at this matter from another standpoint. You say you wish to reduce rail rates across the continent by establishing intercoastal water competition. Well, the canal will effectually do that without the remission of tolls. After securely establishing competition between these intercoastal carriers and the railroads by the construction of the interoceanic canal, do you want to protect these intercoastal vessels against competition with foreign vessels when both use the canal to reach the same ports of the United States? I would think not. Is it not clear that in exempting one and charging the other tolls on the basis of cargo tonnage you will not only embarrass but handicap competition between those competing water carriers, but you will also protect the domestic merchandise carried in intercoastal vessels against competition of foreign merchandise carried in foreign vessels through the canal and sold in United States ports just as effectively as if you imposed a protective tariff duty of $1.20 per ton on the merchandise imported in the latter in addition to the duty, if any, otherwise imposed by law?

NO SURRENDER OR ABRIDGMENT OF OUR RIGHTS INVOLVED.

It is said that the protest of Great Britain against our action in this tolls matter is a denial of our right to exempt our vessels from toll, and is therefore an impeachment of our right as the sovereign of the territory and owner of the canal to do as we please with respect to it. There is no foundation for these suggestions.

Great Britain does not deny our right to exempt our vessels from tolls; her position is exactly the reverse. She admits that right. She admits not only our right to pass our coastwise vessels but our over-sea vessels without the payment of tolls. She simply says, if we shall see fit to exercise that right, and exempt our vessels, that we have entered into a binding agreement with her to exempt hers also. Is that an impeachment of our sovereignty? If we should yield to her suggestion, would it be a surrender of our sovereignty? If so, then we have, in identically the same way and to the same extent, surrendered our sovereignty at least half a hundred times in the last 100 years to various and sundry nations of the earth. We have to-day, I think, 30, probably more, treaties of commerce and navigation with various and sundry nations of the world, by the terms of which we agree that we will accord to their vessels the identical treatment in our ports which we accord to our own vessels. If we should refuse to comply with the terms of these agreements, and they should protest, and we finally acquiesced in their contention, would anybody contend that that was a surrender of our sovereignty? Would anyone contend that they were officiously interfering with our affairs? That very thing has recently been done, and there was no clamor or outcry of base surrender.

It has been said that the present tariff law carries a differential of 5 per cent in favor of merchandise carried in American bottoms. That is true. There is such a provision in the present tariff law. But when it was made clear that it would be a discrimination against foreign vessels, in violation of our treaties of commerce, by which we agreed to accord equal treatment in our ports and harbors, we added a proviso to the effect that the differential should not apply to the vessels of any nation with which we had a treaty of this import. Was that a surrender of our sovereignty? Was the protest of certain nations, with which we had these treaties, an officious interference with our domestic affairs—an assault upon our sovereignty?

We could not do as we please in this matter because we had solemnly agreed to do otherwise; just as we can not do as we would please with reference to canal tolls, because we have solemnly agreed otherwise.

I will dismiss from consideration this talk about our surrender to Great Britain—this talk about Great Britain's attack upon our sovereignty—by quoting the language of ex-President Taft, when he said in his Ottawa speech—

> Now, we shall doubtless have to arbitrate the matter, unless Congress reverses itself. There are some hot-heads that talk in absurd tones about the right of the United States to manage her own canal and her own property as she likes, no matter what she has agreed to; but that is all froth. Those are the explosivistas.

PREFERENTIAL CANAL EXEMPTION NOT ANALOGOUS TO FREEDOM OF OUR DOMESTIC WATERS.

It is said that if canal exemption is a subsidy, so is the free use of our rivers and harbors, upon which we have spent millions upon millions, a subsidy. There is a clear differentiation between the two cases. We have spent enormously—probably twice as much in the course of our history in the development of our internal waterways as we have spent in the construction of the canal. From time immemorial these waterways have been free not only to our own people but to the world. We have discriminated against nobody. The money has been distributed as equally as is possible between all sections of the country. We have looked for compensation for the investment in the development and expansion of our trade and the accommodation of our commerce. We have adopted freedom in the use of these waterways as a matter of public policy, and it is, I think, a wise public policy. We have charged nobody for their use. If this is a subsidy, who, I ask, has been the recipient of the special favor which the idea of subsidy involves and presupposes?

If we proposed to pursue the same policy upon the canal, there would be no question of subsidy. We would look to the accommodation and enlargement of both our domestic and international trade for compensation. But the policy we have adopted is one of recoupment. The question is, Shall we apply the principle of equal treatment or of unequal treatment? Shall we require all vessels using the canal to pay their proportionate part of the burden, or shall we require a part to bear the whole cost and exempt a part from any contribution whatever? If we exempt a part, as is proposed by the opponents of repeal, then a special privilege will be accorded to that part, and a special privilege is what the public understand to be implied in the word "subsidy," although that may not be its technical meaning.

WE BUILT CANAL FOR THE WORLD, AND NOW WOULD FORCE THE BALANCE OF THE WORLD TO PAY FOR IT.

Much stress is laid upon the fact that we built the canal at a cost of $400,000,000 and must maintain it at an annual cost, exclusive of military operations, of some $17,000,000, and that we generously propose to let the world use it. Our magnanimity in this respect is much exploited. And yet if the policy which is insisted upon shall be pursued, if we shall exempt our shipping, coastwise and over-sea, from tolls while taxing that of the balance of the world, what will be the result? For a few years, of course, we would not realize enough to pay the cost of operation. In the beginning the Suez Canal did not pay. In less than 10 years, however, the Suez Canal was more than paying expenses; and it was not long before it was paying large dividends. To-day it is one of the greatest profit-earning properties in the world.

It will be likewise with the Panama Canal. What is the proposition with which we are now confronted? It is to exempt our vessels—not only our coastwise, but it is suggested by some that we have the right and should exempt our over-sea vessels as well—and throw the whole burden of maintaining the canal and amortizing the capital invested in its construction upon the balance of the world.

If this course is pursued, is it not manifest that in a comparatively short time, as time is counted in the life of a nation—if the history of the Suez Canal is paralleled with respect to the development of traffic, and it undoubtedly will be—that all the operating expenses of the canal, the $400,000,000 invested, together with interest, will have been returned to us, and this great property, with its world-wide clientele of paying customers, will be ours without having cost us a cent. This most wonderful accomplishment of the ages, which we boasted that we would build for the benefit of mankind and without any thought of self-gain, will in fact have been built by us not for the benefit of mankind, but, thanks to our shrewd construction of the treaty, will have been built by the rest of mankind for us and its vast unincumbered income turned over to us and our children in perpetuity.

DECENT RESPECT TO RIGHTS AND OPINIONS OF OTHERS.

Mr. President, Great Britain and the other commercial nations of Europe—Canada to the north of us and the countries of South and Central America to the south of us—believe that the act of 1912 reserving special treatment to our coastwise vessels through the canal discriminates against their vessels trading in competition with them in the various ports of our two coasts and therefore contravenes the treaty.

The President of the United States, responsible under the Constitution for the conduct of our foreign relations, has declared in a solemn message to Congress his maturely formed opinion that the discriminations in this act violate our treaty promises. The Secretary of State—equal to any of his predecessors in that great office—who acts for the President in all matters pertaining to our foreign relations, is understood to agree with him in the opinion expressed in his message. The exact per cent of the division no one knows, but all will admit that a large portion of our own people also believe that this act violates our treaty obligations.

If we had the undisputed right to construe the treaty as our own interests may suggest, without regard to the construction of others interested in it, either contractually or otherwise, in the light of this division of opinion among our own people—to say nothing about the adverse attitude of the world—can we afford to pursue a course which the President, who has been chosen by the people to represent our Government in its foreign relations, in an official utterance declares is in contravention of a contract we have made with a friendly nation, and in the performance of which all maritime nations of the world are interested? Is it not, in these conditions, the course of wisdom, while expressly reserving all our rights under the treaty, to restore the original status quo, leaving the disputed question unembarrassed by the ex parte action of either party, to be settled in such way and manner as such differences between friendly nations should be settled, and can only be satisfactorily settled?

Mr. O'GORMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS in the chair). The Secretary will call the roll.

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

Ashurst	Chamberlain	Goff	Kern
Borah	Chilton	Gronna	La Follette
Brady	Clark, Wyo.	Hitchcock	Lane
Bristow	Crawford	Hughes	Lewis
Bryan	Cummins	James	McLean
Burton	du Pont	Jones	Martin, Va.
Catron	Gallinger	Kenyon	Martine, N. J.
Nelson	Root	Smith, S. C.	Vardaman
Norris	Shafroth	Smoot	Walsh
O'Gorman	Sheppard	Stephenson	West
Owen	Shively	Sterling	White
Page	Simmons	Swanson	Williams
Perkins	Smith, Ariz.	Thomas	
Ransdell	Smith, Ga.	Thompson	
Reed	Smith, Md.	Thornton	

Mr. CHILTON. I wish to announce again the necessary absence of the Senator from New Mexico [Mr. FALL]. He is paired with me.

Mr. JONES. I wish to announce that the junior Senator from Michigan [Mr. TOWNSEND] is necessarily absent from the city.

The PRESIDING OFFICER. Fifty-seven Senators having answered to their names, a quorum is present.

Mr. NORRIS. I desire to offer an amendment to the pending bill. I ask that it be read, printed, and lie on the table.

The PRESIDING OFFICER. Is there objection? There being none, the Secretary will read the amendment.

The SECRETARY. It is proposed to add a new section at the end of the bill as follows:

SEC. 3. If any nation shall provide by law or regulation for the payment of any part of the tolls of the vessels of its citizens passing through the canal, or if the vessels of any nation or its citizens shall be granted any other form of subsidy bonus or rebate on account of such vessels passing through the canal, the President of the United States shall by proclamation increase the tolls of such vessels above the amount provided for in this act by an amount equal to the sum so received or to be received by such vessels by virtue of such law or regulation or on account of such subsidy bonus or rebate.

The PRESIDING OFFICER. The amendment will lie on the table and be printed.

Mr. JONES. Mr. President, I have here a very carefully prepared article on the coastwise traffic and its relation to the Hay-Pauncefote treaty from the New York Sun of May 23, 1914. I ask that it may be printed in the RECORD.

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

COASTWISE SHIPPING—PART OF DOMESTIC COMMERCE AND NOT SUBJECT TO THE HAY-PAUNCEFOTE TREATY.

To the EDITOR OF THE SUN.

SIR: I have read with great interest much that has appeared in the Sun and in other publications regarding the canal-tolls matter now in dispute between the United States and the whole world.

It appears certain that we entered into very solemn agreement with Great Britain by treaty regarding our administration of the canal, and for us to break the conditions of such a treaty would leave us beyond the pale of civilized nations. For this treaty, being a fundamental condition to the construction of the canal across the Isthmus of Panama, can not after the canal is built be changed or abrogated excepting by the consent of both parties to it. This Hay-Pauncefote treaty, in that it was a preliminary condition necessary to the construction of a permanent waterway, and since that waterway was built, as it has been built, because of the consummation of this contract, is not analogous with ordinary treaties governing commercial and diplomatic relations that have no permanent form and no physical existence. Therefore the Hay-Pauncefote treaty must be considered as a permanent fact of international law rather than a temporary engagement established by virtue of such international law.

The only possible ground for debate must be in the interpretation of this treaty and in definition of those subjects which may properly be the subject of a treaty between two powers where no specific mention is made of them.

It may be supposed generally that those things never subject to treaty are not subject to this Hay-Pauncefote treaty unless specifically mentioned therein, while those things which have always been acknowledged to be subject to treaties and that have been the actual subjects of treaty, specifically and by inference, many times are logically included by implication, even if not specifically mentioned.

Now, among the many things that are seldom, if ever, subject to any treaties whatever is domestic commerce or internal commerce of a sovereign power. In its entirety and separated into its component parts internal commerce has scarcely ever been by specific mention or by implication the subject of treaties among the great powers or between one of these powers and one of the smallest of the weaker and lesser States. So that it is only reasonable to premise that American domestic commerce is not included, either as a whole or in part, by implication or supposition, as it surely is not by specific mention, in the Hay-Pauncefote treaty. And this must apply whether this domestic commerce uses as a channel the Panama Canal or goes around the Horn, or uses the rivers and lakes and railroads of the country. So long as the internal or domestic commerce of the United States has never been the subject of a treaty, or even so long as it has not been commonly the subject of a treaty, the weight of reasonable supposition is that it was not a subject of the Hay-Pauncefote treaty, rather than that it was such.

That our coastwise commerce is part of our domestic or internal commerce seems to be almost beyond dispute, for only as such could it be reserved to American ships in the strict manner that it is reserved by our laws to the complete disadvantage and exclusion of all foreign ships. Nor is this reservation of coastwise commerce as a part of the domestic commerce unique with the United States. Every other nation in the world reserves its coastwise commerce for special control and regulation as being exclusively the nation's personal affair and not at all a matter of international or alien interest. And no nation has relinquished this control by treaty or otherwise, so far as I know.

On the other hand, if this coastwise commerce is not domestic commerce, therefore excluded from all modification by treaty with a foreign power, the passage of vessels plying in the coastwise trade through the canal is a more flagrant breach of the Hay-Pauncefote treaty than the tolls-exemption measure contemplated, since the exemption from tolls is a far smaller discrimination in favor of American shipping than is the drastic coastwise-shipping act under which our coasting vessels now sail from port to port.

Coastwise shipping must be either domestic commerce, and therefore not subject to any foreign treaty obligations, unless specifically mentioned, or else it must be external, or foreign commerce, and therefore subject to all the provisions of all the treaties with foreign powers covering navigation in general. Where so much is left to inference and "interpretation," as in this controversy arising out of the Hay-Pauncefote treaty, the first duty of everyone is to arrive at clear definitions of all the elements of the debate. And the most important matter to define first of all is the status of our coastwise commerce, either as part of our internal or domestic commerce or as no such thing, for it can not be treated as half one and half the other.

To many of us it seems that there is no ground for debate as to what our coastwise commerce is. And until the construction of the canal there was no one to raise the question. Nor is it now raised directly. Yet the whole controversy of the tolls seems to rest upon just this alone, whether the coastwise commerce of the country is foreign or domestic deep sea, and so a world question, or internal, and so only a national one.

The canal was built by the United States primarily to serve as a means of communication between the extreme East and the extreme West of our country, if the purpose of its construction has any place in the interpretation of the Hay-Pauncefote treaty. Its service to all the world for all the world's commerce was for us a secondary consideration. Should it be determined that our coastwise commerce is really deep sea and not domestic commerce, as is implied by those who attempt to place it under the provisions of the Hay-Pauncefote treaty, then the only way in which our coastwise commerce could use the canal and preserve the conditions of the treaty would be for us to throw open our coastwise commerce to the ships of all nations equally with those of the United States, for otherwise there would be discrimination of the most flagrant kind between ships using the canal. Our only other recourse would be for our coastwise ships, plying between two American ports on the Atlantic and Pacific coasts, to go around the Horn or through the Straits of Magellan, never using the canal at all. There can be no logical middle ground in this matter of fixing the status of our coastwise commerce, which we are doing really in the guise of defining the scope of the Hay-Pauncefote treaty; it comes under the provisions of that treaty either fully or not at all.

Another question comes up here as well, bearing upon the status of our coastwise commerce—that is, the provision restricting the use of the canal by the ships owned by railroad corporations. How else but on the premise that our coastwise shipping is part of our domestic commerce can such a provision be enacted or enforced? Premise that this coastwise commerce is anything but domestic commerce and this enactment directed against railroad-owned ships is impossible. It is a proof of the real attitude we hold toward this part of our shipping. Yet we can employ this position to damage American use of the canal, while we refuse to employ it in greater justice to give advantages to American use of it. This is the illogicality of the position taken by the supporters of equal tolls for all shipping using the canal applied in practice. If this Hay-Pauncefote treaty applies at all to our coastwise shipping, then it must apply to our control of that shipping itself, in discrimination against a portion of it.

We have no other honorable course than to fulfill all the provisions of the treaty which forms a fundamental condition of the existence of the canal and to fulfill these provisions for all time to come. But we must construe these conditions and provisions with common sense and logic, according to the accepted laws among nations. And the first step in so doing must be to determine whether our coastwise commerce is or is not part of our domestic commerce. For if it is part of our domestic commerce, then it can not be subject to the Hay-Pauncefote treaty, since our domestic commerce is in no way mentioned or referred to in that treaty; while if it is not part of our domestic commerce, then it is wholly subject to that treaty, and therefore can not rightly use the canal at all under the present laws governing it, without any reference to tolls whatever.

ARTHUR MOORE.

VILLA BOSCOBELLO, *Florence, Italy, May 5.*

Mr. VARDAMAN obtained the floor.

Mr. CHAMBERLAIN. I ask the Senator from Mississippi to yield to me for a moment.

Mr. VARDAMAN. I yield to the Senator from Oregon.

WOOL PRICES.

Mr. CHAMBERLAIN. Mr. President, at the time the recent tariff bill was under discussion ruin was predicted for the woolgrowers of the country. I ask to have inserted in the RECORD statements as to the wool market from the woolgrowing section of my State. These consist of a clipping from the Portland Oregonian of March 28, 1914, and one of the 22d of May, 1914, and one from the East Oregonian of the same date, published at Pendleton, showing conditions and prices both before and after the shearing season.

The first two clippings are from the leading Republican paper of the State and the last from a leading Democratic paper in the heart of the woolgrowing section of eastern Oregon.

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

[From the Portland Oregonian, March 28, 1914.]

WOOL SALES LARGE—ACTIVE MARKET FOR NEW CLIP IN WASHINGTON—KOSHLAND HEAVY BUYER—TRANSFERS TO DATE AMOUNT TO ABOUT 1,250,000 POUNDS—PRICES RANGE FROM 12 TO 18 CENTS—NO OREGON CONTRACTING.

The most active wool market in the Northwest is in Washington, particularly in the Yakima section, where growers have been selling freely during the past week. In eastern Oregon trading is at a standstill. Buyers are anxious to contract wool, but growers are firm and holding out. Shearing in the eastern counties will not begin before the middle of April, and it is not likely there will be much doing in the way of buying before that time.

Isidore Koshland, who has just returned to this city from Yakima, where he was a heavy buyer, said:

"The only shearing in the Northwest has been in the Yakima Valley. The wool is selling as fast as shorn, and buyers are even making contracts for wool on the sheep's back where the clip is known to be good. Sales have been made at North Yakima, Kiona, Toppenish, Kennewick, Prosser, Mabton, Sunnyside, and other points.

"Altogether about 1,250,000 pounds of Washington wools have been sold to date. The prices, which ranged from 12 to 18 cents, were about the same as last year, in some instances a little more and in others a little less. The growers are well satisfied with the prices they received. The clip is by far the best for several years in point of quality, condition, and length of staple.

"There has also been some shearing along the Columbia River, but on the S. P. & S. shearing will not be general until the middle of April. One of the largest deals in Washington wool was the sale of the Hartley clip of about 125,000 pounds at Kahlotus."

Mr. Koshland, who is going back to Washington in a few days to make further purchases, has secured the following clips:

	Pounds.
H. Stanley Coffin, Kennewick	6,000
S. O. Stewart, Kiona	2,500
George Prior & Son, Kiona	9,000
George Chambers, Kiona	2,500
Hubbard & Co., Kiona	2,500
Ellis Regan, Kiona	2,500
P. Ager, Kiona	8,000
R. Rennie, Kiona	3,500
Kays Bros., Mabton	2,500
Kersey, Mabton	2,500
Coleman, Mabton	2,500
Yakima Sheep Co., Prosser	10,000
U. F. Dightman, Monte	10,000
Olney Bros., Wapato	10,000
J. Prohl, Toppenish	4,000
McGee & McGuffy, Toppenish	4,000
H. L. Jensen, Toppenish	3,500
Toppenish Live Stock Co., Toppenish	3,500
T. H. Smith, North Yakima	2,500
Mrs. Besse, North Yakima	4,500
P. Yakabe, North Yakima	3,500
Coffin Bros., North Yakima	1,500
W. M. Wilson, North Yakima	3,500
E. Butler, Sunnyside	6,000
P. Oliver, Sunnyside	2,500
Anderson & Rothrock, Sunnyside	5,000
Mercer & Roberts, Prosser	2,500

WOOL HIGHER THAN FOR MANY YEARS—IN SOME INSTANCES PRICES HAVE NOT BEEN EXCEEDED SINCE 1897.

The high prices being paid by wool contractors in parts of the West are said to be the top level since 1897, on the average. Appreciation of this may be had, according to a mail report from Boston yesterday, when it is considered that former prices were under a duty of 11 cents per pound on foreign wool. Without this protection, growers are said recently to have secured the highest prices for 17 years. In fact, the case is cited of a clip being sold this year at 17 cents upon which an offer of 14½ cents was withdrawn in 1913 at shearing time. Other bids of that year for this clip were around 12½ cents, and it ultimately was consigned to the market for selling by a dealer. An eastern wool writer says: "All this brings us back to the fact that nothing but continued firmness abroad can justify the situation. Dealers will not be able to turn over these later-bought wools except by advancing prices even beyond the recent local increases, which would bring them up against a snag in the event of any weakening in foreign wools. As it is, manufacturers are in danger of foreign competition, and must practice economy in some direction, so they will naturally hang back as far as possible from paying more for their raw material."

WOOL PRICES ARE HIGH—FIGURES EQUALED ONLY TWICE BEFORE IN 25 YEARS—TOTAL OF 500,000 POUNDS OF UMATILLA COUNTY'S CLIPS CHANGES HANDS—EVERY CLIP OFFERED IS SOLD.

PENDLETON, OREG., *May 21.*

Only twice before in 25 years has Umatilla County wool sold for prices equal to those secured by Pilot Rock growers at the public sale held in that place to-day.

This was the first public sealed-bid sale held in Oregon this year. More than 500,000 pounds changed hands. Every clip offered was sold.

The prices received ranged as much as 5¼ cents in advance of the prices paid for the same clips last year.

An unusual feature of the sale was the fact that the "fine wool" clip of the J. E. Smith Co. topped the market at 19⅝ cents. As a rule the "coarse" wool brings the higher price.

The following is the list of the growers, with the amounts sold and prices received:

Cunningham Co., 110,000 pounds, at 18 cents; Pat Doherty, 40,000 pounds (coarse), at 19 cents; Pat Doherty, 10,000 pounds (fine), at 17⅝; S. G. Jones, 18,000 pounds, at 16¾; A. P. Warner, 9,000 pounds at 17½; C. W. Matthews, 15,000 pounds, at 18½; Rugg Bros., 9,000 pounds, at 19½; K. G. Warner, 60,000 pounds, at 18⅝; A. A. Cole, 49,000 pounds, at 18⅝; Andy Rust, 28,000 pounds, at 18¾; Morgan Edwards, 12,000 pounds, at 18; Joe Pedro, 40,000 pounds, at 18½; Charles Johnson, 36,000 pounds, at 18½; J. E. Smith Co., 65,000 pounds, at 19⅝ (this is 5¼ cents higher than the price bid for this clip last year).

The Cunningham clip, the largest sold, brought 4 cents more than last year.

IMPOVERISHING THE SHEEPMEN.

At the Pilot Rock wool sale yesterday the J. E. Smith Livestock Co. sold their fine wool at 19⅝ cents per pound. The price was 5¼ cents more than the price offered for the same wool a year ago, when the high tariff law was still in effect. The price was 2½ cents higher than the price paid for the same wool in May, 1912, before the presidential election had occurred and before anyone knew the tariff would be revised.

The Cunningham Sheep & Land Co., of which company Senator J. N. Burgess is manager, sold its fine wool yesterday at 18 cents per pound. That price was 4 cents more than the price paid for the same wool a year ago and 1½ cents more than the price paid in May, 1912.

There could not be a more striking refutation of the old campaign chestnut that to remove the tariff on wool would bring ruin and poverty upon the sheepmen. Last September the tariff was absolutely removed, and the country now has free trade in wool. Yet, instead of ruin, our sheepmen get the highest prices they have had in years. The Smith Co. gets 5¼ cents more for wool than a year ago, when the tariff was in force, and the Cunningham Co. sold its fine wool at 4 cents more than the 1913 price. The wool buyers have been more

feverish to get wool this spring than for many seasons past. The sheep market is likewise stronger than in several years. In other words, the sheepmen of eastern Oregon are actually in clover, when they were led to believe they would be facing the poorhouse.

Where now are the calamity howlers? Where are the newspapers that prophesied ruin and bankruptcy for the sheepmen when Schedule K was amputated. Now is the time for them to come to the front and explain wherein our sheepmen are being impoverished by being paid 4 and 5 cents a pound more for their wool than they received when the high tariff was in force.

What has become of the earthquake?

Mr. SMOOT. Mr. President, in this connection I desire to say to the Senator from Oregon that the world price of wool to-day is about three times what it was in 1894. There is a shortage of about 240,000,000 pounds of wool in the world's production for the last year, and on account of that shortage there is a great demand for it all over the world and the prices are exceedingly high.

I simply make this statement to have it understood that if the conditions were the same in the world's wool market to-day that they were in 1894 there would be no such articles presented to the Senate. If there was a duty on wool, the woolgrower would be getting higher prices than he is getting to-day.

Mr. VARDAMAN. Mr. President——

Mr. CHAMBERLAIN. Will the Senator from Mississippi yield to me for a moment?

Mr. VARDAMAN. I will yield to the Senator for a moment.

Mr. CHAMBERLAIN. I will merely say that those conditions were not particularly called to the attention of the Senate when the tariff bill was passed, but ruin was predicted no matter what the world's condition might be, and the woolgrowers, according to the prophets of disaster, were going to be put entirely out of business throughout the West. Notwithstanding these predictions, the prices of wool in my State are higher than they have been in 25 years with the exception of 2 years in all that time.

Mr. SMOOT. Mr. President——

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

Mr. VARDAMAN. I would very much prefer that this discussion should take place after I shall have concluded.

Mr. SMOOT. I do not ask the Senator to yield.

Mr. VARDAMAN. If the Senator has anything he wants to say, I shall yield to him.

Mr. SMOOT. I do not ask the Senator to yield.

PANAMA CANAL TOLLS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. VARDAMAN. Mr. President, when the Democrats met in national convention at Baltimore on the 25th day of June, 1912, every thoughtful member of that organization recognized the fact that a crisis confronted the party. The long and uninterrupted tenure of the Republican Party, with its special privileges and favoritism, had so offended the public conscience and outraged the public judgment, that a change was inevitable. But just where the dissatified voter would go, the work of this Democratic convention would largely determine. There was a feeling of unrest among the voters of the country. New leaders were springing up. Discord prevailed in the ranks of the Republican Party, and a new hive was about to be formed. The political atmosphere in the city of Baltimore was charged with the electric current of change, as it were. The delegates wore an expression of anxiety, and the gravity and importance of the situation was perceptible to the most casual observer.

In the organization of the Democratic convention a few inharmonious elements served to disturb the serenity of its proceedings, but finally the common sense of most prevailed, order came out of chaos, and turmoil gave way to proper procedure. A platform of principles was adopted which, to my mind, was the most Democratic of all documents of its character that had been proclaimed by a political party since the days of Thomas Jefferson.

At the suggestion of the former leader of the party, Hon. W. J. Bryan, the platform was not reported to the convention by the committee on resolutions until the candidate for President was selected. This unusual course was followed for the reason, as expressed by Mr. Bryan, that we did not want an issue to arise during the campaign which was to follow between the platform and the candidate nominated for President. Finally, however, the candidate for President was nominated, the platform completed—it having received the unanimous indorsement of the convention—the candidate for Vice President chosen, the convention adjourned, and the delegates returned to their respective homes full of hope, in high spirits, and the determination to win the election the following November.

We had nominated a man for President who, although of short political career and with limited experience in practical politics, enjoyed the prestige of a brilliant record as governor of his State, a scholar of rare finish, a historian of profound and accurate learning, and an orator of great force and charm, whose genius for expression fitted him for the great campaign which he was now called upon to make.

Mr. President, it seemed to me that from the moment the campaign opened victory for the Democracy was assured. Triumphantly elected, Woodrow Wilson entered the White House with the almost unanimous approval of the American people. Such unanimity of approving sentiment has rarely happened to encourage a man in the performance of the great work which President Wilson was undertaking. Then the Congress met, fresh from the people—the source of all political power in this Republic. *Do not forget that.* It was an auspicious and also an inspiring spectacle. The President's inaugural address was well worthy of the patriotism and scholarship of its author. It breathed a spirit of love of country, of lofty purpose, and indicated a comprehensive grasp of the great questions which were to engage the attention of the Congress. In pursuance of platform promises, the tariff was the first, the paramount, problem to be solved. After long and patient effort on the part of the Congress, stimulated and encouraged, sustained and assisted, by the approval and wise counsel of the Executive, that epoch-making bill in the course of time became the law. Then close upon the heels of the tariff bill followed the currency bill. This latter measure, though unique in character, with no precedent in American annals to guide the legislative body in its deliberations, a magnificent monumental measure, was constructed and put upon the statute books. It is a measure which, if wisely enforced and faithfully construed, will prove to be an almost infinite benefaction to the American people. It is a safe and sure check upon the commercial pirate and the financial bandit that haunt the great money centers of this Republic.

Up to this time the Democratic Party had fulfilled its promises. A grateful and appreciative constituency freely gave it the meed of unstinted praise and approval, and the banner of Democracy floated triumphantly upon the breeze. It had done well. Hope filled the hearts of the adherents of that party throughout the Nation, and the prospect for the future grew brighter and brighter with each succeeding day. We had kept the faith. We had shown our capacity for government. We had put to shame our traducers and slanderers who were wont to say that the Democratic Party could always be "relied upon to do the wrong thing at the right time"; that it was "deficient in constructive statesmanship," and for that reason its supremacy must necessarily be ephemeral. A part of the program had been carried out with consummate skill and fidelity. But, Mr. President, in the midst of this inspiring situation, with not a cloud as large as a man's hand upon the political horizon, when the sun of hope was at meridian height, with every Democrat in the Nation in fighting mood and the enemy disappointed, rent in warring factions and on the run, like a fire bell whose disturbing tones rend the somnolent air of night, the word went out that, in defiance of the pledges made in the Baltimore platform, in defiance of the notable speech made by the candidate on the Democratic ticket during the campaign, in spite of our boasted protestations of undeviating and unfailing loyalty to campaign promises, the President had resolved upon an entirely new policy of his own, formed without consultation with his party, and proclaimed without the consent of the people who had elected him, so far as the Panama Canal tolls question is concerned—a policy that involved a direct and complete repudiation of that part of the platform which exempts from the payment of tolls American ships engaged in coastwise trade.

Mr. President, when I first heard it suggested that the President might take this unfortunate step, I did not give it serious consideration. I could not believe it. But when I heard it from his own lips I was amazed. I was dumbfounded; I doubted the veracity of my own ears; I could not think it possible that one who had given such hearty approval to the plank in the platform which he now asked the Congress to repudiate—I could not believe that one who had spoken such scorching words of condemnation of those who failed to keep their platform promises—I could not, Mr. President, understand how the President could now ask others to do the very thing which he had so unsparingly condemned. The President gave no valid reasons for the change of front which he demanded that Congress should make. He advanced no arguments. No facts were submitted. He did not even admit his own error of judgment or give a reason for his change of heart. But with an assurance unbecoming—I use the term with great respect—of one

so learned and clothed with such rare accomplishments, he asks the Congress, a coordinate branch of the Government, to repudiate its promises, which would involve a betrayal of the voters of the country, subordinate their own judgments, and yield to his wishes on this important question, without even inquiring as to whether the things they were doing were right or wrong.

Mr. President, fidelity to platform promises has through all the years of our national life been the foundation of our party system, and the cornerstone of American political morality has been the faith which the people placed in the integrity of those who pledged, in exchange for their votes, the assurance that the promises of the party platform would be faithfully carried out. The idea of any one human being, however great in his own conceit or wise in the estimation of others, imagining that he has the power to absolve himself from such a pledge in order to substitute some theory of his own in place of it is a heresy in political religion in the United States which is now being preached and practiced by the leaders of the Democratic Party for the first time. It may be treason to the crown, but I can not approve it. I will not subscribe to such a doctrine. I regard a platform promise as a political confession of faith, and just as binding upon the servants of the people as the oath which a Senator takes when he enters this Chamber and assumes the duties of his great office. It is conceivable that contingencies may arise which would justify a violation of platform promises, but such contingencies have not arisen in this case and are not likely to arise out of the question at issue. I can not believe that any power in the world short of the people themselves has a right to absolve one from a solemn promise given to the people in exchange for their votes, cast on the strength of a definite pledge. To take any other view of this matter would render nugatory and vain all platform utterances and immunize men elected to office upon such platforms from the shame and disgrace of the crime of treachery, for which they should be punished.

Mr. President, since there is no power short of the people themselves that can absolve a President, a Representative, or a Senator from a solemn pledge given in writing or by word of mouth upon the hustings directly to them in consideration for their suffrage, I must decline to be a party to this repudiation of the Baltimore platform until I have an opportunity to consult the people, to whom I owe first allegiance, on the subject, and permit them, if they see fit, to absolve me from my promise to them.

Having been a member of the Baltimore convention and a member of the committee on platform, I think it would not be out of place for me to give my recollection of the adoption of this plank, which reads as follows:

> We favor the exemption from tolls of American ships engaged in coastwise trade passing through the Panama Canal. We also favor legislation forbidding the use of the Panama Canal by ships owned or controlled by railroad carriers engaged in transportation competitive with the canal.

As to who proposed the plank, I can not now recall. I am advised, however, that probably the distinguished Senator from New York [Mr. O'GORMAN] suggested it. In its original form railroad-owned ships were not prohibited from using the canal, as I remember, but in the discussion generally the advantages to the people which would result from prohibiting railroad-owned ships from passing through the canal and thereby destroying the healthy competition with the transcontinental railroad lines, which the free-tolls plank was intended to bring about, Mr. Bryan, who was always watchful and solicitous of the interests of the toiling masses, suggested an amendment which prohibited railroad-owned ships from passing through the canal. It was an admirable suggestion; and, like almost every other suggestion made by the distinguished citizen from Nebraska, it was promptly accepted by the committee. The purpose of this plank was manifest. Free tolls to ships engaged in coastwise trade was to lower freight rates and thereby promote the interests of the consumer. Nobody then questioned the purpose of the free-tolls plank. Nobody regarded it as a subsidy in the interest of the Shipping Trust.

Let us stop for a moment and ponder the well-selected words and clearly expressed ideas of candidate Wilson on this subject. We find this great scholar, statesman, and patriot on the 16th day of August, 1912, at Washington, N. J., pleading with an audience of farmers in behalf of the Democratic Party and in the interest of beneficent government. Mr. Wilson stood squarely on the Baltimore platform, and the most persuasive, the most meritorious plank that he could plant himself upon was the free-tolls plank in the platform: He said:

> One of the great objects in cutting that great ditch across the Isthmus of Panama is to allow farmers who are near the Atlantic to ship to the Pacific by way of the Atlantic ports; to allow all the farmers on what I may, standing here, call this part of the continent, to find an outlet at ports of the Gulf or the ports of the Atlantic seaboard, and then have coastwise steamers carry their products down around through the canal and up the Pacific coast or down the coast or down the coast of South America.
>
> Now, at present there are no ships to do that, and one of the bills pending—passed, I believe, yesterday by the Senate, as it had passed the House—provides for free tolls for American ships through that canal and prohibits any ship from passing through which is owned by any American railroad company. You see the object of that, don't you?

And then the crowd applauded. They saw it. It struck a responsive chord in the minds of the honest, patient, patriotic tillers of the soil. The earnest, patriotic candidate was telling the unvarnished truth, and the silent, long-suffering, patient multitude applauded. But that was not all that candidate Wilson said. Continuing, he gave them the reason why railroad-owned ships should not go through the canal. Listen:

> We don t want the railroads to compete with themselves, because we understand that kind of competition. We want water carriage to compete with land carriage, so as to be perfectly sure that you are going to get better rates around the canal than you would across the continent. * * *

The argument was a clincher. It was unanswerable. The speech delivered that day was seed sown upon fertile soil, and the harvest was many trustful votes. Mr. Wilson told the farmers more than that. He said further:

> Our platform is not molasses to catch flies. It means business. It means what it says. It is the utterance of earnest and honest men, who intend to do business along those lines and who are not willing to see whether they can catch votes with those promises before they determine whether they are going to act upon them or not. They know the American people are taking notice in a way which they never took notice before—
>
> Mark that—
>
> and gentlemen who talk one way and vote another are going to be retired to a very quiet and private retreat.

Weigh those words. You may have an opportunity to refer to them in the very near future.

Was anything said about subsidy to ships? Does anybody believe that candidate Wilson thought of subsidy then or cares for subsidy now? There was no intimation in that confidential heart-to-heart conversation with the farmers about this plank being put into the platform in the interest of the Shipping Trust. Mr. President, I am afraid that Senators who prate so much about subsidy are not as ingenuous as they should be. Does anybody believe that there is a Democrat in Congress who would have raised the question of subsidy if the honorable senior Senator from New York [Mr. ROOT] had not suggested repeal and the President followed suit? No; they do not. To believe that candidate Wilson thought it was a subsidy and in the interests of the Shipping Trust and gave it his indorsement in words so carefully selected and sentences so maturely formed is a reflection upon his morality and intellectual honesty, which I am sure his bitterest enemy does not approve. You can not conceive of this great scholar, this writer of books, and good books, this man familiar with the story of the rise and fall of nations and the growth and decay of civilization and empires, learned in the science of government, master of political economy, and gifted with such rare genius for expression—does anyone believe for a moment that these words were uttered without being carefully weighed and accurately measured? No; you do not. He understood what he was saying, and there was truth in what he said then, and there is as much truth in it now as there was then. It is a singular thing, I am advised, that every Democratic Senator who spoke upon this question, both in the Senate in 1912 and on the stump during the campaign, interpreted the platform just as the candidate for President had interpreted it. They approved the measure in all of its phases, "economic, ethical, and political." I voted for the free-toils plank in the platform, because I wanted to reduce the cost of living. I wanted to make it cheaper for the American people to get their goods to market. I voted for it for the reason that I am going to vote in the Senate for the rivers and harbors bill, which carries an enormous appropriation to be used in improving the navigation of the rivers, dredging the harbors, deepening the canals, and buying more canals, because I believe the Government is justified in making this great outlay, this great expenditure of money, that commerce between the States may be facilitated and transportation cheapened.

It might be proper, Mr. President, for me to state, in this connection, that as an original proposition, after consultation with my constituents, I think I should be in favor of having our ships pay the actual cost of transporting them through the canal, I am opposed to special privileges or governmental favoritism of any kind. But that is not the question involved in this controversy. A larger and more important question is involved than the mere matter of dollars and cents. The President has made the issue, and sovereignty over the canal is the question we are called upon now to determine. But I shall come to that later.

Mr. Bryan did not regard the free-tolls plank in the platform as a declaration in favor of subsidy when he moved to amend the proposition so as to prohibit railroad-owned ships from passing through the canal. He did not see then the economic heresy that now disturbs his patriotic heart. He thought that he was rendering a distinct service to the wealth-producing masses of the American people, whose devoted friend Mr. Bryan had always been.

Mr. President, as a matter of fact to pass ships engaged in coastwise trade through the canal free of tolls is not a subsidy in the sense in which that term is usually employed. It is no more a subsidy than that which the ships which ply the rivers of the United States enjoy; it is no more a subsidy than the free use of our canals and harbors, which are dug and dredged and kept in order at the expense of the United States Government. I can not help but think that the subsidy argument is an afterthought, rather an unfortunate expedient resorted to in order to justify the betrayal of a pledge. It is not complimentary to the candor, ingenuousness, and straightforward course which usually characterizes the discussion of a great question in this body.

Mr. President, the canal has cost an enormous amount of money. Before it is completed I have no doubt that quite half a billion dollars will be expended upon it. It was a stupendous undertaking. It is a marvelous achievement; the greatest piece of civil engineering the world has ever known. Somebody has very happily said that "it is the greatest liberty that man has ever taken with nature." An interoceanic canal has been the dream of the wise men for more than a hundred years. The great German poet Goethe discussed it away back in the early morning of the last century. It will not be out of place to quote his observations. He said:

> Humboldt has with a great knowledge of his subject given other points where, by making use of some streams which flow into the Gulf of Mexico, the end may be, perhaps, better attained than at Panama. All this is reserved for the future and for an enterprising spirit. So much, however, is certain, that if they succeed in cutting such a canal that ships of any burden and size can be navigated through it from the Mexican Gulf to the Pacific Ocean innumerable benefits would result to the whole human race, civilized and uncivilized. But I should wonder if the United States were to let an opportunity escape of getting such work into their own hands. It may be foreseen that this young State, with its decided predilection to the West, will, in 30 or 40 years, have occupied and peopled the large tract of land beyond the Rocky Mountains. It may furthermore be foreseen that along the whole coast of the Pacific Ocean, where nature has already formed the most capacious and secure harbors, important commercial towns will gradually arise for the furtherance of a great intercourse between China and the East Indies and the United States. In such a case it would not only be desirable but almost necessary that a more rapid communication should be maintained between the eastern and western shores of North America, both by merchant ships and men-of-war, than has hitherto been possible with the tedious, disagreeable, and expensive voyage around Cape Horn. I therefore repeat that it is absolutely indispensable for the United States to effect a passage from the Mexican Gulf to the Pacific Ocean, and I am certain that they will do it.

It will be noticed that this farsighted seer, who dipped into the future far as human eye could see, saw the vision of the world and the canal just as it would be in 1914, and he dwelt upon the importance of the canal being an American enterprise, the property of the United States. Well, it is the property of the United States. The United States expended their money for it; they furnished the genius to direct its construction; the necessary sacrifice of blood and treasure was made in order that the world might enjoy this great highway of commerce. It is practically finished; and since the work has been accomplished, as it has been accomplished, the question is now raised, Shall the builders and owners control it?

I am not going to enter upon an extended discussion of the treaty. That has been so thoroughly and completely covered by men more able than myself that any effort on my part to further illuminate the subject would be vain and unavailing. To my mind, after most careful and deliberate consideration, I have no doubt that the United States are well within their rights when they propose to exempt their ships engaged in coastwise trade from the payment of tolls. Indeed, I believe that they have the right to exempt all their ships from the payment of tolls. I agree most thoroughly with the conclusions reached by Dr. Hannis Taylor, an eminent authority on international law, a man of great learning, wide observation, and large experience. Mr. Richard Olney, the foremost lawyer of the New England bar, a diplomat of consumate skill and ability, believes that we have the right, under the treaty, to exempt our ships engaged in coastwise trade from the payment of tolls. Mr. LODGE, the senior Senator from Massachusetts, a man of ripe scholarship and erudition, of large legislative experience, and a diplomat of learning, believes that we have the right under the treaty to exempt American ships engaged in coastwise trade from the payment of tolls. Ex-President Taft, an accomplished lawyer, whose connection with this controversy gave him a coign of vantage from which he might view it in such a way as to discover the truth, believes that we have the right, under the treaty, to exempt our coastwise ships from the payment of tolls. Mr. Knox, the Secretary of State under President Taft, who directed some of the negotiations, is also a lawyer of great ability; a diplomat of training, of skill, and sound judgment; and he agrees with the distinguished gentlemen whom I have just mentioned. I could go on, Mr. President, and name a number of others of equal merit, equal learning, equal patriotism, equally altruistic in the spirit of their utterances bearing upon this question. But, notwithstanding the consentient sentiment entertained by the learned men to whom I have referred, there are men equally learned, equally patriotic, who hold different opinions, and in that way an issue has arisen. England has mildly protested that the exemption of our ships from the payment of tolls is a violation of our treaty obligations.

Mr. President, nations, like individuals, should respect the rights and opinions and pay proper attention to the demands of others. I am one of those who believe that the same code of morals should control nations in their intercourse with each other that men demand their fellows to observe in their dealings with each other. We can not ignore the opinion of our fellows, if honestly and justly entertained. A contingency has arisen which must be met, and met in the proper way. It is the duty of the President and of the Congress of the United States to protect the interest of the American people in this controversy. But in protecting the interest of the American people and upholding the rights of the American Government we should not forget that we protect ourselves best when we recognize and respect the rights of others.

The British Government evidently believes that some of the terms of the Hay-Pauncefote treaty have been violated. There are three questions involved in this controversy—the sovereignty of the United States Government over the canal, the rights of the British Government in the canal, and the binding obligation of party platform promises. The President and the Congress are to settle these questions. Can it be done to the satisfaction of all parties to the controversy? I believe it can.

We can not afford to be unjust to England. We can not afford to surrender any rights that belong to our own Government; and above and beyond all, as high as the heavens hang above the earth, we can not afford to betray the trust reposed in us by our constituents.

Mr. President, there is a psychological side to this question which must not be ignored. I know of nothing more disastrous in its consequences, more to be regretted, than for the people to lose faith in the honesty and veracity of their public servants. Now, what is the way out of the difficulty?

We are committed by treaty to the policy of settling differences of this character by diplomatic consideration, and I think we ought to exhaust every diplomatic resource, we should try every expedient within the range of diplomatic negotiations, before we consent to a settlement of the matter as has been suggested by the Chief Executive and proposed in the bill under consideration. We can not ignore the fact that there is intense and profound feeling on this question on the part of a large majority of the American people. Settlement of the matter by the passage of this bill would leave bitterness in the hearts of our people and create prejudice toward the English people, which once existed, but which the cordial relations existing between the two nations for nearly a century had well-nigh extinguished. Our first obligation is to the American people.

The party in power, as stated heretofore, must not overlook or disregard the binding force of its platform promises. We have condemned our opponents for violating party pledges. We distinctly stated in the Baltimore platform that every plank in our platform was made to be kept. The President significantly stated it was "not molasses to catch flies." I trust it will not be out of place for me to suggest that it becomes the duty of the President to see that the interests of the American people are not flies to be caught in somebody else's molasses.

I believe there is a vital principle in the maintenance of party organization. I believe the highest order of patriotism is involved in the observance of campaign promises. I know that no great question of political economy or governmental scheme was ever crystallized into law but that it had behind it a well-organized and properly disciplined political faction. I am sure that reform is impossible; I am convinced that the maintenance of our system of government is practicable only through the instrumentality of party organization.

The Democrats can not afford to be unfaithful. We can not afford to betray those who have trusted us. We must be true to every political obligation or the result will be disastrous to the party and more disastrous still to the country, because I believe that upon the success of the Democratic Party depends

the future welfare of the Nation. It is the trusted, capable guard of the Ark of the Covenant of American institutions. I have introduced an amendment which I believe furnishes the remedy, and if adopted will lead us out of this wilderness of doubt and difficulty and land us safely in the Promised land of peace with the world, with all of our platform promises redeemed and our obligations to our country and duty to England absolved.

I ask to have that amendment be inserted in my remarks. I presume the Senate is familiar with its provisions, so I will not have it read.

The VICE PRESIDENT. Without objection, that may be done.

The amendment referred to is as follows:

Amendment intended to be proposed by Mr. VARDAMAN to the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912, viz: Strike out all after the enacting clause and insert in lieu thereof:

"That the second sentence in section 5 of the act entitled 'An act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone,' approved August 24, 1912, which reads as follows: 'No tolls shall be levied upon vessels engaged in the coastwise trade of the United States,' shall be suspended and shall not take effect as a statute of the United States until July 1, 1915, on which date it shall have full force and effect as a statute law of the United States. It is further provided that the proper authorities operating said Panama Canal, who shall, prior to said date, collect tolls levied upon vessels engaged in the coastwise trade of the United States, are hereby directed to set apart all such tolls so collected and retain the same in a separate fund until July 1, 1915. On that date, or as soon thereafter as possible, such tolls so collected shall be returned to the parties from whom they were collected, provided no contrary disposition has been made by law prior to that time.

"That so soon as practicable after the passage of this act the President of the United States is hereby authorized and directed to appoint a commission, consisting of not less than three nor more than five persons to be selected by him, for the purpose of meeting a like commission to be appointed by His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British dominions beyond the seas, in a diplomatic conference, to be held at such time and place as His Britannic Majesty and the President of the United States may agree upon. The purpose of such diplomatic conference shall be to take into consideration the controversy now pending between Great Britain and the United States as to the proper construction of the Hay-Pauncefote treaty, so far as the provisions of the same involve the right of the latter to regulate by its own legislation the levying of tolls upon vessels engaged in its coastwise trade and passing through said Panama Canal. It shall be the duty of such diplomatic conference, acting in the light of the discussions that have already taken place, to seek, in an equitable and friendly spirit, some practical solution of the entire question now at issue, which will worthily round out a hundred years of peace and friendship by respecting and conserving the interests and honor of both nations. The conclusions reached by such diplomatic conference shall be reported at its close to the Governments of Great Britain and the United States by their respective commissioners; but such conclusions shall not be binding upon either Government until accepted by both, and duly ratified upon the part of the United States by the necessary and appropriate legislation.

"That the expenses and compensation of the said commissioners to be appointed to attend said diplomatic conference upon the part of the United States shall be paid out of the contingent fund of the Department of State according to law."

Mr. VARDAMAN. If my amendment shall be adopted, it will lift the controversy out of the domain of partisan politics, certainly for the present, and give us until July, 1915, to adjust matters. During that interval the people can be consulted upon the entire subject. We can ascertain whether or not the pledges given to them in the Baltimore platform and reaffirmed by the President on the hustings may be overthrown or approved, and in that way the gravest menace to the Democratic Party that has threatened it for many years can be averted by an appeal to the people themselves.

Now, what is the essence of my amendment? Let us analyze it and see just what it proposes to do.

It proposes a diplomatic conference between Great Britain and the United States. Its provisions are in perfect harmony with the cordial relationship existing between the two nations and in perfect accord with the terms of the treaty which we have entered into with Great Britain for the settlement of disputes of this character. It is happily appropriate in this centennial year of international peace.

What is a diplomatic conference? International law knows two kinds of assemblies of representatives of nations which meet in order to discuss and then dispose of pending controversies settled by treaties or less formal agreements. The assemblies to which I refer are congresses and conferences. Discussing the difference between a diplomatic congress and a diplomatic conference, Lord Beaconsfield said:

I really can not explain the difference between a congress and a conference, because I do not recognize any difference between them. There is a common idea that a congress consists of sovereigns, and a conference of plenipotentiaries; but there is no foundation for this distinction.

