

Also, petition of H. W. Buckbee, of Rockford, Ill., favoring Quarles-Cooper bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Skandia Furniture Company, of Rockford, Ill., favoring bill H. R. 6273—to the Committee on Interstate and Foreign Commerce.

Also, petition of the American Humane Association, concerning protection of range cattle—to the Committee on Agriculture.

Also, petition of the United Confederate Veterans, asking appropriate legislation favoring care and preservation of the graves of Confederate dead in northern cemeteries—to the Committee on Military Affairs.

By Mr. GARDNER of Massachusetts: Petition of citizens of Gloucester, Mass., favoring a constitutional amendment abolishing polygamy—to the Committee on the Judiciary.

By Mr. VAN VOORHIS: Papers to accompany bill for relief of Ozenas Shipman—to the Committee on Invalid Pensions.

By Mr. GREGG: Papers to accompany bill granting increase of pension to Joseph B. Scott—to the Committee on Pensions.

By Mr. GROSVENOR: Papers to accompany bill for relief of J. W. Hely, of Ohio—to the Committee on Pensions.

By Mr. GUDGER: Petition of soldiers in support of bill H. R. 17514, granting increase pension to John H. Williams—to the Committee on Invalid Pensions.

By Mr. HAMILTON: Papers to accompany bill for the relief of Ida Eubank—to the Committee on Invalid Pensions.

By Mr. HEARST: Petition of business men of Spencer, Iowa, urging passage of bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

Also, petition of business men of Plattsmouth, Nebr., urging passage of bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Illinois, urging passage of bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Blanchester, Ohio, urging passage of bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Neoga, Ill., urging passage of bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

Also, petition of Lincoln Commercial Club, of Lincoln, Nebr., urging passage of bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

Also, petition of merchants et al. of St. Louis, urging passage of bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Alexis, Ill., urging passage of bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

Also, petition of sundry business firms of New York, urging enactment of bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

By Mr. HEMENWAY: Petition of Old Soldiers' Republican Club, of Evansville, Ind., favoring the Crumpacker bill—to the Committee on Election of President, Vice-President, and Representatives in Congress.

By Mr. HITT: Petition of the Rexford Bolt Works, of Rockford, Ill., favoring the Quarles-Cooper bill—to the Committee on Interstate and Foreign Commerce.

By Mr. KNOWLAND: Petition of commercial organizations of San Francisco, urging adoption of pneumatic-tube service for mail delivery—to the Committee on the Post-Office and Post-Roads.

By Mr. LILLEY: Papers to accompany bill (H. R. 16126) for relief of Leroy Noble—to the Committee on War Claims.

By Mr. LITTLE: Paper to accompany bill H. R. 17428—to the Committee on War Claims.

By Mr. OLMSTED: Petition of Camp No. 192, Patriotic Order Sons of America, of Palmyra, Pa., favoring enactment of laws restricting immigration—to the Committee on Immigration and Naturalization.

By Mr. OVERSTREET: Petition of the Hunter Company et al., favoring bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

By Mr. PADGETT: Petition of B. R. Thomas et al., favoring legislation to improve navigation of the Tennessee River—to the Committee on Rivers and Harbors.

By Mr. PEARRE: Petition of Mrs. G. M. Wolfe et al., of Montgomery County, Md., for a constitutional amendment abolishing polygamy—to the Committee on the Judiciary.

By Mr. POWERS of Massachusetts: Petition of G. Fred Hammond and others, for a constitutional amendment prohibiting polygamy—to the Committee on the Judiciary.

Also, petition of members of the Massachusetts Sunday

School Association, for a constitutional amendment prohibiting polygamy—to the Committee on the Judiciary.

Also, petition of citizens of Newton, Mass., for a constitutional amendment prohibiting polygamy—to the Committee on the Judiciary.

Also, petition of the Baptist Church of Hyde Park, Mass., for a constitutional amendment prohibiting polygamy—to the Committee on the Judiciary.

Also, petition of the Norwood Business Association and Board of Trade, for passage of bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

Also, petition of Leonard A. Jones et al., relative to statistics concerning marriage and divorce—to the Committee on the Judiciary.

Also, petition of 22 citizens of New Bedford, Mass., against bill H. R. 4859—to the Committee on the District of Columbia.

By Mr. REID: Papers to accompany bill H. R. 17544, granting an increase of pension to Stephen M. Fisk—to the Committee on Invalid Pensions.

By Mr. RICHARDSON of Alabama: Papers to accompany bill H. R. 12104, for relief of Lagrange College—to the Committee on War Claims.

By Mr. RYAN: Petition of Colorado beet-sugar manufacturers, against reduction of duties on raw or refined sugar—to the Committee on Ways and Means.

By Mr. SMITH of Illinois: Petition of citizens of Mound, Ill., relating to an amendment of the pension laws—to the Committee on Invalid Pensions.

By Mr. SMITH of Kentucky: Petition of the Hartford Commercial Club, favoring bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

By Mr. VAN VOORHIS: Papers to accompany bill for relief of William A. Crum—to the Committee on Invalid Pensions.

By Mr. WILLIAMS: Papers to accompany bill for relief of William Clark—to the Committee on Pensions.

Also, paper to accompany bill for the relief of Abraham Stine, of Rinard, Ill.—to the Committee on Pensions.

## SENATE.

THURSDAY, January 12, 1905.

Prayer by the Chaplain, Rev. EDWARD E. HALE.

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

STATUE OF FRANCES E. WILLARD.

The PRESIDING OFFICER (Mr. PERKINS) laid before the Senate a communication from the governor of the State of Illinois, requesting that a date be fixed for the acceptance by Congress of the statue of Frances E. Willard; which was referred to the Committee on the Library, and ordered to be printed.

MINT AT DENVER, COLO.

The PRESIDING OFFICER laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Director of the Mint amending that portion of his estimate of December 14, 1904, relative to the wages of workmen at the mint at Denver, Colo., for the fiscal year 1905, etc., which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

INTERNATIONAL PRISON CONGRESS.

The PRESIDING OFFICER laid before the Senate a communication from the Secretary of State, transmitting a letter from Hon. Samuel J. Barrows, Commissioner for the United States on the International Prison Commission, relative to the passage of a resolution by Congress authorizing the President to extend to the International Prison Congress an invitation to hold the Eighth International Prison Congress in the United States; which, with the accompanying papers, was referred to the Committee on Foreign Relations, and ordered to be printed.

REMOVAL OF REMAINS OF MAJOR L'ENFANT.

The PRESIDING OFFICER laid before the Senate a communication from the Commissioners of the District of Columbia, transmitting certain information relative to the removal of the remains of Major l'Enfant; which was referred to the Committee on the District of Columbia, and ordered to be printed.

ELECTORAL VOTES.

The PRESIDING OFFICER laid before the Senate a communication from the Secretary of State, transmitting the final ascertainment of electors for President and Vice-President for the State of Wisconsin; which, with the accompanying paper, was ordered to be filed.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the bill (S. 5889) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River.

The message also announced that the House had passed a bill (H. R. 16992) to authorize the county of Sunflower to construct a bridge across the Mississippi River; in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the amendment of the Senate to the bill (H. R. 1513) for the relief of the estate of George W. Saulpaw.

The message also announced that the Speaker of the House of Representatives had appointed Mr. DALZELL, Mr. CRUMPACKER, and Mr. WILLIAMS of Mississippi, members of the Committee on Inaugural Ceremonies on the occasion of the inauguration of the President-elect on March 4, 1905, etc.

The message further announced the return to the Senate, in compliance with its request, of the bill (S. 6019) to authorize the parish of Caldwell, La., to construct a bridge across the Ouachita River.