It may, however, be said that the term "diplomatic congress" may be applied to gatherings in which the governments' affairs are dissected and settled, while "diplomatic conference" is generally applied to gatherings in which less grave and more informal matters are discussed and disposed of.

The most important diplomatic conferences of recent years are as follows:

I quote here from the work of Dr. Hannis Taylor on International Law, and I ask permission to insert it in my remarks.

The VICE PRESIDENT. Without objection, that may be done.

The matter referred to is as follows:

The conference of St. Petersburg in 1825, which paved the way for the independence of Greece; the conference of London in 1831, which arranged the separation of the Kingdom of Belgium from Holland; the conference of Geneva in 1864, which gave direction to the first European effort to introduce greater humanity into the rules and practices of war; the conference of St. Petersburg in 1868, which resulted in a declaration prohibiting the use, on land or sea, of projectiles below a certain weight; the conference of London in 1871, which modified the treaty of Paris of 1856; the conference of Brussels of 1874, which met to discuss the laws of warfare on land; the conference of Constantinople in 1877, which vainly endeavored to obtain from the Porte guaranties for the better government of its Christian subjects; the west African conference of Berlin in 1884–85, which met to regulate the affairs of that region, including the boundaries and independence of the Kongo Free State; the marine conference of Washington in 1889, which is said to have been the first world conference ever held for purposes of quasi legislation; the conference of Brussels in 1890, which resulted in a final act for the suppression of the African slave trade; and the conference of peace at The Hague in 1899, which embodied the results of its labors in three treaties. * * *

Mr. VARDAMAN. A diplomatic conference must not be confused with a board of arbitration, because the primary purpose of the conference is to render arbitration unnecessary. The great hope which I entertain is that a body of prudent, peace-loving citizens of Great Britain and the United States may meet together now, and, after the whole subject has been thrashed out, they may find a way in which these subjects may be disposed of to the satisfaction of both Governments. If such a conference ever meets, its first effort will be to bring the negotiations back to the point it had reached in the summer of 1912, after the note of Mr. Innes, dated July 8, 1912, the British chargé d'affaires, who said that Great Britain would be satisfied if a guaranty could be given her that only bona fide coastwise trade of the United States should be exempted from the payment of tolls.

The Senate will recall the language employed by Mr. Knox in his letter of January 17, 1913. He said on this point:

No question has yet arisen within the rule of the existing arbitration treaty between the United States and Great Britain which may not have been possible to settle by diplomacy, and until then any suggestion of arbitration may be well regarded as premature.

It was Mr. Knox's contention that the entire subject was still within the domain of diplomatic negotiation, and the proposition to submit the matter to arbitration was regarded by him as premature. Until such a negotiation has exhausted all of its resources, Great Britain has no right to request a call for arbitration.

Mr. President, I think I am well within the limits of conservative truth when I say that this question never would have been brought up, it would not now be threatening the overthrow of the Democratic Party, it would not now be disturbing the country, but for the speech made by the distinguished senior Senator from New York [Mr. ROOT] on January 21, 1913. It strikes me that the Democratic Party has fallen upon evil lines, its poverty of leadership has become pathetic when it has to rely upon the distinguished senior Senator from New York [Mr. ROOT], that astute, resourceful, untiring lawyer whose professional career is distinguished by his successful defense of predatory interests and "the malefactors of great wealth," this erudite, radical exponent of the Hamiltonian theory of government. For this man to become the defender of the Democratic faith, the leader and chief counsel of the Democratic administration, and the keeper of the conscience of the Democratic organization in the matter of the tolls controversy, I repeat, Mr. President, it is unfortunate, indeed, for the Democracy that this man, remarkable, distinguished, and great in certain lines as he is, should become the leader and be followed by the adherents of the party of Jefferson and of Jackson—that party which has held sacred the rights of the people, which stands for the preservation of the Constitution, the dignity of labor, the equality of Anglo-Saxon manhood, and the sanctity of the platform promise.

Lord, God of hosts, be with us yet,
Lest we forget, lest we forget.

Think of Bryan and ROOT pulling together shoulder to shoulder for the moral, mental, and material uplift of the American people and the preservation of our national honor!

Does any Senator imagine that the repudiation of platform promises will be overlooked and forgotten by the people because the distinguished Senator from New York tells us it is the right thing for us to do? Will his eloquence and logic be soothing and

strong enough, oily and persuasive enough, convincing and overwhelming enough to justify our repudiation of our platform promise and convince our masters that in doing so we have done right? Will the cogency of the appeal of the distinguished Senator from New York so hypnotize the public mind that they will forget the excoriations which Secretary of State Bryan gave to the violators of platform promises in his remarkable address to the Pennsylvania Legislature on May 13, 1913?

An extract from that address is pertinent.

I want you to ruminate it—chew it mentally. I want you to teach it to your children until it becomes an instinct of the race. I want you to remember it, and—

> Forget it not till the crowns are crumbled
> And the swords of the kings are rent with rust;
> Forget it not till the hills lie humbled
> And the springs of the sea run dust.

Listen:

> The fact that we not only have platforms, but that the platform is becoming more specified year after year, is conclusive proof that the people believe in the Democratic theory, and they write their platforms because they believe, and those who run upon them lead the voters to believe, that they believe a platform is binding upon those who stand upon it.
>
> As a believer in the Democratic theory of representative government, I desire to announce it as a settled principle not to be questioned in this country, that a platform is binding upon every honest man who runs upon that platform. I have heard it said by men after an election that they could not conscientiously support something in their platform; and it raises a very important question whether a man should violate his conscience as a public servant, and I frankly tell you that I believe that no man should violate his conscience, either as an individual or as a public servant. Far be it from me to say that any man elected to office should as an official do a thing that his conscience condemns. But does that mean that he should violate his platform? No; it seems that his conscience should commence to work before the election and not hibernate until after the election.
>
> I lay it down as a proposition, and I am prepared to defend it anywhere, that the representative who secures office upon a platform and then holds the office and betrays the people who elected him is a criminal worse than the man who embezzles money intrusted to him.

Mr. Bryan has had something else to say about the duties of the President which it is not out of place to refer to here. In an article published in The Commoner on "The conception of the Presidency," July 18, 1908, he said:

> A President must have counselors—

I do not see how he could get along without them. If he had more counselors and advisers and fewer flatterers—O, Mr. President, I sometimes think it would be a godsend if we could print in golden letters upon the door of the White House the immortal words from Thomas à Kempis:

> Grant me prudence to avoid him that flattereth me,
> And to endure with patience him that contradicteth me.

Mr. Bryan said:

> A President must have counselors, and to make wise use of counselors he must be open to conviction. The President is committed by his platform to certain policies, and the platform is binding. * * * There ought to be cordial relations also between the President and those who occupy positions of influence in the coordinate branches of the Government, for our Government is not a one-man Government—

I expect he would take that back now. [Laughter.]

> But a government in which the chosen representatives of the people labor together to give expression to the will of the voters.

These are wise words and worthy of most careful consideration.

If a diplomatic conference shall be assembled, it can take into consideration, first, whether or not the plan of settlement contained in the note of Mr. Innes to Mr. Knox in the summer of 1912 can be worked and made practicable; second, it can take into consideration the plan of settlement suggested by the Senator from Montana [Mr. WALSH], who proposes to refer the matter to the judgment of the Supreme Court of the United States; third, it can take into consideration the plan of settlement suggested by the Senator from Iowa [Mr. CUMMINS], whereby an adjustment may be made through a proportional contribution to the expenses of the canal by the foreign countries using it. They will not be limited to the consideration of any fixed number of rules, methods, schemes, or plans. The widest latitude should be given to the discussion of all the questions bearing upon the controversy. And if all these expedients fail the conferees or commissioners can consider the plan of the Senator from Utah [Mr. SUTHERLAND] for arbitration. If that fails, then the conference may find some plan of arbitration of its own acceptable to both parties.

Mr. President, I have no doubt that if this commission, chosen by the United States and Great Britain, shall come together in the spirit in which I am sure they will come together for the settlement of this dispute in such a way as to protect to its fullest extent the right of both parties to the controversy, and at the same time allay any feeling of bitterness that may follow an adjustment, I repeat, I have no doubt in the world about the success of their undertaking.

The people of the United States do not want anything except that which is justly and unquestionably their own. I am very sure that I voice the sentiment of nine-tenths of the American people when I say that in the settlement of this controversy they would have the President and the Congress so act as to win the cordial approval of the right-thinking world. They would not have us be otherwise than generous in dealing with our opponents.

We must fulfill to the fullest measure the terms of every promise that we have made directly or impliedly as a nation. Our constituents would not have us do less, and under the terms of the commissions which we hold as the representatives of the people, executing and performing a great trust, we can not do more.

Mr. President, I do not in any way share the feeling of hostility toward the English people or the British Government which some of my fellow countrymen have manifested in this discussion. I realize that the future development and the moral and material uplift of the world would be greatly promoted by that moral alliance between the two great branches of the English-speaking peoples which has been growing and strengthening for the last hundred years. We must not do anything ourselves or permit anything to be done by others which would in any way disturb the harmony and cordial cooperation of the two countries in working out and solving the great world problems. The most scrupulous regard for the rights and prerogatives of each other must be observed. For the mere appearance of trying to drive a hard bargain or take undue advantage by either nation to this controversy will necessarily minimize the impelling influence for good.

There should be no conflict between England and America. There should be no competition between the British subject and the American citizen, except that healthy spirit of rivalry which only serves to stimulate the patriotism, quicken the energies, and sharpen the intellect in the great world's service of solving the problems, industrial and otherwise, which confront the civilization of the century.

"There is a destiny that makes us brothers;" there is a superiority which distinguishes this great branch of the human family, which makes it the "heir of all the ages in the foremost files of times." Its brain, its prowess, its all-including qualifications are but the expressions of an Infinite purpose, the infallible proof that God has selected this race to lead the nations of the world to the highest point of excellency. Through this instrumentality I confidently hope for the realization of Tennyson's dream:

> When the common sense of most shall hold a fretful realm in awe,
> And the kindly earth shall slumber, lapt in universal law.

If the pending bill, whose ultimate purpose is to acknowledge equal copartnership with Great Britain in the management and control of the Panama Canal, shall pass, I believe it will result in creating a bitterness of feeling in this country against Great Britain such as has not existed since the settlement of the *Alabama* claims.

Let those who imagine that they are friends of Great Britain pause and meditate before they take the final step. Where Great Britain has an ounce of common interest in the benefits to be derived from the pending repeal bill she has a pound of interest in preserving that great moral alliance which now unites the two great divisions of the English-speaking peoples.

I will venture to make two predictions, and I do not want to be regarded as a prophet of evil or as threatening the members of my own party. I am sure that those who differ from me are just as patriotic and as desirous of promoting the interests of the party as I am, but I think they are wrong in their judgment.

I believe, if this bill is driven through the Senate in its present form, the day the President signs it, if he does not sign the death warrant of the party it will be the warrant which will remove the party from power, I fear, for many years to come. As a consequence we will be swept from power in the House of Representatives at the November election, and then will end the power of the present administration to complete the program of reform to which we are pledged by the Baltimore convention, some parts of which we have so splendidly redeemed. Second, if this repeal bill is driven through the Senate, the day the President signs it he will sign the death warrant of that moral alliance which has so happily united the two divisions of the English-speaking peoples for many years. So soon as the American people realize that they have been deprived by the unfaithfulness of their own representatives of their right to control their own property in their own way, at the demand of a foreign power, they will turn in anger upon that power and renew a warfare which I hoped had ended forever.

Mr. President, it is a sad thing to think that misguided men should thus convert this centennial year, marking so long an epoch of peace, into the beginning of an era of unfortunate warfare, which can never end until the great wrong, now threatened, has been righted.

In this matter I stand firmly. First, as the advocate of my party, pleading with its members not to wreck its power in the hour of triumph; not to end the usefulness of an administration which has made such a brilliant beginning. The truest friends of the President are those of us who are striving to save him from a fatal mistake, which I fear will go far toward wrecking his political future. And his future welfare is so intimately linked with the future welfare of the whole country that you can not separate the two. His mistakes are the mistakes of the Nation, and whatever misfortunes may overtake him the Nation will suffer also.

I am not so much interested that certain men should hold certain offices, but I believe in the policies and principles underlying the Democratic Party. I believe its creed is the Ark of the Covenant of American institutions. I hold that fidelity to the policies and principles of the Democratic Party will give new life and vigor to the original principles and policies enunciated by the founders of the Government. As the head of the party, the President should be careful; he owes it to the country to move slowly.

In the second place, I stand here as a steadfast friend to the all-important moral alliance between the two great divisions of the English-speaking people upon which the future of civilization so largely depends. Why imperil anything so vital and important to us and the whole world without at least an effort to preserve it? Is such an effort not worth a trial? Is it not worth while for us to try the experiment of a diplomatic conference in the hope that some escape may be found without even the necessity for arbitration? If the effort fails, time for deliberation will be given, without the possible impairment of prestige, sacrifice of honor, or the loss of a single dollar.

Mr. President, I feel very deeply about this question. I feel that this moment, this occasion, is big with far-reaching consequences. I want to protect the rights of the American people. I believe the canal belongs to them; that there is no shadow upon their title to it and no limit upon their authority, so far as fixing tolls for ships flying the American flag is concerned. I want to respect the feelings and concede to England all of her rights. I want to maintain that cordial relation with the executive branch of our own Government. The President of the United States has not within this body a more devoted well-wisher than I am; but, Mr. President, I shall follow no man or body of men who carry the red flag of party infidelity, who will sanction the violation of a solemn platform promise. If there shall be doubt as to the meaning of the treaty, the only safe course that I can pursue will be to resolve that doubt in favor of the expressed will of the voters of this Republic. In the absence of instructions from the people I shall follow the torch of my own reason, stimulated, encouraged, and sustained by the one consuming desire of my soul, and that is to serve my country and my countrymen as they deserve.

To paraphrase the language of another, I am going to be true to myself and to my promise. I am going to let all my ends and aims be my country's good, and if I shall err it will be an error committed in the service of what I believe to be the truth.

Mr. President, in the final arrangement of things the sovereignty of the United States over the Panama Canal may be surrendered, the fruits of the enormous sacrifice of blood and treasure made by our people may be yielded up as the price we shall pay for sympathy and help in our international complications, and the canal dedicated to the unselfish service of the world, to be maintained and defended by the United States Government and the men and their children who gave their money and their lives to build it. But it shall not be done with my consent until I shall know the reasons why and be directed by my masters, the people, to make the servile surrender.

> The paths of Truth in every age have led men to
> Gethsemane—to mocking and a cross.
> Its sacred light hath rent the veil behind
> Which error long has been concealed; and, though
> The priests of wrong have raged and sought to bind
> With thongs the souls of men, right on the tides
> Of truth have swept; nor mobs, nor hate, nor yet
> The Cross can stay the morning of its triumph.

Mr. BRANDEGEE. Mr. President, I think there are some of us who will endeavor to bear up, if the prophecy of the Senator from Mississippi [Mr. VARDAMAN] comes true, that coincidently with the passage of this bill the Democratic Party will pass out of power. But I did not intend to devote any time to felicitating the country upon that prophecy.

The Senator from Mississippi has made the statement that this question would not have arisen had it not been for a speech made by the senior Senator from New York [Mr. ROOT] in December, 1913, as he stated. I simply desire at this time to put into the RECORD a bill introduced by Mr. SIMS, a Democratic Representative from the State of Tennessee, on the 24th day of August, 1912, which was the same day that the Panama Canal tolls bill containing this exemption was approved. The bill provided—

> That so much of the act approved August 24, 1912, which reads as follows: "No tolls shall be levied upon vessels engaged in the coastwise trade of the United States," be, and the same is hereby, repealed.

On March 9, 1914, the same Mr. SIMS introduced House bill 14385 in the House of Representatives, and it is that bill which was passed by the House and is now before the Senate.

So it seems that a distinguished Democrat in the House had something to do with the attempt to repeal the coastwise exemption.

Mr. WILLIAMS. Mr. President——

Mr. BRANDEGEE. I yield.

Mr. WILLIAMS. If the Senator will pardon an interruption, during the discussion of the tariff bill in the House the exemption was denounced over and over again as a subsidy, and a majority of the Democrats in the House voted against it.

Mr. BRANDEGEE. Ninety-one Democrats in the House voted against the exemption of coastwise vessels.

Mr. WILLIAMS. That was before there was either a Republican or a Democratic platform formed or a speech made by the Senator from New York.

Mr. BRANDEGEE. And only 71 Democrats voted in favor of the exemption.

Mr. BORAH. Mr. President, there has been a very interesting discussion of the tolls question to-day. Two able speeches have been made on opposite sides of the question, and my friend the Senator from Connecticut [Mr. BRANDEGEE] finds vast consolation in the fact that he is following the majority of the Democratic Party in the House.

I was impressed this morning with the views expressed by the Senator from North Carolina [Mr. SIMMONS]. I followed his argument with much interest, for the reason, among others, that he is supposed to speak in large measure in this matter at this time for his party, and for the further reason that he is recognized as the leader of his party in charge of this important bill.

I was particularly impressed with some of the more controlling points which he made in support of his present position. I could not repress within me the spirit of contrast, and memory insisted on getting busy with another debate and a former occasion. He referred to the fact that the ex-President, Mr. Taft, had given it as his legal opinion that we have the right under the treaty to exempt vessels engaged in the coastwise trade, but he found sufficient evidence in the views of the ex-President to warrant him in the belief that the ex-President entertained some doubts nevertheless as to that view. As I understood the argument, listening from across the Chamber, of the distinguished Senator it was to the effect that the ex-President should have resolved those doubts in favor of a charge of tolls that we might sustain and maintain national integrity and honor. I so understood the drift of his argument. In any event he made much of the discovery that the ex-President, an able lawyer, entertained a doubt.

It is very possible that the ex-President, in resolving that doubt in favor of the American Government, found some consolation in the fact that the distinguished Senator from North Carolina had with great earnestness and precision announced the same principle in the debate upon this question two years ago. Possibly he was actually following an illustrious precedent. I call attention, as prefacing my remarks, to that principle so earnestly and ably announced. It was that if there was a doubt as to whether we had the right, a reasonable and substantial doubt, that doubt should be resolved in favor of the American Government and American interests. That seems to me to be an entirely creditable position and an entirely honorable position and quite a natural position.

It is only of late months, Mr. President, that we have come to the conclusion that it is a part of national honor to resolve all doubts against our interests. That has never been a principle as between Governments heretofore. No Government in the world has ever adopted the theory or the principle, in dealing with another nation, that all doubts should be resolved against itself. No stronger advocate of the opposite principle has ever been known than the English Government itself.

Mr. President, such matters have always been presented from one standpoint by every nation; and that is, where there is a reasonable doubt, the doubt shall be resolved in favor of the

nation which is making the particular contention for the retaining of a questioned right or interest. As was said by Mr. Olney in his famous address, so often referred to, there is one principle of international law too well established to admit of discussion, and that is that where sovereign rights are involved or vital interests such as these, unless the language is so plain and unmistakable that it can not be misread or misunderstood, the doubt is resolved in favor of the sovereignty of the Government and of the challenged Government retaining its rights and interests.

But not only have we the authority of international law writers and the authority of such men as the ex-President, Mr. Taft, and the ex-Secretary of State, Mr. Olney, but we have the explicit and direct statement of the distinguished Senator himself upon this question. It will be found, under the date of August 6, 1912, that the following colloquy took place between the Senator from North Carolina [Mr. SIMMONS] and the Senator from Massachusetts [Mr. LODGE]:

Mr. SIMMONS. I understood the Senator from Massachusetts to say that in his mind there was but little doubt that the other maritime nations would pay the toll of their ships through the canal.

Mr. LODGE. Other foreign nations.

Mr. SIMMONS. That is what I mean—other foreign nations; and it would put American shipping on a great disadvantage if our vessels have to pay toll.

Mr. LODGE. Yes; unless we pay their tolls or let them go through free.

Mr. SIMMONS. In that condition of things, bringing about this discrimination against American shipping in favor of foreign shipping passing through the canal, if it were not for our treaty obligations the Senator would think that we ought to allow our vessels to go through free?

Mr. LODGE. Certainly.

Mr. SIMMONS. The Senator's second proposition, as I understood him, was that the treaty is subject to more than one construction. Under one construction we would not have the right to relieve our vessels of tolls and under another construction we would have the right to relieve our vessels of tolls.

Mr. LODGE. That is correct.

Mr. SIMMONS. Now, the proper and legitimate legal construction is a matter of doubt.

Mr. LODGE. Yes.

Mr. SIMMONS. Shall we solve that question of doubt in the interest of American commerce to relieve it of this discrimination or shall we solve it against American commerce and impose this discrimination?

Mr. LODGE. The doubt certainly ought to be solved in favor of American commerce, but the moment you solve that doubt in favor of American commerce you are obliged to go to The Hague, as is required under our treaties of arbitration.

Mr. SIMMONS. That is the question.

Mr. LODGE. In other words, we can not solve the doubt. It has to be solved elsewhere.

Mr. SIMMONS. But if there is a doubt we have to solve it here against ourselves or we have to solve it for ourselves and take the chances of The Hague tribunal.

Mr. LODGE. Certainly.

Mr. SIMMONS. The question I ask is, Does the Senator hold that we should solve that doubt as to the proper construction of the treaty against American shipping interests, or should we solve that doubt in favor of American shipping interests?

Mr. LODGE. Mr. President, I do not think that I favor making a test case, because, as I said, there is a possibility of getting but one decision from a tribunal where the judges will be furnished from nations whose interest it is to pay tolls on their own ships and force us to collect tolls from ours. There is no use in going to a tribunal constructed in that way, but, unfortunately, we are supposed to go to it under another treaty for the promotion of peace and good feeling, and if we are forced to go there we shall find ourselves in the position of having to exact tolls from our own vessels, and there will also be the imputation that we have not acted in good faith. To that I do not care to expose the country.

Mr. SIMMONS. Then the Senator would solve the doubt about this matter against American shipping?

Mr. LODGE. No; I should not.

Mr. SIMMONS. How are you going to get to The Hague?

Mr. LODGE. I should simply do as other nations. I should take the tolls and pay them or remit them as they go through, taking the tolls of the vessels at one end and handing it back at the other end, or whatever way you choose. It is what every other nation on earth will do for its vessels except ours.

Mr. SIMMONS. That solves the doubt against us, I think.

Mr. LODGE. How? It would not cost the Government a cent any more than a free vessel, but of course I understand how profound the terror is that in some way the Government of this country may help what remains of American shipping. I have not been here all these years without learning that.

Mr. SIMMONS. The Senator certainly does not understand me as desiring to do anything against American shipping. I want to solve it by letting these vessels go through free, and if that makes a case for The Hague tribunal I can not help it, so far as my vote is concerned.

Now, Mr. President, more of that material may be found in that very able presentation of the matter by the Senator two years ago, but it certainly established with his authority, backed up by the authority of the most distinguished writers upon this question, that if there is a doubt, not only then but now, that doubt should be resolved in favor of American interests and of the American Government.

Upon what theory was it essential to national honor and national integrity that the doubt was resolved in our favor two years ago and that that doubt to-day shall be resolved against us? I can imagine changes in economic conditions and in industrial conditions and the rising up of new economic principles which would justify a change of vote. I challenge no man's integrity and impeach no man's purpose by reason of his change of vote; but by what logic and upon what theory do we resolve a doubt in favor of the Government at one time and at another time against our Government?

No, Mr. President, the true rule was announced by the distinguished Senator two years ago. It is a rule which will be found embedded in common sense and in the common practice of the nations of the earth in international law and by all writers upon this subject. It is a rule reasonable, just, and honorable, founded in courage and not in cowardice. Where a valuable right or great interest of the nation is involved and the language is doubtful, the doubt is always resolved against the nation which seeks to take that right or that interest away from another nation. In this instance Great Britain is contending for a most valuable interest, a powerful advantage, upon what is at most doubtful language—language which has been construed in different ways by great writers and publicists many different times—and, as Mr. Olney says, that question alone ought to settle this proposition. Where the doubt arises, the doubt must be resolved in favor of the sovereignty of this Government. And certainly those who advocate repeal can not contend that the language is other than doubtful under this rule when the greatest minds of the age are arrayed on either side, and especially when some of the greatest minds of the age have been on both sides.

Another proposition which interested me, Mr. President, in the speech this afternoon of the Senator from North Carolina was that of the high moral impulse and purpose back of this repeal; that those who were advocating repeal were advocating it out of a sense of national honor, implying more or less disregard for national honor on the part of those who are opposed to repeal; that involved in this controversy is the question of national integrity.

Mr. President, I do not doubt that that sentiment actuates those who are advocating repeal to some extent. Some of them, perhaps, are entirely controlled by that proposition. Others see different propositions with reference to the domestic interests, and so forth; but I make no question of their good faith. But again I call attention to the fact that some of us who believe that there were selfish private interests back of this repeal have no more able advocate of that proposition than the Senator from North Carolina. Some of us who believe that this matter would have been permitted to die, to rest where it was, practically settled forever by diplomacy, had it not been for powerful private interests, have no more thorough presentation of that issue and of that proposition to console and encourage them than was presented by the Senator from North Carolina on a former occasion.

Mr. President, those conditions have not changed. Those interests are still active. They did not sleep; they did not rest; and whether the Senator is conscious of the fact or not, the picture which he drew two years ago has its application in conditions which prevail at this time.

In his speech on August 9, 1912, in discussing this particular question, the Senator said:

During the last quarter of a century the greatest problem connected with our industrial situation has been the question of preserving commercial competition, protecting the people from the monopolization of production, protecting the people from the monopolization of the distribution of the products of industry. That is the great problem with which we have struggled. It has grown, as the years have passed, more and more acute; and to-day, if I understand anything about the signs of the times, the most vital question before the American people, outside of the tariff—and the tariff naturally affiliates itself with this question—the most vital question outside of the tariff before the American people, and the one that is going to exercise the most potential and determining influence in the presidential contest in which we are now engaged, is the question, How are we to preserve the essential principle of competition in our business life?

There is the genesis of the Democratic platform at Baltimore. You were going before the electorate for the vote and for support. You were advising the people that the most vital question in American industrial life was the preservation of competition, and that you were struggling against the great transcontinental railway combine which was throttling competition, and you advised the American electorate that vital and indispensable to the settlement of that question was to open the canal free of tolls.

I take a vast amount of pride in the courageous statement just made by the Senator from Mississippi [Mr. VARDAMAN], which will live long as a declaration upon the floor of this body for its courage, its incisiveness, and its true and devoted loyalty to the first principles of democratic government. You may cast aside and taunt those who claim that we should obey party platforms in this hour, but when you get back to the American electorate they will ask you to explain, and your explanation will be, whatever your words may be, as was said by the Sen-

ator from Mississippi, that your conscience did not begin to work until after the election.

But the Senator from North Carolina says further:

Mr. President, when it was proposed to construct this canal connecting the two oceans I have no doubt the desire that we should bring the two oceans together for military purposes and for purposes of general use had much to do with it; but I think if the people had not believed that it would furnish a means by which they could escape from the grip and the oppression of the transcontinental railroads, the Isthmian Canal would never have been constructed.

Have the transcontinental railroads been destroyed? Are they out of business? Is the incentive which moves to gain and to destroy competition any less than it was two years ago? Has the economic or the industrial situation changed? If not, what can we say as to our anxious solicitude for the people that they be protected prior to the great election and our contentment that they may shift for themselves thereafter?

Who was here opposing that canal? Who for more than a score of years delayed the beginning of this great work? Was it not the same railroads that are now saying they are anxious to utilize it as a means of transportation in the interest of the people? Why were they trying to defeat it then? Was it not because they knew it would interfere with their monopoly? Why are they seeking now to get control of it? Is it not because they want to continue their monopoly?

Oh, Mr. President, the idea of a subsidy; the idea of a monopoly for coastwise shipping; a monopoly in which every single individual under the American flag may engage and have an interest; a monopoly in which every citizen may invest his money, into which he may go as a business, was not the monopoly which you presented to the electorate of this country in 1912. The monopoly and the subsidy which you said would be granted to that monopoly was the monopoly of the transcontinental railroads, combined and controlled by interlocking directorates and in absolute control of the transportation interests from the Atlantic to the Pacific. It was to revive and keep alive competition between these two powerful transportation interests that you advocated with zeal and effect free tolls two years ago—what has changed the economic situation since then?

It was to get from under the grip of that combine which some of the great journalists of the country now say is mere demagogy to call to the attention of the people; it was to get from under the control of that powerful interest that we went as a party—and the Democratic and the third party went—before the people and pledged them that this canal, which had been built at the expense of the American Treasury, should be dedicated to free competition.

Vast and uncontrollable and immeasureable must be the influence of the powers and other nations of the earth to cause not only Presidents and Cabinets and Representatives and Congress, but the whole American people, to change their position on the preservation of competition so essential to our future industrial triumphs and the common welfare of all our people.

We have built that canal at a cost of $400,000,000, a sum that staggers the imagination—the greatest engineering feat of all the ages. It is the property of the people. The question is, Shall we so safeguard and protect that property as to make it an instrument in the accomplishment of the will and purpose of the people in its construction or shall we, by indifference and carelessness, fail to do that and permit the men who fought it, the men who for so many years delayed it, to get control of it and measurably defeat one of the main purposes of its construction? Shall we do that? I hope not.

If we want to secure to the people the full measure of benefit which they have a right to expect from the construction of this great enterprise, there are two ways in which we can do it. One is to make it a free canal for American ships. The other is to exclude from it all vessels owned by competing rail lines.

It was a simple proposition, it was accomplished, it was written into the law, it was practically settled. The American people had passed upon it. Every political party had indorsed it. It was said to the American electorate that we have done a vast thing; we have driven monopoly from the canal; the railroads shall not enter with their ships; and then we have dedicated that canal to free ships. We have kept out the monopoly and we have injected a new period and a lease of life in competition. These two great interests must bid against one another for the carrying of your grain, your live stock, and your merchandise.

The railroads are behind this demand for tolls. They favor tolls, whether they are allowed to use the canal or not. The higher these tolls are made the better the railroads will like it.

Suppose you impose a toll of $2 a ton on American commerce passing through the canal. What would be the effect? Would not the transcontinental railroads make the people pay the same amount of tolls in the shape of increased rates upon every pound of freight that they haul across the continent on their rail lines? The amount of domestic tonnage through the canal will be small compared with the transcontinental tonnage, and in that proportion the tolls in the form of high rates paid these railroads will exceed those paid through the canal.

Take these tolls by the water route off, and the rail routes, unless they own the water route also, will have to that extent to come down on the rail rates. With tolls retained, and railroad-owned vessels allowed, the Treasury of the United States would take in a few dollars, but the people would have to pay on the great commerce that crosses the continent five times as much in higher rates to the railroads.

Mr. SUTHERLAND. Who is saying that?

Mr. BORAH. The Senator from North Carolina [Mr. SIMMONS].

The Government would save a few dollars and the people who make up the Government and supply it with all its funds would lose many dollars.

Mr. CHAMBERLAIN. I should like to ask the Senator from whom he has just been reading. I do not know.

Mr. BORAH. I am quoting from the distinguished Senator from North Carolina [Mr. SIMMONS].

I think, Mr. President, as was said by the Senator from Mississippi [Mr. VARDAMAN], that this is no ordinary and passing question. I am not so old that I expect to pass away before there is an opportunity for its fulfillment, so I am going to take the hazard of making a prophecy—I see my friend the Senator from Georgia shakes his head, and he doubtless remembers the statement that it is always dangerous for a public man to prophesy—that this vote here in this Congress on the repeal of this law will not settle the question. You will have to meet it before the great American electorate; you will have to meet it upon the stump; you will have to meet it before those to whom you made your pledge. It will never be settled until it is settled right and in favor of the clear rights of the American people. It will not be settled until that tribunal from whose judgment there is no appeal passes upon it; it will not be forgotten in 60 days, but on the 4th of November next it will be as fresh as it is to-day. Why? First, my friends, for the reason that whether you are right or wrong, whether you are correct in your position or not, your solemn pledge and your able speeches have all been to the contrary, and the American people will not be satisfied until this question is re-presented to them. When it is re-presented who will answer the able speech of the Senator from North Carolina [Mr. SIMMONS]? Where is the man upon that or this side of the Chamber who will confute his irrefutable argument made two years ago? Does anybody doubt that the transcontinental railroads fought the construction of the Panama Canal for 25 years; that they opposed its building, and that they were interested in the question of tolls? Did not their representatives appear here day after day? Can anyone confute the able argument of the Senator from North Carolina, or will anyone confute his other equally important statement, that where there is a doubt as to a probable right, and that doubt under that treaty right involves a matter of grave concern to the Government, every nation will decide the doubts in favor of its own interests.

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

Mr. BORAH. Yes.

Mr. SMITH of Georgia. Does the Senator say that the representatives of these railroads appeared here from day to day demanding that freedom from tolls be repealed or that the free passage of vessels be not allowed, or was the Senator referring to their resistance years ago to the construction of the Panama Canal itself?

Mr. BORAH. I was referring to both.

Mr. SMITH of Georgia. I should like to ask the Senator to state the names of their representatives who appeared here in connection with this tolls proposition. I never heard of any of them.

Mr. BORAH. Well, Mr. President, I could, if I desired to do so, give the names of the parties to the Senator; but that they were here neither the Senator from North Carolina nor myself can doubt, and he has stated, when it was fresh in his mind, that they were here. I conversed with them. The records and hearings show their position. They have made no concealment. Did not the New Haven investigation show money expended in and about the tolls bill?

Mr. SIMMONS. Mr. President, when the Senator from Idaho has concluded, I shall make some observations; but when the Senator makes the statement that I had said that those representatives were here, he is referring to my statement made two years ago——

Mr. BORAH. Yes, sir.

Mr. SIMMONS. And not to my statement made as to their appearance before the Committee on Interoceanic Canals this year.

Mr. BORAH. Mr. President, I do not contend that the representatives of the railroads have been here this time. There was no necessity for them to come this time. The matter was being cared for through the foreign office of Great Britain.

There is, however, no doubt there is no Senator who was here at that time who does not know that the railroads opposed this proposition. They have been opposed to it from the begin-

ning, and they are opposed to it now. The situation has not changed. I do not quite understand the argument presented by the Senator from North Carolina, which ignores the conditions that he pointed out so plainly two years ago. No one in this body respects his ability more than do I, but I have found no one who undertakes to answer those particular propositions, and the Senator from North Carolina did not seek to do so this morning.

Mr. SIMMONS. Mr. President, the Senator from Idaho [Mr. BORAH] began his remarks by a reference to statements made by me in my observations submitted to the Senate this morning in respect to the attitude of ex-President Taft. The Senator entirely misconstrued what I said with reference to ex-President Taft; and putting up his misconstruction as a man of straw, he proceeded to knock him down.

In speaking of acts of ex-President Taft contemporaneous with his approval of the canal act, I referred, first, to the fact that he accompanied his approval of the act of 1912 with the suggestion that the controversy between the two Governments be submitted to arbitration, and, secondly, to the fact that in fixing by Executive proclamation the basis upon which tolls were to be paid, which was upon the basis and assumption that the coastwise trade was also to be taken as having paid tolls as indicating that President Taft had grave doubt as to our right under the treaty to pass the act of 1912. I also referred to President Taft's subsequent declaration, namely, his speech in New York in 1913, in which he declared his willingness and his eagerness, if the matter came to a point during his administration, to submit the question to arbitration. I also referred to his Ottawa speech, in which he said that exemption upon the basis of tolls payment fixed in his proclamation was tantamount to the payment of the tolls upon our coastwise vessels by the Government; and I contended that those two contemporaneous acts of the ex-President, taken together with these subsequent declarations, indicated the state of his mind with reference to the question of our right under the treaty with respect to exemption of our vessels from tolls.

I did not say that President Taft had taken the position that in construing the treaty we ought to resolve all doubts in favor of this country. On the contrary, President Taft took the position that we were complying with the treaty, because, under his Executive order and proclamation, we were actually, through Government subsidy, paying tolls upon our coastwise vessels. So, so far as the Senator's argument, based upon the theory that I had represented President Taft as contending that all doubts should be resolved in favor of the United States, the Senator from Idaho was simply putting up a man of straw and knocking him down.

Mr. President, I did say two years ago, and I have said probably many times in my life, because it is a well-established principle of legal construction and of human action, if there is a doubt about your right to do an act which you regard as being in your interest, you have a right to resolve that doubt in your own behalf. That is not only a rule of construction but it is a rule of human action. And, Mr. President, when the canal act was passed, not only myself but a great many other Senators and Members of the House of Representatives, who have since changed their position on the tolls question, entertained very grave doubt about what were our rights with respect to this question under the Hay-Pauncefote treaty, and we did feel we might resolve those doubts in behalf of the United States.

I want to say that in 1912 the committee gave comparatively little consideration to this question, and though I was a member of the committee then, as I am now, I was not present at any time during those hearings, except during the statements of two members of the Interstate Commerce Commission, because I was engaged with another matter a part of the time and was ill another part. There were extended hearings on the bill before committee, but the testimony was directed to railroad-owned ships and divorcing railroads from water transportation. The Senator from Louisiana [Mr. THORNTON], in his speech, stated a few days ago—and stated correctly—that when this question came up to a vote in committee he and I refused to vote upon it, because, as we then stated, we had not made sufficient investigation to satisfy our minds in the matter. I did entertain doubts about what was the proper course of action at that time. When that matter came before the conference committee, of which I was a member, I was still in a state of doubt about tolls exemption, but that was not the only question before the conference; there was another matter connected with this question before the conference committee, in which I was deeply interested, and about which I had no doubt. That matter was the question of separating railroads from water transportation. For years since I have been in the Senate I have tried to promote legislation to accomplish this result. That was my chief concern in connection with the action of that committee and the legislation involved. The other matter was a matter which I had not thoroughly investigated, and upon which I had no maturely formed opinion, as many other Members of Congress, who then voted for the bill and conference report and have since changed their position upon the matter, had not thoroughly investigated it.

Since that time, Mr. President, a flood of light has been shed upon this question, both with respect to the treaty and the economic aspects of it; since that time the American people have been studying it; since that time the Members of the Senate and the Members of the House, as is shown by the debates which have taken place upon this question both in the House and the Senate, as compared with the debates which took place two years ago, have been carefully studying the question.

This time we have had the most thorough investigation before the Interoceanic Canals Committee. It extended over nearly three weeks, sitting from 10 o'clock a. m. to 5 or 6 o'clock p. m. The Senator and myself are both members of that committee. I attended the hearings of the committee for nearly three weeks; I was present practically the whole time, and, in the light of the testimony that was presented to that committee, in the light of earnest personal study and the investigation I have made of this question, there is no longer in my mind a question of doubt; but to my mind it is clear that the United States has not the right to exempt its coastwise trade from the payment of tolls while exacting tolls from the vessels of other nations.

The Senator says that two years ago I discussed the question of railroad connection with this matter. Two years ago the railroads were here, as the Senator has stated, in full force. They were here chiefly, however, Mr. President, in connection with the proposition to exclude railroad-owned ships from passage through the canal and in connection with the proposition to divorce railroads from water carriers. They did incidentally, however, discuss the question of tolls, and I think the Senator was right in saying that they were opposed to the exemption of coastwise vessels from tolls, although I do not now recall the testimony of any railroad witness with respect to that question.

It is true, as the Senator says, and as I said two years ago, that the railroads have always opposed the construction of an isthmian canal, and for many years they delayed and defeated its construction. The railroads, now that it is constructed and about to be opened, regard it as a great menace to their prosperity and interests. Mr. President, it was natural that the railroads should oppose the construction of the Panama Canal. Tolls or no tolls, it is perfectly apparent to any man that the construction of the canal is going to cut enormously into the business of the railroads, but the effect of the payment of tolls upon that competition, in the light of the testimony in the hearings, will be negligible.

It did not appear to me two years ago that it would be negligble; it appeared to me two years ago that the question of tolls or no tolls might be an important factor in that competition. But, Mr. President, not only the testimony of those who appeared before the Committee on Interoceanic Canals for repeal, but the testimony of those who appeared before that committee against repeal, is replete with unanswerable evidence that the question of tolls will cut but small figure in the matter of transcontinental railroad rates and competition; that the difference between water rates by the canal and the rail rates across the continent when the canal is opened will be so tremendous that railroad competition, tolls or no tolls, will be absolutely impossible, and one of the chief witnesses against repeal before the committee was Mr. Dunn, who gave voluminous testimony containing facts and figures. The deduction from his whole testimony was that the opening of the canal, whether tolls were imposed or were not imposed, would result inevitably in diverting two-thirds—that is, two millions of their three millions of through traffic—of the transcontinental traffic now carried by the railroads to the water carriers, and that that would follow from the fact that the rate by water would be so far below that at which it was possible for the railroads to carry the freight, so infinitely below the actual cost of railroad transportation, that the railroads would simply have to go out of that business and surrender it to the ships.

Mr. BRISTOW. Mr. President——

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

Mr. SIMMONS. Certainly.

Mr. BRISTOW. Let me inquire of the Senator if Mr. Dunn did not testify that he was connected with certain interests

which, if tolls were not imposed, would make very large investments on the Pacific coast in the vicinity of San Francisco, amounting to something more than $50,000,000, in developing latent resources in that part of the country for the purpose of shipping the products of those resources to the eastern part of the United States, and that if tolls were imposed that investment would not be made, because the requirement of tolls would prohibit the traffic?

Mr. SIMMONS. Mr. President, I do not remember the exact statement made by Mr. Dunn with reference to the concrete proposition suggested by the Senator from Kansas, but I do recall that he stated with reference to lumber that, after the canal was opened, lumber could be carried through the canal from the Pacific coast—from Oregon, Washington, and San Francisco—to New York, using petroleum instead of coal for fuel, for $4 a ton, and that it would be absolutely impossible for the railroads to meet that rate. I remember, also, that he said that other large, bulky, and heavy articles, which would naturally seek transportation by water, would be carried by boat at a like rate, and that it would be impossible for the railroads to meet that competition. He did say, also, that, as a result of the fact that the railroads could not meet this competition, they would only retain a fraction of their transcontinental business, and that that would be made up of such character of merchandise as boats do not ordinarily carry. For that reason, he made it clear that the exemption from tolls would not operate to affect water transportation in the lines of traffic which would naturally seek water transportation, because the rates by water would be so far below—one, two, or more times less than transcontinental rates by rail—that the small amount of 60 cents or a dollar a ton, measured by weight, on the average imposed on traffic through the canal in case coastwise ships were not exempted would not affect water competition by the canal at all.

When the railroads lose to the steamboats the major part of their through traffic, of course the question arises, Will they be permitted to recoup their losses? That is a question for the Interstate Commerce Commission. That they would have an opportunity to recoup their losses is, if so permitted by that commission, beyond all dispute, because if boats carry these products, they will carry them from a coast city to a coast city, and only a small part of the merchandise so carried will be consumed in these coast cities, so that the greater part of it will have to be retransported to the interior by rail. Five hundred miles is about the average back-haul zone, and when you get beyond that back-haul zone, Mr. President, that 500 miles stretching around the coast of our country, you are confronted with a zone vastly larger, a zone stretching 2,000 miles across the continent and 1,500 miles up and down the continent, to which the coast products must be carried by rail. The question is, If the result of this loss of business by the railroads because of their inability to compete with the water carriers shall reduce the revenues of the railroads, will the railroads be permitted to recoup themselves by increased rates to the interior? Should that become necessary, that may continue as giving concerns upon the basis of reasonable profits. And that, as I have stated, is a question for the Interstate Commerce Commission to deal with.

Mr. President, in the last investigation every angle of this question was considered. That had never been done before. The investigation was as thorough and complete as it could be made. Two years ago representatives of the railroads came here, as did representatives of the shipping interests. The railroad people were then opposing, as I have said, not primarily but incidentally, the exemption of coastwise ships from the payment of tolls. This year when we had our investigations I undertake to say that neither the Senator from Idaho nor the Senator from Kansas can mention the name of a single man interested in railroads, directly or indirectly, so far as the testimony before the committee showed, who came before the committee and asked the privilege of making a statement.

Why, Mr. President, did they come two years ago and oppose tolls exemptions, and why did they fail to come this year and ask for tolls? I take it, Mr. President, it was because of the fact that the railroads in the meantime had reached the conclusion which I, and I think other members of the committee, have reached, that the difference between the cost of transportation by vessels through the canal would be so great that railroad competition in any of the subjects of traffic which ordinarily would seek transportation by water was impossible.

Mr. President, I am not troubled because of the fact that I made a speech two years ago in support of exemption from tolls for coastwise vessels, as many other Senators did who have since changed their opinion and as many Representatives did who have changed their opinion. I am not disturbed by that fact. I change my opinion whenever conditions and situations are such as to make that change reasonable and proper. I change my position upon any question whenever a more thorough investigation and study of the subject changes my real opinion about the question.

If the Senator from Idaho has any trouble in his mind about my attitude in this matter, I have made my speech to-day; I have discussed the very questions that I discussed two years ago; I have discussed them with additional light—I had little light then, I have a flood of light now—and I am perfectly willing that the speech I have made to-day upon each of these questions to which he has referred in my speech two years ago shall be taken as my answer to that speech.

Mr. CUMMINS obtained the floor.

Mr. BORAH. Mr. President, will the Senator from Iowa yield to me for just a few moments?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. CUMMINS. I yield to the Senator from Idaho.

Mr. BORAH. I wish to say only a word. I do not wish to leave with the Senate the impression that my mind is at all troubled about the attitude of the Senator from North Carolina, nor that the Senator from North Carolina has fallen in my esteem by reason of the fact that he has changed his position. Neither did I rise for the purpose of discussing that particular feature of the situation. I rose for the purpose of calling to the attention of the country a most able presentation of this matter as we now view it by the Senator from North Carolina, which neither the Senator from North Carolina nor anyone else has undertaken to answer. The Senator's speech to-day does not answer his speech of two years ago. It does not cover the subjects that the Senator from North Carolina covered two years ago. I listened to the speech with a great deal of interest.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from North Carolina?

Mr. BORAH. I yield.

Mr. SIMMONS. I did not read every portion of my speech, as was stated at the time. If the Senator will permit me, I will now read the part of the speech which I omitted to read, which covers the very matter to which the Senator refers.

Mr. BORAH. Mr. President, of course I could speak only of the part of the Senator's speech which I heard. I do not challenge the word of the Senator. If it is in his speech and will be printed to-morrow, I will read it; and if I conceive that his former speech has been properly answered, I shall be glad indeed to read it and reread it.

Mr. SIMMONS. I commend it to the Senator from Idaho, and I hope he may read it. In the interest of saving time I did not read it. It embraces a number of pages, however, and I passed it over, stating at the time I did so that I was both weary and somewhat indisposed, and had taken up more time than I intended to take, and I supposed the Senate would not object to my inserting it without reading. I will read it now, however, if the Senator would like to hear it.

Mr. BORAH. No; I think I shall not take up the time of the Senator to have him read it now. I assure the Senator that I shall read his speech. I either listen to his speeches or read them at all times.

Mr. President, the Senator has suggested in his reply some things which apply not to the Senator personally but generally to this discussion that I am going to ask the indulgence of the Senator from Iowa for a few moments while I make a suggestion or two. I refer to this "flood of light" which has come in these later days; this revelation, as it were. It has had its effect in some quarters. It has not reached other quarters. The prayer of sincere men is that it will permeate all parts of the earth, and after a while we all shall be able to judge of our position with the aid of that "flood of light."

What is this "flood of light," Mr. President? First, let us take the treaty. We had the treaty two years ago, and had had it since 1901. It is the same old treaty now. The language is precisely the same. The "flood of light," Mr. President, of which the Senator speaks, is not a thing which it is legitimate for the Senate to consider at all.

What has a letter of an agent of a government to do with the language of a treaty which we are called upon to ratify and which we are called upon to construe? Mr. President, you could not go into court and introduce this kind of evidence, which they say here should control, instead of the language of the treaty itself, to modify the most ordinary contract.

We did not ratify Mr. Hay's interview with some newspaper man. We did not ratify Mr. Choate's letter nor his view of the treaty. We ratified the treaty. It was our treaty. We made

it. Mr. Choate's letter or Mr. Hay's interview with this enterprising newspaper man were not before the Senate. The treaty-making power made this treaty just as it reads, and by its language we stand and within its four corners we must find all rights and all obligations.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from North Carolina?

Mr. BORAH. I do.

Mr. SIMMONS. Does the Senator seriously contend that in the construction of a treaty we can not consider and ought not to consider the diplomatic correspondence which preceded the making of that treaty? Does the Senator seriously contend that that is not competent to aid in the correct interpretation of the treaty?

Mr. BORAH. What is the date of this interview with the newspaper man?

Mr. SIMMONS. I am not speaking about the interview with the newspaper man.

Mr. BORAH. But that is one of the things to which the Senator referred.

Mr. SIMMONS. The Senator said——

Mr. BORAH. I will get to that in a moment. What is the date of it and what possible thing has the interview of Mr. Hay with the newspaper man to do with this treaty?

Mr SIMMONS. The Senator knows perfectly well that I offered that statement of Mr. Hay to Mr. Fletcher Johnson for the purpose of meeting the argument that had been made to the effect that Mr. Hay thought the term "all nations" excluded the United States.

Mr. BORAH. Let me put a question to the Senator.

Mr. SIMMONS. That is a different proposition altogether. It is purely and simply in answer to a contention here as to what Mr. Hay thought about this matter—not expressed in the diplomatic correspondence, not contemporaneous with the execution of the treaty, but subsequent to the treaty. I understood the Senator to be asserting the proposition that the contemporary correspondence between Mr. Hay and Mr. Choate, our ambassador who participated in the negotiation of this treaty on behalf of this country, and between Mr. Choate and Mr. Hay and Lord Lansdowne and Lord Pauncefote, who participated in its negotiation on the part of Great Britain, was not competent in any court as affording any light which the Senate would care to receive and have in reaching a just and correct interpretation as to the meaning of the treaty. Do I understand the Senator as taking that view?