## PETITIONS AND MEMORIALS.

Mr. PENROSE presented a petition of the Board of Trade of Philadelphia, Pa., praying for the ratification of international arbitration treaties; which was referred to the Committee on Foreign Relations.

He also presented a petition of the Board of Trade of Philadelphia, Pa., praying for the enactment of legislation providing for free alcohol for use in the arts and manufactures; which was referred to the Committee on Finance.

He also presented petitions of Local Association No. 650, Patriotic Order Sons of America, of Broad Top City; of Washington Camp No. 549, of Blandburg; of sundry citizens of Palmyra; of Local Camp No. 56, Patriotic Order Sons of America, Glasgow, and of sundry citizens of Newlin, all in the State of Pennsylvania, praying for the enactment of legislation providing more stringent laws and regulations governing immigration; which were referred to the Committee on Immigration.

Mr. FAIRBANKS presented a petition of the congregation of the First Friends Church of Indianapolis, Ind., praying for the enactment of legislation to regulate the interstate transportation of intoxicating liquors; which was referred to the Committee on the Judiciary.

He also presented a petition of the Receivers and Shippers' Association of Cincinnati, Ohio, praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce.

Mr. GALLINGER. I present a large number of petitions from citizens of the Territory of Oklahoma, praying for prohibition in the new State. The bill having been reported, I ask that the petitions may lie on the table.

The petitions were ordered to lie on the table, as follows:

- Petition of Mrs. A. M. Wilson and 2,691 other citizens;
- Petition of Neal Stone and 2,397 other citizens;
- Petition of G. A. Cook and 2,841 other citizens; and
- Petition of Miss Nellie Deem and 3,062 other citizens.

Mr. GALLINGER. I present likewise a large number of petitions from the Indian Territory, praying that in our legislation the provisions of our treaties with the Indians shall be observed and continued, so that so far as the Indian Territory is concerned they shall have prohibition in the future as they have had in the past.

I wish to mention particularly a petition from the Antisaloon League, which calls attention to the fact that "for seventy-two years the United States Government has prohibited the sale of intoxicating liquors in the Indian Territory," and praying that a provision shall be included in the statehood bill continuing prohibition.

Here is a petition which is signed by 76 Choctaw Indians, and it is as follows:

We, the undersigned Choctaw Indians, in attendance at a big meeting at Mount Zion, Choctaw Nation, do most earnestly petition your honorable body to make such provision in the approaching statehood bill as is necessary to prohibit the introduction and sale of intoxicating drinks within our bounds, in accordance with the agreement made with the several tribes before allotment.

I take it that all these petitions are of the same character, and I ask that they may be noted in the RECORD and lie on the table.

The petitions were ordered to lie on the table, as follows:

- Petition of Thomas Watson and 76 Choctaw Indians;
- Petition of the Carney Methodist Episcopal Church and 40 other churches;
- Petition of Vance Lee and 134 citizens of Ada;
- Petition of E. T. Benton and 85 citizens of Lenox;

Petition of Atoka Circuit and 119 citizens of the Choctaw District;

Petition of sundry full-blood Indian citizens of Pontotoc County;

Petition of J. J. James and 38 citizens of Walker;

Petition of C. B. Yonbrough and 15 citizens;

Petition of Hugh Taylor and 82 citizens;

Petition of Thomas Watson and 65 citizens;

Petition of Isom Billy and 17 citizens of Tuskahoma;

Petition of Rev. G. Lee Phelps and 68 citizens of the Creek Nation;

Petition of L. B. Thurston and 82 citizens of Chelsea;

Petition of S. B. Welsh and 43 citizens of Muldrom;

Petition of J. J. Townsend and 39 citizens;

Petition of V. Malone and 77 citizens;

Petition of G. H. Mindle and 28 citizens;

Petition of Annie W. Martin and 34 citizens;

Petition of Aaron C. Ammin and 57 citizens;

Petition of Frederick Thompson and 41 citizens;

Petition of J. J. Maggard and 170 citizens of Marietta;

Petition of Mrs. J. B. Ingram and 218 citizens of Ada;

Petition of R. E. Hodge and 45 citizens of Ada;

Petition of C. R. Beard and 10 citizens of Ada;

Petition of W. L. Davis and 72 citizens of Ada;

Petition of Sherwood W. Hill and 98 citizens of Ada;

Petition of A. C. Cobb and 41 citizens of Cherokee Nation;

Petition of W. S. Brown and 179 citizens of Brown County;

Petition of Mary A. Smith and 9 citizens of Beach;

Petition of J. L. Swain and 9 citizens of Germantown;

Petition of George A. Alexander and 44 citizens of Creek Nation;

Petition of Tom A. Allen and 58 citizens;

Petition of T. E. Tilley and 32 citizens of Caddo;

Petition of R. J. Scott and 25 citizens of Sallisaw;

Petition of Joseph E. M. Nelson and 35 citizens of Durant;

Petition of S. S. Johnson and 46 citizens;

Petition of E. C. Lytle and 46 citizens of Bartlesville;

Petition of E. M. Landis and 20 citizens of Sallisaw;

Petition of M. E. Crisp and 71 citizens of Kiowa;

Petition of Mrs. Mary Trellock and 7 citizens of Oseuma;

Petition of B. F. Wood and 47 citizens;

Petition of D. P. Wasson and 148 citizens of Westville;

Petition of Luther Kyle and 111 citizens of Stilwell;

Petition of P. C. Atkins and 26 citizens of Caddo;

Petition of M. B. McKenney and 54 citizens of Oakland;

Petition of J. E. Stinson and 40 citizens of McMillan;

Petition of E. B. Newton and 20 citizens of Ball Hill;

Petition of J. C. Pray and 85 citizens of Muscogee;

Petition of J. A. Bowman and 2 citizens of Wewoka;

Petition of W. P. Blake and 17 citizens;

Petition of Anna Dickerman and 48 citizens of Stoka;

Petition of J. S. Murrow and 168 citizens of Stoka;

Petition of J. W. Collins and 69 citizens of Stonewall;

Petition of C. L. Webb and 200 citizens of Ada;

Petition of Philip Thompson and 220 citizens of Ada;

Petition of P. H. Smith and sundry other citizens;

Petition of W. T. Freeman and 24 citizens of Comanche;

Petition of sundry Sunday-school children of Ada; and the

Petition of W. L. Taylor and 70 citizens of Texola.

Mr. DRYDEN presented a petition of the mayor and common council of Millville, N. J., praying that an appropriation be made providing for the opening to navigation of the channel of the Maurice River; which was referred to the Committee on Commerce.

He also presented a petition of the New Jersey Pharmaceutical Association, praying for the enactment of legislation reducing the tax on alcohol; which was referred to the Committee on Finance.

He also presented the memorial of Bogart & Hayden, of New York City, remonstrating against any reduction in the tariff on tobacco imported from the Philippine Islands; which was referred to the Committee on Finance.

He also presented a petition of the Merchants' Association of New York, praying for the enactment of legislation to regulate the towing of vessels in the harbor of New York; which was referred to the Committee on Commerce.

He also presented a memorial of the National Remedy Company, of New York City, remonstrating against the use of the word "drug" in the so-called "pure-food bill;" which was ordered to lie on the table.

He also presented a memorial of the Cape May County board of agriculture, of New Jersey, remonstrating against any changes being made in the so-called "Grout oleomargarine bill;" which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of the Guernsey Breeders' As-

sociation, of Westgrove, Pa., praying for the passage of the so-called "Grout oleomargarine bill;" which was referred to the Committee on Agriculture and Forestry.

He also presented a memorial of the Woman's Christian Temperance Union of Elmer, N. J., and a memorial of the Woman's Christian Temperance Union of Collingswood, N. J., remonstrating against the repeal of the present anticanteen law; which were referred to the Committee on Military Affairs.

He also presented petitions of the Woman's Christian Temperance Union of Collingswood; of the Butler and Bloomingdale Woman's Christian Temperance Association, of Bloomingdale; of the Woman's Christian Temperance Association of Salem, and of Medford Grange, No. 36, Patrons of Husbandry, of Medford, all in the State of New Jersey, praying for the adoption of a certain amendment to the suffrage clause in the statehood bill; which were ordered to lie on the table.

He also presented a petition of the Boston branch of the United Irish League of America, praying for the ratification of international arbitration treaties; which was referred to the Committee on Foreign Relations.

He also presented petitions of the congregation of South Park Church, of Newark; of the Society of Friends of Moorestown; of the Woman's Christian Temperance Union of Hancock's Bridge; of the congregation of the Park Presbyterian Church, of Newark, and of Medford Grange, No. 36, Patrons of Husbandry, of Medford, all in the State of New Jersey, and of the Indian Rights Association of Philadelphia, Pa., praying for the enactment of legislation providing for the protection of Indians against the liquor traffic in the new States to be formed; which were ordered to lie on the table.

Mr. KEAN presented memorials of George C. Magill, of Newark; J. B. Adams, of Elwood; M. Relyea, of Pemberton; George F. Snyder, of Washington; Albert Heritage, of Mickleton; George May Powell, of Newfield; David P. Taylor, of Fairton, and of the Woman's Christian Temperance Union of Montclair, all in the State of New Jersey, remonstrating against the repeal of the present anticanteen law; which were referred to the Committee on Military Affairs.

Mr. STONE presented a petition of sundry citizens of St. Louis, Mo., praying for the ratification of international arbitration treaties; which was referred to the Committee on Foreign Relations.

He also presented a petition of Iron Mountain Lodge, No. 390, Brotherhood of Locomotive Firemen, of St. Louis, Mo., and a petition of J. L. Parish Division, No. 556, Brotherhood of Locomotive Engineers, of New Franklin, Mo., praying for the enactment of legislation relating to the liability of common carriers by railroads to their employees; which were referred to the Committee on Interstate Commerce.

He also presented a memorial of sundry citizens of Newton County, Mo., remonstrating against the passage of the so-called "Hamilton statehood bill;" which was ordered to lie on the table.

Mr. DOLLIVER presented a petition of Local Division No. 56, Brotherhood of Locomotive Engineers, of Centerville, Iowa, and a petition of local Lodge No. 602, Brotherhood of Railroad Trainmen, of Des Moines, Iowa, praying for the passage of the so-called "employers' liability bill;" which were referred to the Committee on Interstate Commerce.

He also presented the petition of Anson Alger and sundry other citizens of Milford, Iowa, praying for the enactment of legislation to prohibit the manufacture and sale of intoxicating liquors in the Indian Territory when admitted to statehood; which was ordered to lie on the table.

Mr. MILLARD presented a petition of the Western Fruit Jobbers' Association of Omaha, Nebr., praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce.

Mr. LONG presented petitions of sundry citizens of Parsons, Kans., praying for the enactment of legislation to prohibit the manufacture and sale of intoxicating liquors in the Indian Territory when admitted to statehood; which were ordered to lie on the table.

He also presented the petition of B. F. Surface and 7 other citizens of Narka, Kans., praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce.

He also presented a petition of sundry citizens of Topeka, Kans., praying for the adoption of an amendment to the Constitution to recognize God as the source of all authority and power in civil government; which was referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of Linn County, Tyro, and Turon, all in the State of Kansas, remon-

strating against the enactment of legislation providing for the closing of places of business on Sunday in the District of Columbia; which were referred to the Committee on the District of Columbia.

He also presented petitions of sundry citizens of Labette County, St. Paul, Leavenworth, Johnson County, Wilson, Graham County, Wichita, Iola, Everest, Pleasanton, Winfield, Burlington, Ellsworth, Ottawa, Bluff, Wamego, and Liberal, all in the State of Kansas, praying for the enactment of legislation providing for the protection of Indians against the liquor traffic in the new States to be formed; which were ordered to lie on the table.

He also presented a petition of Local Division No. 161, Brotherhood of Railway Conductors, of Parsons, Kans., and a petition of Border City Division, No. 462, Brotherhood of Locomotive Firemen, of Arkansas City, Kans., praying for the passage of the so-called "employers' liability bill;" which were referred to the Committee on Interstate Commerce.

He also presented a petition of J. H. Kirk Lodge, No. 376, Brotherhood of Locomotive Firemen, of Horton, Kans., praying for the enactment of legislation to prohibit the employment of any man as a locomotive engineer who has not had at least three years' experience as a locomotive fireman; which was referred to the Committee on Interstate Commerce.

He also presented a paper to accompany the bill (S. 2535) granting an increase of pension to Joel Maxwell; which was referred to the Committee on Pensions.

He also presented sundry papers to accompany the bill (S. 6262) granting an increase of pension to Seth M. Tucker; which were referred to the Committee on Pensions.

Mr. McCOMAS presented a petition of the Chamber of Commerce of Baltimore, Md., praying for the enactment of legislation to enlarge the powers of the Interstate Commerce Commission; which was referred to the Committee on Interstate Commerce.

Mr. MARTIN presented a petition of the Norfolk and Portsmouth bar associations, of Virginia, praying for the ratification of international arbitration treaties; which was referred to the Committee on Foreign Relations.

#### REPORTS OF COMMITTEES.

Mr. McCUMBER (for Mr. SCOTT), from the Committee on Pensions, to whom were referred the following bills, reported them each with an amendment, and submitted reports thereon:

A bill (S. 5705) granting a pension to Mary L. Faunt Le Roy;

A bill (S. 5971) granting a pension to Cordelia Bird; and

A bill (S. 3435) granting a pension to Mazilla Lester.

Mr. McCUMBER (for Mr. SCOTT), from the Committee on Pensions, to whom were referred the following bills, reported them severally with amendments, and submitted reports thereon:

A bill (S. 4722) granting a pension to M. V. Trough;

A bill (S. 2828) granting a pension to Phoebe E. Lyda;

A bill (S. 2913) granting an increase of pension to Elizabeth F. Given;

A bill (S. 3517) granting an increase of pension to John B. Hammers; and

A bill (S. 2189) granting an increase of pension to Joseph K. Armstrong.

Mr. McCUMBER (for Mr. SCOTT), from the Committee on Pensions, to whom was referred the bill (S. 5523) granting an increase of pension to James Minnick, reported it without amendment, and submitted a report thereon.

Mr. McCUMBER, from the Committee on Pensions, to whom was referred the bill (S. 6351) granting an increase of pension to Martin T. Cross, reported it with an amendment, and submitted a report thereon.

Mr. HANSBROUGH, from the Committee on Public Lands, to whom was referred the bill (S. 5763) granting certain property to the county of Gloucester, N. J., reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom were referred the following bills, asked to be discharged from their further consideration and that they be referred to the Committee on Forest Reservations and the Protection of Game:

A bill (S. 5055) providing for the transfer of forest reserves from the Department of the Interior to the Department of Agriculture; and

A bill (S. 5009) providing for the transfer of forest reserves from the Department of the Interior to the Department of Agriculture.

Mr. ALGER, from the Committee on Military Affairs, to whom was referred the bill (H. R. 9799) to remove charge of desertion from the military record of John Dorsey, reported it with an amendment.