Mr. BORAH. Yes; I take that position. I claim that we are bound by the language of the treaty, and that some man's view of what he thought it meant is not and should not be in any sense controlling.

Mr. SIMMONS. Then, Mr. President, I do not agree with the Senator. I think it is the custom of nations to preserve carefully, as a memorial, all the diplomatic correspondence leading up to these international agreements, and to preserve it so that in case a dispute should afterwards arise as to the meaning of a treaty it may be there for the purpose of throwing light upon the meaning of the treaty and its proper interpretation.

Mr. BORAH. Mr. President, if there is such custom prevailing among the nations of the earth, I am unfamiliar with it. On the other hand, the very opposite, in my judgment, is true. When we fell back upon letters and negotiations in regard to treaty interpretations England notified us more than once that it was hardly necessary to remind our Government that a treaty was to be construed according to the language found in the treaty and not according to letters passing between the parties who negotiated the treaty. True, she has taken an opposite position, but never conceded it when against her, and I do not know of any nation that ever did.

Mr. President, that treaty was negotiated by those agents, and it was sent here to the Senate. Certain amendments were suggested, and they were finally adopted, and it was signed by these parties. That treaty was made here. Those vital and important amendments were suggested here. These agents were selected simply for the purpose of exchanging and signing the treaty, as it were; but the language which we have to construe and the language which binds us, and which alone binds us, is found in the Hay-Pauncefote treaty. This "flood of light" with reference to the interpretation of the treaty is the kind of evidence which would not be admitted in a court of justice to change the terms of a contract of any kind. But upon this outside evidence and outside views, not before the Senate or considered by it, we are now asked to yield up most vital and substantial interests of our Government and our people.

Mr. SIMMONS. Then, Mr. President, conceding, for the sake of the argument, the legal proposition of the Senator that of course in the last analysis the treaty must speak for itself, does the Senator contend that where the language of the treaty is obscure, ambiguous, or uncertain we can not look to the diplomatic negotiations in its making, with a view to resolving that doubtful and ambiguous meaning?

Mr. BORAH. I do contend that we can not do so. When the language is ambiguous, then there is occasion to open up diplomatic relations to adjust our differences; but where it is on a plain question of yielding rights, it should never be done on letters or views outside the treaty.

Mr. SIMMONS. Then the Senator and myself can not agree upon a legal proposition.

Mr. BORAH. How would the view, for instance, of Lord Pauncefote in any sense express the view of the treaty-making power of Great Britain; and how could it be said that the individual view of Mr. Hay was the view of the 96 or 90 Senators who assembled here and passed upon the treaty? The Supreme Court itself has passed upon that question, so far as concerns going back into the debates of Congress to determine the meaning of a statute, and has settled the proposition. While the language of Mr. Hay may give some consolation to those who desire to take that view, if there was any tribunal controlled by the rules of legal evidence which was to pass upon this proposition I venture to say that his language would not be accepted by that tribunal to determine the meaning of the final contract.

Mr. President, I wish to call attention now to another matter.

Mr. SIMMONS. Mr. President, I do not contend that it would be accepted in a court of justice, to use the illustration of the Senator a little while ago; but I have entirely misunderstood the principle of international law with reference to construing ambiguous phrases in a contract between nations if an international tribunal, authorized to construe and interpret it, has not the right; and it is not the habit under recognized international custom and procedure to look to things outside the treaty but which pertain to the negotiation of the treaty, especially the correspondence and notes between the representatives of the respective Governments in negotiating the treaty in dispute.

Mr. BORAH. Mr. President, suppose we take the rule the Senator has suggested, and undertake to follow it out to its legitimate and logical conclusion. Mr. Hay, we will say, has one view of what happened. The ex-President, Col. Roosevelt, has another view. David Jayne Hill has another view. It seems that this party and that party entertain different views as to what the language meant and what the treaty meant, what we were to do under the treaty, and what we had a right to do under the treaty. All these parties were interested in the negotiation. They represented the Government which was making the treaty. Having different views, would the Senator select the particular party who signed the treaty as being the sole custodian of the intent and purpose of the treaty; or would he associate with him the other parties who represented his Government, but who, under the mere forms of government, were not required to sign the treaty?

Mr. SIMMONS. Mr. President, I have stated to the Senator that it is my understanding that it is the custom of nations, in negotiating these treaties, to commit carefully to writing their negotiations. The fact is, in connection with this very treaty, when it was completed, that there is something in the correspondence which shows that the British ambassador asked that our ambassador or the Secretary of State, I do not recall which, should make a concrete statement of his understanding with reference to the meaning and intent of the treaty; and I take it that the British Government has in its files a like statement. These negotiations reduced to writing, these final statements of the negotiators filed with the State Departments of their respective Governments, are filed there for the purpose of remaining as a memorial of the facts and circumstances connected with the negotiation of the treaty, for the purpose of their use in case any future controversy should arise as to the meaning of any doubtful clause in the treaty.

If that was not so, why were we passing resolutions here in the Senate, when this matter was under consideration before the Committee on Interoceanic Canals, requiring the State Department to transmit to the Senate, for the use of this committee in the hearings before it and for the use of the Senate, all of this correspondence and all of these negotiations and every fact connected with them that was reduced to writing and on file in the department, in order that we might have them for the purpose of enabling us the better to determine the meaning of these doubtful phrases?

Mr. BORAH. As I said a moment ago, there is doubtless a vast amount of balm and consolation for one who is seeking a certain interpretation in finding some one who has written a letter, or given a supposed interview, as to what he considered

the meaning of the treaty. Let me, however, call the Senator's attention to a precedent which he will recollect. He is very familiar with the Clayton-Bulwer treaty, and, as I understand, he places much reliance upon that treaty as supporting his position.

When we executed the Clayton-Bulwer treaty, at the very time it was executed and exchanged, Mr. Bulwer handed to Mr. Clayton a note stating what he understood to be the meaning of the words "Central America," and that the words "Central America" did not include the Belize Islands or British Honduras. That note was passed to Mr. Clayton at the time the treaties were exchanged. Mr. Clayton made no reply to it immediately, but did so a few hours or days afterwards. That note, handed to Mr. Clayton, has been consistently repudiated by American diplomatists as having nothing to do with the language of the Clayton-Bulwer treaty. It was under that duplicitous and somewhat shrewd practice upon the part of Mr. Bulwer that England justified her violation of the Clayton-Bulwer treaty when she erected British Honduras into a colony in 1862; but Mr. Blaine and the American diplomatists never for a moment recognized the binding effect of Mr. Bulwer's note.

Mr. SIMMONS. The Senator certainly has not understood me to mean that we had to accept, as importing absolute verity, every statement made by the negotiators. I hope the Senator has understood me to mean that these notes and this correspondence should have no application except in case of a doubtful construction, and then they could be used only for the purpose of making clearer that uncertain construction.

Mr. BORAH. I understood the Senator exactly, and I understand him now.

Mr. SIMMONS. If the Senator will permit me to finish, however——

Mr. BORAH. Yes.

Mr. SIMMONS. I wish to say that with reference to these disputed questions concerning the second Hay-Pauncefote treaty I do not now recall that there is the slightest conflict between the American and the British negotiators at any point upon any question relating to the first clause of the third article.

Mr. BORAH. I do not think I misunderstood the Senator's contention with reference to the purpose for which the notes on the side could be used. It was to throw light upon the meaning in case there was doubt. That was precisely the situation with reference to the Clayton-Bulwer treaty. When the Clayton-Bulwer treaty was executed, or when the exchange took place, you will remember that the words "Central America" were used in the inhibition against England or the United States obtaining further possessions or territory in Central America. England claimed that Central America at that time consisted of five States, and did not include British Honduras and the Belize Islands. When the treaty was executed, or when an exchange was had, England placed her construction upon that treaty by handing us a note as to the meaning of the words "Central America," but the United States never has recognized for a moment that contention.

Again, in the Welland Canal controversy, you will recall that the English Government notified the United States that it was hardly necessary to remind the United States that the terms of the treaty, whatever they were, controlled, and that, exterior or dehors, the record evidence could have nothing to do with it.

Mr. SMITH of Georgia. Mr. President, I wish to ask the Senator if he does not think there is a substantial difference between the effect of a note written ex parte by Mr. Bulwer at the conclusion of the negotiations, giving his view of the meaning of the treaty, and answered by us, giving a different view of the treaty, and the cotemporaneous letters written pending the negotiations, as to the effect the two should have in helping us find out the real meaning of the treaty?

Mr. BORAH. Mr. President, the Senator from Georgia is a very able lawyer——

Mr. SMITH of Georgia. I am very much obliged to the Senator.

Mr. BORAH. And he has had a vast amount of experience in the practice of law. I will ask him a question. Suppose he were in court to recover upon a contract, and that contract had been the result or brought about through correspondence, through letters exchanged by the parties, but finally, after the letters had been exchanged, they signed a contract, would not the Senator contend that the contract alone controlled and that the letters were merged in the contract, and that that and that alone was the thing upon which their minds met? Now, the treaty-making power of the United States and the treaty-making power of Great Britain made a treaty, and they did not ratify any individual's views. If the treaty-making power had one view and the mere scribes and signers another, I apprehend the former should control.

Mr. SMITH of Georgia. I would, but I would make this qualification: If there was language in the contract the meaning of which was doubtful, and the letters between the parties clearly indicated not different views but concurring views as to what the language of the contract was to mean, those letters could be used to help determine an uncertain term in the contract.

The language of the contract, of course, would be conclusive; it would be the language of the contract which would control; but if the meaning of an expression in the contract was doubtful, letters passing between the parties prior to that time expressing their purpose as to what the contract was to mean and showing an agreement between them could be used to help determine the actual meaning of the contract, not, however, to vary it at all as it was finally made.

Mr. BORAH. Let me call the Senator's attention to what a dangerous precedent he would be establishing in matters of international law and the conclusion of treaties.

The Senator says that when the language of a treaty is doubtful he would go back to the letters for the purpose of ascertaining the meaning of the treaty. Then you fall back not upon your treaty for your final rights, but you really rest your rights, be they important as they may, involving national sovereignty or anything else, upon the letters which led up to the treaty.

No such rule as that has ever been established, to my knowledge, among the nations of the earth. In the first place, it would lead to too much trickery and deception, as diplomacy is carried on. In the second place, it would be too dangerous a proposition, because the Senate of the United States, for instance, is the final arbiter and judge upon the treaty; and as it interprets the language and as it ratifies the treaty we are to be bound, and not by what some discharged agent—I say "discharged" because the negotiations had ended and the service was at an end—has said in regard to it. It is the view and the understanding of the treaty-making power as the treaty is finally ratified and passed upon by the treaty-making power. We will regret the day if we establish in this controversy the precedent that upon such language as is used in this treaty we are willing to go back to letters to determine what it means and what our rights are.

Mr. THOMAS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Colorado?

Mr. BORAH. I do.

Mr. THOMAS. I am very much interested in the Senator's argument, as I am in all discussions upon the floor of the Senate. I think, however, that his reference to the note which accompanied the exchange or attempted exchange of the Clayton-Bulwer treaty is not entirely analogous to the situation here.

After the Clayton-Bulwer treaty had been signed by the negotiators it was submitted to the Senate of the United States, where it was ratified by a vote of 42 to 11. That disposed of the treaty so far as the action of the Senate was concerned. It was then sent to Great Britain and was ratified by that Government. Notice was then given, under date of May 28, that the Queen's ratification would be prepared without delay. Afterwards, on June 8—and I am referring to the history of the Clayton-Bulwer treaty by Mr. Travis—Lord Palmerston directed Bulwer to make the following declaration on the exchange of ratifications:

> Her Majesty's Government do not understand the engagements of the convention as applying to Her Majesty's settlement at Honduras or its dependencies.

So it would appear that after the Senate had ratified the treaty, and after the British Government had ratified the treaty, this note, which attempted to limit its application to the part of Central America which was exclusive of Honduras, was delivered by Lord Bulwer to Mr. Clayton. It therefore would seem to be a declaration subsequent to the ratification of the treaty, and could not affect the understanding of the meaning or terms of the treaty, either at the time it was prepared or at the time it was ratified.

In that instance Mr. Clayton first concluded to make no exchange whatever of the treaty. He afterwards concluded that he had better do so, but took care to limit his acceptance of the note of Lord Bulwer by replying that the treaty was not understood "to include the British settlement in Honduras, commonly called British Honduras, as distinguished from the State of Honduras, nor the small islands in the neighborhood of that settlement which might be known as its dependencies." As a matter of course this transaction which followed the negotiation and the ratification of the treaty could not under any circumstances be permitted to either limit

or otherwise affect its application to the two contracting powers for the purposes which they sought to subserve by virtue of it. Indeed Mr. Clayton informed the British minister that no alteration in the treaty could be made without the assent of the Senate.

Mr. BORAH. Has the Senator the exact date of the Clayton-Bulwer treaty?

Mr. THOMAS. I can perhaps find it for the Senator in a moment. I am not able to turn to it immediately; but ratification preceded the exchange of the notes to which the Senator refers.

Mr. BORAH. The ratification preceded?

Mr. THOMAS. Yes.

Mr. BORAH. When did the ratification take place?

Mr. THOMAS. The ratification by the Senate?

Mr. BORAH. By the Senate and by the English authorities.

Mr. THOMAS. The English Government ratified the treaty prior to May 28, that being the date upon which notice was given that the Queen's ratification would be prepared without delay. The Senate ratified the treaty prior to that time and before it was sent to Great Britain for ratification.

Mr. BORAH. Before the final exchange took place and before the treaty was ratified by both the Governments these notes, I understand, were exchanged.

Mr. THOMAS. I think the Senator is mistaken about that.

Mr. BORAH. I feel very certain that I am not mistaken.

Mr. THOMAS. I am very sure if these notes had been exchanged prior to ratification the Senate of the United States would not have approved the treaty.

Mr. BORAH. That is precisely what one of the Senators said, that if they had known of this interpretation—President Buchanan, I think it was, said it would not have been ratified.

Mr. THOMAS. One of the Senators so stated, and that was the general temper of the American public upon the subject.

Mr. BORAH. In order that we may have the benefit of this for what it is worth, let me recall now that on the 29th of June, 1850, Sir Henry Lytton Bulwer, the British minister at Washington, handed to Mr. Clayton, the American minister, the following declaration, in writing:

> In proceeding to the exchange of ratifications of the convention signed at Washington on the 19th April, 1850, between Her Britannic Majesty and the United States of America relative to the establishment of a communication by ship canal between the Atlantic and Pacific Oceans the undersigned, Her Britannic Majesty's plenipotentiary, has received Her Majesty's instructions to declare that Her Majesty does not understand the engagements of that convention to apply to Her Majesty's settlement at Honduras or to its dependencies. Her Majesty's ratifications of the said convention is exchanged under the explicit declaration above mentioned.

The exchange took place upon the part of Great Britain under the explicit declaration that it did not apply to British Honduras. This was the English Government speaking at the time that the exchange took place.

Mr. THOMAS. But after the ratification of the treaty by both Governments.

Mr. BORAH. That might be true, but nevertheless at the time the contract is delivered by one of the parties the exchange takes place. You have this interpretation or construction put upon it.

I should like to ask the Senator from Colorado if he thinks that kind of evidence could carry with it less verity than a letter written by a minister of the United States after the exchange had taken place or by an interview a newspaper man is supposed to have had with Mr. Hay several months after?

Mr. THOMAS. No, I do not; but I do believe it carries less verity and importance than the statements which were made by those who negotiated the treaty as to what the understanding of the treaty was between the parties during negotiation and at the time of ratification.

In making this statement I am not asserting the proposition that the treaty, if otherwise framed, can be affected by the understanding between the parties at the time of its acceptance, but I do think there is a very material difference between a declaration of one of the signatory powers to a treaty as to its interpretation of that treaty made at the time of the exchange and subsequent to ratification, and statements which embody the understanding between the parties and were made during the negotiations.

Mr. BORAH. There may be a difference in what you might call the strength of the evidence as a probative fact. This same author, in discussing this proposition, referring to the note which I have just read, said:

> The ratifications were not, as this action and document implies, exchanged at this time. Their exchange took place several days later.

Then we find here this note delivered——

Mr. THOMAS. The exchange took place July 4, 1850.

Mr. BORAH. Yes. We find several days before the exchange of treaties took place the note handed by one of the negotiators to one of the other negotiators, and we find in the statement this:

> Her Majesty's ratification of the said convention is exchanged under the explicit declaration above mentioned.

That Honduras was not included in Central America.

Mr. SMITH of Georgia. Mr. President——

Mr. BORAH. I will yield in just a moment. Mr. President, there we have certainly about as strong a piece of that kind of evidence as could be had. It is certainly infinitely more conclusive, if that kind of evidence is to be binding at all, than a vast mass of evidence which has been called into existence as to the declarations of Mr. Hay and the declarations of Mr. Choate, and of this party and that party afterwards. It only shows that when we wander off into that interminable wilderness of correspondence and negotiations outside of a treaty we are at sea in a ship without a compass.

Mr. THOMAS. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Colorado?

Mr. BORAH. I yield.

Mr. THOMAS. I merely wish to add, as bearing upon this branch of the discussion, that Mr. Bulwer consented to receive Mr. Clayton's counter declaration after considerable discussion. It was asserted by Reverdy Johnson, whose authority, of course, no one can dispute, and who conferred freely with both the negotiators, that it was distinctly understood by both Clayton and Bulwer that the declarations were of no validity in law and could not affect the treaty. I do not think there can be any question about that.

Mr. BORAH. I suppose so.

Mr. THOMAS. What does the Senator say?

Mr. BORAH. If I understand the statement of the Senator, I do not disagree with him.

Mr. THOMAS. In view of the fact that the declaration was made and these notes exchanged under circumstances verified by so high an authority as Reverdy Johnson, and in view of the additional fact that these notes were exchanged subsequent to the actual ratification of the treaty by the two Governments, but prior to the exchange of the treaty between the two officials, it certainly seems to me that it occupies a very different place from that line of testimony which goes to show the understanding of the signatory powers during the time of negotiation and acceptance of the proposed treaty.

Mr. SMITH of Georgia. I wish to ask the Senator from Idaho a question, if he will yield for a moment. Have you the date of the answer to the Bulwer letter by Mr. Clayton?

Mr. BORAH. It was July 5, 1850.

Mr. THOMAS. The exchanges were made on the 4th of July.

Mr. BORAH. Here is the memorandum.

MEMORANDUM.

DEPARTMENT OF STATE,
Washington, July 5, 1850.

That is the memorandum which Mr. Clayton made.

> The within declaration of Sir H. L. Bulwer was received by me on the 29th day of June, 1850. In reply, I wrote to him my note of the 4th July, acknowledging that I understood British Honduras was not embraced in the treaty of the 19th April last.

So his letter would seem to be dated the 4th of July. The memorandum which was made was dated on the 5th of July.

Mr. SMITH of Georgia. Was not Mr. Clayton's letter, dissenting from the view of Mr. Bulwer, delivered prior to the exchange of the treaties? I am not sure that I am accurate, but it has always been my impression that the two notes passed taking a different view of the treaty, and yet the treaties were exchanged.

Mr. BORAH. Exactly. We have now a line of this kind of evidence. The parties who represented the two nations each placed a construction upon the treaty. I understand the logical position of the Senator from Georgia and the Senator from North Carolina is that this evidence dehors the record is not good unless all the parties to the negotiation agreed exactly as to what it meant; and it is not a question of the kind of evidence, but it is a question whether or not you find a condition of affairs in which all the parties agreed as to the meaning of the treaty.

Mr. SIMMONS. Mr. President, I have not said that, but I did say that in this particular case, with reference to this particular question, there was entire accord between the negotiators, as disclosed in the correspondence.

Mr. BORAH. Suppose they had not been in accord. Suppose Mr. Hay had taken one view and Mr. Pauncefote the other. What, then, would the Senator have done with this evidence outside the record?

Mr. SIMMONS. It would not be so valuable.

Mr. SMITH of Georgia. I would suggest to the Senator if they had taken entirely opposite views as to what the language should mean before the treaty was agreed on originally, the natural consequence would have been to have stopped and written another treaty, or else each would have been so certain of his own meaning that it would have been left entirely to the treaty to determine what it meant. But neither one of the two letters would have helped at all in the construction of the treaty.

Mr. SUTHERLAND. Mr. President, I do not understand that Mr. Bulwer and Mr. Clayton differed as to the construction of the treaty. I understood that they agreed, but that Mr. Clayton said that he would neither affirm nor deny the British claims; and while saying that, speaking for himself, he understood the treaty as Mr. Bulwer did. That is my recollection of the position.

Mr. BORAH. The fact is that Mr. Clayton simply refused to put a construction upon that note. He neither affirmed nor denied what Mr. Bulwer claimed.

Mr. SUTHERLAND. But he did say, speaking for himself, that he understood it in the same way. That is as I recall it.

Mr. BORAH. Here is another incident of that transaction.

Mr. SMITH of Georgia. Has the Senator the Clayton letter?

Mr. BORAH. I have the Clayton letter, and I have another Clayton letter that I want to read. Mr. Clayton to Senator King, July 4, 1850, says:

> I am this morning writing to Sir H. L. Bulwer, and while about to decline entering the treaty at the time of exchanging ratifications, I wish to leave no room for a charge of duplicity against our Government, such as that we now pretend that Central America in the treaty includes British Honduras. I shall therefore say to him in effect that such construction was not in the contemplation of the negotiators or the Senate at the time of the confirmation.

Then Senator King writes to Mr. Clayton on the same day:

> The Senate perfectly understood that the treaty did not include British Honduras. Frankness becomes our Government, but you should be careful not to use any expression which would seem to recognize the right of England to any portion of Honduras.

Now, Mr. President, at the time this negotiation was going on and before the final exchange took place and before the final delivery was had this correspondence took place, and one of the Members of the Senate declared as to what the Senate understood, and yet no American diplomatist or Secretaries of State to whose attention this was called ever recognized that as the proper construction of the Clayton-Bulwer treaty. They always contended that the Clayton-Bulwer treaty by its language using the words "Central America" included British Honduras, and that as Stephen A. Douglas and President Buchanan and a number of them declared it was a plain violation of the Clayton-Bulwer treaty, notwithstanding this exchange of notes, when they undertook to erect British Honduras into an English colony.

Here is an instructive lesson upon this question of going out and hunting up evidence outside of the record for the purpose of determining what the plain words of a treaty mean. It does not make any difference——

Mr. SMITH of Georgia. Mr. President——

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

Mr. BORAH. I yield.

Mr. SMITH of Georgia. Does the Senator mean that the Democratic representatives at that time agreed with Mr. Bulwer? They disagreed with him, did they not?

Mr. BORAH. Stephen A. Douglas disagreed with him. He belonged at that time to the men who were opposed to making the Clayton-Bulwer treaty at all. He thought it was conceding a right to the English Government which ought not to be conceded. He said it would give us a vast amount of trouble, and President Buchanan said it would in all probability involve this country in war with Great Britain. They were opposed to the treaty entirely, but nevertheless Mr. King, as I remember chairman of the Foreign Relations Committee, writes this letter:

> The Senate perfectly understood that the treaty did not include British Honduras. Frankness becomes our Government, but you should be careful not to use any expression which would seem to recognize the right of England to any portion of Honduras.

That construction placed upon this treaty by Mr. King and that note of Mr. Bulwer were discarded entirely when the question arose afterwards as to whether or not Central America did include British Honduras, and the position which the United States took was contrary to the position which is stated here, that treaty did not include British Honduras. In other words, our statesmen and diplomats repudiated the interpretation which Mr. King put upon it. They rejected the interpretation which Mr. Bulwer put upon it.

Mr. SMITH of Georgia. But did not Mr. King say that he should be careful to use no language which would include it?

Mr. BORAH. Certainly; but he says, "The Senate perfectly understood that the treaty did not include British Honduras," but he warned the Secretary of State not to furnish an affirmative evidence of title in Great Britain by admitting it.

In other words, the position was that they did not know to whom British Honduras belonged. It might be a separate independent Government down there. He simply warned him not to admit that England owned it, but he said at the same time that it was not included in this treaty. It might have been owned by Spain; it might have been an independent government. What he desired Mr. Clayton to do was not to admit the title of Great Britain; but afterwards, you remember, Great Britain contended that Central America did not include the British Honduras and we contended it did. Notwithstanding Mr. King had said, "The Senate understood at the time that it did not." Why? Because we relied upon the language of the treaty and rejected all these letters and exchange of notes and interpretations made at the time of the exchange. No, Mr. President; I repeat, as I said a while ago, this is a new doctrine, and it is the most dangerous doctrine that this country could possibly lay down with reference to the interpretation of treaties.

How shall we ever know when a treaty is ratified what our rights are if lying back in the undeveloped somewhere are letters and negotiations, and so forth, which may give it a meaning the treaty-making power did not entertain.

Does the Senate ever call before it the letters and the negotiators and put them upon the witness stand to find out what their understanding and intent were? Certainly not. We bring a treaty before us, pass upon its language, and ratify it, and doing so act upon the language which we find in the treaty; and it does not concern us at the time to know what interpretation somebody outside ourselves may put upon it.

That contention is a twin brother to the other proposition that we have lately invoked with reference to international affairs; and that is, that wherever there is a doubt we shall resolve it against ourselves; wherever we have an important right, give it up; let us have no controversy at all. If England should break away from her usual modesty and should claim something that really does not belong to her, if she should make a contention under the treaty which might be hard to sustain, let us have no controversy; let us give it up; it does not involve anything except our right over our domestic commerce; it involves a small affair like controlling our own territory; it only involves the control over a very vital strategic portion of our Government. These are small and inconsiderable and inconsequential affairs, and as England, in behalf of international brotherhood and the peace of mankind, is seeking to secure that advantage to herself and that disadvantage upon us, the new doctrine is, the new sense of national honor and national integrity is, yield our contention; it is dishonorable to stand up and argue for American rights, whether we be right or wrong—yield to the opposing Government.

Why, Mr. President, if that rule had been invoked when we made the treaty in 1783 with Great Britain, when Great Britain delayed giving up the Northwest Territory and the posts which she had established there, if the American Government had said, "Very well, you are our mother country; we will yield upon this point," a vast amount of that great territory, which is now the pride of the United States, might not now be ours.

We have been in a contention with that great Government from the hour of our birth over important treaty rights; and for the first time, in the morning of the twentieth century, we have announced the doctrine that when in her sense of right she demands a thing, we shall yield it.

Another thing, Mr. President, passing from that, the Senator from North Carolina was of the opinion that this matter was not very fully considered at the time that we had it up in 1912.

Mr. George C. Butte, a distinguished writer upon this subject, calls particular attention to that phase of the matter. He says:

> Seldom has any proposed legislation been the subject of such a thorough and general discussion in the Congress of the United States as this—

That is, the act of 1912.

> Aside from the reams in the CONGRESSIONAL RECORD of the debates upon various aspects of the proposed canal act, above all with reference to the tolls questions, several volumes covering hearings before congressional committees, reports of military, scientific, legal, and commercial experts, etc., were ordered printed and distributed among the Members. The hearings before the House committee alone cover 1,127 pages, and before the Senate committee nearly a thousand pages. During the consideration of this act the Clayton-Bulwer treaty and the Hay-Pauncefote treaty were printed in their entirety and laid upon the desks of the Members of Congress, in one document or another, nine different times. During the discussion of the tolls question, and a month before the enactment of any law, the Congress enjoyed the very exceptional benefit of having communicated to it officially

the views of the British Government as to some of the legal aspects of granting American ships free passage through the canal.

Mr. President, before we had concluded our work we were notified by Great Britain of the importance of this step and that the conditions were not satisfactory to her. The act of 1912 was passed under all sense of responsibility as to the controversy which might arise, and the campaign of 1912 was made with full knowledge of the contention of the English Government. The Baltimore convention met at the very time that this contention was being urged by the British Government. There is not, so far as the great fundamental propositions are concerned, a single new proposition or a single new situation in this controversy. We had the treaty; we had the correspondence; we had the hearings; we had the protest of Great Britain; we had everything available which we have to-day, except the opinions of a few more experts.

Mr. President, I do not challenge, of course, the reasons which actuate men in their change of position and view; it is not my purpose in this debate to do that. But I can not refrain, as a just and legitimate argument, to note that our friends who now oppose us were once with us, and, with their great abilities, argued the cause of our Government with great power and conclusiveness.

Mr. SMITH of Georgia and Mr. CUMMINS addressed the Chair.

The VICE PRESIDENT. The Senator from Georgia.

Mr. CUMMINS. A parliamentary inquiry, Mr. President. I supposed that I had the floor, and I yielded to the Senator from Idaho [Mr. BORAH] to continue a colloquy with the Senator from North Carolina [Mr. SIMMONS]. I am not anxious about the matter, of course, but I should like to know my parliamentary status.

The VICE PRESIDENT. The Chair has been here, he thinks, an hour and a half, during which time the Senator from Idaho [Mr. BORAH] has been occupying the floor. The Chair hardly thinks the Senator from Iowa can yield the floor for an hour and a half.

Mr. CUMMINS. I did not intend to do so, Mr. President, but I have no quarrel with the ruling of the Chair. I suppose that at some time I shall be able to secure recognition.

Mr. SMITH of Georgia. Mr. President, I do not desire to interfere with the wishes of the Senator from Iowa if he desires the floor at this time. I only wish, if it will not interfere with him, to make a very brief answer to the Senator from Idaho.

Mr. CUMMINS. I would vastly rather hear the voice of the Senator from Georgia than my own.

Mr. SMITH of Georgia. Mr. President, I am not surprised that the Senator from Idaho should wish to remove this treaty, when we consider its meaning, entirely away from the correspondence of our diplomatic representatives who negotiated it, from the letter of the Secretary of State to the chairman of the Committee on Foreign Relations, and from the report to the Senate upon it by the former chairman of the Committee on Foreign Relations, Mr. Davis.

I do not contend that the contemporaneous history or that the various correspondence can in any sense change the meaning of the treaty, but I do believe that it is a splendid magnifying glass to help us see the real meaning of the treaty and the real purpose of the parties to the treaty.

With reference to the correspondence of Mr. Bulwer and Mr. Clayton, to which the Senator has called attention, that occupies an entirely different position from the correspondence and the history brought to bear upon this treaty. In that case the treaty had been signed and ratified by the Senate of the United States and by the Parliament of Great Britain. The parties with the power to make the agreement had agreed. England sought, through the letter of Mr. Bulwer, to place a limited meaning upon the treaty which had already been ratified. It was not pretended that, pending the negotiations, any such meaning was suggested by either of the parties. On our side we did not agree to the view presented by Mr. Bulwer. I do not think that that letter from Mr. Bulwer, under the circumstances, would have any effect in helping to determine the meaning of the treaty.

But what is the present case? The United States for years had insisted upon the policy of equality of treatment of the vessels of subjects of Great Britain and of citizens of the United States in the waters of each of the countries. That had been our policy, and that was the demand of the United States in its dealings with foreign Governments.

When the Clayton-Bulwer treaty was made it announced fully and clearly the doctrine of equality to be extended in the waters of any canal built across Central America or the Isthmus to the subjects of Great Britain and the citizens of the United States whose vessels of commerce passed through the canal. Not only so, but across any railroad that might be built from the Atlantic to the Pacific the same equality of treatment was required. The Clayton-Bulwer treaty all the way through demanded for the citizens of each country equality of treatment in the waters of any canal or over any railroad that might be constructed connecting the Atlantic and Pacific Oceans across Central America or the Isthmus of Panama.

Here was an established policy; here was a treaty unmistakably declaring for that policy. But under the Clayton-Bulwer treaty the canal was to be constructed only under the joint promotion of the two countries.

The United States concluded that it desired to be relieved of so much of the Clayton-Bulwer treaty as gave to Great Britain a partnership in the proposed canal.

In the opening of the negotiations it was not suggested by the Secretary of State to our representative that we wished to get rid of the recognized policy of the United States to demand and concede equality of treatment to the owners of vessels and the commerce of the citizens of each of the countries in any canal that might be built across Central America or across the Isthmus.

When Mr. White first opened the negotiations in 1898 he reported to the Secretary of State that he believed Great Britain would yield us the complete direction of any canal and the status of sole promoter of the canal, and that she would only insist that we retain, in connection with such canal, the equality of treatment to the owners of vessels and to the commerce of the citizens of the two countries which was so fully required by the Clayton-Bulwer treaty.

Mr. Blaine, in his letter, declared that of course the United States stood for equality of treatment for the citizens of both countries as to their vessels and as to their commerce.

Mr. Choate later took up the negotiations, and all through the correspondence between Mr. Choate and Lord Pauncefote is the conceded proposition that equality of treatment to the citizens of the two countries as to their commerce and as to their vessels passing through the canal to be constructed was to be continued.

For the United States, in connection with this treaty, to have demanded a different status as to the canal would have been utterly contrary to its past policy, to a policy which it had advocated and for which it had pleaded for nearly a hundred years. Every letter that was exchanged indicated the purpose to continue that policy and to make the canal a public-service waterway, open alike and on equal terms to the citizens of both countries as to their commerce and as to their ships.

Mr. President, when the matter came to the Senate Mr. Davis, then chairman of the Committee on Foreign Relations, in his report to the Senate clearly disclosed the purpose on the part of the United States to make a treaty which was to maintain this established policy of the United States and to continue equality of treatment to the subjects of Great Britain and to the citizens of the United States, both as to their vessels passing through the canal and as to their commerce.

You can not read the letter from Secretary Hay to the chairman of the Committee on Foreign Relations, the late lamented Senator from Illinois, Mr. Cullom, without finding in it the clearest declaration that as to equality of treatment of the business of the citizens of the two countries, the United States maintain in the new treaty the same rule which was declared by the Clayton-Bulwer treaty; and in the short letter of the Secretary of State to the President, handing him the last treaty, although it covers only a few lines, he dwells upon the fact that we retained in this treaty the principle of neutralization contained in the eighth article of the Clayton-Bulwer treaty; and President Roosevelt, in sending the treaty to the Senate, although the letter of transmission was short, took space to declare that we retained in the treaty the principle of neutralization contained in the eighth article of the Clayton-Bulwer treaty.

What was that principle of neutralization which both the Secretary of State—although he wrote only about half a dozen lines about the treaty—deemed it important to mention, and the President, although he only wrote about half a dozen lines, deemed it important to remention? The eighth article of the Clayton-Bulwer treaty has nothing about war; the principle of neutralization to which it applies is impartiality of treatment of the subjects of Great Britain and the citizens of the United States in the use of the canal. We declare in the very opening of the treaty, in the preamble, that the principle of neutralization contained in the eighth article of the Clayton-Bulwer treaty is to remain in force under the new treaty.

Mr. WEST. And did not the late Senator Bacon try to have that provision stricken out, and did he not fail by a vote of 18 to 60?

Mr. SMITH of Georgia. I believe that is the case; but I do not intend to carry my discussion to the action of individual Senators upon the floor of the Senate. I wish simply to bring this history down to the treaty itself and to the preamble of the treaty. I do not think any outside evidence is necessary to find out what the treaty means; but if there were any doubt, unquestionably its history, in connection with the preamble, carries the broad principle of neutrality of the eighth article of the Clayton-Bulwer treaty into the Hay-Pauncefote treaty.

Mr. HITCHCOCK. Mr. President, will the Senator submit to a question?

Mr. SMITH of Georgia. Yes.

Mr. HITCHCOCK. Was it not stated in the eighth article of the Clayton-Bulwer treaty that the reason for giving equal rights to the citizens and subjects of Great Britain and those of the United States was because of the fact that those two countries were to protect the canal?

Mr. SMITH of Georgia. No; I do not think that language is used as the Senator uses it.

Mr. HITCHCOCK. I call the attention of the Senator to the last six or eight lines of the article, and ask him whether it can be properly claimed under that article that the citizens or subjects of any country were to be entitled to the same treatment as the citizens of the United States, except those of a country giving protection to the canal?

Mr. SMITH of Georgia. I think the latter suggestion of the Senator is correct—that the eighth article provided that the equality of treatment was to be extended—

on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

Mr. SIMMONS. Mr. President, if the Senator please——

Mr. SMITH of Georgia. I would rather not be interrupted just now. I wish to answer the Senator from Nebraska.

The principle of neutralization contained in that treaty, however, was equality of treatment to the citizens and subjects of Great Britain and the United States in the use of the canal. The reason for it in article 8, the Senator may contend, certainly, so far as other countries were concerned, was the extension to the canal of the same protection by the other countries. Now, it is true that under the Clayton-Bulwer treaty both the United States and Great Britain were to extend protection to the canal; but the equality of treatment which is the principle of neutralization was equality of treatment to the citizens of Great Britain and the citizens of the United States using the canal, both as to their commerce and as to their vessels.

Mr. HITCHCOCK. Now, will the Senator answer this question: Suppose that partnership had been carried out, and Great Britain and the United States had jointly constructed the canal, and the citizens and subjects of the two countries had been given the use of the canal upon equal terms, would not the two countries have been perfectly at liberty to charge to the citizens and subjects of other countries higher tolls?

Mr. SMITH of Georgia. Yes.

Mr. HITCHCOCK. Then, if Great Britain withdrew from that partnership and ceased to give her protection to the canal, would she not be in the same position as the other countries?

Mr. SMITH of Georgia. Not under the terms of this treaty that we have made, because under its terms she agreed to withdraw and leave the sole protection to the United States, provided we would retain the principle of neutralization; and that principle of neutralization was equality of treatment to her citizens and to our citizens.

Mr. HITCHCOCK. The Clayton-Bulwer treaty provided for neutralization, and the condition of neutralization would have existed even though the citizens and subjects of the United States and those of Great Britain had lower tolls than the citizens and subjects of other countries.

Mr. SMITH of Georgia. That is true.

Mr. HITCHCOCK. There would have been neutralization just the same.

Mr. SMITH of Georgia. No; the only neutralization contained in article 8 is equality of treatment of the subjects of Great Britain and of the United States in the use of the canal. Under the Clayton-Bulwer treaty it is true that both were to extend their protection to the canal. Now, Great Britain agreed at the instance of the United States that she would retire from her right to exercise protection, but she said: "Although I retire at your request, I do so upon condition that you will retain the principle of neutralization contained in article 8, which is equality of treatment of the vessels of citizens of Great Britain and of the citizens of the United States in the use of the canal."

That is all that is left in article 8. We made an agreement with Great Britain at our instance by which the part of article 8 which required Great Britain to exercise part of the protection should cease. We asked Great Britain to abandon that right, that voice in the control of the canal. We requested that all the feature to which the Senator refers should be removed. Great Britain conceded to our request upon condition that the principle of neutralization should not cease; and that principle of neutralization is equality of treatment of the citizens of the two countries in using the canal as to their vessels and as to their commerce.

So, Mr. President, at the very outset of this treaty we refer back to our past history and we begin with the declaration that there shall be equality of treatment to the citizens of the two countries in the use of the canal.

The next proposition in the treaty is the declaration that "the basis of the neutralization of such ship canal" shall be according to "the following rules, substantially as embodied in the convention of Constantinople" as to the Suez Canal.

Nobody disputes the proposition that as to the Suez Canal the commerce of the citizens of all countries goes through on the basis of equality.

I do not desire to continue this discussion further. I only wish to go far enough to show that if we invoke the cotemporaneous history and invoke the correspondence we find it is all in perfect harmony with the construction which we put upon the treaty, namely, that it does declare for equality of treatment to the owners of the vessels and of the commerce of the citizens and subjects of the two countries passing through the canal.

I do not desire to refer to the part of the argument of the Senator from Idaho [Mr. BORAH] which has reference to the construction that should be put upon a treaty where there is doubt, namely, as some contend, that we should resolve that doubt against ourselves, or, as others contend, that we should resolve it in favor of ourselves. I think the sound rule is that we should honestly seek to find out just what we did agree to do, and then live up to it.

In case of doubt, if I thought it was important to my Government, and I really seriously doubted what agreement it had made, I might favor, not legislative action seeking to resolve that doubt, but some reference of the question to an impartial arbitration by which it could be resolved. I do not agree to the view that in every instance we ought to resolve a question of doubt against our own Government. I should not be willing to do it myself. If we had made an agreement—and I did not think the agreement required us to do something that another country insisted we were required to do, and I thought doing that thing would injure our own country—I should be disposed, if I fairly reached the conclusion that we had a right that was being denied, to stand up for it and fight over it.

My own view as to this treaty is that in it we have simply agreed to what we have always stood for; in it we have simply agreed to what we stand for if we had no treaty and to what we ought to stand for if we had no treaty. If we had no treaty, I believe the traditional policy of the United States would be to charge the same rates to all commerce that passed through the canal, and I believe that policy wise and right.

If there were not any treaty, I should be in favor of making these vessels pay their part of the expense. If we reach a point where we determine that it is the wise policy of the United States to contribute something to our merchant marine, in some way to help it, I am in favor of doing it openly and above board, and plainly declaring we are doing it. If we believe we ought to give something to vessels that fly the American flag, I think the way to do it is by direct legislation and not by indirection.

Mr. BRANDEGEE. Mr. President——

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

Mr. SMITH of Georgia. I do.

Mr. BRANDEGEE. If the Senator were going to confer any favor upon vessels that fly the American flag in the coastwise trade he would confer it upon the whole trade, would he not?

Mr. SMITH of Georgia. I would rather confer it upon the vessels engaged in foreign trade than upon the coastwise vessels.

Mr. BRANDEGEE. But if the Senator were going to confer it upon the coastwise trade he would not limit it to the part which went on a certain course, would he?

Mr. SMITH of Georgia. Not at all; and with reference to the suggestion that has been made several times, that other countries could give their vessels the tolls they pay, and that the construction we take would preclude the United States from doing so, I do not think that view is sound. Under my construction of the treaty we could not give back exactly the tolls, and I do not believe any other country could give its vessels just the amount of the tolls because they went through the canal.

I do not believe Great Britain could do so without violating the terms of the treaty. Great Britain, however, may have a general policy of helping the vessels that fly the British flag and contributing toward them whether they pass through the Panama Canal or whether they pass through the Suez Canal or whether they sail without passing through any canal.

I think the United States is in no sense prevented by this treaty from giving a subsidy in any way it sees fit toward vessels that fly the American flag, provided the effort is not made simply to give it to vessels passing through the Panama Canal for the purpose of returning the tolls which they pay.

If there were no treaty, I should be thoroughly against such a plan. I think the vessels that go through the canal have already received a substantial contribution to their business through the fact that the canal has been built. I think they already will save something like two to three dollars per cargo ton by reason of the canal, even though they pay the tolls.

If we are to embark on the policy of subsidy to American vessels, at present I suppose I would be precluded from voting for a subsidy to any kind of vessel; but if we are to do it—and I am not sure that the time may not come when we will—the vessels that, above all others, I should wish to see fostered are those that are not engaged in the coastwise trade, because the coastwise vessels already have so much help through our laws which exclude the vessels of foreign countries from competing with them.

I admit a great desire to see the Stars and Stripes float all around South America. I wish to see our vessels floating in the waters of all countries. I wish to see them sail from New York to every harbor down on the eastern coast of South America, without reference to the canal. I wish to see them sail from San Francisco to all parts of the western coast of South America, and also to other foreign waters. When the time comes, if it does come, that Congress determines to do something, I think it ought to do it directly and squarely, and where the help is most needed, and in a way most beneficial to the entire country——

Mr. BORAH. Mr. President, I do not know whether the Senator from Indiana desires to continue this discussion or not. I thought he indicated that he might move for an adjournment.

Mr. KERN. I desire to take a vote on this bill.

Mr. SMITH of Michigan. To-night?

Mr. SMITH of Georgia. Just as soon as possible.

Mr. BORAH. Mr. President, I wish to say just a few words before the vote. [Laughter.]

I was surprised to hear the Senator from Georgia say that we do not need any outside evidence whatever to determine the meaning of this treaty.

Mr. SMITH of Georgia. That was not exactly my language. I said that I had no doubt as to its meaning without the outside evidence. Was not that what I said?

Mr. BORAH. I took it down, but I may have been in error. I understood the Senator to say what I have just stated. I do not think, however, there is very much difference between the two propositions. As I understood the Senator's statement it was that he had no trouble in arriving at the meaning of this treaty upon the face of the treaty itself and that outside evidence was not necessary for him to satisfy himself as to its true meaning. I think that is a fair statement of what the Senator said.

Mr. SMITH of Georgia. That is substantially what I said.

Mr. BORAH. I understood the Senator also to say that if we had no treaty he would be in favor of doing precisely what we are going to do under the treaty.

Those two propositions, to my mind, rather shut off the "flood of light" which is supposed to have come to us since the last session. We had the treaty before us at the former session, and certainly we had before us the policy as to whether or not we should under any circumstances, regardless of treaty, give our coastwise vessels passageway through the canal without cost. Those propositions were just as clearly before us at the former session as they are now.

The Senator also called attention to the fact that Mr. Davis's report as chairman of the Committee on Foreign Relations very clearly disclosed the purpose, the intent, and understanding of those who made the treaty, and it was to the effect that our treaty excluded us from freedom in the canal unless we extended the same freedom to all other nations; in other words, his contention being that Mr. Davis's report clearly established that all nations included the United States as well as the other nations of the earth.

The Senator also referred to the letter of Secretary Hay to the chairman of the Foreign Relations Committee transmitting the treaty the last time to the Foreign Relations Committee, in which he stated what he understood to be the meaning of the treaty, and the Senator was of the opinion that that letter was very clear in indicating the purport and meaning of the treaty.

The Senator also called attention to the letter of Secretary Hay to the President, in which he called attention to the terms and purport of the last treaty, and he called attention to President Roosevelt's letter of transmittal of the treaty to the Senate.

Now, Mr. President, all those documents were before us in 1912. We had the treaty——

Mr. BRANDEGEE. Was the letter from the Secretary of State, Mr. Hay, to Mr. Cullom before us?

Mr. BORAH. If it was not actually in print before us it was available.

Mr. BRANDEGEE. There has been a communication from the Department of State to us saying that it had just been taken out of the private locker of the estate of the late Secretary, and it was furnished by his wife.

Mr. BORAH. That shows how important it is to have it before us now, and remarkable is this rule which we have come to accept that we will be guided in our interpretation or construction of a treaty by a letter which was not before us when we ratified the treaty.

Mr. BRANDEGEE. I agree with the Senator.

Mr. BORAH. That kind of testimony, which was locked up and unknown to the ratifiers of the treaty, is to be taken into evidence when we come to construe the treaty.

Mr. BRANDEGEE. No; it was sent to the chairman of the committee that reported the treaty. It was a letterpress copy. It was directed to Senator Cullom, the chairman of the Committee on Foreign Relations.

Mr. BORAH. Was it before us two years ago?

Mr. BRANDEGEE. I think not. As I said, it was just sent in by the Secretary of State in answer to a Senate resolution, with a statement, which I put into the RECORD, describing how he came by it.

Mr. BORAH. Did the Senate have before it the letter to which the Senator is referring at the time it ratified the treaty?

Mr. BRANDEGEE. The Committee on Foreign Relations had it. It was addressed to its chairman, Senator Cullom.

Mr. BORAH. Then do I understand it has been available to the Senate at all times since?

Mr. BRANDEGEE. I do not think so. I inquired of the committee, and it was not on file with the committee. Whether Senator Cullom read it to the Senate in executive session or not, of course I have no means of knowing. Nothing is preserved of the proceedings of the executive session.

Mr. BORAH. Then I understand that a letter which was not before us at the time the treaty was ratified is now before us, and that it is one of the pieces of evidence which has to do with the interpretation of the treaty at this time.

Mr. BRANDEGEE. It is one of the pieces of evidence the Senator mentions as having been before the Senate in 1912. I simply wanted to show what my understanding of the situation was.

Mr. BORAH. I do not understand that the Senator from Connecticut lays any stress upon that letter as to the interpretation of the treaty.

Mr. BRANDEGEE. I lay considerable stress upon it; so much so that I put it into the RECORD, because it is a statement from the man who authorized the negotiation of the treaty, and the same man who afterwards negotiated and signed the treaty with Panama in which the Hay-Pauncefote treaty is referred to.

Mr. BORAH. And in which he exercised the right to grant exemption from tolls to Panama.

Mr. BRANDEGEE. In which he said that the canal should be open and operated in all respects under the terms provided in section 1 of article 3 of the Hay-Pauncefote treaty, which he had also drawn.

Mr. BORAH. Then I get the position of the Senator from Connecticut that, as a lawyer, he thinks in the interpretation of a treaty we must take into consideration at this time a letter interpreting it which the treaty-making power, the ratifying power, had no knowledge of at the time the treaty was ratified; that is, the Senate as a whole as distinguished from its committee.

Mr. BRANDEGEE. The Senator will allow me to state my own position. I take into consideration, and I think it is proper to take into consideration for what it is worth, the view of the gentleman who drew the treaty, as I think it is evidential of what he thought about it. Whether the letter was brought to the attention of the Senate which ratified the treaty of which the Senator is speaking, I have no means of knowing.

Mr. BORAH. Does not the Senator from Connecticut think that his conception of what the language found in the treaty means is quite as good as that of the man who wrote the letter,

in view of the fact that the Senator was one who had to pass upon the treaty and ratify or reject it?

Mr. BRANDEGEE. The intention of the gentleman who drew the treaty and conducted the very able correspondence, which is also published, with the party who signed the treaty in behalf of the other high contracting party is of some weight with me in deciding what the Government officials of this country thought they were doing at the time, and what they intended to do.

Mr. BORAH. I understand, then, the Senator from Connecticut, long prior to the time this valuable piece of evidence came into existence, had made up his mind as to what the treaty meant.

Mr. BRANDEGEE. Great minds move in the same channel, Mr. President. The Senator is quite correct. I had also made up my mind upon that question, though not so firmly as it exists at present, because I regard nearly every argument made on both sides of this question as having fortified me in my original opinion. But I also think it is a grossly inexcusable economic policy to grant this privilege to a specially permitted class of vessels, and I have always thought so. On that reason alone I would vote to repeal the exemption, if no question of the treaty was involved.

Mr. BORAH. I understand the Senator, then, is not controlled alone by the treaty, but he is opposed to this exemption as an economic proposition?

Mr. BRANDEGEE. Absolutely and ab initio.

Mr. SMITH of Michigan. Right or wrong?

Mr. BRANDEGEE. I will not say right or wrong, but always right.

Mr. GALLINGER. Mr. President, the Senator says that his opinion has been strengthened by speeches on both sides. I hope I did not strengthen the Senator's opinion in the discussion I indulged in on that point.

Mr. BRANDEGEE. I exempt the Senator, because I did not have the pleasure of listening to all of his very able discussion of the question.

Mr. GALLINGER. I will supply the Senator with a copy of my speech if he will promise to read it.

Mr. BRANDEGEE. As between Senators I do not wish to make any invidious distinction.

Mr. BORAH. Mr. President, I rose to call attention to the fact that it was evident the Senator from Georgia made his interpretation of this treaty upon facts which were available two years ago and that there has been nothing new to the Senator from Georgia; that his interpretation was founded at first upon the face of the treaty, and, secondly, upon the testimony with the available outside facts which were then in our possession?

Mr. SMITH of Georgia. Is the Senator asking me a question?

Mr. BORAH. No; I was simply speaking with an interrogation point at the end of my remarks.

Mr. SMITH of Georgia. Then I will not interrupt the Senator, but when he finishes I will show him that there have been a number of matters brought to my attention since two years ago that have helped me to form my present opinion of the treaty.

Mr. BORAH. Mr. President, how could anything help the Senator to arrive at a conclusion as to the meaning of the treaty when the Senator says that the treaty itself is plain enough upon its face as to what it means, so far as he is concerned?

Mr. SMITH of Georgia. Does the Senator ask that as a question?

Mr. BORAH. Yes; I ask that as a question.

Mr. SMITH of Georgia. I will answer that, so far as the general terms of the treaty are concerned, I think the language is perfectly clear, and the view I now have I formed two years ago. At that time I was inclined to the opinion that we could let our coastwise vessels go through free, but that it would probably also require us to let the vessels of the Dominion of Canada go through free, and I so stated on the floor of the Senate. At that time also I had not observed the fact that the treaty went beyond the owners of vessels and equality of treatment to be extended to the owners of vessels and went to the commerce of the two countries. I have read with a great deal of interest the message of President Cleveland and the message of President Harrison and the debate in the House upon the Welland Canal treaty, the act passed by Congress authorizing President Harrison to retaliate in the Welland Canal matter; and my attention has been called to the fact that the treaty extends to the commerce of the citizens of the two countries as well as to the owners of the vessels of the two countries. That had not occurred to me when the subject was up for discussion two years ago.

It is upon that line especially that I have obtained additional information within the past two years, and in one sense I have modified my construction of the treaty as presented at that time. At that time I was disposed to believe that it only applied to the owners of vessels of the two countries, and I thought that would extend to the owners of vessels of the Dominion of Canada, and I so stated. But now I believe that it extends to the commerce of the citizens of the two countries, accepting the view taken by President Cleveland and President Harrison and by Congress with reference to the Welland Canal.

Mr. BORAH. Mr. President, the Senator referred to the debates two years ago, and I therefore call attention——

Mr. SMITH of Georgia. Yes; Mr. President, it is perfectly evident the Senator was preparing to call attention to them, and as he asked the question I answered him in advance, instead of waiting until he finished and answering him when he closed.

Mr. BORAH. I am very glad to have the Senator explain his views before I call attention to them, and I call attention to them with no desire other than to arrive at what really controlled the Senator in making up his mind upon this question.

I think we may justly insist—

Says the Senator—

I doubt whether it would be successfully controverted—that, so far as our coastwise vessels are concerned, this treaty does not apply to them.

The Senator at that time, as I understand him, had made up his mind by reason of the facts which were before him, to wit, the treaty and the correspondence which he referred to in his last remarks to-day, all of which were in existence at that time, to the effect that the coastwise vessels were not included under the treaty.

Indeed, in the communication from the Attorney General embodying the views brought to our attention by Great Britain, it is stated that upon that subject, with proper regulations, it is probable that no question by Great Britain would be made.

I think that is true. I think that Great Britain has really never made any serious contention as to the coastwise trade. I think when you construe the letter of Mr. Innes together with the letter of Earl Grey, you will find that, taken together, there can not be evolved from them a distinct objection to the coastwise trade; at least, they were not willing to put it beyond the power of diplomacy to settle. I think this question of exempting the coastwise trade is a thing which we have urged and accentuated here at home far more than it has been urged abroad. It is an evidence of our generosity.

Now, fortifying that view, one that we can logically deduce from article 3, section 1, and the attitude of Great Britain upon it, with the decision of the Supreme Court of the United States in the Galveston case, in which they held, in effect, that language of this kind was not applicable to coastwise vessels; that it was no discrimination under language practically similar to the language found in this treaty to extend privileges to coastwise vessels that were not extended to foreign vessels, we can sustain the provision freeing coastwise vessels from tolls.

That decision squarely sustains the positon that the treaty does not apply to coastwise vessels.

I call attention to that, Mr. President, to demonstrate the fact that it was not necessary to have this which the Senator from North Carolina has referred to—the new evidence, the flood of light—to enable Senators to arrive at a definite conclusion as to our coastwise vessels. That proposition was easily sustainable, as I understand from the language of the Senator, by reason of the facts which were then before him, and that no new facts have been added, so far as that particular feature of the controversy is concerned.

If that be true, a vast amount of this discussion would seem to be wholly irrelevant, so far as the particular matter that we have under consideration is concerned, because we are only dealing with coastwise vessels, not vessels engaged in coastwise trade, and not only vessels of the United States, but vessels which belong to the nationals.

I do not care to go further into the matter this evening.

Mr. BRANDEGEE. Mr. President, in reference to what the Senator from Idaho [Mr. BORAH] has said about the fact that the terms coastwise vessels or coastwise ships or coastwise trade do not appear in the treaty I have simply to say that if the rules prescribed in the treaty bind us at all, if section 1 of article 3 binds us to equality of treatment to the ships of the subjects or citizens of the countries, it is equality that we contracted for. It is not equality as to ships in the coastwise trade or in the river trade or in the foreign trade. In the language of the treaty they are on terms of entire equality, so that there shall be no discrimination as to ships, subjects, citizens, or countries as to the conditions or rate of tolls through the canal. That is what we contracted for—equality. If it is equal treatment to say that we will pass all our ships in the coastwise trade through free and we will charge the ships of every other nation in their coastwise trade, so be it. But that does not seem to me to be equality. If an owner of a Canadian ship has to pay $5,000 or $10,000 to get through that canal and to

his competitor, the owner of an American ship in the coastwise trade, the guard takes off his hat and says, "No charge, sir; pass through free," I would not consider that as being treated on terms of equality, so that there is no distinction or discrimination between me as a citizen or a subject or between the country that I belong to or the flag that I support and the vessel or citizen with whom I was competing.

It is that which is contracted for, and I am unable to understand how anybody who admits that we are bound to equality of treatment can claim that it is not a discrimination to charge all Canadian vessels engaged in exactly the same trade from the east or Atlantic coast of their country to the west or Pacific coast of their country, as they will be engaged in it, through that canal, their trade only originating and terminating a few degrees of latitude to the north of us. I can not conceive how that absolute inequality of treatment can be considered to be equality of treatment.

This is not simply a question involving Canadian ships as compared with our coastwise ships. While the ships of Mexico or any other nation that is willing to observe the rules as they are laid down here have no contractual right, which was especially avoided by the negotiators of the treaty, as the high contracting parties had when they signed the contract, any nation that is willing to observe the rules has all the rights to equality of treatment that either high contracting party has.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator from Connecticut yield to the Senator from Idaho?

Mr. BRANDEGEE. I yield the floor.

Mr. BORAH. I understood the Senator to assume in his argument that he believed the treaty bound us to equality of treatment, and coastwise vessels did not come within that term.

Mr. BRANDEGEE. Oh, no. I understand the position of the Senator from Idaho is that we are not bound to equality of treatment under the treaty.

Mr. BORAH. Neither with reference to coastwise vessels nor over-sea vessels.

Mr. BRANDEGEE. But the men who drew the treaty, Mr. President, stated that we were bound by these rules. I will be very brief, because I consider that the subject is worn almost threadbare. Mr. Hay, in his letter to Senator Cullom, distinctly stated that we were bound by these rules. In his opinion——

Mr. SMITH of Michigan. An American canal.

Mr. BRANDEGEE. He did say that, and it is an American canal.

Mr. SMITH of Michigan. And it is owned by the American Government.

Mr. BRANDEGEE. And it is owned by the American Govment.

Mr. SMITH of Michigan. But we seem to have a partnership with England in its management, according to the Senator from Connecticut.

Mr. BRANDEGEE. We have all the rights in the canal as an owner and operator and maker of regulations. We can do anything we want in the canal as our own, provided we live up to the agreements that we have made.

Senators might just as well claim that when we made a contract with the Republic of Panama, from whom we got our right to build the canal, we are not bound to give them the conditions of use of the canal which we stated in the treaty.

Now, John Hay says:

> No foreign powers in the 50 years that had elapsed had effectively intimated a desire to participate in or contribute to the construction of the canal—

That was under the Clayton-Bulwer treaty—

> that no other power had now any right in the premises, or anything to give up or part with as the consideration for acquiring such a contract right; that they must rely—

That is, the other powers—

> upon the good faith of the United States in its declaration to Great Britain in the treaty that it adopts the rules and principles of neutralization therein set forth, and that it was not quite correct to speak of the nations other than the United States as being bound by the rules of neutralization set forth in the treaty; that it was the United States which bound itself by them as a consideration for getting rid of the Clayton-Bulwer treaty, and that the only way in which they were bound by them was that they must comply with them if they would use the canal.

That is what the man who drew the treaty and sent it to Senator Cullom thought about it.

Mr. BORAH. What has that to do with tolls?

Mr. BRANDEGEE. It has to do with equality of treatment, and as to whether we are bound by the rules which provide for equality of treatment.

Mr. BORAH. Yes, exactly; but that is arguing in a circle. The question is, What do the rules require us to do?

Mr. BRANDEGEE. The question which the Senator asks and the foundation of his whole argument rests upon the fact that we are not bound by the rules, but that only other nations are bound by the rules; and I am saying that the man who drew the treaty says we are bound by the rules and that the other nations are bound only by the rules if they want to use the canal, and the only penalty for their violation of the rules is that they must cease to use the canal if they are not bound by them; we are not only bound by the rules but we are bound to enforce the rules. Senators who claim that America has the sole jurisdiction over the canal must admit that if we are not to enforce the rules, of course they will not be enforced at all.

Mr. SMITH of Michigan. Who would enforce them?

Mr. BRANDEGEE. The canal would be thrown loose to the wide, wide world, to be wrangled over by everybody, if we did not enforce the rules over our own canal.

Mr. BORAH. Will the Senator from Connecticut permit me to continue reading Mr. Hay's communication?

Mr. BRANDEGEE. Certainly.

Mr. SMITH of Georgia. As soon as the Senator from Idaho finishes there are a few words which I wish to say.

Mr. BORAH. Mr. Hay continues:

> But the President was apprehensive that such a provision would give to the other nations the footing of parties to the contract and give them a contract right to the use of the canal. And in view of the action of the Senate on the former treaty, striking out article 3, which provided for bringing the treaty, when ratified, to the notice of other powers and inviting them to adhere to it, which seemed to mean practically the same thing, he believed that the proposed provision would meet the same fate. This was represented to His Majesty's Government, and it was also insisted on the part of the United States that there was a strong national feeling among the peoples of the United States against giving to foreign powers a contract right to intervene in an affair so peculiarly American as this canal when constructed would be; that, notwithstanding the similar provision in the Clayton Bulwer treaty, no foreign powers in the 50 years that had elapsed had effectively intimated a desire to participate in or contribute to the construction of the canal; that no other power had now any right in the premises or anything to give up or part with as the consideration for acquiring such a contract right; that they must rely upon the good faith of the United States in its declaration to Great Britain in the treaty that it adopts the rules and principles of neutralization therein set forth.

Does the Senator from Connecticut contend that "neutralization" means equality of tolls?

Mr. BRANDEGEE. That is my understanding of it; yes.

Mr. SMITH of Georgia. Exactly.

Mr. BRANDEGEE. And I think that was John Hay's understanding of it. He says it was.

Mr. BORAH. Well, Mr. President, I do not understand Mr. Hay to make any such statement. Mr. Hay was too familiar with the word "neutralization" to contend that "neutralization" meant equality of tolls. For instance, that canal could be neutralized in the sense in which we use the word "neutralization" and yet charge a different toll to every nation in the world whose vessels passed through it. I have never heard until in connection with this particular treaty that "neutralization" meant equality of tolls. It does not mean that in the Suez Canal. I do not believe it was used in that sense in the Hay-Pauncefote treaty or can fairly receive such an application.

Mr. STERLING. Will the Senator from Idaho permit me to interrupt him?

Mr. BORAH. Yes.

Mr. STERLING. Was it not the contention of Sir Edward Grey that that was what was meant by the words "equality of tolls" in the case of the Suez Canal?

Mr. BORAH. That was the contention which he made after this controversy arose, but it was not the contention which was made prior to that time, so far as I know. It was certainly not the doctrine of English authors on international law and treaties.

Mr. STERLING. It seemed to be the understanding of our ambassador, Mr. Choate, was it not, in his interview or conversation with Lord Lansdowne?

Mr. BORAH. I do not so interpret Mr. Choate's letter. The word "neutralization" necessarily implies a controversy between two parties, and a third party who is neutral as between them—a condition of war and a neutral territory; and the United States might be absolutely neutral and agree to devote the canal to neutrality and yet have an entirely different proposition as to charging tolls on the vessels of various countries.

Mr. HITCHCOCK. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Nebraska?

Mr. BORAH. I yield to the Senator from Nabraska.

Mr. HITCHCOCK. I suggest, however, to the Senator from Idaho that he is, to some extent, bound by what the treaty itself says on the subject.

Mr. BORAH. Exactly.

Mr. HITCHCOCK. And in article 3 the opening paragraph rather settles what is meant by "neutralization."

Mr. BORAH. I do not think so, if it be meant that it settles it favorable to equality of tolls.

Mr. HITCHCOCK. I et me read it to the Senator.

Mr. BORAH. I shall be very glad to have the Senator reread that portion of the treaty.

Mr. HITCHCOCK. Of course I think the equality of tolls is only a very small part of the neutralization; but here is what the treaty says in article 3:

ARTICLE 3.

The United States adopts as the basis of the neutralization of such ship canal the following rules, substantially as embodied in the convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal, that is to say:

"1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable."

Then follow paragraphs 2, 3, 4, 5, and 6, which relate largely to war——

Mr. BORAH. Exactly.

Mr. HITCHCOCK. And the condition of neutrality of the canal during war.

Mr. BORAH. Well, Mr. President, if the Senator will yield to me for just a moment, article 3, rule 1, does not say that this canal shall be free and open to all nations or to any nation, but it says:

The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules.

The five rules which follow are just as much an obligation of observation in order to get in on the floor of equality as is any other part of the treaty.

I do not think the Senator from Nebraska will contend that the United States is bound by rules 2, 3, 4, 5, and 6 to observe them, the same as are the other nations of the earth, and yet no nation can secure the freedom of this canal on terms of equality unless it observes rules 2, 3, 4, 5, and 6.

Mr. HITCHCOCK. I agree with the Senator fully, and I also agree with him upon the interpretation of rule 1. I think that the word "nations" there means customer nations, not the proprietor Nation; but I think that the neutralization does include, among a large number of other things, equality of tolls among customer nations.

Mr. STERLING. Mr. President——

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

Mr. BORAH. I yield.

Mr. STERLING. I call the attention of the Senator from Idaho to another authority; it is not the authority of Sir Edward Grey nor of Mr. Choate, but an authority which spoke before this treaty was negotiated. I refer to Mr. John Bassett Moore himself, who, writing in the New York Times of March 4, 1900, says:

Equality of tolls has also been treated as a feature, or, perhaps, rather as a condition, of neutralization.

Mr. BORAH. Yes; I am familiar with that statement of Mr. Moore, but I have never found anywhere that Mr. Moore himself accepted that doctrine. That was true with reference to one particular instance which Mr. Moore cites in his works, but Mr. Moore—and I think I am justified in saying this—judging from his books, has never indorsed that doctrine of neutralization; and I will say to the Senator, who I know has given some attention to it, that I would be glad if the Senator would bring into the Senate any leading author of international law who gives the construction of the word "neutralization" which is sought to be given to it in this treaty in order to sustain the proposition of equality of tolls. That doctrine may exist somewhere, but I have gone through the authorities and collected them in a brief, which I have at my office, and which, if the Senate wants to hear later, I may use, and I have been unable to find a single leading author upon this subject who treats the doctrine of neutralization in this sense. I do not assert such may not be found, but I have not found them.

Mr. BRANDEGEE. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Connecticut?

Mr. BORAH. I yield.

Mr. BRANDEGEE. Whether or not the Senator has been able to find any writer upon diplomatic subjects or upon international law who states that equality is necessarily a part of neutralization, I do not know and I do not care; and I do not see why anybody else should care. We are construing this treaty, and this treaty says that the United States adopts as the basis of neutralization certain rules, the first of which provides for entire equality of treatment. That puts entire equality of treatment at the very basis and foundation of the whole thing.

Mr. BORAH. What the treaty says is:

The United States adopts, as a basis of the neutralization of such ship canal, the following rules, substantially as embodied in the convention of Constantinople.

Now, I wish the Senator from Connecticut would draw upon his memory and tell me what article in the Constantinople convention provides for equality of tolls?

Mr. BRANDEGEE. I do not have the book in my hand, and my memory is like the old pump—it would suck if I attempted to draw upon it; but the Hay-Pauncefote treaty does provide for entire equality. Whether the Suez Canal convention does or does not, I do not know; I assume it does. I think, after reading the report of the great chairman of the Senate Committee on Foreign Relations, Cushman Davis, in which he exulted that that great principle had been firmly established and extolled the virtues and magnanimity of all the nations of the Old World because they had thrown the Suez Canal open on terms of entire equality to the commerce of all the world, that it is a late day to question the fact that there is equal treatment in the Suez Canal.

Mr. STERLING. Mr. President——

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

Mr. BORAH. I yield.

Mr. STERLING. I have here, I will say to the Senator from Idaho, article 12 of the Suez Canal convention, which I think is a counterpart practically of rule 1 of the Hay-Pauncefote treaty, and which reads as follows:

The high contracting parties, by application of the principle of equality as regards the free use of the canal, a principle which forms one of the bases of the present treaty, agree that none of them shall endeavor to obtain with respect to the canal territorial or commercial advantages or privileges in any international arrangements which may be concluded.

Mr. BORAH. I do not understand that that covers the question of tolls at all.

Mr. STERLING. I think it does by fair implication and intendment cover the question of tolls.

Mr. BORAH. You might argue by implication that it covered it, but certainly there is no specific designation of it; neither have I been able to find it in the Suez convention at all. You can have the free use of a canal; you can admit all the ships of all countries to a canal and inhibit yourself from preventing any ship of any nation from going through the canal without disposing of the question of equality of tolls. That is one of the vices of the argument which has been based upon Mr. Blaine's contention. Mr. Blaine did not contend that we should have exclusive control of the canal. Nobody has ever contended that we should have exclusive control of the canal; but to say that we shall not have exclusive use of the canal is a different thing from saying that we shall not have the advantage which arises by reason of the incident of ownership.

Mr. STERLING. Mr. President, I can not construe "equality of treatment" in any other way than involving equality of treatment as to the tolls paid for passing through the canal, and I think that is surely what is meant by article 12 of the Suez convention. The word "free" is used several times throughout the Suez Canal convention, but it is only in article 12 that reference is made to equality of treatment in that canal, and that no advantage shall be taken in any agreement that may be made between the different nations in regard to the use of the canal.

Mr. BORAH. Well, rule 12 of the Suez convention is not in the Hay-Pauncefote treaty, in any event.

Mr. STERLING. I say that rule 12 is not, but that rule 12 in the Suez Canal convention is the foundation for rule 1 of the Hay-Pauncefote convention; that it is the counterpart of rule 1.

Mr. BORAH. Mr. President, reading further from this letter, it says:

That they must rely upon the good faith of the United States in its declaration to Great Britain in the treaty that it adopts the rules and principles of neutralization therein set forth and that it was not quite correct to speak of the nations other than the United States as being bound by the rules of neutralization set forth in the treaty; that it was the United States which bound itself by them as a consideration for getting rid of the Clayton-Bulwer treaty, and that the only way in which they were bound by them was that they must comply with them if they would use the canal.

Mr. President, the only thing that Mr. Hay is discussing there is the question of neutralization; and if neutralization involves the proposition of equality of tolls, of course Senators are correct who claim that Mr. Hay placed that construction upon the treaty; but you have got to give the word "neutralization" an interpretation which has never, in my opinion, been given to it

before upon a contested matter, whenever you say that "neutralization" involves the question of equality of tolls.

Mr. BRANDEGEE. Mr. Hay says in his letter that we are bound by the rules; and rule 1 provides for equality.

Mr. BORAH. Does the Senator claim that the United States is bound by rules from 2 to 6 the same as the other nations of the earth?

Mr. BRANDEGEE. I do not wish to interfere with the Senator from Georgia [Mr. SMITH], who, I understand, desires to take the floor; but, with his permission, I will say that my judgment about that is that these rules are substantially as embodied in the convention of Constantinople, that they were made with reference to the alternative proposition of whether the canal would be built by the United States Government as an owner or by a canal company; and I think that so much of the rules as are applicable to us in the situation in which we are placed will bind us, and that the portion that is inappropriate from the fact that we have become the owner will not bind us. I think that the rules bind us furthermore for this reason, among others. Rule 2 provides:

2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it.

Now, the Senator says we are not bound by that rule. If we are not, why did they go on and say—

the United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder?

If they did not think that rule bound the United States, why did they want to exempt the United States to that extent?

Mr. BORAH. Do I understand, then, that the Senator takes the position that, if the United States were at war with any nation on earth, and should violate the rule which provides that—

the canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it—

it would forfeit its right to the use of the canal?

Mr. BRANDEGEE. I do not think that the right of the United States will be forfeited by doing its duty under the treaty. I think if the United States were at war, if it were a belligerent, of course, these rules would not apply to it at all. If we should become involved in war, we would manage that canal to protect this country, and not to make it of service to our enemies. That is admitted in the correspondence by the foreign office of Great Britain.

Mr. BORAH. Oh, yes; Great Britain conceded that to us after a time, on the theory that we had extended our sovereignty; but that was a concession which Great Britain made to us. What I want to know is, what would be the contention upon our part as to what our rights are in case Great Britain should not see fit to concede them?

Mr. BRANDEGEE. If the Senator is in the business of receiving concessions from Great Britain, he can stay in that line of business. I am not.

Mr. BORAH. I misunderstood the Senator. I thought that was his precise attitude.

Mr. BRANDEGEE. No; Great Britain admits it, I say. She admits that. She makes no claim to the contrary.

Mr. BORAH. But suppose she did not admit it?

Mr. BRANDEGEE. If she did not admit it, she would have to fight. She would have to fight to take the canal away from us or to manage it.

Mr. SMITH of Arizona. War does away with the treaty.

Mr. BRANDEGEE. If we are at war, the provisions of the treaty which may interfere in any way with our military operations, or which may in any way imperil the successful defense or offense that this country wants to make, will be set aside and not observed. Nobody expects a belligerent to do otherwise. Furthermore, the frequent queries as to whether we are obliged, because we have guaranteed equality of treatment, to transport through the canal the vessels of war of some foreign power with whom we are at war, so that they can get into a better position to assault us, is, of course, absurd. Of course we would not do it. We are not bound to do it when we are a belligerent, and even if I have no fear of any foreign Government I have enough respect for their intelligence to think that they would not be hasty to put their sole weapons of offense in our custody to be transported from one ocean to the other.

Mr. BORAH. In other words, here is a treaty containing five rules which were made to cover a condition of war; they relate to a condition of war; and yet the Senator evades the proposition of whether or not they apply to us by saying that if we should be engaged in war of course the treaty would be suspended.

Mr. BRANDEGEE. Why, absolutely.

Mr. BORAH. Yet the very purpose of making those rules was to control a condition of war.

Mr. BRANDEGEE. Why, the purpose is to neutralize the canal from warlike operations and destruction of the canal, and also, unless we are one of the belligerents, to compel us to treat all belligerents on terms of equality and not to play favorites or play one against the other.

If two other nations are at war with each other, we shall have to administer the canal absolutely impartially between them. The rules specify how their vessels shall enter and leave, that the vessel of one belligerent shall not leave until 24 hours after the vessel of the other belligerent, and so on. We must enforce all those rules. I think myself that the proposition is sown with dragon's teeth, and I think we shall get into all manner of trouble in the future by attempting to hold the scales evenly between foreign contending parties; but that is neither here nor there with relation to this question. As to these rules applying to us as sovereign owner of the canal, to be used against us by a belligerent in arms against us, it never occurred to me, in my wildest flights of imagination—and I have seen some strange visions on some occasions—to think that anybody would claim that.

Mr. BORAH. I hope I have not unduly aggravated the Senator.

Mr. BRANDEGEE. Not in the least. I will shake hands with the Senator very gladly.

Mr. BORAH. If the Senator has lit from his flight of imagination, let me call him back to a proposition:

The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules.

We have to observe the rules; but the Senator contends that we are relieved from observing them because they are suspended at the very time we should observe them.

Mr. BRANDEGEE. No; I claim that in time of war we are not bound to observe them.

Mr. BORAH. They were made for time of war.

Mr. BRANDEGEE. They were made with reference to the conditions I have suggested, in order that the use of the canal might not be granted to some belligerents and denied to others.

Mr. BORAH. The same argument would apply to the vessels of commerce, because vessels of commerce and of war are in the same phrase.

Mr. BRANDEGEE. I think they are in the same phrase; but what is the argument that applies to both of them?

Mr. BORAH. Why, our sovereignty has been extended over the canal, which was intended to be built in the first instance by a private corporation, and therefore certain conditions and certain rules were to obtain. If by reason of the fact that it was built by the Government itself those rules have been suspended, why would not that apply to vessels of commerce as well as to vessels of war?

Mr. BRANDEGEE. Mr. President, I do not believe there is an international authority on the face of the globe who would deny that when we are belligerents, when we are at war with a foreign power, the provisions of this treaty, under the rules that operate against us as a belligerent, would be absolutely set aside under the law of nations. That is a well-known international principle.

Mr. WEST. Mr. President, I should like to interrupt the Senator from Connecticut for a moment.

Mr. BORAH. I think I have the floor.

Mr. BRANDEGEE. I do not think I have the floor, Mr. President.

Mr. WEST. Was not that precisely the case when the War between the States came on? The Constitution recognized slavery, but it was in time of war. Lincoln made his proclamation of emancipation while the Constitution recognized slavery; but that was in time of war.

Mr. BORAH. Mr. President, I do not exactly see the application of the Senator's suggestion, but it may come to me later.

In order to relieve myself from the perilous position in which I have been placed by advancing this doctrine, in the mind of the Senator from Connecticut, whose esteem I covet at all times, I wish to read from Mr. Olney, a fair authority upon the subject, I think—certainly a great lawyer, and, to my mind, a great Secretary of State. He had a vast amount of Americanism in him, which is a very valuable thing in that office, I think, at all times.

Upon page 86 of the proceedings of the American Society of International Law for the year 1913 he says:

It seems difficult to successfully contend that the United States is included.

(a) The treaty is a contract by which the proprietor of a canal fixes the terms upon which it grants the use of the canal to its customers.

* * * * * * *

It can not reasonably be argued that, in fixing terms for the use of its canal by customers, the United States looked upon itself as one of the customers.

(c) The words under construction are in substance the first of a set of six rules adopted by the United States as the basis of the neutralization of the canal.

But the other five certainly apply only to parties other than the United States, so that there is the strongest reason for holding that the first of them is to be given a like application.

It was the view of Mr. Olney that these five rules did not apply to the United States, and therefore the provision in rule 1, "all nations observing these rules," could not include the United States, because the United States could not observe those rules.

Mr. BRANDEGEE. Mr. President, the United States, in exempting or in taxing its coastwise trade, is not regarding itself as one of its customers. The United States does not own the vessels upon which it proposes to bestow this favor. They are owned by citizens of the United States. The United States, of course, is not its own customer. As Mr. Olney says, nobody contends that it is. If, however, the Senator from Idaho still has such a high opinion of the authority he has quoted as he appears to have when he makes that statement, I should advise him to follow his lead and vote for this repeal, because Mr. Olney advocates doing so.

Mr. BORAH. Yes; but he advocates it for a reason that does not apply to me. He put it on the ground of party loyalty.

Mr. BRANDEGEE. But if he is such a high authority, the Senator ought to follow him in all he recommends.

Mr. BORAH. He gives as a reason that we should follow the President. If I were a member of the Democratic Party and was following anybody, I do not know of any man I would rather follow than the President; but I do not feel any obligation to change my vote until I change my mind, in view of the fact that I am not a member of that party. I do not understand that Mr. Olney has changed his view of the treaty.

Mr. SMITH of Georgia. Mr. President, when the Senator from Idaho, in one of his speeches some time ago, did me the honor of referring to some remarks I made two years ago when the canal-tolls bill was before the Senate, I hoped at the conclusion of that speech to obtain the floor and to make a brief reply, but I did not obtain recognition. Since then, in one of his later statements, he has referred to the meaning of the word "neutralization." Before I undertake to reply to his reference to my speech of two years ago I wish to call attention to the fact that, as the Senator from South Dakota [Mr. STERLING] has mentioned, not only does Mr. Moore, in his digest of international law, refer to the term "neutralization" as having the meaning of impartial treatment with reference to commerce, as distinguished from what was formerly considered its meaning, impartiality of treatment with reference to war, but Mr. Choate, in his correspondence with the Secretary of State, refers to the term "principle of neutralization" in this treaty as meaning equality of treatment between the citizens of the United States and the citizens of Great Britain in their commerce. That will be found in a letter of Mr. Choate's dated August 20, 1901, in which he says:

And that said "canals or railways" being open to the subjects and citizens of Great Britain and the United States on equal terms shall also be open on like terms to the subjects and citizens of other States, which I believe to be the real general principle of neutralization (if you choose to call it so) intended to be asserted by this eighth article of the Clayton-Bulwer treaty.

Mr. BORAH. Yes; "if you choose to so call it."

Mr. SMITH of Georgia. Ah, but it is so called. He regards the term as rather a novel use.

Mr. BORAH. Yes; with Mr. Choate's knowledge, I should think he would.

Mr. SMITH of Georgia. I do not desire to debate the matter with the Senator from Idaho just now, as I have waited so long to get the floor. I desire to finish what I have to say now rather than be interrupted. I did not interrupt the Senator, hoping to get the floor myself later on.

Mr. BORAH. I shall not interrupt the Senator.

Mr. SMITH of Georgia. He does concede that it is a novel use, but he says that that is its meaning as we use the term in this treaty, according to the eighth article of the Clayton-Bulwer treaty. The fact that we give the words its modern use was declared by Mr. Choate while the treaty was being negotiated by him.

Mr. McCUMBER rose.

Mr. SMITH of Georgia. I yield to the Senator from North Dakota.

Mr. McCUMBER. I simply wish to say to the Senator that that is just exactly what Mr. Hay said in January of 1901, in his correspondence with the British ambassador. If the Senator will allow me, I will read just what he said in answer to the proposition contained in article 3–A, proposed by Lord Lansdowne. On this point his answer is:

The preamble of the draft treaty retained the declaration that the general principle of neutralization established in article 8 of the Clayton-Bulwer treaty is not impaired.

Now, there is no neutralization in article 8 unless the neutralization pertains to equality, because article 8 deals only with the matter of equality.

Mr. BORAH rose.

Mr. SMITH of Georgia. Mr. President, I ask the Senator from Idaho not to interrupt me until I finish the few remarks I wish to make. It is late and I desire my reply to a part of his speech made at once.

As the Senator from North Dakota has said, there is nothing left in article 8 of the Clayton-Bulwer treaty which we continue in existence except the equality of treatment of the commerce of citizens of the United States and citizens of Great Britain. The other provisions of the treaty were provisions providing joint protection by Great Britain, the United States, and other countries. We wiped that out by the Hay-Pauncefote treaty, and the only thing we continued we declared to be the principle of neutralization. That is equality of treatment of the citizens of the two countries in the use of the canal; and Mr. Choate expressly declares in his letter to Mr. Hay that that is what we meant by the term.

The Senator called attention to some extracts from remarks I made two years ago. If he had read a little further from what I then said, he would have seen that I expressed the opinion that the effect of letting our coastwise vessels go through the canal free would in all probability be that we must also permit the vessels of the Dominion of Canada to go through free as well as our own.

At that time, so far as I know, the debate upon the floor of the Senate treated the question of equality provided for in the Hay-Pauncefote treaty as one affecting the owners of the vessels. The broader meaning applying it to the commerce of the countries did not attract my attention, and I think it attracted little the attention of any of the Senators. Since then there has been brought to our attention the action of Mr. Cleveland and of Mr. Harrison.

The Welland Canal treaty undertook to secure "to the citizens of the United States the use of the Welland, St. Lawrence, and other canals in the Dominion of Canada on terms of equality with the inhabitants of the Dominion." This language Mr. Cleveland and Mr. Harrison and the Congress of the United States declared extended not alone to the owners of vessels but to the commerce of the citizens of the two countries. We made an issue with Great Britain and enforced our view and enforced recognition of the fact that under that language in the Welland Canal treaty equality of treatment of the commerce of the two nations must be given. We enforced the proposition that Canada could not be permitted to give to vessels landing at Montreal a rebate of tolls charged at the Welland Canal which was not also given to vessels landing in New York State.

Upon the same principle there could not be given to a vessel sailing from New York and landing at Seattle a rebate of tolls charged at the Panama Canal which was not also given to a vessel landing at Vancouver. There could not be given to a vessel sailing from New York to San Francisco a rebate that was not also given to a vessel sailing from Halifax to San Francisco.

How does the language of the present treaty vary from the language of the Welland Canal treaty?

The language of the present treaty is:

The canal shall be free and open * * * on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise.

It is not limited to the owners of the vessels; it extends to the commerce of the citizens; so that the United States is squarely committed to the proposition on a similar treaty that we can not avoid its effect by showing that we have not discriminated against the owners of vessels. The United States is committed to the proposition that there must be no discrimination as to the commerce of the citizens of the two countries; and if we were right in our contention with reference to the Welland Canal, we are wrong now if we undertake to give free passage to our coastwise vessels and not extend the same free passage to the commerce of the citizens of the Dominion of Canada. We are committed to that proposition.

But the Senator from Idaho, when I called attention to the Welland Canal treaty about two weeks ago, said that while Canada yielded and repealed the rebate she never conceded

that our construction of the treaty was right. I found from the press that he had discovered something which simply wiped out my argument by the discovery. I found that out the next morning in a city paper. Unfortunately, I was called away when he made those remarks, and I did not have an opportunity at the time to answer them.

Mr. President, of course Canada never yielded her construction of the treaty, but she yielded to our contention. She never admitted that our construction was right, but she revoked her rebates and gave us what we demanded.

It is not a question as to what Canada insisted upon then, but a question as to what we insist upon. Are we now to insist upon something that we then repudiated? We then insisted that the treaty extended to the commerce of the citizens. We have never withdrawn from that contention. We went so far as to put a penalty on Canada. We passed the retaliatory statute. Two Presidents of the United States and the Congress of the United States strongly declared that the treaty extended to the commerce of the citizens, and an act of Congress was passed and the President issued a proclamation of retaliation against Canada. Canada then thought she was right, but she yielded.

What do we do now? We are proposing to reverse the position that we then took as to another treaty without reversing our position as to that treaty. We stand as to the Welland Canal treaty on the act of Congress, which has never been repealed. Under that act to-day, if Canada should again give a rebate, the President would be required to stop it by retaliatory procedure.

What matters it whether Canada thought we were right or wrong? She yielded and we stand committed to such a construction of the treaty. Are we now on the other treaty to take an entirely different view? Are we to say that we stand on the act of Congress requiring the President to place a retaliatory duty upon Canadian commerce if she undertakes to give a rebate in Canada to goods discharged at Montreal, and yet as to this treaty shall we take exactly the opposite view, though the language is just as broad as the language in the Canadian treaty? The act of Congress commits us to prevent Canada from discriminating against the commerce of citizens of the United States in favor of the commerce of citizens of Canada. Shall we force our construction on Canada to help our citizens in the one case and disregard that construction to the injury of citizens of Canada in the other case?

Mr. CLARK of Wyoming. Will the Senator permit just one question?

Mr. SMITH of Georgia. Yes.

Mr. CLARK of Wyoming. Is not the Senator's argnment as to the similarity of the two treaties based upon the contention that the term "all nations" in the Hay-Pauncefote treaty includes the United States?

Mr. SMITH of Georgia. Oh, yes.

Mr. CLARK of Wyoming. Of course, the Senator's argument, then, would not be addressed to those who do not so believe.

Mr. SMITH of Georgia. I have already presented that part of the discussion. I am now replying to the effort to discrimi nate the coastwise trade from the vessels of the United States engaged in foreign trade. I am meeting the contention that the coastwise trade can be discriminated from the vessels engaged in foreign trade, and I am undertaking to show that for us to undertake now to make that discrimination is to fly in the teeth of an existing act of Congress.

Mr. O'GORMAN. Mr. President——

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

Mr. SMITH of Georgia. Certainly.

Mr. O'GORMAN. Do I understand the Senator from Georgia to be arguing that there is no distinction to be drawn under the treaty between the coastwise trade and overseas trade?

Mr. SMITH of Georgia. No; I do not argue that.

Mr. O'GORMAN. I gathered that from the Senator's statement.

Mr. SMITH of Georgia. The position I am taking is that under the language of the Welland Canal treaty it was insisted that the equality of treatment extended to the commerce of the citizens, not simply to the owners of the vessels. That there is a distinction between coastwise trade and vessels engaged in foreign trade is undoubtedly true; but under the Welland Canal treaty we insisted that mere equality of the treatment of the owners of the vessels did not meet the requirement of the treaty; that the treaty——

Mr. O'GORMAN. Mr. President, with the Senator's permission, what our Government insisted upon in the Welland Canal controversy was that the equality provided for in that treaty was evaded by a system introduced by the Canadian Government which operated as a positive discrimination against the American commerce carried by American ships engaged in our lake and canal trade.

Mr. SMITH of Georgia. I am very familiar with what our contention was. Canada insisted that the treaty only extended to equality of treatment with the owners of vessels—Canada gave the same rates through the canal to vessels owned by citizens of the United States that were charged vessels owned by British subjects. We insisted that the treaty required equality of treatment of commerce of citizens of the two countries, and both President Cleveland and President Harrison repudiated the suggestion or the claim of Canada that the treaty stopped with equality of treatment of the owners of vessels. Canada extended equality of treatment to the owners of the vessels of the two countries. She charged the same tolls for vessels owned by citizens of Canada that she charged for vessels owned by citizens of the United States. But when the vessels of Canada discharged their commerce at Montreal she gave them a rebate of 90 per cent of the tolls. Our contention was that that was a failure to give equality of treatment to the commerce of the citizens of the two countries; that merchants of New York buying on the New York side, when the vessels delivered cargoes there, were entitled as to their commerce to the same charges when going through the canal that merchants of Montreal were entitled to as to a charge on their commerce.

What I say is that if our contention was sound about that, then the merchants of Halifax are entitled to the same rates at the canal on their commerce coming from San Francisco that the merchants of New York are entitled to on their commerce coming from San Francisco, and that the commerce of the citizens of Halifax can not be burdened with toll charges from San Francisco through the canal when the commerce of the citizens of New York is charged with no such tolls. All along the entire coast the same principle will follow. As the treaty extends to the commerce of the citizens, it makes it equally as impossible for us to permit the coastwise vessels to go through free as it would be impossible for us to admit vessels engaged in foreign trade to go through free.

Of course, if we have the right to let all of them go through free, there is no use for this argument. I am only undertaking to meet, by the use of the Welland Canal treaty, and the attitude of the United States upon it, the suggestion of the Senator from Idaho that we can permit the coastwise vessels to go through free even if vessels engaged in foreign trade can not go through free.

I am also calling attention to this treaty, as the Senator wished to know if any information had come to me since the discussion of two years ago. I am calling his attention to my present information about this treaty and about the attitude of the United States with reference to it, which I did not have at that time and which was not considered, so far as I can recall, in the discussion two years ago. At any rate, I had not grasped it.

I believe, Mr. President, that the construction we placed upon the Welland Canal treaty was sound. I believe the language of this treaty is so broad that it extends to the commerce of the respective countries, and that we can no more exempt our coastwise vessels than we can exempt the vessels engaged in foreign trade.

Some little time ago, during the afternoon, I presented briefly an argument, which satisfied me, to show that under the terms of the treaty, under the language of the preamble, and under the reference to the Suez Canal, we were entirely committed to the proposition that the Panama Canal should be a common carrier for commercial vessels which would transport the vessels of citizens of Great Britain and of the United States upon terms of entire equality.

EXECUTIVE SESSION.

Mr. SHIVELY. 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 10 minutes spent in executive session the doors were reopened, and (at 6 o'clock and 20 minutes p. m.) the Senate adjourned until to-morrow, Thursday, June 4, 1914, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate June 3, 1914.

UNITED STATES MARSHALS.

Vincent Y. Dallman, of Springfield, Ill., to be United States marshal for the southern district of Illinois, vice William H. Behrens, whose term has expired.

McDuffie Cain, of Montgomery, Ala., to be United States marshal for the middle district of Alabama, vice Benjamin E. Walker, resigned.

PROMOTIONS IN THE ARMY.

CAVALRY ARM.

First Lieut. Otto W. Rethorst, Ninth Cavalry, to be captain from April 26, 1914, vice Capt. Edward D. Anderson, Sixth Cavalry, promoted.

First Lieut. Robert Sterrett, Thirteenth Cavalry, to be captain from April 30, 1914, vice Capt. George P. Wh e, Ninth Cavalry, promoted.

Second Lieut. Frederick S. Snyder, Second Cavalry, to be first lieutenant from April 26, 1914, vice First Lieut. Otto W. Rethorst, Ninth Cavalry, promoted.

Second Lieut. William C. Christy, Fifth Cavalry, to be first lieutenant from April 27, 1914, vice First Lieut. Nathaniel M. Cartmell, Third Cavalry, retired from active service April 26, 1914.

Second Lieut. Sloan Doak, Fifth Cavalry, to be first lieutenant from April 30, 1914, vice First Lieut. Robert Sterrett, Thirteenth Cavalry, promoted.

Second Lieut. Leland Wadsworth, jr., Fifteenth Cavalry, to be first lieutenant from April 30 1914, vice First Lieut. Anton H. Schroeter, First Cavalry, who died April 29, 1914.

INFANTRY ARM.

Lieut. Col. Charles H. Barth, Infantry, unassigned, to be colonel from May 30, 1914, vice Col. Robert H. R. Loughborough, Twentieth Infantry, retired from active service May 29, 1914.

Lieut. Col. Walter H. Chatfield, Twenty-seventh Infantry, to be colonel from May 30, 1914.

CONFIRMATIONS.

Executive nominations confirmed by the Senate June 3, 1914.

SECRETARY OF EMBASSY.

Post Wheeler to be secretary of the embassy at Tokyo, Japan.

POSTMASTERS.

CALIFORNIA.

C. W. Corey, Escondido.

IDAHO.

R. S. Story, Burley.
Joseph F. Whelan, Wallace.

KENTUCKY.

John J. Berry, Paducah.

MARYLAND.

Edward A. Rodey, Ellicott City.

OHIO.

Elijah T. Dando, Wellston.
Frank H. Davet, Madison.
Franzo D. Miller, Alliance.

SOUTH DAKOTA.

C. W. Marley, Colome.
William S. Small, Gettysburg.

UTAH.

James Gowans, Tooele.
W. J. Munford, Milford.

WASHINGTON.

J. F. Payne, Auburn.

WISCONSIN.

Olaf R. Skaar, La Crosse.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *June 3, 1914.*

The House met at 12 o'clock noon.

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

O Lord God, our heavenly Father, be graciously near to us as we enter upon the new congressional day, that we may be quick to conceive, strong to do the right as it is given us to see the right, for of Thee and through Thee are all things; hence we realize that if our work is not in consonance with the laws Thou hast ordained it will come to naught. For Thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

HOMESTEAD PATENTS FOR DESERTED WIVES.

Mr. RAKER. Mr. Speaker, the Committee on the Public Lands reported a bill to provide for issuing of patents for public lands claimed under the homestead laws by deserted wives. The bill was filed yesterday, and it has been placed on the Private Calendar, No. 255. It is clearly a bill that ought to go to the Union Calendar. I ask that the transfer of the bill be made accordingly.

The SPEAKER. What is the bill about?

Mr. RAKER. The bill is about the issuing of patents for homesteads to deserted wives. It is a general bill, and relates to no particular person or individual. It is a disposition of public lands, and it is clearly a mistake that it went to the Private Calendar.

Mr. MANN. What is the bill?

The SPEAKER. The number of the bill is House bill 16296, to provide for issuing of patents for public lands claimed under the homestead laws by deserted wives.

Mr. RAKER. I have a copy of the bill here as amended by the committee. The bill as amended is as follows:

Be it enacted, etc., That in any case in which persons have regularly initiated claims to public lands as settlers thereon under the provisions of the homestead laws and the wife of such homestead settler or entryman, while residing upon the homestead claim and prior to submission of final proof of residence, cultivation, and improvement as prescribed by law, has been abandoned and deserted by her husband for a period of more than one year, the deserted wife shall, upon establishing the fact of such abandonment or desertion to the satisfaction of the Secretary of the Interior, be entitled to submit proof upon such claim and obtain patent therefor in her name in the form, manner, and subject to the conditions prescribed in section 2291 of the Revised Statutes of the United States and acts supplemental thereto and amendatory thereof: *Provided*, That in such cases the wife shall be required to show residence upon, cultivation, and improvement of the homestead by herself for such time as when, added to the time during which her husband prior to desertion had complied with the law, would aggregate the full amount of residence, improvement, and cultivation required by law: *And provided further*, That the published and posted notices of intention to submit final proof in such cases shall recite the fact that the proof is to be offered and patent sought by applicant as a deserted wife, and, prior to its submission, notice thereof shall be served upon the husband of the applicant in such a manner and under such rules and regulations as the Secretary of the Interior shall prescribe.

The SPEAKER. It was evidently an accidental clerical error, because House bill 16476, also introduced by the gentleman from California [Mr. RAKER], is evidently a private bill, and that is on the Union Calendar.

Mr. RAKER. No, Mr. Speaker; I understand that the Speaker ruled two years ago that when a bill provides anything for a municipality it is not a private bill. The bill the Speaker refers to grants 40 acres of land to the city of Susanville. Therefore that bill should go upon the Union Calendar.

Mr. MANN. That is correct. The bill is properly referred.

The SPEAKER. If there be no objection, the bill H. R. 16296, Private Calendar, No. 255, will be transferred from the Private Calendar to the Union Calendar.

There was no objection.

LEAVE TO EXTEND REMARKS.

Mr. GORDON. Mr. Speaker, I desire leave to extend my remarks by publishing an address delivered by Mr. Samuel Untermyer at Pittsburgh on the 22d of May last.

The SPEAKER. About what?

Mr. GORDON. Upon the reasons and remedies for our business troubles. It discusses at length these bills that are now pending.

The SPEAKER. The gentleman from Ohio [Mr. GORDON] asks unanimous consent to extend his remarks by printing in the RECORD a speech made by Mr. Samuel Untermyer at Pittsburgh in May.

Mr. BARNHART. Reserving the right to object, I should like to inquire what it is about.

Mr. GORDON. It discusses at length these three bills that are now being considered in Committee of the Whole.

Mr. BARNHART. The trust bills?

Mr. GORDON. The bills now pending.

Mr. MANN. Oh, no; not pending. Two of them have been disposed of.

Mr. GORDON. None of them have been disposed of.

Mr. MANN. They have been disposed of in Committee of the Whole.

Mr. GORDON. None of them have been voted on.

Mr. MANN. Oh, yes; they have, in Committee of the Whole.

Mr. BARNHART. I do not see that this speech should be printed in the RECORD now, and I will object for the present.

Mr. GORDON. Mr. Speaker, I ask unanimous consent to address the House for 15 minutes.

The SPEAKER. The gentleman from Ohio asks unanimous consent to address the House for 15 minutes. Is there objection?

Mr. MANN. Reserving the right to object, upon what subject?

Mr. GORDON. I want to read this speech into the RECORD.

Mr. MANN. I do not think it is necessary to hear from Mr. Untermyer this morning, and therefore I object.

ORDER OF BUSINESS.

The SPEAKER. This is Calendar Wednesday. The unfinished business is the bill (H. R. 15578) to codify, revise, and amend the laws relating to the judiciary.

Mr. WINGO. Mr. Speaker, I move to dispense with the proceedings under Calendar Wednesday for to-day and to resume considerations of the trust bills under the continuing order of the House.

The SPEAKER. The gentleman from Arkansas moves to dispense with Calendar Wednesday business for to-day and to proceed with the trust bills.

Mr. WINGO. Mr. Speaker, I want to be heard on that motion, and under the rules I am entitled to five minutes.

The SPEAKER. The gentleman will proceed.

Mr. WINGO. If my motion carries, the result will be to put in an additional day in the consideration of the trust bills. That will mean that we will get through with those bills this week. It will mean that we will get through with them a day earlier, that we will get through with this session of Congress a day earlier, and get home a day earlier.