Mr. PETTUS, from the Committee on Military Affairs, to whom was referred the bill (H. R. 1979) providing for the ex-

tension of the national cemetery on Williamsburg turnpike, near the city of Richmond, Va., reported it without amendment, and submitted a report thereon.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the bill (H. R. 12346) to correct the military record of William J. Barcroft, reported it with an amendment.

#### THE MERCHANT MARINE.

Mr. GALLINGER. By direction of the Committee on Commerce I report back favorably, with sundry amendments, the bill (S. 6291) to promote the national defense, to create a force of naval volunteers, to establish American ocean mail lines to foreign markets, to promote commerce, and to provide revenue from tonnage.

I desire, as a written report on the bill, to submit the report which was made January 4, from the Merchant Marine Commission. I will also ask that the minority report from the Merchant Marine Commission, which was presented day before yesterday by the Senator from Florida [Mr. MALLORY] be printed in connection with the majority report.

The PRESIDING OFFICER. The bill will be placed upon the Calendar, and if there be no objection, the report submitted and the views of the minority will be printed as the report of the committee.

Mr. BERRY. The Senator from Florida who made the minority report from the Commission is not in his seat. I desire to state that the report of the Committee on Commerce in favor of this bill was not unanimous. There are a number of Senators who are opposed to the bill, and we will either adopt the report made by the Senator from Florida as a member of the Commission or submit a written report hereafter.

Mr. GALLINGER. Of course I know the Senator does not mean to suggest that I meant to have it understood that this was a unanimous report. It is made in the usual form from a committee as the sense of the majority of the committee.

Mr. BERRY. Certainly; but I thought it proper that the Record should show that it was not unanimous.

Mr. GALLINGER. Certainly.

The PRESIDING OFFICER. If there be no objection to the request of the Senator from New Hampshire, the order will be made.

Mr. BAILEY. What is the request?

The PRESIDING OFFICER. That the majority and minority reports shall be printed and the bill be placed upon the Calendar.

Mr. BAILEY. I have no purpose of objecting to that request, but I would like to ask the Senator from New Hampshire if the bill which he has reported proposes a direct subsidy?

Mr. GALLINGER. That matter will I suppose be discussed hereafter. I will, however, say to the Senator that it proposes a subvention to ships if they carry out certain provisions of the bill in the matter of creating a force of naval volunteers and of educating boys on their ships as seamen. That is one provision of the bill, I will say to the Senator; there are other provisions.

Mr. BAILEY. I was moved to make the inquiry because I remember when unanimous consent was asked for the consideration of the act creating the Commission which made the inquiry, I objected, and was only induced to withdraw the objection upon the assurance that the Commission would recommend discriminating duties and not a direct subsidy.

Mr. GALLINGER. Mr. President, that probably was not intended as a reflection upon the Commission, but I can not help paying some attention to it. I will say that I had no knowledge of any such agreement on the part of the Senator or on the part of any Senators. Had I had any such knowledge I certainly would not have served on the Commission for a moment.

Mr. BAILEY. I will say—

Mr. GALLINGER. I took it the Commission was free-handed, and so stated wherever we held hearings. We heard the advocates of discriminating duties, of free ships, of subsidies, of mail subventions, and of every other possible form of relief for our merchant marine, but I never for a moment supposed that the Commission had its hands tied and that it had to make a report along certain lines. That would have been a most extraordinary situation for a commission to have been placed in. Of course, had I supposed that that was the fact, hearings would have been useless, and none would have been had.

Mr. BAILEY. It is absolutely certain that we would not have had any commission if I had known that the Commission was going to report in favor of a subsidy. I protested against the unanimous consent for the consideration of the act creating the Commission, because I said it was tantamount to agreeing to a recommendation for a direct subsidy.

The Senator refers to an assurance on the part of the Commission. I did not make that statement. I said that there was an assurance, not that the Commission itself gave that assurance, but an assurance given by at least one and I think two Senators, who are especially familiar with it, that the recommendation would be for discriminating duties; and that colloquy is reported in the Record of that day.

Mr. GALLINGER. Mr. President, I will only add that had the Commission been in the possession of that fact, if it be a fact, there would not have been any hearings on the part of the Commission, nor would there have been a report from the Commission. We assumed that we had a great public duty committed to us by the Congress of the United States. We accepted that service reluctantly and at great personal inconvenience, giving the entire summer to it; and the suggestion even that we were bound to make a report along a given line is to my mind utterly preposterous.

The PRESIDING OFFICER. If there be no objection to the request of the Senator from New Hampshire, the majority and minority reports will be printed and the bill will go to the Calendar.

Mr. CLAY. Was the minority report filed this morning?

The PRESIDING OFFICER. It was filed two days ago.

Mr. GALLINGER. It was filed two days ago.

The PRESIDING OFFICER. The bill was reported back this morning by the senior Senator from New Hampshire.

Mr. BERRY. I will say that there was a minority report from the Commission—

Mr. GALLINGER. Certainly.

Mr. BERRY. Not from the minority of the committee, though there is a minority of the committee opposed to the bill. The minority report referred to is one made by the Senator from Florida from the Commission.

Mr. CLAY. And no minority report from the committee will be filed in the future?

Mr. GALLINGER. That the Senator from Georgia may understand this matter, I will state that in reporting the bill this morning I asked that the report made by the Merchant Marine Commission might be filed as a report in favor of the bill and that the minority report of the Commission might likewise be filed and printed in connection with it.

Mr. CLAY. I asked the question because I was unavoidably detained from the committee in the discharge of other official duties this morning, and I did not know that the question was going to be discussed before the committee.

#### PORT OF SHERWOOD, N. DAK.

Mr. NELSON. I am directed by the Committee on Commerce, to whom was referred the bill (S. 6057) making Sherwood, N. Dak., a subport of entry, to report it favorably without amendment.

Mr. McCUMBER. I ask unanimous consent for the present consideration of the bill.

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

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

#### J. B. McRAE.

Mr. OVERMAN. I am directed by the Committee on Claims, to whom was referred the bill (H. R. 6351) to pay J. B. McRae \$99, for services as hospital steward, and so forth, to report it favorably without amendment, and I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to pay \$99 to J. B. McRae, of Jackson, N. C., for services rendered as hospital steward of the Second Regiment North Carolina Volunteers, from June 6, 1898, to July 31, 1898, in full satisfaction for services rendered.

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

#### PEARL RIVER BRIDGE, MISSISSIPPI.

Mr. FOSTER of Louisiana. I am directed by the Committee on Commerce, to whom was referred the bill (H. R. 15981) to amend an act entitled "An act to authorize the Pearl and Leaf Rivers Railroad Company to bridge Pearl River, in the State of Mississippi, to report it favorably without amendment.

Mr. McLaurin. I ask unanimous consent for the immediate consideration of the bill.

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

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

## BILLS INTRODUCED.

Mr. STONE introduced a bill (S. 6529) to provide for the purchase of a site and the erection of a public building thereon at Macon, in the State of Missouri; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Public Buildings and Grounds.

Mr. WARREN introduced a bill (S. 6530) granting a pension to Michael V. Hennessy; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. DILLINGHAM introduced a bill (S. 6531) to amend section 13 of an act entitled "An act to prohibit the coming of Chinese laborers to the United States," approved September 13, 1888; which was read twice by its title, and referred to the Committee on the Judiciary.

He also introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 6532) granting a pension to Catharine Celley;

A bill (S. 6533) granting a pension to Bridget Manahan; and

A bill (S. 6534) granting an increase of pension to Sargent R. Emerson (with accompanying papers).