I made the same motion on last Wednesday, and some 13 of us who had a desire to hasten the public business voted for the motion. Most of those 13 stayed here. One or two and possibly three of those who voted against it stayed here. The other gentlemen, I know, were engaged in public business—evidently they were, although some of them attended the ball game, some went to the golf links, and some attended an afternoon tea and sipped tea with the ladies. There is no ball game this afternoon at the ball park, there is no afternoon tea, and the golf links are not in very good condition. Therefore, I trust that gentlemen will vote for my motion and stay here and continue the consideration of the trust bills. I am perfectly willing to stay here until hog-killing time, so far as I am concerned, to pass the bills constituting the party program; but if we can expedite business and get through a little bit earlier I think we should do so. I have heard one or two suggestions from the gentleman from Ohio [Mr. FESS] that the country wants a rest, and he quoted a good Democratic authority last night, saying that the country wants a rest. But however that may be, this is a practical proposition that I have offered, and I do not think it will destroy the sanctity of Calendar Wednesday, as some have complained that we want to do.

I think it would be treating Calendar Wednesday with more respect than to continue the performances that have been going on for four or five Calendar Wednesdays.

Mr. UNDERWOOD admitted my charge that this is an unjustifiable filibuster. Does any man dare to stand up and defend this proceeding? You know good and well that you do not expect to pass this bill at this Congress. You know that it is perfectly impossible. Then why play buncombe as you are doing?

Mr. MANN. Mr. Speaker, I am not in favor of the motion of the gentleman from Arkansas. When the codification bill came before the House the first time on Calendar Wednesday, I raised the question of consideration. We had a roll call in the House on the question of consideration. This side of the House voted almost if not quite unanimously against the consideration of the bill, simply because of the time that would be consumed. The gentleman from Arkansas [Mr. WINGO] voted in favor of the consideration of the bill, although he knew that if it was continued it would occupy Calendar Wednesday for a number of days. That side of the House quite generously voted against consideration, although my colleague from Illinois [Mr. FOSTER], who just interrupted the gentleman from Arkansas, voted against the consideration.

The gentleman from Missouri [Mr. LLOYD] has taken a very active part in the actual consideration of this bill and has been here, I think, continuously. Last Wednesday I voted against the motion of the gentleman from Arkansas [Mr. WINGO], and later in the day went to a ball game. If there was a good ball game to-day, I do not know but that I would follow suit; and I am sure that my absence from the House last Wednesday after 3 o'clock did not in any way whatever delay the consideration or the expedition of this bill. [Laughter.]

If the House does not wish to consider the codification bill, it is a matter very easily arrived at. The House can refuse to consider it at any time; but this is an effort to break down Calendar Wednesday. Now, I appreciate the desire of my friend from Arkansas to expedite the public business in words, while in votes he is the one that is largely responsible for what he calls the pussy-footed filibuster. When we took the vote the Democratic side of the House voted for the consideration of this bill, in order to prevent other questions being reached for consideration of the House. We have got a situation now where Calendar Wednesday is occupied. We have had a bill made the continuing order which has not been taken up for consideration so that nothing else can come in except that bill if we happen on any day to run out of meat. We are now in the situation under the reform rules of the House where no nonprivileged matter can be reached or considered except by unanimous consent, or by the grace of the great mogul from Texas, chairman of the Committee on Rules, Mr. HENRY. [Laughter and applause.]

Mr. HENRY. Mr. Speaker——

Mr. MANN. I thought I would get a rise from the gentleman.

Mr. HENRY. Does not the gentleman agree that the House is being fed enough grist to grind?

Mr. MANN. The Committee on Rules has now usurped the proper functions of the House. Where the House heretofore always had the power of determining for itself what it would consider, under the present rules, under the control of the Committee on Rules, we can not consider any matter unless it meets the approval of the Committee on Rules and, as I now understand, unless what is going into the bill meets with the approval of the Committee on Rules.

Mr. HENRY. The gentleman from Illinois and others frequently vote against the rule which the committee brings into the House.

Mr. MANN. Oh, yes; we do that frequently, the presumption in my mind being adverse to any bill brought in by the Committee on Rules.

Mr. HENRY. Mr. Speaker, I wish to say to the gentleman if he continues that way, the crowd will grow smaller each day on that side of the House.

Mr. MANN. Very likely the gentleman has high hopes which he enunciates, though he does not have them in the bottom of his heart, for he knows, as everybody else in the House knows, that if an election were held to-day that side of the House could be put in two tiers of seats. [Applause on the Republican side.]

Mr. BARNHART rose.

The SPEAKER. The time is exhausted.

Mr. BARNHART. Mr. Speaker, I ask unanimous consent to proceed for five minutes.

Mr. FOSTER. Mr. Speaker, I think we ought to enforce the rule on this proposition.

Mr. BARNHART. Does the gentleman from Illinois object?

Mr. FOSTER. I think I will have to call for the regular order.

Mr. BARNHART. Very well. I will ask the gentleman not to forget that.

The SPEAKER. The question is on the motion of the gentleman from Arkansas [Mr. WINGO], to dispense with Calendar Wednesday for to-day.

The question was taken; and on a division (demanded by Mr. WINGO) there were—ayes 12, noes 60.

Mr. WINGO. Mr. Speaker, I make the point that there is no quorum present.

The SPEAKER. Evidently there is not a quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk called the roll; and there were—yeas, 21, nays 229, answered "present" 9, not voting 174, as follows:

YEAS—21.

Austin	Burke, Wis.	Hulings	Thomas
Baltz	Finley	Kindel	White
Barnhart	Goeke	Macdonald	Wingo
Booher	Gordon	Rainey	
Borchers	Griffin	Rouse	
Borland	Hart	Sherwood	

NAYS—229.

Abercrombie	Buchanan, Ill.	Davenport	FitzHenry
Adair	Buchanan, Tex.	Decker	Foster
Adamson	Bulkley	Dent	Fowler
Aiken	Burgess	Dickinson	French
Alexander	Burke, S. Dak.	Difenderfer	Gallagher
Allen	Byrnes, S. C.	Dillon	Gallivan
Anderson	Byrns, Tenn.	Dixon	Garner
Anthony	Candler, Miss.	Donohoe	Garrett, Tex.
Ashbrook	Caraway	Donovan	Gilmore
Aswell	Carr	Doolittle	Glass
Avis	Cary	Drukker	Godwin, N. C.
Bailey	Casey	Dunn	Good
Baker	Chandler, N. Y.	Dupré	Goodwin, Ark.
Barkley	Church	Elder	Gorman
Beakes	Cline	Esch	Graham, Pa.
Beall, Tex.	Coady	Evans	Gray
Bell, Ga.	Collier	Fairchild	Green, Iowa
Blackmon	Connelly, Kans.	Falconer	Greene, Vt.
Bowdle	Cox	Farr	Gregg
Britten	Cramton	Fergusson	Hamlin
Brockson	Crosser	Ferris	Hammond
Brown, N. Y.	Cullop	Fess	Harris
Brumbaugh	Curry	Fields	Harrison
Bryan	Danforth	Fitzgerald	Haugen

Hawley	Lenroot	Payne	Stephens, Tex.
Hay	Lewis, Md.	Peters, Mass.	Stevens, Minn.
Hayden	Lieb	Peterson	Stone
Hayes	Lindbergh	Phelan	Stringer
Heflin	Logue	Platt	Sutherland
Helgesen	Lonergan	Post	Taggart
Henry	McAndrews	Powers	Tavenner
Hensley	McDermott	Prouty	Taylor, Ark.
Hinds	McGillicuddy	Quin	Taylor, Colo.
Hinebaugh	McKellar	Raker	Taylor, N. Y.
Holland	McLaughlin	Rauch	Temple
Houston	Mahan	Rayburn	Thacher
Howell	Metz	Roberts, Mass.	Thomson, Ill.
Hughes, Ga.	Mitchell	Roberts, Nev.	Towner
Hull	Montague	Rothermel	Tribble
Igoe	Moon	Rupley	Underhill
Jacoway	Moore	Russell	Vaughan
Johnson, S. C.	Morgan, La.	Sabath	Vollmer
Johnson, Utah.	Morrison	Scott	Volstead
Kahn	Moss, Ind.	Sells	Walker
Keating	Moss, W. Va.	Shackleford	Walters
Keister	Murdock	Sharp	Watkins
Kelly, Pa.	Murray, Mass.	Sims	Weaver
Kennedy, Iowa	Murray, Okla.	Sinnott	Whaley
Kennedy, R. I.	Neeley, Kans.	Sisson	Whitacre
Kent	Nolan, J. I.	Slemp	Williams
Key, Ohio	O'Brien	Sloan	Willis
Kiess, Pa.	Oglesby	Small	Wilson, Fla.
Konop	O'Hair	Smith, J. M. C.	Winslow
Kreider	Oldfield	Smith, Md.	Witherspoon
La Follette	Page, N. C.	Smith, N. Y.	Woods
Langley	Paige, Mass.	Stafford	
Lazaro	Park	Steenerson	
Lee, Pa.	Patten, N. Y.	Stephens, Miss.	

ANSWERED "PRESENT"—9.

Bartlett	Gillett	Johnson, Wash.	McKenzie
Cantor	Johnson, Ky.	Lloyd	Mann
Fordney			

NOT VOTING—174.

Ainey	Edmonds	Korbly	Reilly, Wis.
Ansberry	Edwards	Lafferty	Riordan
Barchfeld	Estopinal	Langham	Rogers
Bartholdt	Faison	Lee, Ga.	Rubey
Barton	Flood, Va.	L'Engle	Rucker
Bathrick	Floyd, Ark.	Lesher	Saunders
Bell, Cal.	Francis	Lever	Scully
Brodbeck	Frear	Levy	Seldomridge
Broussard	Gard	Lewis, Pa.	Sherley
Brown, W. Va.	Gardner	Lindquist	Shreve
Browne, Wis.	Garrett, Tenn.	Linthicum	Slayden
Browning	George	Lobeck	Smith, Idaho
Bruckner	Gerry	Loft	Smith, Minn.
Burke, Pa.	Gittins	McClellan	Smith, Saml. W.
Burnett	Goldfogle	McCoy	Smith, Tex.
Butler	Goulden	McGuire, Okla.	Sparkman
Calder	Graham, Ill.	Madden	Stanley
Callaway	Greene, Mass	Maguire, Nebr.	Stedman
Campbell	Griest	Maher	Stephens, Cal.
Cantrill	Gudger	Manahan	Stephens, Nebr.
Carew	Guernsey	Mapes	Stevens, N. H.
Carlin	Hamill	Martin	Stout
Carter	Hamilton, Mich.	Merritt	Sumners
Clancy	Hamilton, N. Y.	Miller	Switzer
Clark, Fla.	Hardwick	Mondell	Talbott, Md.
Claypool	Hardy	Morgan, Okla.	Talcott, N. Y.
Connolly, Iowa	Helm	Morin	Taylor, Ala.
Conry	Helvering	Mott	Ten Eyck
Cooper	Hill	Neely, W. Va.	Thompson, Okla.
Copley	Hobson	Nelson	Townsend
Covington	Howard	Norton	Treadway
Crisp	Hoxworth	O'Leary	Tuttle
Dale	Hughes, W. Va.	O'Shaunessy	Underwood
Davis	Humphrey, Wash.	Padgett	Vare
Deitrick	Humphreys, Miss.	Palmer	Wallin
Dershem	Jones	Parker	Walsh
Dies	Kelley, Mich.	Patton, Pa.	Watson
Dooling	Kennedy, Conn.	Peters, Me.	Webb
Doremus	Kettner	Plumley	Wilson, N. Y.
Doughton	Kinkaid, Nebr.	Porter	Woodruff
Driscoll	Kinkead, N. J.	Pou	Young, N. Dak.
Dyer	Kirkpatrick	Ragsdale	Young, Tex.
Eagan	Kitchin	Reed	
Eagle	Knowland, J. R.	Reilly, Conn.	

So, two-thirds not having voted in favor thereof, the motion was rejected.

The Clerk announced the following pairs:

For the session:

Mr. SCULLY with Mr. BROWNING.

Mr. UNDERWOOD with Mr. MANN.

Mr. BARTLETT with Mr. BUTLER.

Until further notice:

Mr. BATHRICK with Mr. AINEY.

Mr. BRODBECK with Mr. BARTHOLDT.

Mr. BURNETT with Mr. BARTON.

Mr. CANTRILL with Mr. BELL of California.

Mr. CARLIN with Mr. CALDER.

Mr. CARTER with Mr. BROWNE of Wisconsin.

Mr. CLARK of Florida with Mr. CAMPBELL.

Mr. CLAYPOOL with Mr. COOPER.

Mr. CONRY with Mr. DYER.

Mr. COVINGTON with Mr. EDMONDS.

Mr. DEITRICK with Mr. FREAR.

Mr. DOREMUS with Mr. GREENE of Massachusetts.

Mr. DOUGHTON with Mr. HUMPHREY of Washington.

Mr. EDWARDS with Mr. KELLEY of Michigan.

Mr. ESTOPINAL with Mr. J. R. KNOWLAND.

Mr. FAISON with Mr. LAFFERTY.

Mr. FLOOD of Virginia with Mr. KINKAID of Nebraska.

Mr. FRANCIS with Mr. LANGHAM.

Mr. GOLDFOGLE with Mr. LINDQUIST.

Mr. GEORGE with Mr. MCGUIRE of Oklahoma.

Mr. HARDWICK with Mr. MONDELL.

Mr. HARDY with Mr. MANAHAN.

Mr. HELVERING with Mr. MILLER.

Mr. HOWARD with Mr. MORIN.

Mr. HUMPHREYS of Mississippi with Mr. NORTON.

Mr. KITCHIN with Mr. PORTER.

Mr. LEVER with Mr. TREADWAY.

Mr. LEVY with Mr. WALLIN.

Mr. LINTHICUM with Mr. VARE.

Mr. MCCLELLAN with Mr. PARKER.

Mr. MCCOY with Mr. NELSON.

Mr. PADGETT with Mr. PLUMLEY.

Mr. PALMER with Mr. PATTON of Pennsylvania.

Mr. POU with Mr. ROBERTS of Nevada.

Mr. REED with Mr. ROGERS.

Mr. REILLY of Connecticut with Mr. SHREVE.

Mr. RIORDAN with Mr. SMITH of Idaho.

Mr. RUCKER with Mr. SMITH of Minnesota.

Mr. SAUNDERS with Mr. STEPHENS of California.

Mr. SHERLEY with Mr. GRIEST.

Mr. TALBOTT of Maryland with Mr. SWITZER.

Mr. WATSON with Mr. WOODRUFF.

Mr. WEBB with Mr. YOUNG of North Dakota.

Mr. SPARKMAN with Mr. DAVIS.

Mr. LEE of Georgia with Mr. JOHNSON of Washington.

Mr. GRAHAM of Illinois with Mr. SAMUEL W. SMITH.

Mr. YOUNG of Texas with Mr. HAMILTON of Michigan.

Mr. SLAYDEN with Mr. BURKE of Pennsylvania.

Mr. DALE with Mr. MARTIN.

Mr. TAYLOR of Alabama with Mr. HUGHES of West Virginia.

Until further notice:

Mr. CLANCY with Mr. HAMILTON of New York.

Mr. GUDGER with Mr. GUERNSEY.

Mr. CALLAWAY with Mr. MERRITT.

Mr. JOHNSON of Kentucky with Mr. MADDEN.

Mr. RUBEY with Mr. LEWIS of Pennsylvania.

Mr. TOWNSEND with Mr. GILLETT (commencing May 28, ending June 4).

Mr. GARRETT of Tennessee with Mr. FORDNEY.

Mr. STEDMAN with Mr. PETERS of Maine.

Mr. HELM with Mr. MCKENZIE.

Mr. SMITH of Texas with Mr. BARCHFELD.

Mr. HILL with Mr. COPLEY (commencing May 22, ending 10 days).

Mr. MANN. Mr. Speaker, I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I desire to withdraw my vote of "no" and be recorded "present."

The name of Mr. MANN was called, and he answered "Present."

The result of the vote was announced as above recorded.

The SPEAKER. The Doorkeeper will open the doors. Two-thirds not having voted in favor of dispensing with Calendar Wednesday, the motion is lost.

LEAVE OF ABSENCE.

By unanimous consent, Mr. BROWNING was granted leave of absence indefinitely, on account of a broken arm.

REVISION OF THE LAWS—JUDICIARY TITLE.

The SPEAKER. The House automatically resolves itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15578, and the gentleman from Missouri [Mr. RUSSELL] will take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15578, with Mr. RUSSELL in the chair.

The CHAIRMAN. The House is in the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15578, the title of which the Clerk will report.

The Clerk read as follows:

A bill (H. R. 15578) to codify, revise, and amend the laws relating to the judiciary.

Mr. WATKINS. Mr. Chairman, I offer a committee amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 75, line 1, after the word "States," strike out the words "are parties or have" and insert "is a party or has."

Mr. WINGO. Mr. Chairman, owing to the confusion I could not hear the amendment read.

Mr. WATKINS. Mr. Chairman, it is simply to correct a grammatical error. It says "the United States are" and it should be "the Government is."

Mr. WINGO. I could not hear the amendment read.

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

Mr. WATKINS. Mr. Chairman, I desire to offer another committee amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 15, line 2, after the word "the," strike out "court or the commissioner" and insert in lieu thereof the word "officer."

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

Mr. WATKINS. Mr. Chairman, I desire to offer another committee amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 75, line 3, after the word "such," strike out "court or commissioner" and insert in lieu thereof the word "officer."

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

The Clerk read as follows:

SEC. 130. Whenever any person indicted in a court of the United States makes affidavit, setting forth that there are witnesses whose evidence is material to his defense; that he can not safely go to trial without them; what he expects to prove by each of them; that they are within the district in which the court is held, or within 100 miles of the place of trial; and that he is not possessed of sufficient means, and is actually unable to pay the fees of such witnesses, the court in term, or any judge thereof in vacation, may order that such witnesses be subpœnaed if found within the limits aforesaid. In such case the costs incurred by the process and the fees of the witnesses shall be paid in the same manner that similar costs and fees are paid in case of witnesses subpœnaed in behalf of the United States.

Mr. WATKINS. Mr. Chairman, I desire to offer a committee amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 77, line 2, strike out "such witnesses" and insert in lieu thereof "all such witnesses as may be material and necessary."

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

The Clerk read as follows:

SEC. 132. Any judge of the United States, on the application of a district attorney, and on being satisfied by proof that the testimony of any person is competent and will be necessary on the trial of any criminal proceeding in which the United States are parties or are interested, may compel such person to give recognizance, with or without sureties, at his discretion, to appear to testify therein; and for that purpose may issue a warrant against such person, under his hand, with or without seal, directed to the marshal or other officer authorized to execute process in behalf of the United States, to arrest and bring before him such person. If the person so arrested neglects or refuses to give recognizance in the manner required, the judge may issue a warrant of commitment against him, and the officer shall convey him to the prison mentioned therein. The said person shall remain in confinement until he is removed to the court for the purpose of giving his testimony, or until he gives the recognizance required by said judge.

Mr. WATKINS. Mr. Chairman, I desire to offer a committee amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 77, line 25, after the word "States," strike out the words "are parties or are" and insert in lieu thereof "is a party or is."

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

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word. I wish to inquire of the chairman whether in his opinion he does not believe it is advisable to extend this same authority to proceedings and actions under the antitrust laws? The present section merely extends it to proceedings in criminal actions. I can conceive how it would be highly advisable to detain witnesses in proceedings under the antitrust laws. We know when proceedings are about to be instituted for a violation of the antitrust laws of the United States that sometimes witnesses find it convenient to make a hasty exit from this country. If we are going to make such a provision, this would be the proper place. I have prepared an amendment, somewhat hastily it is true, but as this bill will be submitted to the Senate for their consideration, I think perhaps it might be well to place it in this section, if the gentleman approves it, and when the bill goes over to the other body they may pass upon it and put it into complete and final form. I suggest to the gentleman that after the word "proceeding," in line 24, page 77, to insert these words, "in any proceeding, suit, or action under the antitrust laws of the United States."

Mr. WATKINS. I do not see any objection to that. It is true in this codification we deal with only one subject at a time, as near as we can, but the general rule of criminal law is applicable to that section which we are now considering. I do not see, however, that it will harm anything by putting it in.

Mr. STAFFORD. The gentleman realizes here is one provision of the law which gives authority to the United States to detain necessary witnesses in criminal prosecutions.

Mr. WATKINS. I shall interpose no objection.

Mr. STAFFORD. Mr. Chairman, I offer the following amendment, to be inserted after the word "proceeding," in line 24, page 77.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 77, line 24, after the word "proceeding," insert the words "or in any proceeding, suit, or action under the antitrust laws of the United States."

Mr. BRYAN. This is an amendment to the amendment.

Mr. STAFFORD. No; the amendment was adopted, and I withdraw the pro forma amendment and offer this.

Mr. BRYAN. Mr. Chairman, in this provision it is arranged that in criminal proceedings witnesses can be compelled to give recognizance, and if they do not, they go to jail, of course, or are detained in some way by the authorities. Now, that is all right in criminal proceedings, and all criminal proceedings under the antitrust laws would come within the provision as it is now worded, and if the amendment is adopted all civil proceedings under the antitrust laws would be subject to the same provision; and is it not subject to some question whether we should extend the right to detain witnesses and compel them to give recognizances, and, if they do not, for them to go to jail, in civil suits? I think that goes too far, and I hardly believe that the amendment ought to be adopted and the power extended to civil suits in any case. It is an entirely new departure, and the statute itself is broad enough to cover any criminal proceeding under the antitrust laws, so why make it cover civil proceedings?

Mr. STAFFORD. If the gentleman will yield. The gentleman is quite well aware in the suits instituted for violations of the antitrust laws there are suits in equity. In these proceedings it is very necessary to have witnesses available when they would be needed to testify to prove the Government's case. They may be very wealthy persons, who can conveniently absent themselves when they have a fear that they are going to be compelled to testify in these trust proceedings.

I know the gentleman can see the efficacy and need of such a provision as this.

Mr. BRYAN. I can see what the gentleman from Wisconsin is driving at, but the very rich men to which he referred are held by the bond of public opinion, and the matter of a small money bond amounts to nothing to them. If the power of the court to punish for contempt of court would not detain them if they wanted to go and subject themselves to the contempt of court, as they do when a subpœna is served upon them and they disobey it, then a thousand-dollar bond would be nothing—absolutely nothing. In a trust case, where the Government sues a certain railroad, and the railroad determines to get a large number of laboring men, for instance, or employees, to attend the trial, they can cause all of those men to be put into jail if they can not give a bond to attend the trial, under this provision. Now, I think that is going entirely too far. I think that kind of a right ought not to be allowed in civil cases.

Mr. STAFFORD. The gentleman recognizes they can not be put in jail, even in the extreme case the gentleman imagines, unless it has the approval of the judge of the United States court. Can the gentleman even, with his very easy imagination, conceive of a case where the judge of the United States court would imprison witnesses, as he refers to?

Mr. BRYAN. If the defendant corporation comes in and says, "Here are a lot of witnesses that are essential to establish the fact that we are not a trust, and we want them detained, and the law authorizes us to detain them," then the judge is going to say, "All right; detain them." And he would be expected to do so, and he would not be expected to use his discretion in such a way as take from this corporation the evidence. I do not think we ought to put on the books any authority in a civil case to any judge to require a body of citizens who have committed no offense to be tied up in this way. It is bad enough in criminal cases. A lot of times it is abused, and many times it works a great injustice, and I would not want to extend any such provision as that to a civil case.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. STAFFORD].

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. BRYAN. Division, Mr. Chairman.

The committee divided; and there were—ayes 17, noes 8.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 133. Copies of any books, records, papers, or documents in any of the executive departments, or other Government establishments, authenticated under the seals of such departments or establishments, respectively, shall be admitted in evidence equally with the originals thereof.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word. I wish to direct the attention of the committee, and particularly that of the chairman of the committee, to the following section and inquire as to the need of having section 134, and also other sections which cover this same authority, only in different language. I would like to inquire of the chairman whether this general authority now found in the pending section is not broad enough to cover the specific authority granted in the following section, which has identical language, and vests with the Solicitor of the Treasury the right to certify the documents, records, and papers in his office?

Mr. WATKINS. I will state to the gentleman that it is, in effect; that in several of the sections various officials of the various departments are authorized to give these certificates of record, and they are enumerated, and that grows out of the fact that at various times statutes have been enacted giving authority to one, then to another, as the departments were created. These authorities were given at various times, and we incorporated the language as found in the statute, except as shown in italics. We could have said generally all of the departments of the Government, but we did not think it was necessary to do it.

Mr. STAFFORD. In the present section you are extending the scope so as to include other Government establishments.

Now, if the gentleman will look up the history of the next section he will find that it is section 2 of the act of February 22, 1849. The first section of that act conferred some authority that was not provided for generally, but even at that time this same authority was vested in the head of the executive department. In going over this bill I thought that this was somewhat out of the ordinary, and I called up the Solicitor of the Treasury this morning and pointed out to him the obvious duplication, and I was informed by his assistant that they are rarely called upon to furnish certification of records in their office; and it was his opinion that the general authority as found in section 133 was adequate. Now, if we are codifying and not merely just combining the laws—if we are really codifying the laws—I submit in all seriousness to the gentleman, what is the need of carrying in the statute a superfluous section in which similar authority is conferred in another existing section?

Mr. MANN. Where is the other section?

Mr. STAFFORD. Section 134—the one that follows. I contend it is merely superfluous, and that the authority contained in section 133 is fully adequate to confer the authority specially given in section 134. I did not wish to take it upon myself to strike out section 134 without making some inquiry; so this morning I called up the Solicitor of the Treasury and his assistant informed me that they have really little occasion to furnish certification of records in their office; and even if they would have, the authority found in section 133 would permit it.

Mr. MANN. If the gentleman will permit, I think the two sections are somewhat mixed anyhow. Section 133 authorizes transcript of papers under the seal of the department. Section 134 authorizes transcript under the seal of the Solicitor of the Treasury. Now, there are a number of departments which have bureaus in them which have seals distinct from the seal of the department. That is the case, I think, with the Patent Office. We created a bureau here recently, giving it a seal.

Mr. STAFFORD. Will the gentleman yield? The gentleman recognizes that if there was not existing this authority as found in section 134, if the certified copy of any documents had the seal of the department it would be considered as good evidence under the provisions of section 133.

Mr. MANN. If it had the seal of the department, it would be; but the Solicitor of the Treasury has a seal of his own.

Mr. STAFFORD. But the Solicitor of the Treasury informs me they have very little call for certified copies of documents in their office.

Mr. MANN. None of the departments have much call for it, except the Patent Office.

Mr. STAFFORD. The Indian Office——

Mr. MANN. And it is not a question of how much call you have. I think what is now in section 134 was originally put into the statutes because that office was given a seal of its own. But I remember that a number of the bureaus now have seals of their own, and really section 133 ought to be changed so that it would permit transcripts under the seal of the departments or a bureau in a department. Then section 134 would not be necessary.

Mr. STAFFORD. If that would be changed accordingly, then we would obviate the need of section 135 and two or three of these following sections, which confer authority upon bureau chiefs for certification of documents in their respective bureaus.

The CHAIRMAN. The time of the gentleman has expired. The pro forma amendment will be considered withdrawn.

Mr. BORLAND. Mr. Chairman, I want to make some remarks on this bill, but I shall ask unanimous consent to extend them in the RECORD.

The CHAIRMAN. The gentleman from Missouri [Mr. BORLAND] asks unanimous consent to extend in the RECORD his remarks on this bill. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 134. Copies of any documents, records, books, or papers in the office of the Solicitor of the Treasury, certified by him under the seal of his office, or, when his office is vacant, by the officer acting as solicitor for the time, shall be evidence equally with the originals.

Mr. STAFFORD. Mr. Chairman, I move to strike out the paragraph.

The CHAIRMAN. The gentleman from Wisconsin moves to strike out the paragraph.

Mr. STAFFORD. The reason for striking out that paragraph has been stated by me in discussing the prior section. If I had not made inquiry of the Assistant Solicitor of the Treasury and ascertained that there is no need of this, and that there is an incongruity in these two provisions, I would not presume here to offer to strike it out; but I find upon inquiry that there is no need of it, that the language in the section preceding, general in form, will be ample to carry out all cases referred to in this section. I think the chairman should accept the amendment.

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

The CHAIRMAN. Does the gentleman from Wisconsin yield to the gentleman from Georgia?

Mr. STAFFORD. I will be very glad to yield.

Mr. BARTLETT. Has the gentleman ever had any experience with the Solicitor of the Treasury? The Solicitor of the Treasury, as I understand it, has the records of suits pending in court. I have had occasion myself in one or two cases to procure copies of those records from the Department of Justice, in cases of forfeiture of bonds and appearances of parties in internal-revenue cases, and various things of that kind. The records of proceedings are kept in the office of the Solicitor of the Treasury. As I understand it, copies of records of what has been done and of the advice that is given are kept, and the records of the proceedings in the case; and it may become necessary, as I know it has been in two cases that came up from my district in Georgia, to consult the Solicitor of the Treasury and get copies of the records.

Mr. STAFFORD. I grant all that, because that is the function of this bureau. But I ask the gentleman—I recognize his erudition in law—whether the——

Mr. BARTLETT. That has been my experience; that is all.

Mr. STAFFORD. Whether the general authority conferred in section 133 would not be all-sufficient to meet every case for a certified copy of any record in the office of the Solicitor of the Treasury. I was informed by the Assistant Solicitor of the Treasury this morning that this is mere surplusage.

Mr. BARTLETT. I doubt it, because this says "any of the executive departments or other Government establishments." I do not know what is meant by that.

Mr. STAFFORD. The Solicitor of the Treasury is certainly a part of the executive department.

Mr. BARTLETT. The solicitor's office is not a department.

Mr. STAFFORD. It is a part of the executive department. It is a bureau in an executive department.

Mr. BARTLETT. It is the solicitor's office. It is not a bureau or a department. I do not know whether it is a separate establishment, but it has officials of its own in the Department of the Treasury.

Mr. STAFFORD. Does not the smaller include the greater?

Mr. BARTLETT. I think so. I think if you wanted a record in the office of the solicitor, and got a copy thereof certified to by the Secretary of the Treasury, or some one authorized to so certify and attach the seal of the department to it, that would be permissible. That is my judgment about it as a lawyer. I apprehend that this provision was put in the statute for the convenience of the department and for the convenience of those who might require the certified copies of the papers or the records in that office, and not require you to go to the Secretary of the Treasury and have him investigate it, but go directly to the solicitor's office.

Mr. STAFFORD. The gentleman knows that there are many other bureaus in the Treasury Department where cases develop

for need of copies of their records, and they are all certified to by the Secretary of the Treasury. Now, I am told by the Assistant Solicitor of the Treasury that he is rarely called upon for certification of documents in his office, and I can not see any need for this separate provision.

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

Mr. STAFFORD. I will be very glad to.

Mr. WILLIS. The gentleman is calling attention to the fact that there is a repetition in sections 135, 136, and 137.

Mr. STAFFORD. Particularly as to sections 133 and 134.

Mr. WILLIS. Yes. Does not the gentleman think that if we would amend section 133, in line 15, by inserting the word "bureaus" after the word "departments," so that it would read "copies of any books, records, papers, or documents in any of the executive departments, bureaus, or other Government establishments, authenticated under the seals of such departments," and again, in line 17, after the word "departments," insert the word "bureaus," so that it would read "under the seals of such departments, bureaus, or establishments, respectively," that would cover all the cases the gentleman has in mind, and that would make it possible to strike out that part?

Mr. STAFFORD. That would be truly a codification of the statutes. As I understand it, we are codifying and getting rid of the unnecessary sections in the existing laws.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WILLIS. Mr. Chairman, I ask unanimous consent that the gentleman's time may be extended for five minutes. I want to pursue this inquiry.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. WILLIS. I wanted to call the gentleman's attention to what would be the situation if we passed this as it stands. It would lead to confusion, because, as the gentleman from Illinois [Mr. MANN] pointed out, there are a number of bureaus not mentioned in this bill which have seals. Now, if we should amend section 133 by inserting the word "bureaus," it would cover all of these cases.

Mr. STAFFORD. I certainly approve the suggestion of the gentleman from Ohio. It would not only tend to relieve this bill of unnecessary sections, but it would be scientific in its administration, in throwing the work upon the respective bureaus. This is not a very delicate subject. If a document is lodged in any bureau, the seal of the bureau, if there is a seal, should be sufficient to carry an exemplification of it.

Mr. WILLIS. I think so. Mr. Chairman, I ask unanimous consent to return to section 133 for the purpose of offering an amendment. Before the gentleman objects——

Mr. WATKINS. Reserving the right to object, there is no necessity at all for that. We propose to antagonize any effort to cut out section 134, and to give our reasons in due time.

Mr. WILLIS. Does the gentleman mean to say, then, that he intends to object?

Mr. WATKINS. I intend to object, but reserve my objection so that the gentleman can make his statement.

Mr. WILLIS. I thank the gentleman for his courtesy. I was asking unanimous consent to return to section 133, so as to insert the word "bureaus" after the word "departments" in line 15, and also after the word "departments" in line 17. By so doing we will have a complete and definite statement of the method by which exemplified copies can be obtained. It seems to me, if we let it stand as it is, there will be confusion, because there are many bureaus that have seals that are not enumerated here in the bill; and if we are going to enumerate some of the bureaus that have seals, we ought to enumerate all of them, but they are not all enumerated in this bill. Therefore it seems to me it would be better to make a general provision, such as I have suggested, by amending section 133; and I ask unanimous consent to return to section 133 for the purpose of offering that amendment.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to return to section 133 for the purpose of offering an amendment. Is there objection?

Mr. WATKINS. I object, Mr. Chairman.

The CHAIRMAN. The gentleman from Louisiana objects.

Mr. WATKINS. Now, Mr. Chairman, I wish to be recognized on the pending amendment offered by the gentleman from Wisconsin [Mr. STAFFORD]. The gentleman who offers to strike out section 134 gives as his reason for so doing that section 133 covers the law which is intended to be enacted and which is now enforced in section 134. The gentleman is mistaken about that. It is true that in section 133 the Committee of the Whole, having passed over that, have left the statement in the section that other Government establishments besides the executive departments do have the right to give these certifications, and that they are to be recognized, but section 134 is confined to the Solicitor of the Treasury. The Solicitor of the Treasury is not a department of the Government, nor is he one of the establishments of the Government. He has been provided with a seal. There was no doubt a reason at the time the law was enacted providing him with a seal why it should be done, and up to the present time I have heard no reason assigned except that it is not a frequent occurrence when he is called upon to use that seal in these certifications. I know of a number of cases now which in all probability in a short time will require his certification and his seal. There is a bill now pendng in the Senate which I am sure, if it is enacted into law, will require a number of instances in which this seal will have to be used, and it will be a great convenience to the department to have the solicitor himself use the seal, instead of always going to the Secretary, the head of the department, and having him or his secretary stamp his seal on the documents which are certified to by the solicitor.

If that is not done, if he does not go to the head of the department each time to have his seal stamped on the document that is certified, he will have himself to be furnished with the seal of the head of the department. It is not advisable that the various solicitors in the several departments be authorized freely and at their will to use the seal of the head of the department, and it is much better, more practicable, easier, and more satisfactory for the man who is provided with the seal to use his own individual seal, and let the impression of that seal carry its authority along with it. For that reason I oppose the amendment to strike out section 134.

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

Mr. WATKINS. Certainly.

Mr. WILLIS. I understand the gentleman to be contending that the office of the solicitor would not be an executive department or a Government establishment, and I quite agree with him in that contention.

Mr. WATKINS. Yes.

Mr. WILLIS. According to the language of section 133, as I proposed to amend it, would it not be regarded as a bureau, and would not these others mentioned in sections 135, 136, and 137 come under the language already suggested as an amendment? Would they not be bureaus? What is the gentleman's objection to that amendment?

Mr. WATKINS. The objection is that it would be too general. It would give too many parties the right to use the seal, and when those parties were using a seal they would be expected to use the seal of the head of the department, or else the seal would have to be placed in the possession of these subordinates and let them use the seal of the head of the department.

Mr. WILLIS. The gentleman does not contend that the amendment as I have suggested it would permit any bureau to use a seal if it were not already given a seal by law. It could not lead to any confusion in that respect.

Mr. WATKINS. I did not understand the gentleman's suggestion to go that far.

Mr. WILLIS. My suggestion was simply this, to insert the word "bureaus" after the word "departments," in line 15 and in line 17, so that any bureau which now has by law a seal could give exemplified copies. It would not extend the right to any bureau that does not now have a seal by law. I would not favor such a proposition as that for a moment.

Mr. WATKINS. In what part of section 133 does the gentleman propose to insert that language?

Mr. WILLIS. I shall be glad to call the attention of the gentleman to that. My proposition was to amend section 133 so that it would read as follows:

SEC. 133. Copies of any books, records, papers, or documents in any of the executive departments, bureaus, or other Government establishments, authenticated under the seals of such departments, bureaus, or establishments, respectively, shall be admitted in evidence equally with the originals thereof.

Mr. WATKINS. Does not the gentleman realize that if he should use that language, that would require these various bureaus to use the seal of the head of the department?

Mr. WILLIS. No; I do not so understand it. It would require the heads of bureaus that now have seals by law to furnish exemplifications under their seals; but a bureau that does not have any seal would not have any different authority from what it now has.

Mr. WATKINS. The gentleman does not state that those who do not have seals shall not have that authority.

Mr. WILLIS. That would not be necessary, because, of course, those who do not have seals would have no authority and no occasion to give the exemplifications.

Mr. WATKINS. They could use the seal of the head of the department.

Mr. WILLIS. I do not think it would admit of such an interpretation as that, because obviously a bureau that does not have a seal by law could not use a seal, and in those bureaus that do not have seals, of course all the exemplifications would have to be given by the head of the department. But in those bureaus that do have seals they could give exemplified copies without any confusion. That is precisely the point I was trying to make; and if we should amend that section in that way, then it would do away with the necessary confusion that will result if we do not do something of that kind. There are bureaus that have seals that are not mentioned in this bill, and if we pass it as it stands, that must inevitably lead to confusion.

Mr. WATKINS. These bureaus that have seals and are not authorized to use them by this bill would have to get the seal under the head of the department. I think it would make it too general, and I do not think it would be a safe proposition.

The CHAIRMAN. The question is on the amendment of the gentleman from Wisconsin to strike out section 134.

Mr. MANN. Mr. Chairman, I can not agree with my friend from Wisconsin [Mr. STAFFORD] in regard to this matter, nor do I agree with the gentleman from Ohio [Mr. WILLIS]. Section 133 is a general section authorizing transcripts of evidence, and so forth, under the seal of the department; or, in the case of the Interstate Commerce Commission, under the seal of the commission as an establishment other than a department. But there are certain officers in the various departments who have control of certain things that do not go through the head of the department. The Solicitor of the Treasury is an officer that has certain powers that are not subject to the control of the Secretary of the Treasury. The Comptroller of the Treasury is another officer with similar powers, and under the law, under the provisions of this bill, these officers have seals to certify copies of papers in their control, and those are to be taken as evidence, and they are not required to go to the head of the department. If the word "bureau" was inserted in section 133, as suggested by the gentleman from Ohio, I am not sure whether it would be sufficient to include them. They are not covered under the term "bureau" ordinarily. They are covered under the term "office." There are many other bureaus of the Government, using the term generically, which come in close contact with the people in their official relations, and they now furnish evidence under the seal of that particular office. It is undoubtedly true that it would be possible to frame a general provision authorizing any bureau which had a seal to certify under the seal of that bureau the transcript of testimony, but it is not entirely certain that that would be desirable. Most of the bureaus which are under the actual control of the head of the department probably ought to submit papers to the head of the department, and obtain the seal in that manner from the head of the department.

Mr. BARTLETT. Will the gentleman yield?

Mr. MANN. Yes.

Mr. BARTLETT. Does the gentleman understand the word "establishment" to cover the Interstate Commerce Commission?

Mr. MANN. Undoubtedly.

Mr. BARTLETT. And the Commissioner of Insular Affairs?

Mr. MANN. No. I think it would not cover any establishment inside of an executive department, and the Insular Bureau is in the War Department.

Mr. BARTLETT. I intended to say the Isthmian Canal Commission.

Mr. MANN. Oh, yes.

Mr. BARTLETT. The Solicitor of the Treasury would not come under the head of "establishment."

Mr. WILLIS. It would be a bureau.

Mr. MANN. In using language in the past in reference to this matter we have used the words "bureau," "office," and two or three other terms, so as to be sure to include everything of the kind.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. WILLIS. I ask unanimous consent that the gentleman's time be extended five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. WILLIS. Now, I want to ask the gentleman, suppose the Children's Bureau has a seal——

Mr. MANN. I have just looked that up, and it has not one.

Mr. WILLIS. Then take a bureau that does have a seal.

Mr. BRYAN. The Auditor of the Post Office Department has a seal.

Mr. WILLIS. Take a bureau that does have a seal; how would the gentleman proceed to get an exemplified copy, if you found that bureau was not authorized to issue exemplified copies?

Mr. MANN. I would apply to the head of the bureau for an exemplification, and it would be prepared and furnished under the seal of the department.

Mr. WILLIS. Notwithstanding the bureau had a seal, it could not use it?

Mr. MANN. It could not use it in that case, undoubtedly. As a matter of fact, I do not think a bureau ought to have a seal unless there is a special reason for it.

Mr. BARTLETT. I was going to say that I think the wisdom of the policy is not to give a seal to the bureau where there is not too much inconvenience to require the seal of the head of the department.

Mr. SLOAN. Mr. Chairman, I have looked around on the vast unoccupied public domain in this House, and not desiring to raise the question of no quorum, I desire to submit a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SLOAN. Would it be proper now to make a filing for a homestead on this great unoccupied American domain? [Laughter.]

The CHAIRMAN. That is not a parliamentary inquiry. The question is on the amendment offered by the gentleman from Wisconsin.

The question was taken; and on a division (demanded by Mr. WATKINS) there were 4 ayes and 10 noes.

So the amendment was rejected.

The Clerk read as follows:

SEC. 136. Every certificate, assignment, and conveyance executed by the Comptroller of the Currency in pursuance of law, and sealed with his seal of office, shall be received in evidence in all places and courts; and all copies of papers in his office, certified by him and authenticated by the said seal, shall in all cases be evidence equally with the originals. An impression of such seal directly on the paper shall be as valid as if made on wax or wafer.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word. Do I understand the purport of the present section that certified copies of the certificates, assignments, and conveyances executed by the Comptroller of the Currency would be received as evidence in all the courts and places outside of the jurisdiction of the United States? Was not the provision originally a part of the law that limits its effects to United States courts?

Mr. WATKINS. These laws of evidence apply to United States courts as a rule. It is enacted for the purpose of being used in United States courts.

Mr. MANN. Oh, no; they are good anywhere.

Mr. WATKINS. They are for the courts in the United States.

Mr. STAFFORD. Of course, there is no limitation in this particular section. It struck me that there ought to be a clause limiting it to the jurisdiction of the United States.

Mr. WATKINS. We could not enact laws for other countries.

Mr. STAFFORD. I am quite well aware of that; but I think it would be made clear by the addition of the words "within the jurisdiction of the United States."

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn, and the Clerk will read.

The Clerk read as follows:

SEC. 137. Copies of the organization certificate of any national banking association, duly certified by the Comptroller of the Currency, and authenticated by his seal of office, shall be evidence in all courts and places within the jurisdiction of the United States of the existence of the association, and of every matter which could be proved by the production of the original certificate.

Mr. MANN. Mr. Chairman, I move to strike out the last word, and suggest to the gentleman that he prepare and probably later put into this part of the bill a provision in reference to the organization of the Federal reserve boards, and so forth.

Mr. WATKINS. Mr. Chairman, I will state to the gentleman that my understanding is that the same official now signs those certifications who signed them under the late law; at least, he is continuing to do that up to the present time.

Mr. MANN. The same official may sign them, but this language is:

Organization certificate of any national banking association.

Mr. WATKINS. Yes; he is signing them right now.

Mr. MANN. I know; but the Federal Reserve Board is not a national banking association. In the codification that may as well be included, so as to have it all in this law. Of course it is covered by existing law, but that was passed by act of Congress since this matter was arranged, probably.

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

Mr. MANN. Certainly.

Mr. CULLOP. Why not add to this section, where it properly belongs, an amendment containing this phrase?

Mr. MANN. I did not undertake to say what language would be sufficient, but I call the attention of the chairman of the Committee on Revision of the Laws to it, so that he might have an amendment prepared and return to it and insert it, if he desires.

Mr. CULLOP. I was going to make that suggestion to the gentleman. Why not have this section passed until the gentleman can see what language the amendment should be in that should be made to this section for the purpose of having it cover that matter?

Mr. WATKINS. Mr. Chairman, in answer to the gentleman's question, I will state that the Comptroller of the Currency is still signing these certificates and using the seal, and, I suppose, will continue to do it. I do not know of any reason why there should be any change.

Mr. MANN. But the gentleman will notice that section 137 provides:

Copies of the organization certificate of any national banking association duly certified by the Comptroller of the Currency, etc.

A "national banking association" is the title of a national bank under the law.

Mr. WATKINS. Would there not be time when we get to section 137 to consider that?

Mr. MANN. That is what we are considering now.

Mr. WATKINS. I thought we were on 136. My attention was called off, and we passed 136 without my knowing it. I beg the gentleman's pardon. I stand corrected.

Mr. CULLOP. Mr. Chairman, will the gentleman ask to have the section passed until a proper amendment can be prepared?

Mr. WATKINS. Mr. Chairman, I have no objection to that.

Mr. BARTLETT. Does not the gentleman think we ought to still leave it here? There may be cases arise in which they would require a certified copy from the comptroller's office.

Mr. MANN. I am not objecting to that at all; but I suggested, as long as we are codifying, that we add to that what is carried as to the Federal Reserve Board.

Mr. BARTLETT. I think that is true; but we ought not to strike this out.

Mr. MANN. Oh, no. Nobody has suggested that.

Mr. WATKINS. Mr. Chairman, I see no objection to passing this over and considering it at our next session.

The CHAIRMAN. The gentleman from Louisiana asks unanimous consent to pass over temporarily section 137. Is there objection?

There was no objection.

The Clerk read as follows:

SEC. 141. Copies of the quarterly returns of postmasters and of any papers pertaining to the accounts in the office of the Auditor of the Treasury for the Post Office Department, and transcripts from the money-order account books of the Post Office Department, when certified by the said auditor under the seal of his office, shall be admitted as evidence in the courts of the United States in civil suits and criminal prosecutions; and in any civil suit, in case of delinquency of any postmaster or contractor, a statement of the account, certified as aforesaid, shall be admitted in evidence, and the court shall be authorized thereupon to give judgment and award execution, subject to the provisions of law as to proceedings in such civil suits.

Mr. BRYAN. Mr. Chairman, I move to strike out the last word. I have very serious doubt that so much importance ought to be paid to these accounts in the office of the Auditor of the Post Office Department as is provided for in this section. There may be basis of criminal prosecutions by this section, but according to the best information I can gather things are in such shape down there that those accounts and claims that are filed against the post offices over the country are not receiving any great indorsement from the postmasters, and the auditor down there generally has to back up when the postmasters come back against him and attempt to show him his inaccuracy. Of course the Auditor of the Post Office Department is a man who was advanced by the request of Senator PENROSE and Senator OLIVER of Pennsylvania, and he is very well versed in Republican systems, and all that sort of thing, and has, no doubt, rendered great and efficient service to the Republican Party in precinct, county, State, and Nation, and it is a $5,000 job, and I have no doubt somebody thinks that he is the only man in the United States who can do that work or else he would not keep the job. But I am sure the auditor has the wool pulled over the eyes of those who have charge of things. The auditor's office is about a year behind now. A short time ago they threw six months' work entirely away, never having audited it. He has special clerks there now auditing on stuff that involves the year 1912.

A short time ago he ordered a woman suspended. It is claimed that he ordered her suspended because he thought she had given out some information revealing his faulty methods, but he alleged as a reason—the principal reason—that she was a trouble maker, and that eight years ago, 1906, she had closed a transom that allowed a draft between her room and an adjoining room. That was the only point against her definitely, so she protested earnestly and vigorously to the Secretary of the Treasury and asked that she be reinstated, or be removed from the cruel jurisdiction of this man, and went after him hot and heavy. I published her answer in the RECORD. Others brought the matter to the attention of the Assistant Secretary of the Treasury, Mr. Hamlin, and the woman was reinstated and transferred to another department, showing that the auditor himself was to blame; he was not vindicated; and I am quite sure that the administration that is so obsessed with the idea that this PENROSE politician is the only man in the world that is able to do that work and that there is nobody else who could do it, if it would make an investigation would find that it is entirely off on that matter, and would learn of the accusations made of the way he treats his employees, trying to cut them out of their leave, and terrorizes them with every form of petty restriction.

I understand he is attempting to relieve this key-punching arrangement now by declaring a 5-minute recess every hour, and when 55 minutes comes they ring a bell and the clerks running these punching machines get a 5-minute recess, and they must take it. Of course, that merely indicates the proposition I have already advanced that they are not operated under right conditions. He has not yet consented for the Bureau of Health to investigate, and, although complaints have been filed with the Bureau of Health and that bureau has tried to investigate him, he has refused to permit the investigation, and so I think that the provisions that are included here in this section pay entirely too much attention to the auditor's findings and give entirely too much consideration to his certifications under seal.

If the gentleman from Indiana [Mr. Cox] would publish the letters and complaints he has received against Mr. Kram and his methods, he would reveal a condition that would demand an investigation. In a former statement Mr. Cox mentioned the fact that very violent complaints had been lodged with him against the auditor, but Mr. Cox declared that upon investigation he had discovered that there was no merit to the complaints. The way Mr. Kram puts it over on these newly empowered Democrats is really amusing. Take a man who knows nothing about shoe machinery through a big shoe factory and praise all the machinery and tell him how it all works; he will agree with the expert when he is through the factory; but let a real expert go through and a different report may be made. Mr. Kram takes Mr. Congressman up to those men, piece-rate workers, who hold down the bonanza jobs, many of them colored men, who formerly received lower pay than they now receive, and they simply fill the Congressman full, stuff him; yes, Kram him, and he goes away and peddles the dressing.

They do not know anything about the system; they do not hear complaints, because a complaining clerk knows what will happen if Mr. Kram hears any complaints.

There is not one of these defenders of the wonderful Mr. Kram on this floor that could explain his system to any inquirer. I went through and heard him tell how it was all done, and it all seemed plausible. But when I asked him to let me talk with the bookkeepers who receive the postmasters' kicks against his audit he balked. There are barrels of letters there from postmasters who will not pay up on his demands, and generally when the postmaster writes as though he knows what he is talking about, the auditor writes back, "All right, sir; we will just drop the matter."

Mr. George B. Furman, a clerk who received Mr. Kram's commendation for his efficiency, wrote the Secretary of the Treasury on March 27, 1913, that Kram's audit was a farce. Furman is in another department now. He told the Secretary to interrogate certain men in Kram's department if he wanted the facts. Does anybody suppose that Secretary McAdoo knows anything himself about this? I am sure he would not claim such knowledge. I do not want to repeat the figures I put in the RECORD on May 11, 1914, but I refer Mr. Cox and the defenders of this system to page 8767 of the CONGRESSIONAL RECORD for figures which have been given to me as accurate, which show that the system is wasting money at a lavish rate. I do not claim to know that these figures are accurate, but they are declared to be by parties who ought to know, and I challenge the defenders of the auditor to show wherein the figures are wrong. The auditor is not fair in his claims. In a recent statement he said:

It was recognized at the time the electrical tabulation system was installed that there were a number of employees in the office not adapted or not qualified to perform the work under the new system.

There is just enough truth in that statement to make it false. No one has ever claimed that anybody employed on the electrical tabulating machines is not qualified or that these machines are

injurious. The electrical machines afford bonanza jobs comparatively speaking. Some of them tabulate, others assort. The operators of these machines are, as a rule, very well pleased. Most of them are men.

The machines complained of have no more connection with electricity than the North Pole has with the Equator. This controversy arises over the card-punching machines, and they are not electrified. It is wrong for Auditor Kram to talk about electricty when discussing these machines.

The auditor says a number of employees are not adapted to these machines and adds:

There are persons who are not adapted to the work of typewriting, but typewriting would not be condemned for that reason. The operation of a key-punching machine is similar to the operation of a typewriting machine, and experience has shown that there are a few employees not adapted by temperament or training to the operation of this device. They are a small minority, and their dissatisfaction or inefficiency in *this respect* should not be seized upon as an opportunity to condemn a system which has demonstrated its superiority over the method of audit formerly in use.

CLAIM MANY ARE AFFECTED.

Auditor Kram has used a typewriter, and he should realize the comparison is not justified. He told me himself that men are not qualified for these punching machines. Not a man is employed. He said he himself could not operate them. Are the men in his office a "small minority"? No; they are a large majority.

All the men and very many women are disqualified for these piece-rate punching machines. He demands young women. They are mostly District women and girls who have no Congressmen or Senators to look after their interests. Those who are in line for promotion belong elsewhere, for piece-rate workers have no promotion ahead.

The operation of a typewriter and one of these punching machines are no more subject to comparison than joy riding and sewer digging. It is an outrage for an intelligent man to attempt such a comparison. Why are men disqualified? Simply because men are accustomed to voting and will not stand subjection and abuse. Put 10 men in one of those rooms with 10 of those machines to be operated piece rate and subject to error slips, and in a week they would all quit or fight; if they did not, they would go crazy.

Why does Mrs. Archibald Hopkins complain to the Health Bureau? Why do the operators go to the doctors? Why does Auditor Kram slam the door shut in the face of the Government Health Bureau? The women and girls are eager to make something for their support, and he holds out better wages by piece rate, and by a series of bulletins and classifications the fastest ones make their mark while they last. When they come to themselves, and he begins to suspect that they will tell facts about his system, he has them dismissed, as he did Miss Nellie M. Corrigan the other day, because she closed a transom that some one else had opened eight years ago.

AVERAGES CRITICIZED.

Kram's figures are misleading. When he talks about averages, he does not consider the key punchers alone, but includes a lot of other employees. The claims of the auditor about saving money to the Government are mostly electrified figures, according to the very best information I can gather.

The auditor says:

When we question a postmaster's statement of money-order accounts, we virtually charge him with embezzlement.

Yet there are barrels of letters in the office now from postmasters who refuse to accept the audit of these machines. A southern postmaster wrote the auditor a "sassy" letter recently, in substance as follows:

I keep accurate records; your audit is crazy. I have advanced some money out of my own pocket to satisfy some of those holes punched by your tired piece-rate workers, but I'll do that no more.

Another one out West wrote him that he had allowed him a credit for a certain substantial amount to which he was not entitled, and the western postmaster expressed surprise that Uncle Samuel had such a silly auditing system.

BALANCE SHEETS SAID TO BE OFF.

They are supposed to strike a trial balance with the offices of the several States. I am reliably informed that most of the State balance sheets are hopelessly off.

The office is a crazy house. In the course of the audit, cards are found for which there is no possible accounting. They are called stray cards, and there is a "mating room," where girls attempt to make them match. It looks more like a game of solitaire. Each ill-mate is an error on some postmaster, who, the auditor says, gets charged with embezzlement.

But for all this the auditor has applied a new remedy. His recent "mum-and-gag" rule is the most preposterous and absurd order ever issued in a Government department.

There is an order in the Treasury Department which reads as follows:

Clerks and employees will not be permitted to visit each other or to receive visits during office hours except on official business, and then only with the knowledge and concurrence of their immediate superiors. Frequenting or loitering in the corridors of buildings will not be permitted.

Pretending to recite and post this order, but omitting the words "during office hours," the following has been issued by Auditor Kram:

The Treasury Department rule which forbids clerks and employees to visit each other or to receive visits except on official business, and then only with the knowledge and concurrence of their official superiors, must be strictly observed.

Visiting by employees on one floor with those on another floor, or between those in different divisions, is positively forbidden.

MUST NOT VISIT.

Card-punch operatives must not visit or receive visits from adding-machine operators or examiners on either the paid or issued side.

These directions are effective during office hours, luncheon half hour, and any period of attendance, before or after office hours.

By direction of the auditor.

It will be seen that Kram's order prohibits the employees from talking from one department to another at noon or before office hours, in time which is their own and is designed for recreation. The rule says "visit," which means, of course, that they are not permitted to confer one with another about any subject on earth. This rule is not in force in any department or private manufacturing plant in the country, and is so absurd as to brand his system as absolutely impossible.

I received the following letter recently:

MAY 5, 1914.

Hon. Mr. BRYAN.

SIR: I can not refrain from a few remarks regarding the wonderful Mr. Kram, Auditor for the Post Office Department. "He is such an efficient man." Was there ever an efficient man before Mr. Kram? It seems not, as most of them have retired and had their places ably filled. Now, who has proven Mr. Kram's efficiency? No one save Mr. Kram, for, as you are aware, he will not dare let the office be investigated. If his office is beyond reproach, I should think that he would welcome an investigation and be vindicated of the charges made against him. No; he would not dare let the eyes of an honest man see into the black corners. In penalizing he has not done so to the men; he has discriminated against one class of women, and even now, instead of fighting openly, he is dodging behind a few women in the office to try to carry on his sweatshop system.

Sincerely,

_____.

I have dozens of letters and have had dozens of interviews on this subject. I shall publish here a letter received from a Central State. If I give the name of the city, I fear Auditor Kram could locate the woman referred to and probably fire her because she opened a transom eight years ago.

Hon. Mr. BRYAN, *Washington, D. C.*

MY DEAR MR. BRYAN: I take the liberty to write you a few lines regarding a matter which I know you will be interested in greatly.

As you are one out of many Congressmen who has the courage of your convictions and man enough to come to the defense of the poor and helpless girls employed by the Auditor of the Post Office Department of the Treasury, Mr. Kram, who seems to enjoy putting the bulk of burden upon the girls who have little influence or none to work in their interest and who work in his health-wrecking and degrading office because they have to work for a living, I wish to enter my protest and objection against the method of treatment and manner carried on in the office of the auditor. My sister * * * accepted a position under Auditor Kram about two years ago temporarily on some clerical work which lasted three or four months. When my sister went home Auditor Kram was as nice as pie, saying that he would have her name restored on the eligible list; but she learned afterward that he did not report her name eligible for appointment until six or more months after she was dismissed, and her name should have been on the list. I can not go into detail, but Kram tried his very best to prevent her reinstatement, and in spite of Mr. GRAHAM'S efforts he delayed her reinstatement to the very last minute, and when my sister reached Washington he said that "We had an awful time getting you back."

Well, she was placed upon those nerve and health wrecking punching machines, although she is rather nervous disposition. As the weeks and months passed there was still no promotion offered. It has been seven months now since she started. Girls who came in two or three months later than sister have been promoted to positions of good pay and pleasant work. There was another department a king for my sister at two different times to fill a position, but Kram stood in her way, saying that my sister was satisfied and doing nice work. And Mr. Kram refused to let her go, saying that he was satisfied with the work she was doing and had refused both times to let her go into the other department, but pushed some of his favorites into the position who had worked only a short time. Kram did not even ask my sister if she would accept the position offered or tell her that she had been called upon. I want you to call my sister for an interview immediately, and I believe that my sister and scores of other girls under him can give you some heart-rending stories of solid fact regarding the auditor's office if they have courage to testify against him. I know that practically every operater of those machines are afraid to say anything against the auditor for fear of losing their jobs or gaining his ill will, in which case one has no alternative except quitting or working to death, Kram caring very little which is chosen.

My sister is literally a nervous wreck and eyesight so greatly affected by close work that both nerves and eyes may be permanently injured, and if something is not done immediately in the way of betterment for the employees I believe that the department head should be held responsible for such conditions, and I believe that such conditions as now exist are a disgrace to a civilized nation and are indefensible.

Mr. Kram's machines may save money in one way, but I do not believe in holding the dollar so close to the eye that the condition of the employees can not and are not to be seen.

I am writing this in behalf of all of those employed on those awful machines, and ask that in the name of justice, in the name of humanity, that you and Congress abolish such machines, as well as such auditors. I am,

Yours, very respectfully, ——— ———.

I withhold the name of this party for obvious reasons.

Mr. MANN. Mr. Chairman, it is one of the blessed privileges of being elected a Member of this House that you have the right to abuse anybody you want to, and especially if it is some other Government official, you can abuse him as often as you can get the floor. I take it that if at any time during the night, when the gentleman from Washington was sound asleep, somebody should whisper the words "Auditor for the Post Office Department," he would instantly, either awake or asleep, be making a speech abusing that auditor. It is an obsession with the gentleman from Washington. Everyone else, or nearly everyone else, believes Mr. Kram to be one of the best officials in the Government service. That is testified to by the high standing that he has under a Democratic administration. If, as suggested by the gentleman from Washington—and I am not posted on the matter—he was originally placed in office through the influence of Senator PENROSE, no one accuses him of having any political influence with the Democratic administration or with the Progressive Party. Now, the gentleman again repeats the statement that the Auditor for the Post Office Department, who is under the control of the Secretary of the Treasury, refused to permit the Public Health Service, which is also under the control of the Secretary of the Treasury, to investigate the auditor's office. I take it that that is an impossibility. This investigation would be by order of the Secretary of the Treasury; and if the Secretary of the Treasury, who has control of the Public Health Service, should direct an investigation of the auditor's office, also under his control, there would be no way of escaping it.

Mr. BRYAN. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. BRYAN. The gentleman remembers that I stated here recently that Dr. Rucker, of the Health Bureau, told me that he was sent there to investigate these objections, and that Mr. Kram objected to the investigation and plead jurisdiction, and that the only way the bureau could investigate was to ride over him, roughshod, or words to that effect.

Mr. MANN. Why, if the Public Health Service should send a doctor to my office to investigate it, I would throw him out.

Mr. BRYAN. The gentleman is like Mr. Kram on that.

Mr. MANN. Yes; absolutely. There is a method, a proper method, by which the Public Health Service has authority. It has no right to make these investigations except by proper order of the Secretary of the Treasury; he is the one to give the order to make the investigation; and if he gives such an order, it will be obeyed. Without such an order, the Public Health Service has no business to stick its nose in the matter.

Mr. COX. Mr. Chairman, I move to strike out the last word, and ask the indulgence of the committee a few moments. The other day, when the legislative, executive, and judicial bill was under discussion, several Members of the House, including the gentleman from the State of Washington [Mr. BRYAN], took occasion to severely criticize Auditor Kram of the Post Office Department. I did not believe that the criticism was just and merited for anything that Mr. Kram had done, and in defense of him I said a few words in his behalf. Since that time I have received several letters from employees working in his office, every one of them commending him in every way, not only for his humaneness but commending the system he had inaugurated, and each one of them denying the charges made against him by Members on the floor of this House that he was an autocrat or a tyrant.

Mr. WILLIS. Will the gentleman yield?

Mr. COX. For a question.

Mr. WILLIS. I understood the gentleman to say that the correspondents were condemning the methods of Auditor Kram.

Mr. COX. Oh, no; commending. If I said condemn, I will correct it in my remarks.

Mr. WILLIS. The gentleman said some eight letters commended him.

Mr. COX. I have received five or six letters commending him, and am going to ask the privilege of inserting those letters and making them a part of my remarks.

WASHINGTON, D. C., *April 17, 1914.*

Hon. WILLIAM E. COX,
House of Representatives, Washington, D. C.

DEAR SIR: I am employed in the office of the Auditor for the Post Office Department as a piece-rate operative.

I wish to state that I have worked on an average of five and one-half hours each day, and received amounts varying from $100 to $120 per month.

I have always been treated very fairly by the officials in this office, and hope that the present piece-rate system will continue.

Thanking you very kindly, and with best wishes for your success, I am,

Respectfully, yours, ——— ———.

WASHINGTON, D. C., *May 7, 1914.*

Hon. W. E. COX,
House of Representatives, Washington, D. C.

SIR: Having recently read of the many abuses and hardships that the piecework system in the Office of the Auditor for the Post Office Department has worked against the employees of that office, and being employed there myself, and desiring to be fair and equitable to all concerned, I would like to add a word of praise from an unprejudiced standpoint.

I firmly believe that the placing of employees on a basis wherein they are paid for actual work turned out is, in my judgment, the only fair way to compensate, for this gives each and every individual an opportunity to demonstrate their fitness, and, as a consequence, does away with the possibility of favoritism being shown.

In the second place, I believe that there are very few instances where those who have been taken off the regular roll and placed on the basis of pay for what you do have suffered very much of a reduction, as far as actual cash is concerned.

Before this system was installed, when an employee was promoted it was not uncommon to hear comments about the favoritism that was being shown in the matter of promoting people; now this is all done away with, so far as I can hear.

Of course, it is hardly possible to find any two people who will turn out the same amount of work; but, then, this ought to be no excuse to condemn the method of payment, for how often do we find men and women drawing from two to six hundred dollars per year more than the employee sitting next to them, and who turn out less work than this employee; and yet were an effort made to give their salary to the person doing more work than they, there would be a great big hallo made about it.

I have seen many instances where employees have been transferred from one work to another when they demonstrated that they were unable to perform that work; and this is more consideration than is given in some places, for it would be possible to dismiss an employee if it were found that he was unable to perform work assigned, and the employee would have no recourse; but the auditor has, I firmly believe, tried to take care in some way or other of all of the employees whom he has learned were unable to perform duties assigned, if not in his office, in other branches of the service.

Now, as to the complaints about the driving propensities of the auditor, these I am unacquainted with, for personally he has always been very considerate whenever I have had an occasion to converse with him.

While it is true that the leave periods were somewhat disturbed during the last year, this, to my judgment, was not done from a standpoint of unfriendliness toward the employees, but due to the fact that the new system of accounting being in its embryonic stage necessitated a full force being present as near all the time as was practicable in order that the work might go on unhampered.

In conclusion permit me to say I for one am not so biased or prejudiced that I can not see some good in the system of pay for what you actually do.

Respectfully, yours, ——— ———.

P. S.—I do not know whether you care to use this letter or not in any public way, but prefer that you not use my name unless it be actually necessary, for I would not care to win the displeasure of any Member of Congress who might be opposed to the system now in vogue in the Office of the Auditor for the Post Office Department.

OFFICE AUDITOR POST OFFICE DEPARTMENT,
April 19, 1914.

Hon. WILLIAM COX, M. C.,
House of Representatives.

DEAR SIR: I have been reading with interest your defense of the Auditor for the Post Office Department, Charles Kram. Prior to this system now in vogue I received a salary of $660 per annum; worked side by side with clerks who received $720, $780, $840, and $900 per annum for the same work performed. It was more of a sweat shop in those days than to-day, and a veritable hell in seven volumes.

There are several, nay, a goodly number of clerks who are not afraid to speak up, and all we do want is piece, with peace—simple peace—thrown in. The ones who disfavor piece rate desire the old method restored, which means favoritism, and the auditor's office under former auditors headed the list for large pay for little work, small pay for efficient workers.

The auditor, Charles Kram, came as a godsend to overworked women, who were discriminated against year after year and who are now making a decent, honest living. The work requires the mind's attention and a quick eye, and there are some people that can only look after their neighbors' business from morn to night. My sentiments are piece rate and God bless our auditor.

BETHESDA, MD., *April 13, 1914.*

Hon. WILLIAM E. COX,
Washington, D. C.

DEAR SIR: I wish to commend you for so loyally defending our auditor, Mr. Kram, during the discussion of last week, in which not only this new system was attacked, but Mr. Kram himself.

It was all so unfair and so unjust that I wonder what motive could prompt one person to make such a remark about another as did Mr. NOLAN about Mr. Kram. I am operating an electrical tabulating machine in this office, and I can knowingly say that many things said about this system and the manner of operating it are false. The trouble is this: So many clerks have been on a so-called pension plan for so long that the giving of a full day's work for a full day's pay is very foreign to their policies. Mr. Kram does not drive us, neither does he measure out the amount of work to be done in a day; the clerks determine that themselves—those who are not afraid to work.

There are a few agitators in this office who spend a portion of each day in the "rest room" criticizing the new system, Mr. Kram, and the clerks who are trying to assist him.

I am going to ask you to treat this letter as a private matter, but if there are any questions you want to ask me, I am ready to answer anything you want answered. I am,

Respectfully, yours, ——— ———.

WASHINGTON, D. C., *April 18, 1914.*

DEAR SIR: The statements and attack being made against Mr. Kram are wholly without foundation.

Mr. Kram has a character that is unblemished when it comes to honesty, and it is only because he is "doing things," making his clerks work, is the sole reason for this attack.

I have been in his office for almost 10 years, and I am on piece rate, making more than I ever made, and I don't hear the "key punchers" voicing their dissatisfaction, if any. There are some few—what we speak of as trouble brewers—who have tried to cause discontentment, and I think it is their failure to accomplish their end that has made them forget and throw aside any truthfulness that they might have had before making their attack; and I am surprised that men of any intelligence would go ahead and attack a man that they really had no cause—just cause—to attack, without looking into matters.

AN EMPLOYEE.

Mr. BRYAN. I would like to couple with that request that I may be permitted to insert quite a number of letters, particularly one which I received this morning.

Mr. COX. The gentleman can make that request in his own time.

Mr. Chairman, I do not believe the criticism imposed upon Mr. Kram is just. I do not believe there is any merit or any basis for the criticism at all. During the progress of these debates I have been referred to particularly by the gentleman from the State of Washington because I stated during the debates, while the legislative, executive, and judicial appropriation bill was under consideration, that some of the employees of the auditor's office tried to get me to investigate it. It is true they did come to my office and endeavor to get me to inaugurate an investigation of Mr. Kram's office, including the system of work that was then being tried out by him. I went in person to the auditor's office in response to the request made to me by the employees and investigated it, and I gave it then as my judgment that the employees who were objecting to it were making an unjust and erroneous criticism not only upon Mr. Kram personally, but the method of his work. Mr. Chairman, what has been the result of the system of work employed by Mr. Kram? So far as the system inaugurated by Mr. Kram is concerned it has certainly inured to the financial benefit of a large number of the employees in his office. Of the employees who earned $720 per year prior to the inauguration of the system many of them are now earning from $800 to $1,100 per year, and at the same time many of these employees are able to do and conclude their day's work in from four to five or six hours per day; and I am informed by Mr. Kram and many of the employees under him that if he would not fix a maximum amount for a day's work many of these employees would earn from $1,200 to $1,400 per year who prior to the inauguration of this system earned only $720 per year, and yet Mr. Kram must be sat upon, personally abused, and attacked by Members upon the floor of this House for having brought about a betterment of the condition of his employees by increasing their wages and shortening their hours of employment, as testified to by the employees whose letters are printed herein.

The system he has inaugurated to a very large extent develops the individuality of the person and appeals to the employee to make good, and to advance himself according to his own ability to make advancement, and does away with the system heretofore largely accused of being in force—that of having a political pull—and places each employee upon his or her own merit, and enables them to go to the top by their own ability unaided and unassisted by any inside or outside political help.

If inaugurating a system whereby employees can increase their salaries from 20 to 33⅓ per cent and at the same time reduce the number of hours of labor per day works to an injury of such employees, then perhaps some of the criticism waged against Mr. Kram and the system he has inaugurated might be just. If, on the other hand, these things work to the benefit of the employee, from the viewpoint of any ambitious man or woman desiring to better their condition, instead of him being censured and criticized he ought to be commended and upheld. The system inaugurated by him in this department, the largest auditing department in the Government, being the biggest department of the Government except the Treasury, has enabled the Postmaster General to decrease the number of employees in the department between 70 and 80. The postal business increases each year between 7½ to 10 per cent in volume of business. This carries with it a corresponding increase in the number of employees to do and transact the business of the department, but no increase in employees has been added to the force of Mr. Kram. Notwithstanding the increase of business he has been able to decrease the number of employees. Certainly for this he ought to be commended instead of condemned. It looks to me very much like that when a man does his duty as a public official, brings efficiency to bear upon his work, and also economy to the taxpayers of this country, instead of being commended on all sides we hear him condemned. This is not much encouragement to a man honestly endeavoring to serve his country, but I am glad to know that the views of the gentleman from the State of Washington are not shared in by very many Members of this House. But no condemnation heaped upon Mr. Kram either personally or upon his system will detract from his ability and efficiency as a public official. It will stand out in bold relief and defy all criticism, no matter if it comes from employees in his department or falls upon deaf ears on the floor of this House.

Recently the Federal Reserve Board asked the Postmaster General that Mr. Kram be detailed to go to the city of New York to enable the members of the board to put in force the same system now in force in the Post Office Department in the great regional reserve bank to be established in the city of New York.

Mr. BRYAN. Will the gentleman yield?

Mr. COX. Does that show success or does it show failure?

Mr. BRYAN. Will the gentleman yield?

Mr. COX. For a question only.

Mr. BRYAN. Did they put the system in or was it rejected?

Mr. COX. I do not know whether it was put in or not, but I imagine they are going to put it in. The reserve board sent for Mr. Kram and selected him above all others to go to New York, the great financial center of the Nation, for the purpose of teaching men of experience, men in high finance, and men who have studied every system from an economical viewpoint, and they sought him out to tell them how to inaugurate a perfect system in their new and proposed regional bank, so as to enable it to reduce expenses to a minimum.

Mr. Chairman, I can not believe that Mr. Kram is inhuman, tyrannical, or autocratic. On the contrary, I believe that he is fully possessed of every principle of wide, broad, and comprehensive humanity. I think the fault lies with a large number of the clerks in his department. To quote from one of these letters:

So many clerks have been on the so-called pension plan for so long that the giving of a full day's work for a full day's pay is very foreign to their policies.

It should be the object and aim of every clerk—and, in fact, everyone connected with Government service, be the position high or low—to feel the solemn duty of rendering to their employer, the Government, a full day's work; they should not feel simply because they are working for the Government that they are not under the same obligation to do a full day's work that they would be under if working for a private individual.

Full freedom is granted to each clerk in this line of work and a maximum placed upon the amount of work each clerk can do, and beyond that maximum no clerk is permitted to go, and that maximum is so arranged that any clerk with ordinary ability can easily do his or her day's work if they be but willing so to do.

If it is found that a clerk is unfitted for this kind of work, they are transferred to some other department. In other words, no clerk is required to work here against his or her will. If they find they are unable to do this kind of work, all they have to do is to ask for a transfer, and it will be quickly granted. It is peculiar, when other departments of the Government are constantly taking on employees, at a tremendous cost and expense to the people, and though the business of Mr. Kram's office is increasing each year by leaps and bounds, yet he has not only been able to do this work with the employees that he had when he begun the system, but he has not taken on any additional employees, and has brought about such a condition and improvement as to enable the Postmaster General to dispense with from 70 to 80 employees in the department; but for all this he is to be condemned, and condemned in a place where his voice is not to be heard. I have no interest on earth in Mr. Kram personally, except the interest that I have in my fellow man, in seeing that full, fair justice be meted out to each and all as merit is due each and all.

I hope this controversy will cease and, as some of these writers in these letters say, that they will have peace down there; and let those who are not willing to do piecework seek employment elsewhere, and if they are not satisfied with it, and can not get employment elsewhere, let them quit the service entirely and seek employment in private life. It is wrong, unjust, and unfair to criticize a man for having done nothing but his solemn duty, and for one I refuse to remain idly by and fail to raise my voice in defense of a man who I believe has done nothing but his duty.

The CHAIRMAN. Does the gentleman from Washington [Mr. BRYAN] wish to extend his remarks?

Mr. BRYAN. Yes; by inserting these letters.

The CHAIRMAN. The gentleman from Washington asks unanimous consent to extend his remarks by inserting the letters referred to. Is there objection? [After a pause.] The Chair hears none.

Mr. BRYAN. I wish also to incorporate figures to show that this pretense about this remarkable saving is all bosh; that he has not made any saving, and has not raised the salary of employees.

The CHAIRMAN. The gentleman from Washington [Mr. BRYAN] asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none. Without objection, the pro forma amendment will be withdrawn, and the Clerk will read.

The Clerk read as follows:

SEC. 149. The transcripts into new books made by the clerks of the district courts in the several districts of Texas, Florida, Wisconsin, Minnesota, Iowa, and Kansas, in pursuance of the act of June 27, 1864, chapter 165, from the records and journals transferred by them, respectively, under the said act, to the clerks of the circuit courts in said districts, when certified by the clerks, respectively, making the same to be full and true copies from the original books, shall have the same force and effect as records as the originals. The certificates of the clerks of the circuit or district courts, respectively, of transcripts of any of the books or papers so transferred to them shall be received in evidence with the like effect as if made by the clerk of the court in which the proceedings were had.

Mr. WATKINS. Mr. Chairman, I wish to offer an amendment.

The CHAIRMAN. The gentleman from Louisiana [Mr. WATKINS] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 84, line 7, strike out all of section 149 and insert in lieu thereof the following:

"SEC. 149. That in any proceeding before a court or judicial officer of the United States, where the genuineness of the handwriting of any person may be involved, any admitted or proved handwriting of such person shall be competent evidence as a basis for comparison by witnesses, or by the jury, court, or officer conducting such proceeding, to prove or disprove such genuineness.

Mr. MANN. I reserve a point of order on the amendment.

Mr. WATKINS. Mr. Chairman——

Mr. MANN. May I ask the gentleman if section 149 is entirely obsolete now?

Mr. WATKINS. My amendment is to strike out that section and insert the other in place of it.

Mr. MANN. Is section 149 now entirely obsolete?

Mr. WATKINS. So far as I can find from investigation I have made, it appears to be. I can not find any use to which it can be put at this time at all. The circuit court being abolished, I think it invalidates that section. That operated so long as the circuit court was in force.

Mr. MANN. This relates to the district court. I will take the gentleman's statement in reference to that.

Mr. WATKINS. If the gentleman will look at line 13, he will understand what I mean.

Mr. MANN. I see.

Mr. WATKINS. Now, Mr. Chairman, it may be necessary to make a short statement in reference to that.

Mr. MANN. Mr. Chairman, I ask to have the amendment reported again.

The CHAIRMAN. The Clerk will again report the amendment.

The amendment was again reported.

Mr. WATKINS. Mr. Chairman, the point of order has been reserved, and the objection has been stated that it is not germane. It is the striking out of what I consider to be an obsolete statute.

Mr. MANN. Will the gentleman yield?

Mr. WATKINS. Yes, sir.

Mr. MANN. Of course, I take it the gentleman is perfectly willing to let section 149 go out as obsolete.

Mr. WATKINS. I am.

Mr. MANN. And then was proposing to make use of the opportunity to put a section in there.

Mr. WATKINS. Just preserving the number, as we are on the subject of evidence.

Mr. MANN. After all, it is not germane to this part of the bill.

Mr. WATKINS. I do not claim that.

Mr. MANN. Why do you not put this section in where it belongs?

Mr. WATKINS. It will fit in there about as well as anywhere else. That is a recent law passed by Congress.

Mr. MANN. It is right in the middle of the law with reference to transcript of testimony, and so forth. It has nothing to do with this subject matter. What harm would it do to put that section in where it belongs, and then these numbers along here can be easily changed.

Mr. LLOYD. Put it in at the end of chapter 3.

Mr. STAFFORD. Would it not be better at the end of section No. 111 or 112?

Mr. WATKINS. I was trying to utilize that section by using the number, and when the bill goes to the Senate we can rearrange the numbers.

Mr. MANN. Well, I do not care. I withdraw the point of order.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] withdraws the point of order. The question is on the amendment striking out the section and inserting a new section.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. LLOYD having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 5574. An act to amend and reenact section 113 of chapter 5 of the Judicial Code of the United States.

The message also announced that the Vice President had appointed Mr. PAGE and Mr. LANE members of the joint select committee on the part of the Senate, as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," for the disposition of useless papers in the Treasury Department.

REVISION OF THE LAWS—JUDICIARY TITLE.

The committee resumed its session.

The Clerk read as follows:

SEC. 151. The transcripts into new books made by the clerks of the circuit courts of appeals and district courts in pursuance of any law or order of the court, when certified by the clerks, respectively, making the same to be full and true copies from the original books, shall have the same force and effect as record as the originals. The certificates of the clerks of said courts, respectively, of transcripts of any of said transcribed records shall also be evidence with the like effect as if made by the proper clerk from the originals from which such records were transcribed.

Mr. WATKINS. Mr. Chairman, there are two clerical errors in that section which I wish to correct. I send up an amendment. At the end of line 10, under section 151—if I can get the attention of the Clerk before my amendment is offered, Mr. Chairman—the final "e" is left out. I move that the "e" be inserted.

Mr. STAFFORD. In the copy of the bill that I have the "e" is there.

Mr. MANN. It is the same way in the copy I have.

Mr. WATKINS. Then that does not make any difference. Let the Clerk read the amendment.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Page 85, line 15, after the word "as," where it first occurs, strike out the word "record" and insert the word "records."

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

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 157. Whenever any of the records or files in which the United States are interested, of any court of the United States, have been or may be lost or destroyed, it shall be the duty of the attorney of the United States for the district or court to which such files and records belong, so far as the judges of such courts, respectively, shall deem it essential to the interests of the United States that such records and files be restored or supplied, to take such steps, under the direction of said judges, as may be necessary to effect such restoration or substitution, including such dockets, indices, and other books and papers as said judges shall think proper. Said judges may direct the performance, by the clerks of said courts, respectively, and by the United States attorneys, of any duties incident thereto; and said clerks and attorneys shall be allowed such compensation for services in the matter and for lawful disbursements as may be approved by the Attorney General of the United States, upon a certificate by the judges of said courts stating that such claim for services and disbursements is just and reasonable; and the sum so allowed shall be paid out of the judiciary fund.

Mr. WATKINS. Mr. Chairman, I offer an amendment to correct a clerical error.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 88, line 18, after the word "States," strike out the word "are" and insert in lieu thereof the word "is."

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

The amendment was agreed to.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word. I would like to inquire whether this provision would not authorize the clerk to receive the fees for this service. You will notice that the very last clause of the paragraph is

that "the sum so allowed shall be paid out of the judiciary fund." In this bill we are making provision for a definite salary for clerks. The thought came to me that perhaps this authorization might warrant the clerk in receiving these fees in addition to his salary.

Mr. WATKINS. I think not. I think we have sufficiently safeguarded that in the language of the amendment which was prepared, in which it is stated that each clerk should receive a salary in lieu of all other compensation, except the $3,000 in naturalization cases, to compensate his assistants in naturalization cases.

Mr. STAFFORD. Mr. Chairman, I withdraw the pro forma amendment.

The CHAIRMAN. The pro forma amendment is withdrawn. The Clerk will read.

The Clerk read as follows:

SEC. 158. The acts of the legislature of any State or Territory or of any country subject to the jurisdiction of the United States shall be authenticated by having the seals of such State, Territory, or country affixed thereto. The records and judicial proceedings of the courts of any State or Territory or of any such country shall be proved or admitted in any other court within the United States by the attestation of the clerk, and the seal of the court annexed, if there be a seal, together with a certificate of the judge, chief justice, or presiding magistrate, that the said attestation is in due form; and the said records and judicial proceedings, so authenticated, shall have such faith and credit given to them in every court within the United States as they have by law or usage in the courts of the State from which they are taken.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Wisconsin [Mr. STAFFORD] moves to strike out the last word.

Mr. STAFFORD. This provision is the enactment which has been on the statute books for more than a hundred years. I direct the attention of the chairman and the members of the committee to the phraseology in the second line of the section, "or of any countries subject to the jurisdiction of the United States." I wish to suggest to the chairman and the committee whether it would not be preferable to have the clause inserted, "or any of its possessions." We have no countries subject to the jurisdiction of the United States other than our insular possessions, and I ask whether that would not be more acceptable language under the status of our insular possessions than this, which appears in the same form as it was when this was first enacted?

Mr. WATKINS. I have no preference as to which language is used. The word "jurisdiction" there is more generally used as a law phrase than the other expression.

Mr. STAFFORD. I direct attention to the last clause of the section, and wish to inquire of the chairman whether our insular possessions would be comprised in the general phrase "within the United States"? These authenticated copies, you will notice, are to have full faith and credit given to them in every court within the United States. It is of doubtful construction whether the insular possessions can be consistently construed to be within the United States, and I would suggest, in order to remove all doubt, the addition of the words "or any of its possessions." Certainly it is intended to have these authenticated copies of judicial proceedings acceptable for full faith and credit in our insular possessions as well as in the States and Territories.

Mr. WATKINS. Are you speaking of the word "possessions" to be used in line 24?

Mr. STAFFORD. I will direct the attention of the chairman to the exact phraseology in line 24, page 89.

Mr. WATKINS. There is where you propose to substitute the words "and its possessions"?

Mr. STAFFORD. The words "or any of its possessions."

Mr. WATKINS. I have no objection to that.

Mr. STAFFORD. Does not the gentleman believe that it would clarify the intendment of the statute?

Mr. WATKINS. I think so.

Mr. STAFFORD. Mr. Chairman, I offer an amendment to insert, after the words "United States," in line 24, page 89, the words "or any of its possessions."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 89, line 24, after the word "States," insert the words "or any of its possessions."

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

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 161. The edition of the laws and treaties of the United States published by Little & Brown shall be competent evidence of the several public and private acts of Congress, and of the several treaties therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof. The pamphlet copies of the statutes and the bound copies of the acts of each Congress published in pursuance of Title XLV, and all acts amendatory thereof and supplementary thereto, shall be legal evidence of the laws and treaties therein contained in all the courts of the United States and of the several States therein.

Mr. WATKINS. Mr. Chairman, I have a committee amendment to offer.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 92, line 8, after "XLV," strike out the comma and insert "of the Revised Statutes."

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

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Wisconsin moves to strike out the last word.

Mr. STAFFORD. My purpose, Mr. Chairman, is to inquire of the chairman of the Committee on the Revision of the Laws whether there is any need of the first sentence of this section? It makes evidence the publication of the laws and treaties published by Little & Brown. We all know that the firm of Little & Brown is now out of existence, although it has been succeeded by the firm of Little, Brown & Co., or by a corporation. But the original firm of this name is no longer in existence.

Furthermore, I would like to inquire whether the committee has taken into consideration the question of making in evidence the laws published by private publishers, such as the West Publishing Co.?

Mr. WATKINS. I will state to the gentleman that we incorporated this section as we found it in the statutes. At that time the compilation of Little & Brown was the most exhaustive treatise on the subject. It was thought proper at that time, in order to give it authenticity, to place it in such form as could be used in the courts as authentic, and it could be authentic only through or by virtue of an act of Congress. It was carried in the statutes and given authenticity in that way, and the law is still the same as it was then, although the firm has gone out of existence and has been superseded by other members. But still the work on treaties is extant.

Mr. STAFFORD. But the gentleman knows, as the footnote shows, that this was passed in 1846, when it was not the practice of the Federal Government to publish its own laws or treaties, but to have private publishing houses do that work.

Mr. WATKINS. If we strike out that now it will prevent it from being authentic, whereas if we leave it there it will still be authentic.

Mr. STAFFORD. Of course, the gentleman knows that the compilation of treaties published by Little, Brown & Co. half a century ago is rarely used at the present time? The compilation of treaties that is now used in the courts and the like is the volume prepared by the State Department.

Mr. WATKINS. I will state, from the use which I have had occasion to make of that compilation, that it is occasionally used in the courts yet, and it is serviceable. There may be later compilations which are more thorough, and may be more accurate and up to date.

Mr. STAFFORD. Has the gentleman's committee considered the advisability of extending the authenticity of the statutes to the compilations of other private concerns?

Mr. WATKINS. Yes; we have considered present-day customs, and have thought that at this time it would hardly meet with public approval for us to designate any particular companies that are issuing publications. We have thought that to give the sanction of the House of Representatives or of Congress to any particular publication would be an advertisement that we would not be authorized to make of those publications.

Mr. STAFFORD. Then, as I understand, the position of the gentleman is that the only real purpose in continuing this paragraph is to provide for those rare cases where this old tome of treaties published by Little & Brown might be used in evidence?

Mr. WATKINS. Yes; that is correct.

Mr. STAFFORD. The occasions would be very rare. I do not believe anyone of us will ever live to see that volume used.

Mr. WATKINS. We are not contending that that section shall remain in. We simply say we think it will not do any harm, although it will very seldom do any good.

Mr. STAFFORD. I withdraw the pro forma amendment.

Mr. MANN. Mr. Chairman, I notice this section provides that the pamphlet copies of the statutes and the bound copies of the acts of each Congress, published in pursuance of title 45 of the

Revised Statutes, and so forth, shall be legal evidence. I do not recall just what are the provisions of title 45 of the Revised Statutes, because since that time we have passed a printing act which entirely changes those provisions. We publish now, first, a separate copy of a law; then after that we publish a pamphlet copy of the acts of a session of Congress; then after that we publish the acts of the Congress in a bound volume as a portion of the Statutes at Large. Apparently this would not include all of those copies. I do not recall what the provision is as to pamphlet copies, but I should suppose that perhaps it referred to the session laws. Certainly the separate copy of the law as published ought to be made evidence. And, by the way, I should like to suggest to Members of the House that we frequently see copies of acts published, Public, No. so-and-so, although it may relate to years ago. In each Congress as acts are published in leaflet or separate form, each is given a number, public, so-and-so, or private, so-and-so. Until recently there was nothing to indicate what Congress passed an act, except the date. Some time last summer I suggested to the State Department that that be changed so that if the act was public, No. 1, it be "Public, No. 1, Sixty-third Congress," and that new style was adopted with the beginning of this session of Congress. So that hereafter people who get a copy of the separate form of an act of Congress can refer to it by number in connection with the Congress and it can be identified. Has the gentleman from Louisiana a copy of the statute there which is referred to in this section?

Mr. WATKINS. Yes. Does the gentleman desire me to read it?

Mr. MANN. I do not care whether the gentleman reads it, if he can state it. I think that has been entirely changed by the printing law.

Mr. WATKINS. Yes; it refers to public printing, advertisements and public documents. The whole chapter refers to the public documents that are printed.

Mr. MANN. There has been an entirely new printing act passed since that was passed.

Mr. WATKINS. The section as we have presented it provides for that.

Mr. MANN. Yes; this would cover acts amendatory thereof and supplementary thereto.

Mr. WATKINS. It would cover all of them.

Mr. MANN. But I am under the impression that this language in the bill antedated the Revised Statutes and was in conformity with the printing act then in force, and that since that time we had begun to print an extra form of the acts, which, as a matter of fact, is now received in evidence, and I am sure the gentleman would not want to change that.

Mr. WATKINS. No.

Mr. MANN. In other words, the separate copy of the act. When the bill goes to the President and is signed, and then goes to the Secretary of State, he immediately causes a certified copy of it to be made, which is sent to the Printing Office, and that is printed as a separate copy of the law; and that is the only copy that we have until the session laws are printed. All of these ought to be admissible in evidence, and I think they all are now. I call it to the attention of the gentleman, hoping that he will investigate the matter.

Mr. WATKINS. I will state to the gentleman that it would be too loose a way of doing business to give official authenticity to any leaflet put out in that way unless there was some verification of it. If it is incorporated in a bound volume, and the whole volume is properly certified to, then it is authentic; but if you just allow anybody to take a pamphlet and put the word "approved" at the bottom of it, without having any signature to it, if it is not certified to at all, that would be a very loose way of proceeding.

Mr. MANN. None of these are certified to. They are all just printed. The Revised Statutes are not certified to.

Mr. WATKINS. The Revised Statutes, however, are provided for by law to be in a certain form.

Mr. MANN. Yes.

Mr. WATKINS. And the law itself verifies them.

Mr. MANN. They are made admissible in evidence. Copies of the laws published everywhere, by the States and the United States, are made admissible in evidence.

Mr. WATKINS. That is correct.

Mr. MANN. And these copies of the acts that we print here are, I think, now admissible in evidence. We pass a law to-day, it is approved by the President, and is printed in separate form by the State Department. Certainly we ought not, then, to be compelled to go to the Secretary of State and have a certified copy made before we can introduce that in evidence.

Mr. WATKINS. I think so.

Mr. MANN. I think not.

Mr. WATKINS. I think so, unless it is authenticated in some way.

Mr. MANN. I think that copy is now admissible in evidence, and ought to be.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

The Clerk read as follows:

SEC. 169. The trial of issues of fact in the district courts shall be by jury, except in causes of equity and admiralty and maritime jurisdiction, and except as otherwise provided in proceedings in bankruptcy and by the next section. In causes of admiralty and maritime jurisdiction the court may, in its discretion, summon a jury for the purpose of assisting it in the assessment of damages.

Mr. CULLOP. Mr. Chairman, I offer an amendment, to follow this section as two new sections.

Mr. BRYAN. Mr. Chairman, I desire to offer an amendment to the pending section, which I think precedes any new sections.

Mr. CULLOP. My amendment is to follow section 169, two new sections, to be numbered 169a and 169b.

The CHAIRMAN. The gentleman from Washington offers an amendment to perfect the text, which will be in order first.

The Clerk read as follows:

Amendment by Mr. BRYAN:
Page 95, lines 21 and 22, strike out the words "and admiralty and maritime jurisdiction."
Also strike out the word "in" where it last occurs in line 23, and strike out all of lines 24, 25, and 26.

Mr. BRYAN. This amendment simply proposes to strike out the words "and admiralty and maritime jurisdiction" from the exceptions to jury trials. In other words, its purpose is to provide for jury trials in an admiralty tort the same as any other kind of tort or injury or damage.

Under the present law if a man is injured on a railroad train or in a coal mine, or in any way on the land, he has a right to a trial by 12 jurors and the jury assesses the damages. This is a right we all prize very highly. It is protected by the Constitution and ought to be protected. Now, why it is that when a man on a steamboat gets scalded half to death or gets one of his limbs disabled or sustains any bodily injury that man can not have the benefit of a jury trial is something I can not understand.

The *Titanic* went down a little over a year ago and several cases were brought in England and were tried by juries and damages assessed and allowed, and the plaintiffs have got their money and spent it I suppose. But here in this country there were several cases filed against the company—one in Chicago, one in Minnesota, and one in New York—and they have no right to a jury trial whatever. It is not right, there is no reason for it, and no justification in any sense that appeals to me. To cut a man off from a jury trial because he was pushe off from a boat instead of being injured on a railroad train is without reason.

Mr. GARNER. What has been the law heretofore in admiralty cases?

Mr. BRYAN. This section as submitted by the committee does not change the law in principle nor in matter of detail. The old idea was that the master of the ship was the lord of everything and he had supreme power, and the present law grew out of it; but under the existing condition of things where the man's case is to be tried in the same court, by the same judge, under identically the same rules of evidence, I do not believe that he ought to be subjected to that distinction, but that we should give the seaman and the sailor—the man who works on the sea, who works aboard boats and steamers—the same advantages in our courts as you do to the railroad-train brakeman or the worker in the coal mine. There is no reason in the world that could be suggested against this amendment, and I think the committee ought to agree to it. The report shows that in England the right of jury trial is granted absolutely under the Lord Campbell act, which pertains to land and sea the same. We certainly ought to have that provision here, and we ought not to require a man to go before a Federal judge without reason except some old tradition that has no meaning or sense to it. We are behind English practice in this. We are guilty of favoritism. We tend to degrade the service on the sea, and we limit the legal remedy of passengers as well as of seamen.

Mr. WATKINS. Mr. Chairman, I was about to state what the Department of Justice said about this matter, but it seems to me that it is totally unnecessary, and I will not take up the time in argument.

Mr. STAFFORD. I think we ought to have the reasons presented.

Mr. WATKINS. Very well; I will ask the Clerk to read the letter from the Department of Justice.

The Clerk read as follows:

OFFICE OF THE SOLICITOR GENERAL,
Washington, D. C., May 13, 1914.

MEMORANDUM FOR THE ATTORNEY GENERAL.

(In re H. R. 15578, sec. 169.)

I see no objection to this section as it appears in the proposed bill, nor do any necessary additions occur to me.

The present law, Revised Statutes, 566, provides for a trial by jury in cases of admiralty and maritime jurisdiction relating to any matter of contract or tort with reference to certain vessels on the Great Lakes. As pointed out in the report of the committee, page 13, this provision is a remnant of the act of February 26, 1845—an act to establish admiralty jurisdiction of the United States over vessels on the Great Lakes. Later it was decided by the Supreme Court that such jurisdiction existed independently of legislation. (Genesee Chief *v.* Fitzhugh, 12 How., 443; In re The Eagle, 8 Wall., 25.) The act mentioned was therefore omitted from the Revised Statutes, except that portion relating to trials by jury in these cases. I agree with the committee that this provision is anomalous and serves no useful purpose.

Mr. WATKINS does not indicate what new provisions will be suggested on Wednesday, the 13th, and it is therefore manifestly impossible to discuss them.

I recommend that he be advised that the department has no criticism to offer of the section as proposed.

Respectfully,

JNO. W. DAVIS,
Solicitor General.

Mr. BRYAN. Mr. Chairman, I do not see that there is any reason offered in the letter from the Department of Justice why my amendment should not be agreed to.

Mr. WATKINS. There is no reason except the Solicitor General thinks that the provision is sufficient to cover all the contingencies necessary.

The CHAIRMAN (Mr. FOSTER). The question is on the amendment offered by the gentleman from Washington [Mr. BRYAN].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will now report the amendment offered by the gentleman from Indiana [Mr. CULLOP].

The Clerk read as follows:

Page 95, at the end of section 169, add the following additional sections:

"169a. In all cases where the questions of fact are submitted to a jury for trial the court shall instruct the jury only on the law applicable to the issues joined under the pleadings in the case.

"169b. In all cases where issues of fact are submitted to a jury for trial the court can not take said case from the jury except by agreement of parties only on motion of the defendant at the close of the plaintiff's testimony in chief, and for the reason that the plaintiff has not produced any testimony in support of some material allegation essential to a recovery, and in no case where a reasonable dispute may arise as to what the facts testified to establish."

Mr. WATKINS. Mr. Chairman, I ask unanimous consent that the discussion on this section and amendments thereto close in 30 minutes.

Mr. BARTLETT. I have no objection, except that I want to offer an amendment and have it pending.

Mr. STAFFORD. I suggest to the gentleman to let the debate run along a little.

Mr. CULLOP. Mr. Chairman, I reserve the right to object, and I suggest to the chairman that we let the debate run some little time. This is a very important matter in the formation of this code, and I think the matter can be adjusted in less time than it would if we fix the time.

Mr. WATKINS. I will withdraw my request, Mr. Chairman.

Mr. CULLOP. Mr. Chairman, section 169a, offered as an amendment to this provision of the code, is that in all cases of fact in any case submitted to a jury for trial, the court shall only instruct the jury as to the law under the pleadings upon the issue joined and not upon the facts.

Every citizen in this country is entitled to a jury trial in cases both of criminal and civil nature except in equity cases.

Mr. BRYAN. And if he is a seaman or works on a boat.

Mr. CULLOP. And with that exception. Now, it is the experience of almost every lawyer in the Federal courts—the practice now prevails that the court instructs the jury as to what the facts prove, and sometimes singles out witnesses and comments to the jury on their testimony and the consideration it should receive. That is a denial of every man's constitutional right of trial by jury when he is entitled to submit his case to a jury for trial. In the Supreme Court of the United States, the highest court of the land, in a decision rendered, the court said that experience had taught the people that a jury was the safest and best tribunal there was to determine a question of fact; that 12 men called from all the different walks of life were better prepared, were better qualified from experience and knowledge in their association with men to determine questions of fact and give the result of their consideration than a single man, it mattered not what his experience in life had been. There is good reason for that doctrine. How frequently do we find in the reports of cases in the Federal court where the judge arbitrarily has said to the jury that this or that man's testimony is not worthy of belief. It is at that system that this provision is striking. In nearly all of the State courts if a judge instructing the jury attempts to tell the jury what the evidence of any witness establishes it constitutes reversible error, because it is taking from the jury the prerogative of the jury to determine the question of fact involved in the issues. One word of reflection against the testimony of a witness by a judge to a jury trying a case has great weight with the jury, because of the position of the judge. The judge ought to be required to tell the jury only what was competent testimony under the rules of the law. That he does in the progress of the trial when the evidence is being delivered, and not when he comes to instruct the jury before they retire to consider of their verdict in the case. This practice has been abused. It has been abused in nearly every judicial circuit in the Federal courts in the United States. This amendment is offered for the purpose of correcting that abuse; for the purpose of preventing a recurrence of that abuse. Judges sometimes do not give the same attention to the testimony that the jurors do. Their attention may be attracted to something else. They may not be in a position to weigh the testimony as carefully as the jurors whose duty it is to pass upon the questions of fact and to determine what facts are established and what facts are not established in the trial of a case; and yet in the Federal courts, the only courts in the country, the judge may sit upon the bench and say that this man's testimony or that man's testimony is not worthy of belief. He has a right to do it under the present practice, and does it.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. CULLOP. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CULLOP. This amendment is directed at that abuse, at this denial of the constitutional right of the litigant to have the facts determined by a jury. It is the law now in nearly every State in the Union that the judge can not instruct the jury upon the facts, as to what the facts prove or do not prove, or as to what this or that witness's evidence establishes or what weight should be given it.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield for a question?