Mr. HANSBROUGH introduced a bill (S. 6535) to provide for the development and utilization of grazing lands in the arid region, and for other purposes; which was read twice by its title, and referred to the Committee on Irrigation and Reclamation of Arid Lands.

Mr. McENERY introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Claims:

A bill (S. 6536) for the relief of W. G. Wheeler;

A bill (S. 6537) for the relief of the estate of Adelon Vignes, deceased;

A bill (S. 6538) for the relief of the estate of Louis Vuagnat, deceased;

A bill (S. 6539) for the relief of the estate of John R. Temple, deceased;

A bill (S. 6540) for the relief of Katherine Smith;

A bill (S. 6541) for the relief of the estate of S. S. Simmons, deceased;

A bill (S. 6542) for the relief of Julien Semere;

A bill (S. 6543) for the relief of the estate of Edward Sigur, deceased;

A bill (S. 6544) for the relief of the estates of William Salamber and Mrs. Charlotte G. Salamber, deceased;

A bill (S. 6545) for the relief of the estate of Patrick McCormack, deceased; and

A bill (S. 6546) for the relief of Mrs. E. C. McIntyre.

Mr. TALIAFERRO introduced a bill (S. 6547) for the relief of Emily Catherine Jones; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

He also introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 6548) granting an increase of pension to Levincy Walker;

A bill (S. 6549) granting an increase of pension to Charles T. West;

A bill (S. 6550) granting a pension to Jane Johns;

A bill (S. 6551) granting a pension to Elizabeth Wester;

A bill (S. 6552) granting an increase of pension to Lewis S. George;

A bill (S. 6553) granting an increase of pension to Orlando Kennedy;

A bill (S. 6554) granting an increase of pension to Martin Gillett;

A bill (S. 6555) granting an increase of pension to Robert Gamble, jr.; and

A bill (S. 6556) granting a pension to Amanda B. Mack.

Mr. PENROSE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Military Affairs:

A bill (S. 6557) for the relief of Columbus D. Smith (with an accompanying paper);

A bill (S. 6558) to correct the military record of Alexander Everhart (with accompanying papers);

A bill (S. 6559) for the relief of Charles Seiser; and

A bill (S. 6560) to correct the military record of William H. Blyler (with accompanying papers).

Mr. PENROSE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 6561) granting a pension to Cornelia J. Schoonover;

A bill (S. 6562) granting an increase of pension to George W. Moyer (with an accompanying paper);

A bill (S. 6563) granting a pension to David Weaver (with accompanying paper); and

A bill (S. 6564) granting a pension to Sarah E. Burns (with accompanying papers).

Mr. PENROSE introduced a bill (S. 6565) granting right of way for trailway to W. W. Bass, of Coconino County, Ariz., for travel across the Grand Canyon of Arizona, and ferry privileges, and so forth, across the Colorado River therein; which was read twice by its title, and referred to the Committee on Public Lands.

He also introduced a bill (S. 6566) for the relief of F. X. Smith, Son & Co.; which was read twice by its title, and referred to the Committee on Finance.

Mr. TALIAFERRO introduced a bill (S. 6567) for the relief of Thomas R. Webb; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. MARTIN introduced a bill (S. 6568) for the relief of the Richmond Locomotive Works, successor of the Richmond Locomotive and Machine Works; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

He also introduced a bill (S. 6569) for the relief of the trustees of High Hill Baptist Church, of Greensville County, Va.; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6570) for the relief of the heirs of Lemmos J. Spence, deceased; which was read twice by its title, and referred to the Committee on Claims.

## AMENDMENT TO GENERAL DEFICIENCY APPROPRIATION BILL.

Mr. PENROSE submitted an amendment proposing to appropriate \$700 for the collection of materials, preparation, editing, etc., of the volume (Senate Document No. 320) entitled "Sherman; a memorial in art, oratory, and literature, by the Society of the Army of the Tennessee, with the aid of the Congress of the United States," intended to be proposed by him to the general deficiency appropriation bill; which was ordered to be printed, and, with the accompanying paper, referred to the Committee on Appropriations.

## HOUSE BILL REFERRED.

H. R. 16992. An act to authorize the county of Sunflower to construct a bridge across the Sunflower River, Mississippi, was read twice by its title, and referred to the Committee on Commerce.

## OUACHITA RIVER BRIDGE, LOUISIANA.

The PRESIDING OFFICER laid before the Senate the bill (S. 6019) to authorize the parish of Caldwell, La., to construct a bridge across Ouachita River, returned from the House of Representatives in compliance with the request of the Senate.

Mr. BERRY. The bill ought to be indefinitely postponed.

The PRESIDING OFFICER. The Senator from Arkansas moves that the bill be indefinitely postponed.

The motion was agreed to.

## COAL LANDS IN ALASKA.

Mr. HEYBURN. I desire to call attention to the bill (S. 4413) to authorize the location of coal lands upon unsurveyed public lands in the district of Alaska, and for the survey, entry, and patenting of the same, which is Order of Business 1163 upon the Calendar. We have already covered the subject-matter of the bill by a measure which has been enacted into law. I move that the bill be indefinitely postponed.

The motion was agreed to.

## LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. CULLOM. If the morning business is closed, I desire to call up the legislative, executive, and judicial appropriation bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 15895) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1906, and for other purposes, which had been reported from the Committee on Appropriations with amendments.

Mr. CULLOM. I ask that the bill may be read and that the amendments of the committee may be considered as they are reached as the reading proceeds.

The PRESIDING OFFICER. If there be no objection such will be the order of the Senate.

The Secretary proceeded to read the bill. The first amendment of the Committee on Appropriations was under the head of "Legislative," on page 3, line 18, before the word "dollars," to strike out "one thousand eight hundred" and insert "two

thousand," and in line 22, before the word "hundred," to strike out "one" and insert "three;" so as to make the clause read:

Document room: For superintendent of the document room (Amzi Smith), \$3,000; first assistant in document room, \$2,000; two assistants in document room, at \$1,440 each; clerk to superintendent of document room, \$1,440; skilled laborer, \$1,000; in all, \$10,320.

The amendment was agreed to.

The next amendment was, on page 6, after line 3, to insert:

For additional amount for the clerk to the Committee on Rules for The amendment was agreed to.

The next amendment was, on page 6, line 25, to increase the appropriation for the salary of messenger in charge of store-room, office of Sergeant-at-Arms and Doorkeeper, from \$1,440 to \$1,600, and on page 7, line 18, to increase the total appropriation for the office of Sergeant-at-Arms and Doorkeeper from \$158,384 to \$158,544.

The amendment was agreed to.

The next amendment was, on page 8, line 23, before the word "annual," to strike out "thirty" and insert "thirty-five;" and on page 9, line 2, before the word "dollars," to strike out "forty-five thousand" and insert "fifty-two thousand five hundred;" so as to make the clause read:

For thirty-five annual clerks to Senators who are not chairmen of committees, at \$1,500 each, \$52,500.

The amendment was agreed to.

The next amendment was, on page 10, line 2, before the word "labor," to strike out "salaries and," and in line 3, before the word "thousand," to strike out "twenty-five" and insert "one hundred;" so as to make the clause read:

For miscellaneous items, exclusive of labor, \$100,000.

The amendment was agreed to.

The next amendment was, under the subhead "House of Representatives," on page 12, line 13, after the word "each," to insert "distributing clerk, \$2,250," and in line 19, before the word "stationery," to strike out "distributing clerk;" so as to read:

Office of the Clerk: For Clerk of the House of Representatives, including compensation as disbursing officer of the contingent fund, \$5,000; hire of horses and wagons and cartage for use of the Clerk's office, \$900, or so much thereof as may be necessary; Chief Clerk, Journal Clerk, and two reading clerks, at \$3,600 each; tally clerk, \$3,000; printing and bill clerk, disbursing clerk, and enrolling clerk, \$2,500 each; distributing clerk, \$2,250; file clerk, docket clerk, assistant disbursing clerk, assistant enrolling clerk, resolution and petition clerk, newspaper clerk, index clerk, assistant Journal clerk, and assistant to Chief Clerk, at \$2,000 each; librarian, stationery clerk, and superintendent clerk's document room, at \$1,800 each, etc.

The amendment was agreed to.

The next amendment was, on page 13, line 18, to increase the total appropriation for the office of the Clerk of the House of Representatives from \$96,600 to \$97,050.

The amendment was agreed to.

The next amendment was, on page 14, line 8, before the word "hundred," to strike out "two" and insert "five;" in the same line, after the word "each," to strike out "and two watchmen at \$900 each" and insert "foreman, \$1,200; watchman, \$900," and in line 11, before the word "hundred," to strike out "thirty thousand four" and insert "thirty-one thousand three;" so as to read:

Under Superintendent of the Capitol Building and Grounds: \* \* \* Two attendants at \$1,500 each; foreman, \$1,200; watchman, \$900; in all, \$31,300.

The amendment was agreed to.

The next amendment was, on page 14, line 15, before the word "hundred," to strike out "two" and insert "five;" so as to read:

Clerks and messengers to committees: For clerk to the Committee on Ways and Means, \$3,000; assistant clerk and stenographer, \$2,000; messenger, \$1,500; etc.

The amendment was agreed to.

The next amendment was, on page 16, line 2, to increase the total appropriation for clerks and messengers to committees from \$99,000 to \$99,300.

The amendment was agreed to.

The next amendment was, under the subhead "Library of Congress," on page 31, line 9, to increase the number of elevator conductors at \$720 each from two to three; and on page 31, line 12, to increase the total appropriation for custody, care, and maintenance of Library building and grounds from \$76,785 to \$77,505.

The amendment was agreed to.

The next amendment was, on page 31, line 18, before the word "dollars," to strike out "two thousand eight hundred" and insert "three thousand;" so as to make the clause read:

For extra services of employees and additional employees under the superintendent of library building and grounds to provide for the opening of the Library building from 2 until 10 o'clock p. m. on Sundays and legal holidays, \$3,000.

The amendment was agreed to.

The next amendment was, on page 31, line 23, before the word

"dollars," to strike out "thirty-two thousand five hundred" and insert "thirty-five thousand;" so as to make the clause read:

For fuel, lights, repairs, and miscellaneous supplies, electric and steam apparatus, reference books, stationery, and all incidental expenses in connection with the custody, care, and maintenance of said building and grounds, \$35,000.

The amendment was agreed to.

The next amendment was, on page 32, line 1, after the word "thereto," to insert "and necessary vehicles for mail-delivery service;" so as to make the clause read:

For furniture, including partitions, screens, shelving, and electrical work pertaining thereto, and necessary vehicles for mail-delivery service, \$40,000.

The amendment was agreed to.

The next amendment was, under the head of "Executive," on page 32, line 19, to increase the appropriation for compensation of the Vice-President of the United States, from and including March 4, 1905, from \$8,000 to \$10,622.22.

The amendment was agreed to.

The next amendment was, on page 33, line 10, after the word "dollars," to insert the following proviso:

*Provided*, That employees of the Executive Departments and other establishments of the executive branch of the Government may be detailed from time to time to the office of the President of the United States, for such temporary assistance as may be necessary.

The amendment was agreed to.

The next amendment was, under the head of "Civil Service Commission," on page 33, line 24, before the word "dollars," to strike out "three thousand five hundred" and insert "four thousand;" on page 34, line 2, before the word "dollars," to strike out "two hundred and fifty" and insert "five hundred," and in line 15, before the word "dollars," to strike out "sixty-four thousand eight hundred and ten" and insert "sixty-six thousand five hundred and sixty;" so as to make the clause read:

For three Commissioners, at \$4,000 each; chief examiner, \$3,000; secretary, \$2,500; assistant chief examiner, \$2,250; law clerk, \$2,000; two chiefs of division, at \$2,000 each; eight clerks of class 4; thirteen clerks of class 3; sixteen clerks of class 2; thirty-two clerks of class 1; twenty clerks, at \$1,000 each; ten clerks, at \$900 each; eight clerks, at \$840 each; one messenger; engineer, \$840; two firemen; two watchmen; one elevator conductor, \$720; three laborers; and three messenger boys, at \$360 each; in all, \$166,560.

The amendment was agreed to.

Mr. PLATT of Connecticut. Mr. President, I wish that the Senator having this bill in charge—perhaps I might as well have waited until the amendment had been read, but I make the inquiry now—would explain the necessity for this large increase—for it is a large increase—in the force of the Civil Service Commission, amounting to seventy or seventy-five thousand dollars. Why is it necessary to make this large increase in the number of employees of the Civil Service Commission? I suppose the present force has been transacting the business of the Commission during the past year without these additional employees or else by the transfer or detail of clerks from other Departments, I do not know which. If these are to take the place of the clerks who have been detailed from other Departments, I should like to know what becomes of those clerks—whether they can not be dropped from the other Departments? If not, it would seem to indicate an increase of force in the other Departments. I am not very well informed about this subject, and I think the Senate would like to be informed.

Mr. CULLOM. Mr. President, the apparently enlarged force which is provided for in this bill is simply continuing the force the Commission had before, but they were detailed from other Departments of the Government. There is not, I think, a single additional clerk added to the force of the Civil Service Commission by this provision. The committee has been trying to localize and bring about such a condition, so that when a Department asks for additional help we may know whether they desire the appointment of an additional clerk or the services of a clerk theretofore employed by them.

The business of detailing clerks between the different Departments and between the Departments and the Civil Service Commission has been going on to such an extent that it was difficult for the committee to ascertain just exactly the condition which prevails. We are now attempting to give the Commission the same force they had, and to provide that that force shall be paid out of their own appropriation, so that when the Commission make a report and ask for more force we can tell whether they are getting two or ten or any other number. Heretofore these detailed clerks have been paid by the different Departments. That is all there is in the amendment. There is no increase provided. It is merely an attempt to simplify these matters.

Mr. PLATT of Connecticut. But what becomes of the clerical offices in the other Departments in cases where men have been detailed to the Civil Service Commission? Now, you propose that men who have heretofore been detailed for service shall be appointed clerks in the Civil Service Commission, but

what becomes of the offices which those men have held under other Departments? I suppose the provision is all right, but I do not seem to understand it.

Mr. CULLOM. I will state that it appears from the report of the House committee that, for instance, in Boston one secretary was detailed from the post-office; that two clerks, at \$1,000 each, were also detailed from the post-office, and one clerk was detailed from the custom-house. These clerks are gathered from all over the country; they have been detailed for work in connection with the Civil Service Commission, and yet they are paid by the different Departments from which they have been detailed.

Mr. PLATT of Connecticut. Now, take that last instance—one clerk detailed from the custom-house. Is that office abolished, or are we still appropriating for that clerk in the customs' department—not to that individual, but to some other person who fills that office?

Mr. CULLOM. I understand that there has been heretofore an appropriation for the different Departments which included the payment of the clerks who have been detailed and scattered about the country. They are now brought in, and the general fund, the sum total that is appropriated by the amendment, is reduced, so far as the Departments are concerned and so far as it could be done consistently with making the change which is now proposed.