Mr. CULLOP. Certainly.

Mr. BARTLETT. Does not the gentleman think his amendment better be phrased so as to forbid the judge to express an opinion upon the facts, rather than that he should not instruct the jury on the facts? My suggestion is made because I agree with the gentleman in what he has said as to the evils that exist under such practices; but the statute of my State, and I think of every other State, provides that the judge, in charging the jury, shall not express an opinion as to what has or has not been proven. The gentleman's amendment narrows that down to where the judge shall not instruct the jury upon the facts. It becomes necessary for the judge very often, without expressing an opinion as to what the facts establish, to instruct the jury as to the facts, to call their attention to the evidence in the case, and that might be construed to be an instruction on the facts, whereas I apprehend the evil the gentleman seeks to correct is not the instruction as to the facts but the instructions which carry with them an opinion as to what the facts do or do not establish.

Mr. CULLOP. Mr. Chairman, I realize the position of the gentleman from Georgia, and I knew that he was too good a lawyer not to agree with me on this question that the abuse now existing ought to be corrected by a statute; and I was sure that I would have the assistance of the gentleman from Georgia, whom I regard as one of the ablest lawyers in this House, and his support in correcting this evil and injustice. His experience doubtless has enabled him to witness frequently the abuses perpetrated on the litigants and the constitutional rights of the citizens in the Federal courts in his own State.

Mr. BARTLETT. Mr. Chairman, I will state to the gentleman that it is a positive requirement by our statute that a new trial shall be granted by the Supreme Court in any case where the judge expresses an opinion on the facts.

Mr. CULLOP. It is in all the States, practically. In my State the law prohibits the judge from expressing an opinion to the jury upon the facts. The expression of an opinion by the court is cause for a new trial. If we simply limited it to the expression of an opinion of the court alone, that might prevent the court from giving his reasons for ruling upon the admission of evidence during the course of the trial. I want to see this abuse corrected, and I have no doubt the great member-

ship of the lawyers of this House recognize the abuse and recognize that the evil ought to be wiped out.

The second section that I have offered, in substance, is this: It prohibits the court from taking the case from the jury where there is room for reasonable men to dispute about what the testimony proves. It is frequently true in the trial of a case that upon motion of the defendant at the close of the testimony in the case, or at the close of the testimony of the plaintiff in chief, the rules differing in different States, that the court takes the case from the jury, not because there is no evidence tending to support every material averment in the complaint, declaration, or petition necessary to recover, but sometimes because the court says he does not believe the witnesses. Whenever a court takes the case from the jury for such reason he is invading the constitutional right of the party, and that is the right to have a trial by jury.

The CHAIRMAN. The time of the gentleman from Indiana has again expired.

Mr. CULLOP. Mr. Chairman, as a portion of my time was taken up in the colloquy with the gentleman from Georgia [Mr. BARTLETT], I would like to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CULLOP. Mr. Chairman, almost every lawyer has had that experience in the courts at some time. The very reason that the court in many instances has expressed for taking the case from the jury was the question of fact to be settled by the jury and not by the court. The rule a on this question in all of the States is that the court can not upon motion of the defendant take a case from the jury at the close of the plaintiff's testimony or at the close of the whole testimony, if there is any evidence tending to support the material allegations of the plaintiff's case necessary for a recovery, or if the facts produced are such as reasonable men might dispute about what they tend to establish. That is the rule as near as I can state it, and, as I believe, the correct rule. This is the rule violated about which we complain.

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

Mr. CULLOP. Yes.

Mr. STEENERSON. Is it not the rule now that the Federal courts in the trial of civil actions follow the practice of the State where the trial is held as to the method of charging the jury, and so forth?

Mr. CULLOP. Emphatically no; it is not the rule. Not very long ago my colleague from Indiana [Mr. Cox] raised that identical question in a Federal court, and the rule and practice is just as I have stated it, not as it was in the State courts. In that observation the gentleman from Indiana [Mr. Cox] will clearly bear me out. I have known the question to arise in Federal courts in different jurisdictions.

The rules of pleading are the same in the Federal courts as in the courts of the State where situated, but when you come to instructing a jury, then they seem to differ, and the Federal rule is as I have stated it in all Federal jurisdictions with which I am acquainted. But if it is as in the States, then this amendment is appropriate, and will serve a good purpose. It will not trouble the situation in the State of the gentleman from Wisconsin or in any other man's State. Now, this provision, or rather the want of it, has been the means of working a positive denial of justice in many instances, where the court and jury would have disagreed doubtless as to what the facts established in the case. Courts and juries frequently disagree. The judge may sometimes say that the testimony of some witness is not reasonable to him, and he does not believe it, but 12 jurors that are acquainted with the everyday affairs of life, from their knowledge and association with men in the communities where they reside, would say it was reasonable, and are better qualified, therefore, to pass upon it, as the Supreme Court of the United States has distinctly said in passing upon this question. Now, I submit that these two amendments, if adopted, rectify an evil now existing in the practice in Federal courts, that will be of great value to the people, the litigants who may be compelled to go into court for the trial and disposition of their causes, and I submit that their adoption will bring about a better and a fairer administration of justice than exists now in the trial of causes in the Federal courts. But some one may say, "Oh, the plaintiff can appeal if he is dissatisfied." Maybe he can, and maybe he can not. We have all seen cases put out of court, the right of trial denied for the want of just such statutes as these, where the plaintiff could not appeal because he could not get the means to prosecute the appeal from the lower to the higher court on this proposition. The want of such a provision works a hardship on poor litigants.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. BARTLETT. Mr. Chairman, this is a very important proposition and one that ought to be given very careful consideration, because it concerns a matter which will revolutionize the present practice in the United States courts that has prevailed since their organization and at the same time involves all those who may be called into a United States court, either as a party plaintiff or a party defendant, or to answer charges by way of indictment or accusation. My State early in its history passed a statute, now nearly 100 years old, which forbids a judge in the trial of any case in charging a jury or instructing a jury to express an opinion as to what the fact did or did not establish, recognizing that well-accepted fact, recognized and accepted as a fact by all those who have lived under the Anglo-Saxon system of jury trial, that no other means has ever been devised by man so admirably suited for the trial and settlement of disputed facts as 12 men in a jury box. The Supreme Court of the United States itself in numerous cases has given utterance to the statement that no other tribunal or means has been devised so well adapted to the settlement of questions of disputed facts, and yet we all know that in the trial of cases in the Federal court where jury trials are had, both in civil and criminal cases, the opinion of the judge as to the facts not only often but with rare exception does settle the matter and control the jury. And I might recall instances of a trial in a district in the United States where the jurors sometimes thought it proper to exercise their power of differing with the judge where they have received the censure of the judge. I do not rise, however, to criticize the judiciary of my country, because the bad judges, in my opinion, under our system are not in the majority, but in the minority; but whether bad or good, the question of the disputed facts ought to be settled by the tribunal that the law provides for the settlement, and it ought not to be so minimized and so intrenched upon as absolutely to destroy that right. Now, it is true that the Supreme Court of the United States in numbers of cases have said that it is the duty of a jury and their sole province to determine questions of fact, even though they may differ with the judge, and although a learned and experienced judge, one of great ability, who knows how to express an opinion of the facts, may put them to the jury—you know how prone juries are to shift responsibility from their shoulders and to follow the suggestion of a judge and his opinion as to the facts.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARTLETT. Mr. Chairman, I ask for five minutes more.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent to proceed for five minutes, Is there objection? [After a pause.] The Chair hears none.

Mr. BARTLETT. Jurors are prone to follow that course except in case where men of firm minds and stubborn wills sometimes act upon the theory that they will assert their own opinions. We know how futile it is in many, many cases not to expect the jury to follow the judge upon his opinion of the facts. I could recall quite a number of cases in my experience, Mr. Chairman, cases that involved life and liberty and property of vast amount, where the question of disputed facts was absolutely determined by the opinion that the judge entertained in reference to them. Without referring to the place where it occurred, I might call attention to the fact that I recall a time in a United States court where a judge absolutely threatened to punish an attorney who asserted the right of the jury to find the facts as they might determine, though they differed with the judge. I might recall a case where the attorney in the case, where a life was at stake, was compelled to fortify his position as to the right to argue to the jury its duty to differ with the judge as to the facts involved before he was permitted to take that position.

I do not, as I say, propose to criticize the judiciary of my country, but I do, if I can offer this amendment, propose to do that which the advanced thought of the lawmaking power and the lawyers and the people of the various States have done—say that the jury and not the judge shall decide questions of fact. And it is but giving to the people and the courts a stone when they ask for bread, and a serpent when they ask for fish, when you say that the juries are to be judges of the fact and then permit the judge with all his power and environment, of learning and ability, to take one side of the case and represent the plaintiff and defendant in his charge, for that is what it means; so that, sometimes as you walk into a court where a case is being tried you would naturally ask, as a stranger did when he walked into a court when they were trying a case, and after hearing the judge instruct the jury, inquired who represented the plaintiff besides the judge. So I think the spirit of it, the intention of the proposed amendment, is right. But I suggest to him that it would answer the purpose, and it is not from any desire to correct him in any particular beyond the

desire to accomplish something. Now, the gentleman says that in instructing the jury as to the facts the judge shall not express an opinion. I will get the amendment and quote it exactly. I suggested to him that this would answer all he desires and would not go to the extent that he does:

In all cases where any trial is had by a jury the judge in instructing the jury shall not express an opinion as to what has or has not been proven by the evidence.

It seems to me that that is not only in the language of my own statute but is in the language of the various statutes of the other States with which I am familiar.

Mr. STEENERSON. I think the statutes of the State of Minnesota say that he shall not express an opinion on the question of fact.

Mr. BARTLETT. In instructing the jury?

Mr. STEENERSON. Yes.

Mr. BARTLETT. I will put it that way. I think "opinion as to what has or has not been proven——"

Mr. STEENERSON. They are not synonymous.

Mr. BARTLETT. They are not synonymous; but if he can not express an opinion as to what has or has not been proven, it would answer the same purpose.

Mr. STAFFORD. Mr. Chairman, I ask unanimous consent that these two propositions be considered separately. They are virtually two amendments, and we ought to have them considered separately.

Mr. CULLOP. I think we ought to have them voted on separately myself.

Mr. SCOTT. Mr. Chairman, I am in sympathy with the idea of the gentleman from Indiana, but I fear his section is unhappily worded. As I understand the law governing trials at common law in Federal courts the court has the authority to say to the jury that any essential and controlling fact is not supported by any evidence, because that is the pronouncement of a proposition of law. Unlike the practice in the State courts, under a decision of the Supreme Court of the United States the Federal trial judge may with impunity express an opinion to the jury upon the weight of the evidence as directed to some essential fact. In other words, he can express his opinion to the jury as to what the evidence in fact proves, that opinion not, however, being binding upon the jury. I believe that that doctrine, which has prevailed from the beginning in the Federal court, is wrong. It is not in accord with the general fundamental principles of our judicial system. I do not think it would be safe to say, however, that the court shall not instruct the jury upon any question of fact, because that would invade the right of the court to pronounce upon matters of fact concerning which there was no evidence, and thereby invade the constitutional right of the court to proceed in accordance with the common law. I think that as far as Congress can go in this matter is to prohibit the court from expressing opinions to the jury either upon the weight of the evidence or upon the facts which the evidence in his opinion proves. It seems to me that the amendment as suggested by the gentleman from Georgia [Mr. BARTLETT] would meet the situation fully; at least, if it is made so as to prohibit the court from expressing such an opinion while giving the charge to the jury.

Mr. COX. Mr. Chairman, I do not want to consume the time of the committee but a very few minutes. I think this is the most important amendment that has been offered to this bill, and I hope the chairman in charge of the bill will see his way clear, when the amendment is framed up to meet the evil that now certainly exists, to accept it.

Mr. WATKINS. I wish to state to the gentleman that this amendment, not having been submitted to the Committee on the Revision of the Laws during its consideration of this bill, I would not feel authorized personally to comply with his request. Therefore I will not have anything to say one way or another.

Mr. STAFFORD. Will the gentleman yield right there?

Mr. WATKINS. I will.

Mr. STAFFORD. I would like to have the attention of the committee. Everyone recognizes the very great importance of this provision, as it changes the entire procedure of the trial of cases in the Federal court, and I would ask the chairman whether he does not think it of sufficient importance to have these provisions passed over and have them considered in the interim between now and the next meeting day?

Mr. WATKINS. It seems almost impossible during the consideration in the committee to keep a quorum here.

Mr. STAFFORD. I am not insisting on a quorum, but it seems hardly fair to the membership of the House to have this matter considered at the present time.

Mr. WATKINS. The Members ought to be here.

Mr. STAFFORD. The Members ought to be here, and if this matter could go over until the next session the chairman of the committee would have ample time to give thought to it, and other Members would have ample time. The second amendment that has been proposed is in such an awkward phraseology that we would have to vote it down even if we agreed with the principle of it.

Mr. WATKINS. There will be a substitute offered which I think may remedy that trouble.

Mr. BRYAN. If we are going to stay here and work until we come to something important and then pass it over, we had better quit altogether. I think we had better go on with the work.

Mr. STAFFORD. The gentleman does not believe in deliberation.

Mr. BRYAN. I do not believe in stopping the work.

Mr. COX. Mr. Chairman, I believe I have the floor. I am glad to have the chairman of the committee express an opinion so far as he does. Like the gentleman from Georgia [Mr. BARTLETT], I am not going to offer any criticism upon any court of the Nation, Federal or State. But it is an indisputable fact, Mr. Chairman, that criticisms most severe have been directed against the judiciary of the Nation for the last 15 or 20 years. Now I shall not stop in this short time to go into the reason for this criticism or what has brought it about. But there is an idea, at least as to some of the Federal courts, that they are all-wise and all-powerful, and arrogate to themselves modes of procedure. And I am not going to criticize them for that, because in all likelihood the real criticism should be directed against the Congress of the United States because of the failure heretofore to outline a clear, clean-cut mode of procedure to govern the judiciary in these things.

But to sit by, Mr. Chairman, in a Federal court or a State court and have a judge absolutely withdraw a case from the jury and refuse to submit the questions of fact to the jury, in my judgment, is a subversion of the right of trial by jury. [Applause.]

I have seen instances in Federal courts, and no doubt other lawyers have time and again seen them, in connection with questions of negligence, where that question is a disputed question both by the plaintiff and the defendant, pro and con, such as ordinarily the question of the right or the law of self-defense is disputed between the State on one side and the defendant on the other, where that court, with an array of facts before it all on one side, without any contradictory evidence having been introduced at all by the defendant, of his own motion, his own will, his own accord, not asked for by the defendant, has withdrawn the case from the jury strictly and solely on a question of negligence, with possibly the doctrine of the assumption of risk to a certain extent entering into it.

Mr. STEENERSON. Mr. Chairman, will the gentleman yield there?

The CHAIRMAN. Does the gentleman from Indiana yield to the gentleman from Minnesota?

Mr. COX. Yes.

Mr. STEENERSON. Is not that exactly the kind of a case that ought to be determined by the court or the judge?

Mr. COX. No, sir. Never in this world will I surrender my rights as an American citizen, or the rights of an American constituency on this earth to take from the jury the finding of a question of fact.

Mr. STEENERSON. Does not the gentleman admit that when facts are undisputed they raise a question of law, and when they are disputed they raise a question of fact?

Mr. COX. There is where your false premises are when you undertake to fortify the judgment of the court by assuming that the court is right, when he says that the plaintiff, although he has introduced a tremendous amount of evidence, has not yet made out his case.

Mr. STEENERSON. Yet the gentleman's own statement of the case was where there was no dispute as to facts at all.

Mr. COX. Oh, no. The gentleman did not make that statement at all. The gentleman misunderstood me entirely.

Mr. STEENERSON. Read the RECORD and see.

Mr. COX. To recapitulate, Mr. Chairman: It is an absolute mockery—that is all it is—to let a judge, after hearing all the evidence introduced by the plaintiff, say, "I will concede everything you have testified to here, Mr. Plaintiff, and everything your witnesses have said, and still in law you have not got a case." Why, the very purpose of a jury trial, taking men from all walks of life—some of them farmers, some of them mechanics, some of them bankers, men following this occupation and that occupation, likely drawing different conclusions—is to secure their judgment; and who, after all, is going to say that a Federal judge is a better judge of what a given state of facts proves or tends to prove than the average man?

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. COX. So I hope, Mr. Chairman, that the amendment may be whipped into shape in some way or manner so that it can become a part of this law.

Mr. VAUGHAN. Mr. Chairman, I offer a substitute.

The CHAIRMAN. The gentleman from Texas [Mr. VAUGHAN] offers a substitute.

Mr. WINGO. Mr. Chairman, I understand this is a very important question. It looks as though we ought to have more Members present. We have now but nine Democrats and four Republicans, and the official score keeper, the gentleman from Ohio [Mr. FESS], is absent [laughter], as I see. I shall not make the point of quorum now, but if gentlemen can not stay here to transact business of this importance I shall have to insist upon a quorum.

Mr. STAFFORD. If the gentleman is going to insist upon the point of no quorum I suggest that he do so before this matter is considered, so that a sufficient number of Members may be here to act on it intelligently.

Mr. VAUGHAN. Mr. Chairman, I offer a substitute for the amendment of the gentleman from Indiana [Mr. CULLOP].

The CHAIRMAN. The Clerk will report it.

The Clerk read as follows:

Substitute for the Cullop amendment to section 169:
"SEC. 169a. In jury trials the judge shall not express to the jury any opinion on the facts or make any comment on the weight of the evidence.
"SEC. 169b."——

Mr. STAFFORD. Mr. Chairman, I understand we are considering these amendments separately.

Mr. VAUGHAN. Yes; I am offering that as a substitute. We are offering them together, but they are to be voted on separately.

The CHAIRMAN. They will be reported upon separately, but will be discussed together.

Mr. VAUGHAN. Yes; discussed together.

Mr. STAFFORD. Mr. Chairman, a few moments ago I asked unanimous consent that two amendments, virtually different propositions, should be considered separately, and it was agreed to.

Mr. VAUGHAN. Mine embraces both of these matters, and I am desirous of having the amendment read.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

SEC. 169b. No judge shall take from the jury in any case the determination of the issues of fact arising under the evidence.

Mr. VAUGHAN. Mr. Chairman, these two substitutes, if adopted, will accomplish the purpose intended by the gentleman from Indiana [Mr. CULLOP]. Perhaps his language would do so, but I think the language I have used is shorter, simpler, and more easily understood, and makes it clear that the judge shall not comment upon the weight of the evidence. Judges of the Federal courts may now do so.

Of course, it will be necessary to except to such conduct if it is indulged by the court after these substitutes become law. But every issue of fact raised by the evidence will be for the determination of the jury alone.

I think the adoption of section 169a would accomplish what is designed, but we ought to be certain about it. The proposed section 169b would preclude the court from instructing the jury to return a verdict for or against any party in any case where there are any issues of fact raised by the evidence. I do not suppose anyone would insist that a case should be submitted to the jury when there are no issues raised by the evidence, the determination of which by the jury would determine in whose favor a verdict should be rendered.

Mr. SCOTT. Will the gentleman yield?

Mr. VAUGHAN. For a question.

Mr. SCOTT. Does the gentleman understand that his substitute, if enacted, could deprive the court of the power to take a case from the jury where some essential fact was without the support of evidence?

Mr. VAUGHAN. No; it would not.

Mr. SCOTT. I think the gentleman's amendment goes that far.

Mr. VAUGHAN. I think not.

Mr. SCOTT. Will the Clerk report the amendment again? It is very brief.

The CHAIRMAN. If there be no objection, the Clerk will again report the amendment.

The Clerk read as follows:

SEC. 169b. No judge shall take from the jury in any case the determination of the issues of fact arising under the evidence.

Mr. VAUGHAN. The determination of the issues of fact arising under the evidence is for the jury. Of course, if there is no issue of fact arising under the evidence——

Mr. SCOTT. The issue would have to arise under the pleadings.

Mr. VAUGHAN. It would have to arise under the evidence also, or there would be nothing to submit to the jury. I know that the pleadings make the issues upon which evidence is admitted pro and con; but the issues submitted to juries for their decision are issues of fact raised by the evidence introduced at the trial, and it does not matter how many issues are raised by the pleadings, unless there is an issue of fact raised by the evidence there is nothing to submit to the jury.

Mr. SCOTT. The question is whether the court could determine whether any one issue or fact pleaded is without the support of evidence.

Mr. VAUGHAN. Under the substitute I offer, if there is a single fact which a party must prove in order to entitle him to a verdict, and he fails to introduce any evidence to prove it, the court may direct a verdict for the opposing party; and it is a question of law, whether or not there is any evidence to prove that fact; and if there is no evidence to prove it, the court may say so and direct a verdict; but if there is any evidence to prove it, then it is a question for the jury to determine whether or not the fact is proved.

Mr. SCOTT. Will the gentleman yield?

Mr. VAUGHAN. I yield for a question.

Mr. SCOTT. On the gentleman's construction of the second section of the substitute, is not that identically the present law?

Mr. VAUGHAN. No; I think not.

Mr. SCOTT. Do you understand that the court may take from the jury an issue of fact where there is substantial evidence on both sides, or substantial evidence upon one side, to support it?

Mr. VAUGHAN. I did not use the word "substantial," if the gentleman will notice.

The CHAIRMAN. The time of the gentleman has expired.

Mr. VAUGHAN. I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. The gentleman asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. VAUGHAN. The weight to be given to the testimony in any case, be it much or little, is for the jury. It is not for the court to say whether or not he believes it. It is for the jury. That is the peculiar province of the jury, and the jury may believe one man against a hundred. No court should have the right to tell the jury that they must believe or disbelieve any witness or any number of witnesses or what weight they should give to any fact or circumstance in evidence. The judges of the Federal courts have that right now. They exercise that power now.

Mr. BARTLETT. If the jury find a verdict that is contrary to the weight of the evidence, or without evidence to support it, the judge can grant a new trial.

Mr. VAUGHAN. He has the power to set aside the verdict now. I do not think, Mr. Chairman, that any man is good enough or safe enough or wise enough or fair enough to be trusted with the right to determine the issues of fact in cases constantly arising. It is too great a power to put in the hands of any one man, to trust him with the decision of the questions of fact instead of the jury, or to give him the power to give his opinion upon the facts. The Federal judges now have that power. It ought to be taken away from them. They ought not to have the power to comment upon the weight of testimony or to express opinions upon it. It is almost giving them the power to decide the case to permit them to comment upon the weight to be given to the testimony. I think these two substitutes I offer will make it absolutely certain that every issue of fact in a jury trial is for the jury to determine.

Mr. BRYAN. Mr. Chairman, I am in favor of the proposition, but I think the amendment the gentleman has just offered carries the matter in too general terms. But I am in favor of the proposition, and however it may be finally offered I am going to support it.

But I am not going to lose the opportunity to cinch the argument that I made a few minutes ago. We are all here trying to apply the right of jury trial in more liberal terms to the cases that come under our immediate views, those that affect us more directly. But a while ago I suggested that we grant the fundamental proposition of a jury trial to a man on a boat, and that amendment was refused by this committee. In other words, it is the purpose and determination of this body to lay down a different rule for a man on the water, whether as a passenger or

as a workman, than for a man who is on the land. I want to drive that thought home. That kind of a distinction is going to be put out of business, and those of us who are so enthusiastic for jury trials are sooner or later going to get driven into our noodles the idea that a jury trial that is so essential for a man on land is just as essential for a man on the water.

Mr. VAUGHAN. Does not the gentleman think that in enacting a Federal statute on this question it is very safe to follow the language of a statute that has received a well-defined construction?

Mr. BRYAN. Why do you not follow the interpretation of a statute instead of introducing the amendment you have introduced here? The whole purpose is to change the statute, to make the terms providing for jury trial for a man on the land stronger. I asked a while ago to open the door a little bit to a man on the water. You refused that; and then you tell me, "Why not follow old statutes? Why change existing law?"

Mr. VAUGHAN. The gentleman does not understand my question. I asked him if he did not think that in conserving the right of trial by jury we should follow those State statutes on the question that undertake to preserve it.

Mr. BRYAN. Follow nothing that is not just. You are so particular to safeguard jury trial for a man with a claim in court concerning a land dispute, but I say you ought to give the right of trial by jury in a civil case to a seaman or to a man on a boat, a man who suffers injury on the ocean or in a river or on a bay. You ought to give him the same right of trial by jury as you give to a man who is hurt on a railroad train or anywhere else.

Mr. BARTLETT. I think so, too.

Mr. BRYAN. Yet my amendment has been voted down by a small company of men here on this floor who are unanimous in their insistence on jury trial as one of the most precious rights of our Constitution. All you need is to look at this matter from the standpoint of common sense. Where do you get the idea that a human being on the water is any less entitled to his constitutional rights than on the land?

Mr. STAFFORD. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. STAFFORD. After this amendment is voted upon, will there be opportunity for discussion on the second amendment?

The CHAIRMAN. The original amendment was offered as one amendment, but an arrangement was made by which a division of the question was permitted. It is really only one amendment, but the sections will be voted on separately.

Mr. STAFFORD. The notes of the reporter will show that I asked unanimous consent that it be considered as two amendments, as the subject embodied two separate propositions.

The CHAIRMAN. I presume there could be no objection to that.

Mr. STAFFORD. Then, Mr. Chairman, I ask for recognition. I may be in the minority on this proposition now being considered by the committee, but I am not one of those who view with alarm any encroachment upon the privileges of litigants by the Federal judiciary. I know that it is popular in many branches to attack the Federal courts. There may be instances, and there are always exceptions in any branch of the Government, or in any branch of human endeavor, where criticism may be had, but it is my opinion that the great body of the Federal judiciary is above criticism. I may not have had as large an experience as some Members who have discussed this question, but in my limited experience and practice in my State I have never found the judges encroaching on the rights of the jury. In the State of Wisconsin we never had any limitation on the rights of the judges to instruct the jury upon the questions at issue. For one, I believe that juries should receive some instruction in regard to the facts. Many times they come for their first initiation in the trial of a case, and with this amendment you are going to hamstring them for the purpose of following a bugaboo.

Every litigant has his right of appeal in case there is any abuse; but if you pass this character of amendment you are going to add to the number of errors that would creep into the trial of causes. It is no longer the fashion of the latter-day saints to regard with favor our judiciary, but from the time of the establishment of the Government our fathers and those great statesmen who have succeeded them have believed that the present procedure and practice was not criticizable, but worked for the ends of justice.

Now, are you going to limit the judges so that they can not express any opinion on the facts to the jury? What is the judge in the trial of a case? He is an experienced man. Although trial by jury is a great institution, I am not certain that it works justice in all cases. Under the pending amendment you are taking away the right of the judge to take the case from the jury in case there is no legal evidence to support the case.

Mr. WINGO. Will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. WINGO. The gentleman does not mean to say that this amendment would take away from the judge the right to take a case from the jury when there was no evidence to support it?

Mr. STAFFORD. No real evidence to support the issues of the case; there may be testimony, but whether there be evidence or not, the second amendment would take that privilege away from the judge.

Mr. GARNER. Will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. GARNER. Suppose it did take it away from the jury, could not the judge set aside the verdict?

Mr. STAFFORD. Then what is to be gained? There is nothing to be gained; it is a subterfuge. The judge should have the right in the first instance, if there is no real evidence to support the issue involved, to take the case away from the jury.

Mr. WINGO. If I understand the gentleman, he thinks the judge should be given the sole right to determine the weight and credibility of the testimony.

Mr. STAFFORD. He should be given the right to determine whether there is any evidence to support any of the issues. If there is any evidence to support the issue, then the case should go to the jury, but the judge should determine in the first instance whether there is any evidence to support the issue in question.

Mr. WINGO. Let me give the gentleman a concrete illustration. Suppose a witness on the stand, without any effort to impeach him, swears positively to a state of facts, which, if they be true, would unquestionably make out the innocence of the defendant or the plaintiff's case or the defendant's case. Does the gentleman think the judge should have the right to say "I do not believe that witness's testimony" and take the case from the jury?

Mr. STAFFORD. No; and that has not been established in any court of the Federal judiciary.

Mr. WINGO. Does the gentleman think that no Federal judge has gone that far?

Mr. STAFFORD. No; not to pass on the credibility of the witness, but simply to say whether there has been any evidence or not to support the issue.

Mr. WINGO. And that he never told a jury that their witness was not entitled to any credence?

Mr. STAFFORD. I answered the gentleman's question.

Mr. WINGO. Is not the correct rule, the better rule, this, as it is in most of the States: That the jury is the sole judge of the evidence, while the court gives them the law, and is not that the experience in those States that have prohibited the judge from singling out a particular fact and commenting on it to the jury?

Mr. STAFFORD. In my State there is no such limitation. I do not think these amendments should be passed haphazardly. They involve a change in procedure that has been established since the organization of our Government, and I do not think we ought on the spur of the moment to pass this character of an amendment.

Mr. CULLOP. Mr. Chairman, I think the gentleman from Wisconsin [Mr. STAFFORD] is clearly in error when he says that the court has more experience and is better able to pass upon a question of fact than 12 jurors. The Supreme Court of the United States, I will say to the gentleman, have said just the reverse. They have passed upon that question, and as the gentleman from Wisconsin does not want to come in conflict with the court, as it might feel distressed in the failure to have his approbation, I am, however, sure the decision the Supreme Court has rendered on this question will have his hearty support, and to be in accord with it he will give his support to these amendments. Now, let me read what the Supreme Court said on this subject:

It is in relation to these intermediate cases that the opposite rule prevails. Upon the facts proven in such cases it is a matter of judgment and discretion, of sound inference, what is the deduction to be drawn from the undisputed facts. Certain facts we may suppose to be clearly established from which one sensible, impartial man would infer that proper care had not been used, and that negligence exfsted; another man equally sensible and equally impartial would infer that proper care had been used and that there was no negligence. It is this class of cases and those akin to it that the law commits to the decision of a jury. Twelve men of the average of the community, comprising men of education and men of little education, men of learning, and men whose learning consists only in what they have themselves seen and heard—the merchant, the mechanic, the farmer, the laborer—these sit together, consult, apply their separate experience of the affairs of life to the facts proven, and draw a unanimous conclusion. This average judgment thus given it is the great effort of the law to obtain. It is assumed that 12 men know more of the common affairs of life

than does one man; that they can draw wiser and safer conclusions from admitted facts thus occurring than can a single judge.

That is what the highest court of the land has said on this subject, and yet if the argument of the gentleman from Wisconsin [Mr. STAFFORD] were to prevail in his idea that right would not obtain to any litigant in the court, because he says a single judge is better qualified to decide a question of fact than 12 jurors.

Mr. Chairman, I know it is the favorite argument of gentlemen who want to protect these antiquated rules and arbitrary methods which work hardships and wrongs upon the litigants in court to assail every man who will ask for a remedy of these wrongs, for a rectification of these abuses, by standing up in the halls of Congress and charging that he is criticizing the Federal judges. If the gentleman only would be willing to admit it, he knows that many of them need criticism; that sometimes the Supreme Court administers to them in the rendition of its opinions in reversing their judgment severe criticisms, and it is only of recent occurrence that within a stone's throw of this Chamber the highest court in the world—the Supreme Court of the United States—rendered an opinion blistering a Federal judge for an erroneous opinion that he had made in the District of Columbia and for which in part there are impeachment proceedings now being heard. And yet the gentleman says that if we undertake to legislate to correct these evils we are criticizing the Federal judiciary. The highest court in the land is constantly criticizing the Federal judiciary. There is nothing wrong, if they have done wrong, in trying to pass laws that will compel them to do right, to conduct the trials berore them in the proper way and let the citizen who goes into the courts have his constitutional right of submitting questions of fact to a jury of his peers. Constantly the practice as it now prevails is denying these constitutional rights to the citizens of this country.

Under the Constitution there is a provision that the jury shall be the sole judge of the facts in civil cases and the sole judge of the law and the facts in criminal cases, and yet under the practice as it has grown up and has been perpetuated for years this constitutional right is denied the citizen, and his case is taken from the jury and the jury given no right or opportunity to pass upon it and say who testified to the truth and who did not. The highest court of the land has said that the best place to settle a question of fact and to settle it right is in the jury box—that 12 men, called from all walks of life, are better qualified to solve the question of fact than a single judge in the trial of a cause—and yet, because we want to correct this abuse, because we want to right this wrong, because we want to prevent this imposition upon litigants, they say we are attacking the Federal courts. We are not attacking the Federal courts. We are trying to protect them from criticism. We have a right to make the law which the Federal judge must obey as well as the citizen of this country, the law that he is called upon to administer, and we have the right to define the manner in which he shall administer it. It is the duty of Congress to pass such laws upon any subject its wisdom may direct, and that is all we are attempting to do here. We want to correct this abuse and remove this evil.

If this works a wrong on the defendant, we will be as liberal with the gentleman from Wisconsin [Mr. STAFFORD] as he is with us, and say to him the injured party can appeal to the higher court and have the wrong corrected. We never allow anyone to be more generous than we. The gentleman says that the plaintiff may appeal, and I say to him that we will be equally as liberal and let the defendant appeal, and let the plaintiff answer in the higher court to his appeal. Mr. Chairman, I hope the amendments will be adopted for the reason it will remove the cause which now exists for criticism, sometimes just and sometimes unjust. I can conceive of no more important topic for legislation than the adoption of any measure which will raise the courts above criticism. Furnish them every possible available means to elevate them above reproach, so that every citizen will repose confidence in every act they perform. The administration of justice is a sacred thing. Confidence in the courts once destroyed, and the basis of law and order has been dealt a deadly blow, and the security of our institutions shaken from turret to foundation. The courts should have every security possible thrown around them to shield them from criticism, and if we enact the law which affords such protection and any court fails to avail itself of its provisions, then criticism will be deserved and upon it should with severity fall.

Mr. WATKINS. Mr. Chairman, as I before stated, when the question was asked by the gentleman from Indiana, neither this amendment now being considered nor the substitute to the amendment was ever submitted to the committee for examination, and for that reason I am not authorized by the committee as its chairman to make any concessions whatever. I wish to say, however, that if any of these amendments are to be adopted, my individual preference would be for the substitutes, because, first, they are shorter and more concise, and being terse in form, and being clear of expression. I prefer the substitute to be adopted to the original amendment offered. So far as my own position on the question is concerned, without reference to what may be the desire of the committee of which I have the honor to be the chairman, I will state that I propose from an individual standpoint to cast my vote in favor of the substitute which has been offered, and I shall do so largely because of the fact that in my own State the law is similar, and it has met the general approval of the people throughout the State of Louisiana.

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

Mr. WATKINS. Certainly.

Mr. SCOTT. May I ask the gentleman whether he includes in his expression "substitute" both of the sections that are offered?

Mr. WATKINS. Of course I prefer both of them, but the last can be considered separately from the first.

Mr. STAFFORD. The second will be considered later.

Mr. SCOTT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SCOTT. Are we to have debate on the second proposition after the first is disposed of?

The CHAIRMAN. The Chair understands they are entirely separate.

Mr. SAUNDERS. Mr. Chairman, I would like to have reported the substitute on which we are to vote.

Mr. STAFFORD. Mr. Chairman, there are a good many Members who have come into the Chamber since the matter was first presented, and I ask unanimous consent that the original amendment and substitute be reported.

The CHAIRMAN. The gentleman from Wisconsin desires the original amendment reported?

Mr. STAFFORD. The original and the substitute, for the benefit of those Members who have come into the Chamber since this matter was presented.

The CHAIRMAN. Without objection, the original amendment and substitute will be reported.

The Clerk again reported the Cullop amendment 169a and the Vaughan substitute for 169a.

The CHAIRMAN. The question is upon the substitute.

Mr. CULLOP. Mr. Chairman, I desire to say that I am perfectly willing to accept the substitute for the original amendment.

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

The CHAIRMAN. The question now is upon the amendment as amended by the substitute.

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

The CHAIRMAN. There is another amendment, 169b, and substitute for it, and, without objection, the Clerk will report them to the House.

The Clerk again reported the Cullop amendment, 169b, and the Vaughan substitute for 169b.

The CHAIRMAN. The question is upon the substitute.

Mr. SCOTT. Mr. Chairman, it seems to me that the substitute indicates merely an expression of the existing law, although I think it is extremely likely that it may receive an interpretation that goes much beyond that and would be very detrimental to orderly procedure of trials in common-law cases. It seems to me that the language is not well chosen. The issues are framed by the pleadings, not determined by the evidence. Wherever there is a lack or a failure of evidence to support any essential issue as furnished by the pleadings, the court, as a matter of law, should have the right to withdraw the case from the jury. Wherever there is evidence to support all of the issues as framed by the pleadings essential to a recovery, then under existing law the court does not have the right or the power to withdraw the case from the jury. This substitute, if enacted into law, can do nothing more than to confuse the existing statutes of procedure. It seems to me that it ought not to be adopted——

Mr. CULLOP. Will the gentleman yield for a question there?

Mr. SCOTT. Yes.

Mr. CULLOP. I presume the gentleman is speaking in reference to the practice in the gentleman's State?

Mr. SCOTT. I am speaking with reference to the practice in the Federal courts.

Mr. CULLOP. Of the gentleman's State?

Mr. SCOTT. No; in all the States.

Mr. CULLOP. Well, I beg to disagree with the gentleman upon that, for it is just the reverse in my State, absolutely. I have heard the judge in numerous trials tell the jury that such and such a witness testifying to so and so should not be regarded.

Mr. SCOTT. I am not speaking upon that proposition; that falls within the gentleman's amendment.

Mr. CULLOP. On the other proposition of taking a case from the jury, I have likewise, and I think it is the experience of many lawyers, others I know of, have heard the court say, upon the motion to instruct the jury for the defendant at the close of the plaintiff's evidence, "You have the evidence; I do not believe the witness."

Mr. SCOTT. That deals with the gentleman's amendment and the substitute we adopted a moment ago.

Mr. CULLOP. Now, this amendment prevents the court from doing that, and gives that plaintiff in court his constitutional right to have the facts submitted to the jury and decided, and not the court, and comes just within the very spirit and language of the decision I read of the Supreme Court of the United States upon that identical question. Now, if the gentleman's theory should prevail, courts can continue to do as they have been doing—make up their minds that they do not believe the testimony of a witness, and say to the jury that the jury shall not consider those things and thereby deprive the plaintiff of his rights by taking the case from the jury and directing it to return a verdict for the defendant without leaving the box.

Mr. SCOTT. Does the gentleman contend that in the State of Indiana in any trial in a Federal court where there is evidence offered and introduced tending to support every essential issue presented by the pleadings that the Federal court can take that case from the jury under the law?

Mr. CULLOP. Oh, the gentleman says "can not." Doubtless if an appeal was had the Supreme Court would do as it has been doing in the past, and because it could not do it. The gentleman's question reminds me a good deal of the fellow who sent for a lawyer to advise him in regard to being locked up in jail——

Mr. SCOTT. I can not yield——

Mr. CULLOP (continuing). And when the lawyer said, "They can not put you in jail on that charge," the fellow said, "Look here, Jim, they have already done it; what's the use of your talking that way?" They have done it, and we want to pass a law that prohibits them from repeating and doing any such things as that. That is the object of this amendment.

Mr. SCOTT. That story is just as interesting as it was the first time I ever heard it. [Laughter.] The fact remains that the gentleman's argument concedes that the law is now just as he would have it. What can you gain by repeating what already exists if it is now the law and the plaintiff on appeal can obtain his remedy and reverse the court? What advantage would you gain by repeating the same law in other words?

Mr. CULLOP. If the gentleman will permit me, I will answer. There is no statute now. It is simply the law as held by the court. You have got to go to the old laws with reference to getting a remedy. Now we propose to write the law into the statute so that the court must be bound by the statute in the first instance.

Mr. SCOTT. The gentleman is entirely mistaken. It is not only in the statute at the present time, but it is guaranteed in the Constitution at the present time—a common-law trial according to the rules of common law.

Mr. ALLEN. Will the gentleman yield for a moment?

Mr. SCOTT. I will.

Mr. ALLEN. Has not the court of appeals held in similar cases that if the judge came to the conclusion that it was a matter which would warrant him in giving a new trial in case of motions intervening there would be no error if he instructed a verdict?

Mr. SCOTT. That is the test. If there is a lack of evidence to support an essential fact the court in such a case would take the case from the jury, but if he inadvertently permitted it to go to the jury and then discovered the error he might grant a new trial. It is the one question. Unless this section 169 is read out of the statute after you adopt it, unless it is construed to be absolutely nothing, then it will deprive the court of the right to withdraw the case from the jury when an essential fact is without support in the evidence.

The CHAIRMAN. The question is on agreeing to the substitute.

The substitute was agreed to.

The CHAIRMAN. The question now is on agreeing to the amendment as amended.

The amendment as amended was agreed to.

Mr. BARTLETT. Mr. Chairman, I have an amendment, which I have sent to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

At the end of line 26, page 95, insert the following:

"In all cases of indirect contempt wherein the defendant is charged with contempt of court not committed in the presence of the court, or so near thereto as to interfere with the administration of justice, upon the demand of the defendant, the trial shall be by jury, as in criminal cases.

Mr. WATKINS. Mr. Chairman, I reserve a point of order on that. We have already passed that section.

Mr. BARTLETT. No; we have not.

Mr. WATKINS. We have already read section 169, and passed over that, and have incorporated two other sections.

Mr. BARTLETT. That amendment was sent up at the same time—I was recognized by the Chair, and sent the amendment up at the same time the gentleman from Indiana sent up his amendment.

Mr. WATKINS. Whether that is true or not, the gentleman did not insist on it. The amendments have already been considered, and two new sections have been put in the bill.

The CHAIRMAN. Has this amendment been offered before?

Mr. BARTLETT. Yes; and has been at the Clerk's desk all this time.

Mr. STAFFORD. It has never been reported before. I do not think the gentleman from Georgia [Mr. BARTLETT] will question that.

Mr. BARTLETT. No; it has not been reported before.

The CHAIRMAN. The Chair understands——

Mr. LLOYD. Mr. Chairman, in order to settle the matter, I ask unanimous consent that we may recur to section 169, and then the gentleman can offer it.

The CHAIRMAN. Is there objection?

Mr. WATKINS. Mr. Chairman, this will create a very lengthy discussion. We saw from the argument in the House yesterday how much interest is taken in this matter, and I do not think it is necessary to load down the bill with matters of this kind. For that reason I object to going back to section 169.

The CHAIRMAN. Does the gentleman insist on his point of order?

Mr. WATKINS. Certainly.

The CHAIRMAN. The Chair understands that section 169 has been passed and two additional sections have since been added. The Chair is willing to hear the gentleman from Georgia [Mr. BARTLETT] on the point of order, but the Chair is of the opinion that we have already passed section 169 and adopted two other sections.

Mr. BARTLETT. Very well. All right, sir. I will not be caught again by my modesty.

The CHAIRMAN. The Chair thinks the point of order is well taken. The Clerk will read.

The Clerk read as follows:

SEC. 170. Issues of fact in civil cases in any district court may be tried and determined by the court, without the intervention of a jury, whenever the parties or their attorneys of record file with the clerk a stipulation in writing waiving a jury. Upon the request of either of the parties the court shall submit in writing its findings of fact and conclusions of law therefrom, and the finding of the court upon the facts, whether general or special, shall have the same effect as the verdict of a jury.

Mr. BARTLETT. Mr. Chairman, I move to amend this section by inserting, after the word "jury," in line 5, page 96, section 170, the amendment which is at the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, on page 96, by inserting, after the word "jury," in line 5, the following:

In all cases of indirect contempt wherein the defendant is charged with contempt of court not committed in the presence of the court or so near thereto as to interfere with the administration of justice, upon the demand of the defendant the trial shall be by jury as in criminal cases.

Mr. BRYAN. That is a good amendment.

Mr. BARTLETT. Just a word. I do not propose to have any discussion on it. We had a discussion yesterday and the day before on the antitrust bill as to this, and as we are revising the law, and if that bill ever becomes the law, that provision will be in it, I apprehend, and we might as well anticipate what will be the law and put it in the revision of the law. But whether it becomes the law or not, the fact remains that a man charged with criminal contempt ought, upon his demand, to have the right of trial by jury.

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

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

Mr. WATKINS. Mr. Chairman, in section 169, line 23, the word "next" is used, and as two sections have been added since then it is necessary now to strike out that word "next"

and insert "170," so that, after the word "section," strike out "next," and insert, after the word 'section," "170," so as to make it intelligible. I ask unanimous consent that that be done.

The CHAIRMAN. The gentleman asks unanimous consent that the amendment be made as suggested.

Mr. WATKINS. That the word "next," on line 23, page 95, be stricken out, and that, after the word "section," "170" be inserted.

The CHAIRMAN. The Clerk will report the amendment. Will it not be necessary to strike out the word "the" also?

Mr. WATKINS. Yes; both words.

The Clerk read as follows:

Amend, page 95, by striking out, in line 23, the words "the next" and inserting, after the word "section," the words "one hundred and seventy."

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

The amendment was agreed to.

Mr. SCOTT. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Iowa.

The Clerk read as follows:

Page 96, line 6, after the word "its," insert the word "special."

Mr. SCOTT. Mr. Chairman, the italicized words in this section, I presume, were intended to change some rule of law that now exists and possibly to do away with some defect.

The statute as it exists under the present interpretation, in cases where juries waived, permits the trial court, in his discretion, to return findings of fact, either general or special. The parties may file requests for a special finding of fact under existing law, but the court exercises its discretion as to whether or not it will return a special finding of facts.

Now, in case the court returns a special finding of fact on appeal, two matters of review may be brought up: First, on a special finding of fact, the court may review the question as to whether that special finding supports judgment; second, the court may review any ruling of the progress of the trial. If the finding is general, the appellate court, whether it is the Circuit Court of Appeals or the Supreme Court, is confined in its review to the rulings of the court in the progress of the trial.

Now, this amendment italicized in section 170 provides that upon request of either of the parties the court shall submit in writing its findings of fact and conclusions of law therefrom; and the findings of the court upon the facts, whether general or special, shall have the same effect as the verdict of the jury.

Now, the question occurs when the request provided for in this amendment is filed and presented: May not the court exercise its discretion as to whether the findings that are to be made shall be special or general findings? If the court may exercise its discretion in that respect, then no change has been wrought into existing law. If the word "special" be inserted before the word "finding" then the evil or the defect that now exists is cured. The court may be required to return special findings, which gives the party presenting the request the opportunity to have reviewed not only the rulings during the progress of the trial but the question of law as to whether the special findings made by the court support the judgment.

I would like to ask the chairman of the committee, for the information of myself and the House, whether, in his opinion, the purpose of this italicized amendment was to permit the party presenting it to have the opportunity of review in the upper court upon the question of law as to whether the findings support the judgment? I would like to have the attention of the chairman of the committee.

The CHAIRMAN. The gentleman from Louisiana [Mr. WATKINS] is being interrogated.

Mr. SCOTT. I have asked the courtesy of an opinion.

Mr. WATKINS. I will be glad to give it, if I can.

Mr. SCOTT. I will repeat what I said. I asked the gentleman whether it is the understanding of the gentleman's committee that this italicized amendment of existing law gives to either party the right to have reviewed the question of whether the findings made support the judgment of the court?

Mr. WATKINS. I think the expression "findings" there would cover special findings as well as general findings.

Mr. SCOTT. Yes; but what is to prevent the court from exercising its discretion in returning either a special finding or a general finding?

Mr. WATKINS. I would think the greater clause there, the greater privilege, the greater right, would include the lesser, and the expression there would be broader and would cover a special finding. I do not see any trouble about it all.

Mr. SCOTT. Perhaps the gentleman does not. But if the court has discretion to determine whether the findings shall be special or general, then you have not changed the law. You can have reviewed only one question, the rulings in the progress of the trial, if the finding is general, whereas if the court is compelled to return a special finding you have both classes of questions reviewed.

Mr. WATKINS. I have no objection to that.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. SCOTT. Mr. Chairman, I ask unanimous consent to proceed for 5 minutes more.

The CHAIRMAN. Is there objection to the gentleman's request?

Mr. WATKINS. Reserving the right to object, Mr. Chairman, if the gentleman wants that 5 minutes' time for the purpose of convincing anybody of the propriety of the word "special" in there, I do not think he need take it. I do not think anybody objects to it at all; and for the sake of economy of time, to get a vote, if there is no objection to the word "special" being used, I will consent to a vote. I think it is a useless consumption of time to discuss it further. I do not desire to unnecessarily occupy the time of the House, but I do want the amendment agreed to.

The CHAIRMAN. Does the gentleman from Iowa [Mr. SCOTT] desire the floor?

Mr. SCOTT. I have no desire to occupy the time of the committee uselessly.

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 96, at the end of line 9, insert the following proviso:
"*Provided*, That in all cases, civil or criminal, the jury shall be the exclusive judges of the weight of the evidence and the credibility of the witnesses, but they must look to the charge of the court for the law of the case."

Mr. STAFFORD. I make the point that that is not germane. We have already considered that very proposition for an hour and a half. Perhaps the gentleman from Texas was not here at the time, but that has been gone over very thoroughly this afternoon, and has been virtually adopted.

Mr. STEPHENS of Texas. Then I withdraw the amendment.

The CHAIRMAN. If there be no objection, the amendment will be withdrawn, and the Clerk will read.

The Clerk read as follows:

SEC. 171. The practice, pleadings, and forms and modes of proceeding in civil causes, other than equity and admiralty causes, in the district courts, shall conform, as near as may be, to the practice, pleadings, and forms and modes of proceeding existing at the time in like causes in the courts of record of the State within which such district courts are held, any rule of court to the contrary notwithstanding.

Mr. WINGO. Mr. Chairman, it seems to me I ought to suggest the absence of a quorum, in view of the fact that there are only three Republicans and two Progressives present, and the official record keeper of the Republican Party, the gentleman from Ohio [Mr. FESS] is not here.

Mr. MOORE. I call the attention of the gentleman to the fact that there is one more Republican here.

Mr. STAFFORD. Mr. Chairman, I think comparisons are odious, unless the gentleman states the number of Democrats present.

Mr. MURDOCK. There are nine Democrats here.

Mr. FOSTER. More than that.

Mr. MURDOCK. Count them.

Mr. FOSTER. You count them.

Mr. STAFFORD If these small numbers present are going to be talked about here, I shall make the point of no quorum myself.

The CHAIRMAN. Does the gentleman make the point?

Mr. STAFFORD. I am not responsible for the gentleman making the statement he has just made.

Mr. WINGO. I do not want so heavy a responsibility, and I will not make the point now, but I will later.

The CHAIRMAN. The gentleman withdraws the point, and the Clerk will read.

The Clerk read as follows:

SEC. 175. In suits commenced under the act of March 3, 1887, an act to provide for the bringing of suits against the Government of the United States, the jurisdiction of the district courts of the United States, including the right of exception and appeal, shall be governed by the law as to other cases, in so far as the same is applicable and not inconsistent with the provisions hereinafter contained; and the course of procedure shall be in accordance with the established rules

of said court and of such additions and modifications thereof as said courts may adopt.

Mr. WATKINS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Louisiana offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 98, line 1, strike out the section and insert in lieu thereof the following:

"In suits commenced under the twentieth paragraph of section 24 of the Judicial Code, and under section 145 of the Judicial Code, the jurisdiction of the district courts and of the Court of Claims of the United States, including the right of exception and appeal, shall be governed by the law as to other cases, in so far as the same is applicable and not inconsistent with the provisions hereinafter contained; and the course of procedure shall be in accordance with the established rules of said courts and of such additions and modifications thereof as said courts may adopt."

Mr. STAFFORD. I should like to inquire of the gentleman from Louisiana whether there is any material change in the amendment proposed by him from what is carried in the bill?

Mr. WATKINS. No. It includes the Court of Claims, together with the other courts.

Mr. STAFFORD. I thought perhaps that might be the object of it.

The amendment was agreed to.

The Clerk read as follows:

SEC. 176. The plaintiff in any suit mentioned in the preceding section shall file a petition, duly verified, with the clerk of the district court in the district where the plaintiff resides. Such petition shall set forth the full name and residence of the plaintiff, the nature of his claim, and a succinct statement of the facts upon which the claim is based, the money or any other thing claimed, or the damages sought to be recovered, and praying the court for a judgment or decree upon the facts and law.

Mr. WATKINS. Mr. Chairman, I have another amendment.

The CHAIRMAN. The gentleman from Louisiana offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 98, in line 13, after the word "clerk," insert the words "of the Court of Claims or."

Mr. WATKINS. Mr. Chairman, that simply makes that section conform to the other section, and includes the Court of Claims.

The amendment was agreed to.

The Clerk read as follows:

SEC. 177. The plaintiff shall cause a copy of his petition filed under the preceding section to be served upon the district attorney of the United States in the district wherein suit is brought, and shall mail a copy of the same, by registered letter, to the Attorney General of the United States, and shall thereupon cause to be filed with the clerk of the court wherein suit is instituted an affidavit of such service and the mailing of such letter. It shall be the duty of the district attorney upon whom service of petition is made as aforesaid to appear and defend the interests of the Government in the suit, and within 60 days after the service of petition upon him, unless the time should be extended by order of the court made in the case, to file a plea, answer, or demurrer on the part of the Government, and to file a notice of any counterclaim, set-off, claim for damages, or other demand or defense whatsoever of the Government in the premises: *Provided*, That should the district attorney neglect or refuse to file the plea, answer, demurrer, or defense, as required, the plaintiff may proceed with the case under such rules as the court may adopt in the premises; but the plaintiff shall not have judgment or decree for his claim, or any part thereof, unless he shall establish the same by proof satisfactory to the court.

Mr. CULLOP. Mr. Chairman, I offer the following amendment: In line 6, before the word "petition," insert the article "the." As it is now, it does not read right.

Mr. WATKINS. That is correct.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 99, by inserting before the word "petition," in line 6, the word "the."

The amendment was agreed to.

The Clerk read as follows:

SEC. 178. In every suit mentioned in the last preceding section it shall be the duty of the court to cause a written opinion to be filed in the cause, setting forth the specific findings by the court of the facts therein and the conclusions of the court upon all questions of law involved in the case, and to render judgment thereon. If the suit be in equity or admiralty, the court shall proceed with the same according to the rules of such courts.

Mr. WATKINS. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 99, line 18, after the word "in," strike out the words "the last preceding section" and insert the following: "Section 175."

Mr. WINGO. Mr. Chairman, I would like to ask the gentleman what the purpose of the amendment is.

Mr. WATKINS. To make it conform to section 175.

Mr. STAFFORD. Ought not written opinions to be filed in other cases than those mentioned in section 175?

Mr. WATKINS. Perhaps so; but if the gentleman makes any suggestions of any other cases, it might be considered.

Mr. STAFFORD. Before the amendment was offered the law requires the court to file opinions in writing in all cases. The purpose of this amendment seems to be to limit it to these suits in which the Government is a party.

Mr. WATKINS. If the gentleman desires it, I will have section 175 read. That will cover the point.

Mr. STAFFORD. If the gentleman is sure that it does not restrict it, that it carries out the intendment of the present law, I have no further question about it.

Mr. WATKINS. I think it does; I am satisfied with it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana.

The amendment was agreed to.

The Clerk read as follows:

SEC. 179. When the findings of fact and the law applicable thereto have been filed in any case as provided in the preceding section, and the judgment or decree is adverse to the Government, it shall be the duty of the district attorney to transmit to the Attorney General of the United States certified copies of all the papers filed in the cause, with a transcript of the testimony taken, the written findings of the court, and his written opinion as to the same; whereupon the Attorney General shall determine and direct whether an appeal or writ of error shall be taken or not; and when so directed the district attorney shall cause an appeal or writ of error to be perfected in accordance with the terms of the statutes and rules of practice governing the same: *Provided*, That no appeal or writ of error shall be allowed after six months from the judgment or decree in such suit. From the date of such final judgment or decree interest shall be computed thereon at the rate of 4 per cent per annum until the time when an appropriation is made for the payment of the judgment or decree.

Mr. CULLOP. Mr. Chairman, I move to strike out the last word in order to ask the chairman a question. Commencing with the proviso, it says that no appeal or writ of error shall be allowed after 6 months from the judgment or decree in such suit. Does not the gentleman think that that ought to be 12 months instead of 6?

Mr. WATKINS. No; I think 6 months is too long a time. I think 3 months or 60 days would be plenty of time.

Mr. CULLOP. In most of the States in which I have practiced they have given 12 months to perfect an appeal. It seems to me that 6 months is a very short time. Mr. Chairman, I move to strike out the word "six," in line 14, and insert the word "twelve."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 100, in line 14, strike out the word "six" and insert the word "twelve."

The CHAIRMAN. The question is on the amendment.

The question was taken, and the amendment was rejected.

Mr. MOORE. Mr. Chairman, I move to strike out the last word. Will the chairman kindly explain whether, beginning on line 13, we have any new law in reference to the interest paragraph?

Mr. WATKINS. No; it is the same old law.

Mr. MOORE. Four per cent interest on judgments is the interest now allowed by law.

Mr. BARTLETT. This deals with judgments against the Government.

Mr. MOORE. In certain cases interest is not allowed against the Government.

Mr. BARTLETT. Not until after judgment, and after judgment is had against the Government the interest runs at 4 per cent.

Mr. MOORE. That is existing law?

Mr. BARTLETT. It is.

The Clerk read as follows:

SEC. 182. The Supreme Court shall have power to prescribe, from time to time, and in any manner not inconsistent with any law of the United States, the forms of writs and other process, the modes of framing and filing proceedings and pleadings, of taking and obtaining evidence, of obtaining discovery, of proceeding to obtain relief, of drawing up, entering, and enrolling decrees, and of proceeding before trustees appointed by the court, and generally to regulate the whole practice, to be used, in suits in equity or admiralty, by the district courts.

Mr. WATKINS. Mr. Chairman, at the end of line 25 is a period. I move to strike out the period and insert a comma after the word "admiralty."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 100, line 25, after the word "admiralty" strike out the period and insert a comma.

The amendment was agreed to.

The Clerk read as follows:

SEC. 180. When any vessel, goods, wares, or merchandise are seized by any officer of the customs, and prosecuted for forfeiture by virtue of any law respecting the revenue, or the registering and recording, or the enrolling and licensing of vessels, the court shall cause 14 days' notice to be given of such seizure and libel, by causing the substance of such libel, with the order of the court thereon setting forth the time and place appointed for trial, to be inserted in some newspaper published near the place of seizure, and by posting up the same in the most public manner for the space of 14 days at or near the place of trial;

and proclamation shall be made in such manner as the court shall direct. If no person appears and claims such vessel, goods, wares, or merchandise, and gives bond to defend the prosecution thereof and to respond the cost in case he shall not support his claim, the court shall proceed to hear and determine the cause according to law.

Mr. MOORE. Mr. Chairman, I move to strike out in lines 22 and 23 the words "some newspaper" and insert in lieu thereof the words "two daily newspapers."

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment which the Clerk will report.

The Clerk read as follows:

Page 104, lines 22 and 23, strike out the words "some newspaper" and insert in lieu thereof the words "two daily newspapers."

Mr. MOORE. Mr. Chairman, I presume when this law was enacted providing for publication in "some newspaper" daily newspapers did not have the influence they have to-day nor the circulation. "Some newspaper" is indefinite, and would indicate a monthly, a weekly—a newspaper which might not give sufficient notice to the parties in interest. We are proceeding to-day in all modern communities with daily newspapers which are the common avenues of communication between the people; and it seems to me that a daily newspaper ought to be specified, because if there is one thing that can be done by litigants or by skillful attorneys sometimes to avoid notice being given to parties in interest it is to seek out some monthly or weekly newspaper and put the advertisement therein. I think frequently in certain cases it is found convenient in order that proceedings may go along unhampered to find a paper of small circulation or a periodical, not a daily newspaper, in which to bury the legal notice. For that reason I suggest that the words "two daily newspapers" be inserted in lieu of the indefinite "some newspaper." I do not object to having it in one newspaper, though it would be fairer to all parties to have two.

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

Mr. MOORE. Certainly.

Mr. CULLOP. Suppose there was no daily newspaper there in which to insert it. This provides that it shall be inserted at the place where the libel took place. Suppose there was no daily newspaper there, or only one daily newspaper, or one weekly, would the litigant have to establish a daily newspaper there in order to make publications?

Mr. MOORE. Mr. Chairman, I question whether in these times an action would be brought anywhere where a district court is established where there is not a daily newspaper.

Mr. CULLOP. But this is not where the court is established; it is where the seizure is made.

Mr. MURDOCK. Near the place.

Mr. CULLOP. The gentleman is wanting an amendment put here that would make notice impossible, according to the terms of this statute, and it may occur under the terms of this statute as it is in some instances.

Mr. MOORE. The amendment could be framed slightly differently. It could be made to appear in the daily newspaper, if a daily newspaper were published there.

Mr. CULLOP. And then he would have notice given where nobody interested would see it or know what it was about.

Mr. MOORE. I want to avoid that very thing. I think it is fair to the defendant that he should have notice, and if it is put in "some newspaper" in that indefinite form that "some newspaper" may be a paper of no circulation at all or it may be a monthly or a weekly, which would never be seen by the parties interested.

Mr. WATKINS. Mr. Chairman, this law has been in existence for over a hundred years and has operated satisfactorily. I do not know of any criticism ever having been made of the law before, and it is a fact that in some places there might not be a daily newspaper, as suggested by the gentleman from Indiana [Mr. CULLOP], or ever a weekly newspaper. I do not think there is any danger at this late day of the law being used to the disadvantage of the defendant.

Mr. STAFFORD. Mr. Chairman, I desire to make inquiry of the chairman of the committee in respect to another matter. It is now after 5 o'clock. There are only a handful of Members here, and I would like to inquire of the chairman of the committee how late he plans to run?

Mr. WATKINS. Mr. Chairman, I had hoped to be able to go until 6 o'clock, but it seems we are not making quite the headway I had hoped, and I will say I will move to rise about half past 5.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania.

The amendment was rejected.

The Clerk read as follows:

SEC. 190. In all cases where debts are due from defaulting or delinquent postmasters, contractors, or other officers, agents, or employees of the Post Office Department, a warrant of attachment may issue against all real and personal property and legal and equitable rights belonging to such officer, agent, or employee, and his sureties, or either of them, in the following cases:

First. When such officer, agent, or employee, and his sureties, or either of them, is a nonresident of the district where such officer, agent, or employee was appointed, or has departed from such district for the purpose of permanently residing out of the same, or of defrauding the United States, or of avoiding the service of civil process.

Second. When such officer, agent, or employee, and his sureties, or either of them, has conveyed away or is about to convey away his property, or any part thereof, or has removed or is about to remove the same, or any part thereof, from the district wherein it is situate, with intent to defraud the United States.

When any such property has been removed certified copies of the warrant may be sent to the marshal of the district into which the same has been removed, under which certified copies he may seize said property and convey it to some convenient point within the jurisdiction of the court from which the warrant originally issued. Alias warrants may be issued in such cases upon due application, and the validity of the warrant first issued shall continue until the return day thereof.

Mr. SCOTT. Mr. Chairman, I desire to offer an amendment.

Mr. STAFFORD. Mr. Chairman, I presume we are considering this bill by sections and not by paragraphs.

The CHAIRMAN. The Clerk will finish reading the section.

The Clerk concluded the reading of the above.

Mr. SCOTT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 105, in line 14, after the word "employee," strike out "and" and insert "or."

Mr. SCOTT. Mr. Chairman, the purport of this amendment is to make it necessary before an attachment may issue against some surety that such surety fall within the provisions of the paragraph. In other words, that attachments shall not issue against the property of the surety and his property be tied up merely because of the nonresidence of the principal. In a suit brought in a district against an officer or an employee and his sureties a ground may exist for an attachment against the principal, but I think it is a hardship and without reason when the surety resides in the bailiwick and is present and his property there and he is solvent, that his property should be attached merely because another party to the suit is absent or has done some act that would justify the attachment of his property.

Mr. STAFFORD. Will the gentleman yield?

Mr. WATKINS. I want to be heard on this.

Mr. SCOTT. I will.

Mr. STAFFORD. As I understand, the Government is not to have the right to seize the property of sureties of a defaulting officer, agent, or employee unless there is no property of the principal in the district available for attachment.

Mr. SCOTT. No; that is not the point. An attachment is a writ that issues before judgment and usually for some cause that imperils the plaintiff's right to recovery.

Mr. STAFFORD. But in this case we are by statute giving the Government the right to attach in these cases of a defaulting postmaster, contractor, or other officer, agent, or employee of the Post Office Department.

Mr. SCOTT. Yes.

Mr. STAFFORD. Now, when they are nonresidents of the district, according to this first paragraph, then the Government will have the right to levy either upon the property, as I understand it, of these defaulting officials or contractors or upon that of the sureties.

Mr. SCOTT. Yes. Now, in the case of an attachment, I see no reason why, when the surety is present in the district, his property in sight, who is solvent and substantial, his property should be tied up by a writ of attachment because of a default of the principal, he not having done any act that imperils the right of the Government to recover. This section, as it stands, is contrary and at variance with the whole system of legislation with respect to attachments. There is no statute that permits an attachment against property because of an act done by some other man. He must have been guilty of the act which imperils the right to recovery.

Mr. MOORE. Does the gentleman want to relieve the surety of responsibility?

Mr. SCOTT. No; it does not relieve him at all; his property may be levied upon when judgment is obtained, but this giving the right of attachment previous to judgment might cause great damage and inconvenience to business men who are perfectly solvent.

Mr. STAFFORD. The gentleman will realize this writ is only to apply when either of these delinquent and defaulting officers of the Government or contractors are removing their property, or when the sureties are removing their property, or attempting to take that status which will not insure protection to the Government. Why should not we give the Government the right to proceed against the surety of a defaulting official

where the surety himself is attempting to move out of the district or attempting to move some of his property from the district?

Mr. SCOTT. Oh, there will be authority in case my amendment is adopted.

Mr. STAFFORD. I am doubtful, perhaps without cause.

Mr. SCOTT. The only difference would be the writ of attachment would not run against the property of the surety merely because some other party has violated the provisions and conditions.

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

Mr. WATKINS. Mr. Chairman, if I am not mistaken in the verbiage of the amendment, it will have exactly the opposite effect to that which the gentleman contemplates. I ask that the Clerk will report the amendment again.

The CHAIRMAN The Clerk will report the amendment.

The amendment was again reported.

Mr. WATKINS. Mr. Chairman, the argument of the gentleman is that the word "or" would be a safeguard, whereas the word "and" requires that both the principal and the surety, or either of them, should be a nonresident.

Mr. SCOTT. The word following before the word "employee."

Mr. WATKINS. That is the "or," is it?

Mr. SCOTT. I was going to suggest to the gentleman that inasmuch as the word "or" precedes the word "employee" it prevents the construction which the gentleman is giving.

Mr. WATKINS. No; you are mistaken about that. The words "officer, agent, or employee" refer to the same class of people, and the word "and" joins together the words "sureties" and "or either of them."

Mr. SCOTT. The language is "when such officer, agent, or employee." That is, the defaulting officer or his sureties, or either of them, is a nonresident. Now, if any of them are in his district or in the territory or jurisdiction of the court, then the law is satisfied; but if all of them are absent, then the provision comes in.

Mr. WATKINS. Well, as it stands now, if either of them is a nonresident, the writ may run against any of them.

But the comma after the word "employee," the words "officer, agent, or employee," referring to the debtors to the Government, or "defaulters," as the case may be, are one class of persons and the comma after the word "employee" disconnected from the "and" makes it clear that the gentleman's interpretation is wrong, and I ask that the amendment be voted down.

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

Mr. WINGO. Mr. Chairman, I move to strike out the last word. This is a very important amendment, as I understand it.

The CHAIRMAN. There is an amendment pending now, the Chair understands.

Mr. WINGO. I move to strike out the last word.

Mr. WATKINS. Talk on the amendment.

Mr. WINGO. Then I will talk on the amendment. I feel constrained to take part in the debate on account of the attractiveness of it and the importance of the subject. As I understand, the amendment is to strike out the word "or" and substitute the word "and," or strike out the word "and" and substitute "or," as the case may be. The amendment is important, but I have noticed that it is not important enough to lure back to his labors the distinguished timekeeper of the Republican Party, the gentleman from Ohio [Mr. FESS], although it has attracted several distinguished Members from the other end of the Capitol.

Mr. MOORE. So long as the gentleman is good enough to call attention to this, will he also note the absence of the official timekeeper on the other side, the gentleman from Connecticut [Mr. DONOVAN]? By doing so he will retain the equilibrium.

Mr. WINGO. I am anxious to retain the equilibrium, and will make the notation suggested by the gentleman from Pennsylvania. Now, I hope we will not be delayed longer by this important amendment. I understand it has been suggested that we adjourn at half past 5 o'clock. I hope when we get back into the House we will take a recess until 8 o'clock and work from 8 until 11 o'clock, so that we can get through. I think we can get unanimous consent, because the workers are here and the drones are not, provided we can avoid the rule which prevents recess on Calendar Wednesdays.

Mr. MURDOCK. That is a pretty serious reflection on the Congress, when he says that the drones are not here and the workers are, because there are so few men present.

Mr. MOORE. Will the gentleman take cognizance of the fact that there is no baseball game, and therefore there must be some other reason for the absence of the gentlemen from the other side.

Mr. MURDOCK. There is a concert outside.

Mr. WINGO. I suppose the few Democrats who are absent have joined the many Republicans who are out at the concert. Of course, there are something less than 200 on the Democratic side, it is true, but the ones here include the faithful workers—the gentleman from Missouri [Mr. LLOYD] and the gentleman from Louisiana [Mr. WATKINS] and other faithful ones.

Now to get back to my proposition, and it is this: These Members do not have to do this work. And why not? If we go back into the House, take a recess until 8 o'clock, and then work until 11, and thereby expedite the public business, this would not interfere with those gentlemen who voted against my motion this morning and immediately left. They will not be here.

Mr. STAFFORD. Why not make the suggestion that we rise now and then have the House move to take a recess?

Mr. WINGO. We want to get as far as we can, as there is grave doubt whether the Speaker can entertain a motion to recess on Calendar Wednesday.

Mr. MOORE. Will not the gentleman kindly note, before he takes his seat, the presence and activity of the distinguished Speaker of the House?

Mr. WINGO. He is always present. [Applause.]

Mr. MOORE. Will not the gentleman also kindly note the presence of Mr. STAFFORD, of Wisconsin?

Mr. WINGO. I object to going further in an enumeration——

Mr. MURDOCK. It is impossible to omit Mr. STAFFORD [laughter]——

Mr. WINGO. The gentleman awhile ago stated that comparisons are odious, and I feel that individual designations under the circumstances might be equally odious. [Laughter.]

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

Mr. WINGO. Yes.

Mr. BARTON. You ought to have mentioned the other 8. [Laughter.]

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Iowa [Mr. SCOTT].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 193. At any time within 20 days before the return day of such warrant the party whose property is attached may, on giving notice to the district attorney of his intention, file a plea in abatement, traversing the allegations of the affidavit, or denying the ownership of the property attached to be in the defendants or either of them. In such case the court may, upon application of either party, order an immediate trial by jury of the issues raised by the affidavit and plea; but the parties may by consent waive a trial by jury, in which case the court shall decide the issues raised. Any party claiming ownership of the property attached and a specific return thereof shall be confined to the remedy herein afforded, but his right to an action of trespass, or other action for damages, shall not be impaired hereby.

Mr. STEPHENS of Texas. Mr. Chairman, I want to call the attention of the gentleman from Louisiana [Mr. WATKINS] to the word "hereby," in line 16, page 107. It ought to be "thereby." That is in section 193. I think it should read "shall not be impaired thereby."

Mr. WATKINS. Mr. Chairman, I see that the original law has it "hereby." I presume it is right, although I do not think it is good grammar. I shall not make any motion with respect to it.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 194. When the property attached is sold on any interlocutory order of the court or is producing any revenue, the money arising from such sale or revenue shall be invested in securities of the United States, under the order of the court, and all accretions shall be held subject to the orders of the same.

Mr. STAFFORD. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Wisconsin [Mr. STAFFORD] moves to strike out the last word.

Mr. STAFFORD. Do I understand the chairman of the committee to disagree to the suggestion of the gentleman from Texas [Mr. STEPHENS]?

Mr. WATKINS. Yes; it refers to the provisions of section 193, and "hereby" is the proper word there.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 195. Immediately upon the execution of any such warrant of attachment the marshal shall cause due publication thereof to be made in the case of absconding debtors for two months and of nonresidents for four months. The publication shall be made in some newspaper published in the district where the property is situate, and the details thereof shall be regulated by the order under which the warrant is issued.

Mr. STAFFORD. Would not this be a good place to rise?

The CHAIRMAN. The Chair calls the attention of the gentleman from Louisiana to the fact that "marshal" is spelled with a double "l" on page 107, line 24.

Mr. WATKINS. I move, Mr. Chairman, that the final "l" be stricken out.

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

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 196. After the first publication of such notice of attachment as required by law, every person indebted to, or having possession of any property belonging to, the said defendants, or either of them, and having knowledge of such notice, shall account and answer for the amount of such debt and the value of such property; and any disposal or attempt to dispose of any such property, to the injury of the United States, shall be illegal and void. When the person indebted to, or having possession of the property of, such defendants, or either of them, is known to the district attorney or marshal, such officer shall see that personal notice of the attachment is served upon such person; but the want of such notice shall not invalidate the attachment.

Mr. WATKINS. Mr. Chairman, I move that the committee do now rise.

Mr. BRYAN. Mr. Chairman, I hope the gentleman will withhold that motion for a moment, and let a brief telegram that I have sent to the desk be read. It is only about 40 words.

The CHAIRMAN. Does the gentleman from Louisiana [Mr. WATKINS] withhold his motion to rise?

Mr. WATKINS. If it is anything that sheds light on the subject under discussion I will.

The CHAIRMAN. The question is on agreeing to the motion to rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. RUSSELL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 15578) to codify, revise, and amend the laws relating to the judiciary, and had come to no resolution thereon.

ENROLLED BILL SIGNED.

Mr. ASHBROOK, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 15190. An act to amend section 103 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, as amended by the act of Congress approved March 3, 1913.

IRRIGATION-EXTENSION BILL.

Mr. BRYAN. Mr. Speaker, I ask unanimous consent that the brief telegraphic message that I send to the Clerk's desk be read.

The SPEAKER. The gentleman from Washington [Mr. BRYAN] asks unanimous consent to have read a brief message. Is there objection?

Mr. KINDEL. Reserving the right to object, Mr. Speaker, I would like to know what that telegram is about.

The SPEAKER. The only way to find out is to read it.

Mr. BRYAN. If the gentleman will let me state what it is about, I think he will not object. It is a very urgent message from the Commercial Club of Prosser, Wash., urging the passage of Senate bill 4638, the irrigation bill, that has been passed over. The farmers of the Yakima Valley urgently desire its passage.

Mr. Speaker, I ask that it be extended in the RECORD without being read.

The SPEAKER. The gentleman from Washington asks unanimous consent to extend his remarks in the RECORD by having the telegram inserted. Is there objection?

There was no objection.

Following is the telegram referred to:

PROSSER, WASH., *June 3, 1914.*

Hon. J. W. BRYAN,
Representative, Washington, D. C.:

Prosser Commercial Club urges the passage at this session of Congress of the irrigation-extension bill (S. 4628), in the interests of the Reclamation Service and the small farmers, 80 to 90 per cent of whom, in the Yakima Valley, can not possibly meet payments required by present law.

PROSSER COMMERCIAL CLUB,
By L. L. LYNN.

PENSIONS.

Mr. KEY of Ohio. Mr. Speaker, I call up the conference report on the bill S. 4167, an act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The conference report was read, as follows:

CONFERENCE REPORT (NO. 736).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 4167, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 1, 2, 3, 4, and 5.

JOHN A. KEY,
WM. H. MURRAY,
Managers on the part of the House.

BENJ. F. SHIVELY,
CHARLES F. JOHNSON,
REED SMOOT,
Managers on the part of the Senate.

The conference report was agreed to.

Mr. KEY of Ohio. Mr. Speaker, I call up conference report on the bill S. 4260, an act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The conference report was read, as follows:

CONFERENCE REPORT (NO. 738).

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill S. 4260, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House numbered 2, and agree to the same.

That the House recede from its amendment numbered 1.

JOHN A. KEY,
WM. H. MURRAY,
Managers on the part of the House.

BENJ. F. SHIVELY,
CHARLES F. JOHNSON,
REED SMOOT,
Managers on the part of the Senate.

The conference report was agreed to.

Mr. KEY of Ohio. Mr. Speaker, I call up the conference report on the bill S. 4353, an act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The conference report was read, as follows:

CONFERENCE REPORT (NO. 737).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 4353, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendment numbered 1.

JOHN A. KEY,
WM. H. MURRAY,
Managers on the part of the House.

BENJ. F. SHIVELY,
CHARLES F. JOHNSON,
REED SMOOT,
Managers on the part of the Senate.

The conference report was agreed to.

Mr. KEY of Ohio. Mr. Speaker, I call up the conference report on the bill S. 4657, an act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

The conference report was read, as follows:

CONFERENCE REPORT (NO. 739).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 4657, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1 and 4, and agree to the same.

That the House recede from its amendments numbered 2, 3, 5, 7, and 8.

Amendment numbered 6: That the Senate recede from its disagreement to the amendment of the House numbered 6, and

agree to the same with an amendment as follows: In lieu of the sum proposed by said amendment insert the sum "$24"; and the House agree to the same.

JOHN A. KEY,
WM. H. MURRAY,
Managers on the part of the House.
BENJ. F. SHIVELY,
CHARLES F. JOHNSON,
REED SMOOT,
Managers on the part of the Senate.

The conference report was agreed to.

DISPOSITION OF USELESS PAPERS.

The SPEAKER laid before the House the following communication:

IN THE SENATE OF THE UNITED STATES,
June 3, 1914.

The Vice President appointed Mr. PAGE and Mr. LANE members of the joint select committee on the part of the Senate, as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," for the disposition of useless papers in the Treasury Department.

Attest:

JAMES M. BAKER, *Secretary.*

INVALID PENSIONS.

Mr. RUSSELL. Mr. Speaker, I call up the conference report on the bill (S. 4552) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

Mr. STAFFORD. May I inquire whether the conference report has been printed under the rule?

Mr. RUSSELL. It has been printed under the rule.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT (NO. 713).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 4552, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1 and 7, and agree to the same.

That the House recede from its amendments numbered 2, 3, 4, 6, and 8.

Amendment numbered 5:

That the Senate recede from its disagreement to the amendment of the House numbered 5, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$30"; and the House agree to the same.

J. A. M. ADAIR,
JOE J. RUSSELL,
Managers on the part of the House.
BENJ. F. SHIVELY,
CHARLES F. JOHNSON,
REED SMOOT,
Managers on the part of the Senate.

The conference report was agreed to.

Mr. RUSSELL. Mr. Speaker, I call up the conference report on the bill (S. 4352) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report, as follows:

CONFERENCE REPORT (NO. 712).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 4352, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 1, 2, and 3.

J. A. M. ADAIR,
JOE J. RUSSELL,
Managers on the part of the House.
BENJ. F. SHIVELY,
CHARLES F. JOHNSON,
REED SMOOT,
Managers on the part of the Senate.

Mr. BARTON. Mr. Speaker, may I ask what that bill is?

The SPEAKER. It is a private pension bill.

Mr. RUSSELL. It is an omnibus pension bill.

The conference report was agreed to.

Mr. RUSSELL. Mr. Speaker, I call up the conference report on the bill (S. 4168) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The SPEAKER. The Clerk will read the conference report.

The Clerk read the conference report as follows:

CONFERENCE REPORT (NO. 711).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 4168, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House numbered 2, and agree to the same.

That the House recede from its amendments numbered 1 and 3.

Amendment numbered 4:

That the Senate recede from its disagreement to the amendment of the House numbered 4, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$20"; and the House agree to the same.

J. A. M. ADAIR,
JOE J. RUSSELL,
Managers on the part of the House.
BENJ. F. SHIVELY,
CHARLES F. JOHNSON,
REED SMOOT,
Managers on the part of the Senate.

The conference report was agreed to.

ADJOURNMENT.

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

The motion was agreed to; accordingly (at 5 o'clock and 40 minutes p. m.) the House adjourned until Thursday, June 4, 1914, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting reports of the several bureaus and divisions of the War Department, giving a list of papers of their respective offices not needed or useful in the transaction of current business and which have no permanent value or historical interest (H. Doc. No. 1005); to the Joint Select Committee on Disposition of Useless Papers and ordered to be printed.

2. A letter from the Acting Secretary of the Treasury, transmitting schedules and lists of papers and documents on the files of the Office of the Auditor for the Navy Department, the offices of collectors of internal revenue, and in the office of the collector of customs, Duluth, Minn. (H. Doc. No. 1006); to the Joint Select Committee on Disposition of Useless Papers and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. HAYDEN, from the Committee on the Public Lands, to which was referred the bill (H. R. 15907) authorizing the survey and sale of certain lands in Coconino County, Ariz., to the occupants thereof, reported the same with amendment, accompanied by a report (No. 759), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill (H. R. 11318) authorizing the sale of lands in Lyman County, S. Dak., reported the same with amendment, accompanied by a report (No. 760), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

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

By Mr. JOHNSON of Washington: A bill (H. R. 17011) providing for the establishment on an island of the insular or territorial possessions of the United States a home for lepers; to the Committee on Interstate and Foreign Commerce.

By Mr. DUPRÉ: A bill (H. R. 17012) to amend and reenact section 861 of the Revised Statutes of the United States, relative to the mode of proof in common-law actions; to the Committee on the Judiciary.

By Mr. HAYES: A bill (H. R. 17013) to provide for the erection of a monument at the summit of Fremonts Peak, Cal., to commemorate the unfurling of the flag of the United States upon that spot by Gen. Fremont at the outbreak of the Mexican War; to the Committee on the Library.

Also, a bill (H. R. 17014) for the erection and maintenance of a steam fog whistle on Point Pinos, Cal.; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 17015) to establish a lighthouse of the first order on Point Pinos, Cal.; to the Committee on Interstate and Foreign Commerce.

By Mr. HAYDEN: A bill (H. R. 17016) authorizing the construction of the San Carlos irrigation project, and for other purposes; to the Committee on Indian Affairs.

By Mr. MACDONALD: A bill (H. R. 17017) to provide for the establishment of a national employment bureau under the direction and supervision of the Secretary of Labor; to the Committee on Labor.

By Mr. BRITTEN: A bill (H. R. 17018) to provide for the erection of a national leprosarium; to the Committee on Appropriations.

By Mr. ROBERTS of Massachusetts: A bill (H. R. 17019) donating land in the city of Malden, Mass., for park purposes; to the Committee on Naval Affairs.

By Mr. BUCHANAN of Illinois: A bill (H. R. 17020) to amend an act entitled "An act relating to the liability of common carriers by railroad to their employees in certain cases," approved April 22, 1908, and amended April 5, 1910; to the Committee on Interstate and Foreign Commerce.

By Mr. SHARP: Joint resolution (H. J. Res. 273) requesting the President of the United States to invite foreign Governments to participate in the International Congress on Education; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS.

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

By Mr. ALLEN: A bill (H. R. 17021) granting an increase of pension to Mary Johnson; to the Committee on Invalid Pensions.

By Mr. ASHBROOK: A bill (H. R. 17022) granting a pension to Diantha Staley; to the Committee on Invalid Pensions.

By Mr. BAKER: A bill (H. R. 17023) for the relief of Joseph Eckert; to the Committee on Military Affairs.

By Mr. BEALL of Texas: A bill (H. R. 17024) granting a pension to Lucy E. Howard; to the Committee on Pensions.

By Mr. BORLAND: A bill (H. R. 17025) granting an increase of pension to Mary Hawks; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17026) granting an increase of pension to Elizabeth McKeever; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17027) granting an increase of pension to Jennie M. Carroll; to the Committee on Invalid Pensions.

By Mr. EVANS: A bill (H. R. 17028) for the relief of W. W. Taylor; to the Committee on Claims.

By Mr. FESS: A bill (H. R. 17029) granting an increase of pension to Lizzie Q. Taylor; to the Committee on Invalid Pensions.

By Mr. FRENCH: A bill (H. R. 17030) granting the right to select certain lands to Oliver P. Pring; to the Committee on the Public Lands.

By Mr. HAMLIN: A bill (H. R. 17031) for the relief of James M. Lineback; to the Committee on Military Affairs.

By Mr. LANGHAM: A bill (H. R. 17032) granting an increase of pension to Cyrus Gere; to the Committee on Invalid Pensions.

By Mr. NEELEY of Kansas: A bill (H. R. 17033) authorizing the issuance of a patent to the northwest quarter, section 20, township 26 south, range 37 west, Dodge City (Kans.) land district, to Jesse Mitchell; to the Committee on the Public Lands.

Also, a bill (H. R. 17034) granting an increase of pension to William Brackney; to the Committee on Invalid Pensions.

By Mr. PETERS of Maine: A bill (H. R. 17035) for the relief of Georgia Somes Smith; to the Committee on Claims.

By Mr. ROBERTS of Massachusetts: A bill (H. R. 17036) granting an increase of pension to Erskin Hawley; to the Committee on Invalid Pensions.

By Mr. UNDERHILL: A bill (H. R. 17037) granting a pension to Sarah E. Benjamin; to the Committee on Invalid Pensions.

By Mr. YOUNG of North Dakota: A bill (H. R. 17038) granting an increase of pension to Luther A. Barnard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17039) for the relief of A. K. Boyd; to the Committee on War Claims.

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): Resolutions from certain citizens of Jewett, Ohio; Wheeling, W. Va.; Milo, Iowa; Callery, Pa.; Carmichaels, Pa.; Rochester, Pa.; Maryville, Tenn.; Truxton, Mo.; Fosterburg, Ill.; Brighton, Ill.; and Hightstown, N. J., protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

Also (by request), memorial of the Italian Chamber of Commerce of New York City, protesting against national prohibition; to the Committee on Rules.

By Mr. BROWNING: Petition of 16 citizens of Camden, N. J., favoring national prohibition; to the Committee on Rules.

By Mr. CANDLER of Mississippi: Petition of sundry citizens of Columbus, Miss., favoring national prohibition; to the Committee on Rules.

By Mr. CANTOR: Petition of sundry citizens of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. DALE: Petitions of the Italian Chamber of Commerce of New York, and Piel Bros. and sundry citizens of Brooklyn, N. Y., protesting against national prohibition; to the Committee on Rules.

By Mr. DANFORTH: Petitions of John W. Carson, of Scottsville, N. Y., and the Italian Chamber of Commerce of New York City, protesting against national prohibition; to the Committee on Rules.

Also, petitions of Miss Catherine Randall and 33 others, of Knowlesville, N. Y., and the Woman's Prohibition League of Shreveport, La., favoring national prohibition; to the Committee on Rules.

Also, petition of Local No. 98, International Association of Machinists, of Rochester, N. Y., favoring extension of the Federal locomotive-boiler inspection law; to the Committee on Interstate and Foreign Commerce.

By Mr. ESCH: Memorial of the directors of the Wisconsin Audubon Society, relative to conservation of bird life in the United States; to the Committee on Agriculture.

Also, petition of the Italian Chamber of Commerce of New York City, protesting against national prohibition; to the Committee on Rules.

By Mr. FESS: Petition of 23 citizens of Moscow, Ohio, protesting against national prohibition; to the Committee on Rules.

Also, petitions of various business men of the State of Ohio, favoring passage of House bill 5308, relative to taxing mail-order houses; to the Committee on Ways and Means.

By Mr. GILLETT: Petition of various Protestant ministers of Palmer, Mass., favoring national prohibition; to the Committee on Rules.

By Mr. GILMORE: Petition of the Norwood (Mass.) Merchants' Club, favoring passage of House bill 13305, the standard-price bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of Mount Hermon Commandery, No. 261, Ancient and Illustrious Order Knights of Malta, of Whitman, Mass., favoring passage of the immigration bill (H. R. 6060); to the Committee on Immigration and Naturalization.

Also, petitions of the Italian Chamber of Commerce of New York and Rockland (Mass.) Central Labor Union, protesting against national prohibition; to the Committee on Rules.

Also, petition of Lodge No. 391, International Association of Machinists, favoring passage of Senate bill 5303, relative to safety in railroad travel; to the Committee on Interstate and Foreign Commerce.

By Mr. GOEKE: Petition of David Mikesell and others, of Darke County, Ohio, favoring national prohibition; to the Committee on Rules.

By Mr. GRIEST: Petition of 277 citizens of Lancaster, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. HAMILTON of Michigan: Petitions of sundry citizens of South Haven, Sturgis, Lawton, Dowagiac, Cassopolis, Paw Paw, Niles, Wayland, Plainwell, and of the Woman's Christian Temperance Union of Penn Township, all in the State of Michigan, favoring national prohibition; to the Committee on Rules.

By Mr. HINDS: Petition of Welcome Lodge, International Order of Good Templars, of Biddeford, Me., favoring national prohibition; to the Committee on Rules.

By Mr. HULINGS: Petition of 22 members of the Clintonville (Pa.) United Presbyterian congregation, favoring national prohibition; to the Committee on Rules.

By Mr. HUMPHREY of Washington: Petitions of sundry citizens of Washington State, against national prohibition; to the Committee on Rules.

Also, petitions of 27 citizens of Edison, Wash., and of 90 citizens of Anacortes, Wash., favoring national prohibition; to the Committee on Rules.

By Mr. IGOE: Petitions of F. J. Johnson, George Lay, Jesse Lay, Albert Booker, Joe Gray, Samuel Sewell, George Page, Pleas Rathman, Pete Anderson, John W. Bayant, J. H. Gauman, Leon Sewell, William Silvester, Frank Carlyel, William Goar, D. F. Walter, Charley George, Dud Sewell, Tomie Walton, J. Newhouse, Martin Gates, Fritz Darrlen, Fred Kogge, S. Gates, Herman Totten, E. J. Ritter, Julius Dulliny, Otto Koch, William Tuepker, Jacob Crutsinger, Edward H. Schabery, Samuel Page, O. L. Seitz, A. F. Lay, William E. Grote, C. G. Grumke, David John, Frank Hugemueller, J. A. Murry, John H. Werterhold, C. A. Murry, Frank James, Frank Twente, Otto Hindersmann, Fred C. Schwarz, Charlie Price, Ray Studdard, Floyd M. Lale, R. E. Davis, A. Braedale, Thomas Price, W. H. Brener, T. J. Schaberg, E. R. Sellmeyer, Charles E. Seitz, Elmer Goan, Edgar Hanna, George Talbert, Walter Lancee, J. H. Slade, H. W. Canter, Elic Page, Tom Sewell, George Ahring, John O'Donnell, H. B. Mullharyt, Simon Jelisir, Oliver Grass, Francis Coguard, Victor Laurent, jr., Victor Laurent, sr., Alfred Dumas, Hugo Riesmeier, Dennis O'Leary, Harry Kendrick, George Kruel, Willie Reader, G. L. Cook, P. Short, Nelson Walker, George Osthoff, Joseph Engling, J. S. Slade, Earl Anderson, Wiley J. Reed, W. H. Bates, James Hannah, Watkins Larkin, Henry Hergemueller, John Baumer, Charles E. Lanck, Will Sebastian, I. I. Ritter, Claude Gan, Nels Olson, John Toebloz, William Duncan, William Meganigall, T. L. Rhuday, P. Finck, William Rutsinger, Gust Kruel, Pete Rukavim, A. H. Kuhlman, E. Hessenflown, C. L. Thompson, Julius Hundler, W. H. Bird, Elmer Brok, W. A. Johnson, Ernest Kohlstaedt, Henry Rawie, Charles Paulsueyer, F. W. Wahle, N. A. Waller, Pat McNally, O. B. Garner, J. E. Welforn, Lewis Roedel, William Carpenter, Marion Lay, W. M. Hicklin, Elmer Dikir, John W. Curtner, Frank Mautino, J. Holtherdsen, E. H. Boese, W. S. McLaddin, Toni Feniglio, Joe Gerir, Theodore Wantellet, Robert Johnson, John Gerir, Leon Dumas, John Mauntinn, Louis Schoppenhorst, Dan Lyons, E. L. Avinbruster, G. Lyons, W. E. Bryant, J. H. Bruismeyer, John Campbell, W. Brown, R. E. Lale, L. R. Lander, Fred Peterson, W. F. Multhaupt, Harry H. Limberg, J. J. Wheeldon, R. Heins, all of Wellington, Mo.; also, A. E. Stinsmeyer, N. Clemens, M. J. Clark, R. A. Keller, Louis Dugnay, Lee Grivet, Joseph Janechek, F. A. Ray, Theodore Reindguest, H. C. Pavitt, William Willer, Fred Johnson, John M. Dennison, H. Springmeyer, Harry Bliss, W. Drebes, W. A. Miller, A. Landy, John Casey, Jack Hoert, F. O. Conner, R. A. Pond, George Werges, Frank Vogt, Mike Gregor, Henry B. Ess, William Pletka, G. Zivyben, William T. Ballak, D. Wuderman, Carl Rohrbach, Frank Ott, R. C. Dickhaus, Clem E. Thrush, Joseph Vogel, M. McAuliffe, S. J. Lapin, Thomas Prior, R. M. Cullen, Ed McCarthy, R. C. Pulley, Theodore Bode, Edwin Pabst, D. B. Hunt, W. D. Rutherford, Gus Zogg, Roy Davis, William P. Doyle, John Lester, Robert Bullock, Fred D. Brown, F. W. Carrington, Henry C. Moore, Gus H. Palfrath, Joseph Green, Joseph Cavir, John W. Finney, all of St. Louis, Mo., protesting against the passage of House resolution 168 and Senate resolutions 50 and 88, and all similar prohibition legislation; to the Committee on Rules.

Also, petition of the St. Louis Stereotypers' Union, favoring the passage of the Bartlett-Bacon bill (H. R. 1873); to the Committee on the Judiciary.

Also, petition of the wine and liquor committee of the Italian Chamber of Commerce of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. JOHNSON of Washington: Petitions of sundry citizens of Thurston, Pierce, and Lewis Counties, and citizens of Raymond, all in the State of Washington, protesting against national prohibition; to the Committee on Rules.

Also, petition of sundry citizens of Olympia, Wash., favoring national prohibition; to the Committee on Rules.

By Mr. KENNEDY of Iowa: Petition of the Friends' Meeting at Salem, Iowa, favoring national prohibition; to the Committee on Rules.

Also, petition of the Friends' Meeting at Salem, Iowa, against House bill 11312; to the Committe on Military Affairs.

By Mr. KENNEDY of Rhode Island: Memorial of the Italian Chamber of Commerce of New York City, protesting against national prohibition; to the Committee on Rules.

Also, memorial of the New England Shoe and Leather Association, of Boston, Mass., protesting against passage of the interstate trade commission bill; to the Committee on Interstate and Foreign Commerce.

By Mr. LAZARO: Petition of the Central Trades and Labor Council of Lake Charles, La., relative to strike conditions in Colorado; to the Committee on Mines and Mining.

By Mr. LOBECK: Petitions of Michael Brunski and the Hotel Men's Association, of Omaha, Nebr., against national prohibition; to the Committee on Rules.

Also, petition of C. F. McGrew, of South Omaha, Nebr., favoring H. R. 16710, the Federal reserve act; to the Committee on Banking and Currency.

Also, petition of the Omaha Bar Association, favoring McCoy bill, providing for appointment of shorthand reporters for the district courts of the United States; to the Committee on the Judiciary.

By Mr. LONERGAN: Petition of August Haertl, of Hartford, Conn., protesting against national prohibition; to the Committee on Rules.

By Mr. McKENZIE: Petitions of sundry citizens of Dixon, Ill., favoring national prohibition; to the Committee on Rules.

By Mr. METZ: Petitions of various voters of the tenth congressional district and the Italian Chamber of Commerce of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. MOON: Papers to accompany House bill 10117, for the relief of Frank F. Griffith; to the Committee on Pensions.

By Mr. MOORE: Memorial of the Italian Chamber of Commerce of New York City, protesting against national prohibition; to the Committee on Rules.

By Mr. NELSON: Petition of 7 citizens of Dane County, Wis., protesting against national prohibition; to the Committee on Rules.

By Mr. O'LEARY: Petitions of sundry citizens of New York and Piel Bros., of Brooklyn, N. Y., protesting against national prohibition; to the Committee on Rules.

Also, petition of the Union Evangelical Church of Corona, N. Y., favoring national prohibition; to the Committee on Rules.

By Mr. PATTEN of New York: Petitions of sundry citizens and the Italian Chamber of Commerce of New York, protesting against national prohibitoin; to the Committee on Rules.

By Mr. PETERS of Maine: Petitions of Monmouth Grange, No. 39, sundry citizens of Madison and Jefferson, and the First Baptist Church of Jefferson, all in the State of Maine, favoring national prohibition; to the Committee on Rules.

Also, petition of M. McCauley, of Bar Harbor, Me., protesting against national prohibition; to the Committee on Rules.

By Mr. PORTER: Petitions of various churches and organizations of Pittsburgh, Aspinwall, Bellevue, Avalon, Hoboken, Perrysville, Braddock, and McKees Rocks, all in the State of Pennsylvania, favoring national prohibition; to the Committee on Rules.

Also, petitions of various organizations, societies, and citizens of the twenty-ninth congressional district of Pennsylvania, against national prohibition; to the Committee on Rules.

By Mr. SCULLY: Petition of sundry citizens of Long Branch, N. J., protesting against section 6 of House bill 12923, relative to Sunday work of postal employees; to the Committee on the Post Office and Post Roads.

Also, petition of 60 citizens of South River, N. J., and various members of the First Methodist Protestant Church of Elizabeth, N. J., favoring national prohibition; to the Committee on Rules.

By Mr. SHARP: Petitions of various organizations and individuals in the fourteenth congressional district of Ohio, favoring the passage of House joint resolution 168 and Senate bill 86, for national prohibition; to the Committee on Rules.

By Mr. SPARKMAN: Petitions of 253 citizens of Fort Myers, 72 citizens of Dunnellon, 109 citizens of Weirsdale, and 46 citizens of Clearwater, all in the State of Florida, favoring national prohibition; to the Committee on Rules.

By Mr. TEMPLE: Petition of various members of Jefferson Grange, No. 314, of Washington County, Pa., in favor of Government ownership of telegraph and telephone systems; to the Committee on the Post Office and Post Roads.

By Mr. UNDERHILL: Petition of the wine and liquor committee of the Italian Chamber of Commerce of New York, and sundry citizens of Elmira, N. Y., protesting against national prohibition; to the Committee on Rules.

By Mr. WILLIS: Petition of Alice Bishop and 36 other citizens of Ashley, Ohio, in favor of House joint resolution 168, relative to national prohibition; to the Committee on Rules.

By Mr. WOODRUFF: Petition of sundry citizens of the State of Michigan, protesting against national prohibition; to the Committee on Rules.

Also, petition of sundry citizens of the tenth congressional district of Michigan, favoring passage of House bill 5308, relative to taxing mail-order houses; to the Committee on Rules.

Also, petition of sundry citizens of Cheboygan, Mich., for a free press and free speech; to the Committee on the Post Office and Post Roads.

Also, petition of sundry citizens of Wolverine, Mich., favoring passage of national prohibition; to the Committee on Rules.