Mr. PLATT of Connecticut. Let me try to make myself understood. The Senator said that one clerk had been detailed from the customs service. You appoint that clerk under the Civil Service Commission. Then, what becomes of the place which he has filled? Has that been stricken out of the appropriation, so that we do not have to pay for both. That is what I want to find out, if I can.

Mr. CULLOM. We have no control over those clerks. The Secretary of the Treasury, for instance, has charge of those detailed from the custom-houses, of whom there are many, and they are all brought in. The Secretary of the Treasury has been paying those clerks, I suppose, out of the general fund appropriated for his Department, to be used as he thought proper and right.

Mr. PLATT of Connecticut. Yes; but what I want to get at is whether there is a provision of law under which the Secretary of the Treasury can appoint another clerk in the customs division and pay him, whether the taking of these detailed clerks and putting them under the Civil Service Commission does or does not amount to the appointment of new clerks in their places in the other Department?

Mr. CULLOM. I do not know whether the Secretary of the Treasury provides new clerks in their places.

Mr. LODGE. Mr. President—

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

Mr. CULLOM. Certainly.

Mr. LODGE. I understand there is a provision here for a rural carrier examining board. The rural carrier examining board is now detailed from the Post-Office Department, and its members are paid, of course, from the general postal fund. They are, I assume—I have no authority to speak positively, not being a member of the committee—but I assume that when these men are transferred under a specific, separate appropriation they cease to receive any salary from the places they had previously filled in the Post-Office Department. That is the way it should be; and that is what I suppose it is.

Mr. PLATT of Connecticut. That depends on whether in the post-office appropriation bill there are so many less persons appropriated for.

Mr. LODGE. We do not appropriate in the post-office appropriation bill for these clerks, I will say to the Senator, except in a general fund. They are paid out of a general fund.

Mr. PLATT of Connecticut. But if you have just as large a fund this coming year out of which to pay clerks as you had before, it gives an opportunity to appoint more clerks, and to duplicate them. I want to know whether this amendment proposes to increase the number, or whether it is just evening up?

Mr. CULLOM. I will say to the Senator that the Secretary of the Treasury, for instance, who has charge of the customs service, when a clerk is detailed from his Department, has a general fund, so that if he needs the services of such a clerk he will put somebody else in the place. I take that for granted, as he is the administrator of the Department, and it is impossible for Congress to determine whether in any particular case he should do this or not.

Mr. ALLISON. Mr. President, I appreciate the desire of the Senator from Connecticut to understand this question and to ascertain exactly what has been done and what is to be done. As I understand, the custom-house clerk, or whoever it may be that has been detailed from the Boston custom-house, if he had not

been detailed would be paid from a lump sum of \$5,700,000, which was appropriated for the customs service in 1872; but it is so inadequate that each year we appropriate nearly \$5,000,000 more. So this clerk has been detailed from the Boston custom-house on the presumption that his services are not needed there, and if they are not needed there they are needed here, and of course he is immediately transferred. Whether or not another appointee is to be provided for rests wholly with the Secretary of the Treasury. If there is an additional clerk needed at the Boston custom-house, on the recommendation of the collector of the port, with the approval of the Secretary of the Treasury, such clerk will be provided for. That would be the case whether this provision stands in the bill or not, because it happens that as respects the clerks in the various custom-houses there are no specific appropriations, and that is measurably true with reference to those who are transferred from the postal service. They are paid out of a lump appropriation for the postal service, and provided for in a bill over which the Committee on Appropriations has no control.

I assume, as the Senator from Massachusetts [Mr. LODGE] assumes, that when the post-office appropriation bill comes before this body the Post-Office Committee will see to it that the necessity for the employment of these clerks will be inquired into, and if they are no longer needed they will be dropped; but if they are needed there I do not very well see how we can now interfere. Clerks are now detailed from those offices; and, being detailed, there is a presumption that they are not needed in the places to which they had previously been appointed, but at present there is no control over the number of persons to be employed under the Civil Service Commission. We have provided here that the Commission shall have such force as they need. They satisfied the committee—they certainly satisfied me—that they did need these employees.

Mr. PLATT of Connecticut. Mr. President—

Mr. ALLISON. We have provided also, if the Senator will allow me a moment, that hereafter there shall be no details from other Departments of the Government to the Civil Service Commission; that if the Commission want additional clerks they shall make an estimate for them and appeal to Congress for the necessary authorization. I understand that to be the situation; and hence the Senator from Connecticut will see how difficult it is for us to say that the employees now borne upon a roll over which our committee have no control shall be discharged. These particular employees are to be placed under the Civil Service Commission because they are needed there.

Mr. PLATT of Connecticut. That is entirely right, and I think the committee in entirely right in doing away with the detailed clerks and making them clerks under the Civil Service Commission; but I confess that I apprehend that the offices of these detailed clerks will in some way be filled when they are placed by an appropriation act under the Civil Service Commission. I fear it, at least. In other words, if there was on duty in Boston for the Civil Service Commission "a secretary detailed from the post-office at \$2,200; in New York one secretary detailed from the custom-house, at \$2,500; on duty in Philadelphia a secretary detailed from the custom-house, at \$2,200," I apprehend when a person who has been acting as secretary for the Civil Service Commission in field work in these different places is placed by an appropriation act under the Civil Service Commission and is no longer detailed from the custom-house or the post-office, as the case may be, that the postmaster in New York or in Boston or in Philadelphia may think that he wants just such a man in his office, and that another one will probably be appointed to take the place which has been vacated by the clerk who had hitherto been detailed.

Mr. ALLISON. I think I ought to say that I believe the Senator in charge of this bill has suggested that there was great complaint in the Departments that the Civil Service Commission under the law had power to grab, as it were, their employees and place them in its service for the purpose of conducting civil-service examinations. I have no doubt in Boston and in New York, where there is a very large increase annually in the work of the custom-house, other appointees would take the places of the clerks who had been detailed.

Mr. CLAY. Will the Senator allow me to ask him a question?

Mr. ALLISON. Certainly.

Mr. CLAY. I should like to ask the Senator is it not true that the Civil Service Commission has heretofore gone to the Post-Office Department, to the Treasury, and to other Departments and obtained clerks for the purpose of doing the work of the Commission? Now, this amendment proposes to give the Commission permanent clerks to do their work, and that will carry, I believe, an appropriation of \$66,000. If this amendment be adopted will it not be true that the Post-Office Department and the Treasury Department will retain the same number of clerks they now have, and it is not true that this

amendment simply provides for an additional force of clerks carrying an amount equal to \$66,000? Does the Senator really think that when the post-office appropriation bill comes before this body there will be any reduction in the number of clerks on account of the fact that the Civil Service Commission gets these new clerks?

Mr. ALLISON. I assume that the Committee on Post-Offices and Post-Roads will investigate that question. If they find that such clerks are not needed in the Post-Office Department and that other clerks are not used in the places of those detailed—and not being used there the presumption is that they are not needed—I am sure the Senator from Georgia [Mr. CLAY], who is a very active, energetic, and able member of that committee, will take his share of the responsibility on this subject when it comes before the committee.

Mr. CLAY. My understanding is, Mr. President, that the Civil Service Commission wants permanent clerks, and also that the Post-Office Department and the Treasury Department have been unable to furnish the Commission all the clerks they needed to enable them to discharge the duties of the Commission; and I predict that when the post-office appropriation bill passes this body there will be an increase rather than a reduction in the number of clerks.

Mr. LODGE. Mr. President, I think there is considerable distinction between clerks detailed from the Departments here and those detailed in the different large cities of the country. Clerks detailed from the Departments here to the Civil Service Commission perform no other work but that of the Civil Service Commission, and if we give the Civil Service Commission a permanent force—which I think is wise legislation—those clerks ought not to be kept on the rolls of the Departments. There is no question at all in my mind about that.

In the different large cities I know, as a matter of fact, that some of the most valuable clerks in the offices have been compelled under such details to do double work; that is, the post-office has also required the services of the men who were detailed to make these examinations. There may be cases there where there would be necessity for an additional clerk, but I do not think that will be the case here.

Mr. CLAY. Does the Senator think the number of clerks in the Treasury Department and in the Post-Office Department will be reduced to an extent equal to the amount that is given to the Civil Service Commission by reason of this amendment?

Mr. LODGE. I think they ought to be.

Mr. CLAY. I am sure they ought to be if this amendment is adopted, but I do not expect it.

Mr. LODGE. As the Senator from Iowa [Mr. ALLISON] has said, that is a matter largely in the hands of the Senator from Georgia, to whose ability and energy on the Post-Office Committee I would testify from my personal knowledge, as the Senator from Iowa has done.

Mr. CLAY. I am judging the future largely by the past. Notwithstanding the fact that we have been anxious to reduce the number of Federal employees, we have never been able to do so.

Mr. LODGE. We ought to do so.

Mr. CULLOM. Mr. President, I only want to say that the purpose of the committee in framing this amendment was to place the bill in such form as to make it show exactly the force which shall be given to the Civil Service Commission, and not allow the Commission longer to have clerks detailed from the Departments whenever they choose to call for them, so that we may know exactly what their force is to be.

I want to say here that we do not give the Commission all the force which they say they need. The force here provided for is what they have had for some time. Their business is growing, and they think they ought to have a larger force. We simply allow those who have been detailed for service under the Commission to be in the service of the Commission and to be placed on their rolls, so as to make it necessary that they shall be retained there unless discharged for cause.

#### THE MERCHANT MARINE.

Mr. BAILEY. Mr. President, when the Senator from New Hampshire [Mr. GALLINGER] submitted his report this morning concerning the merchant marine, I rather complained that I had a right to expect that the measure which came as a result of the labors of that Commission would not be a subsidy measure, but would provide for a discriminating duty. The Senator from New Hampshire seemed to think that I was imputing bad faith to the Commission. I disclaimed that at the time. I had no purpose of that kind then, nor have I any such purpose as that in my mind now. I interposed that statement more in my own defense than for any other reason. I remembered that I had ob-

jected to the bill creating that Commission, and stated that I objected to it because I believed that the result of its work—if its work resulted in any recommendation—would be the proposal of a ship-subsidy measure, but under the expression of a different opinion by a Senator of great influence, and particularly identified with this measure, I withdrew my objection. But, in view of the recommendation of the Commission on which the bill reported this morning is predicated, I feel that I owe it to myself, at least, to say that I would never have permitted the unanimous consideration of that measure if I could have foreseen the result of that Commission's testimony and report.

I desire, as an excuse for permitting it to be considered by unanimous consent, to incorporate at this point a colloquy taken from page 5678 of the CONGRESSIONAL RECORD of the Fifty-eighth Congress, second session:

The Presiding Officer laid before the Senate the bill (H. R. 7056) creating a commission to consider and recommend legislation for the development of the American merchant marine, and for other purposes; which was read twice by its title.

Mr. TILLMAN. Mr. President—

The PRESIDING OFFICER. Does the Senator from Texas yield to the Senator from South Carolina?

Mr. BAILEY. Certainly.

Mr. TILLMAN. I call the Senator's attention to the fact that the Senator from New Hampshire [Mr. GALLINGER], with whom he had the colloquy a little while ago, is not now in the Chamber. I presume he will shortly return, and it will be interesting to have him present.

Mr. LODGE. I trust the Senator from Texas will continue. The Senator from New Hampshire will no doubt come in very soon. There are other members of the Commission present.

Mr. TILLMAN. It is not a question of the Commission. It is a question of what occurred in the Senate as to a past agreement or understanding.

Mr. LODGE. I think it is a question of the Commission.

Mr. BAILEY. Mr. President, I notified the Senator from New Hampshire that I would put this matter in the RECORD, and I do not consider that this is any reflection on that Senator or on the Commission. I put it in with no such thought as that in my mind, but put it in purely because I was in a measure responsible for this recommendation, for I could have prevented it by objecting at that time.

The report in the RECORD, after the Senator from Maine had asked for the consideration of the bill, proceeds:

Mr. BAILEY. I will say to the Senator from Maine that that bill will provoke a controversy. It is, in my judgment, intended to collect data upon which to predicate a ship-subsidy measure, and I feel that it should be resisted.

Mr. FRYE. If the bill is not passed now, of course it is useless, because it provides for a report at the next session of Congress.

Mr. BAILEY. I hope it will never pass, because the only result of its passage, if it results in anything, will be a ship-subsidy bill.

Mr. FRYE. That is not my opinion. My opinion is that it will result in a recommendation for discriminating duties.

Mr. BAILEY. Mr. President, I testify my great confidence in the Senator from Maine by accepting that assurance, and so far as I am concerned I will not object to the bill.

Mr. FRYE. I simply say that it is my judgment that it will result in a recommendation for discriminating duties.

Mr. BAILEY. The Senator from Maine will control the appointment of at least a part of those who are to make the investigation.

Mr. FRYE. The Senator from Maine will appoint as one of that commission the Senator from Massachusetts [Mr. LODGE], who has already introduced a bill for discriminating duties and has announced himself as in favor of such duties; and there will be two Democrats on the Commission.

Mr. BAILEY. Reserving, of course, any expression about discriminating duties, I will say that they are incomparably better than a ship subsidy, and if this bill offers a way to escape a subsidy I am willing for it to pass.

Mr. FRYE. I beg the Senator to let the bill pass anyhow.

Mr. BAILEY. Very well.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

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

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

Mr. LODGE. Mr. President, I did not recall particularly the colloquy which the Senator from Texas has just read, but I observed from his reading that the Senator from Maine [Mr. FRYE] stated that it was his opinion that the result of the work of the Commission would be a bill for discriminating duties. That, of course, was a mere matter of opinion—it bound no one—and of that individual Senator. The Commission was appointed under the act. That act gave to the Commission the largest possible powers to investigate and to report. They went into the subject with the utmost thoroughness. They held hearings in all parts of the country. The results are before the Senate.

What the President of the Senate said in that colloquy with the Senator from Texas in regard to myself was perfectly true.

I had introduced a bill for discriminating duties. I was extremely anxious to bring about some legislation of that character. I much preferred it to any other. I thought it could be done.

I went on the Commission and served on it as strongly prejudiced, when I began, in favor of discriminating duties as anyone possibly could be. This is not the time nor the occasion, when an appropriation bill is up, for me to enter into the reasons which led me to change my opinion. But I can say frankly that I was convinced by the facts that came out in those hearings that discriminating duties were absolutely impossible and out of the question. I think that was the impression of the entire Commission. I think it was demonstrated that, whether we should do anything for shipping or not, to attempt to do it by discriminating duties was absolutely impossible.

Mr. SPOONER. Was that mainly because of the treaties?

Mr. LODGE. No. There were many other reasons which I can not enter into now. The treaties, of course, were one reason. The denunciation of more than thirty treaties was a very serious matter of course. That was only one reason, however. There were other reasons even more convincing than that, and which proved to the Commission's mind that it was infinitely the most extravagant and burdensome method; that it opened us to retaliation where we should be in a much worse situation than our competitors, and that it would involve necessarily placing a duty on every article now on the free list of the United States.

Mr. SPOONER. Does not a tax on foreign tonnage subject us to liability to retaliation?

Mr. LODGE. Oh, retaliation. Of course they can raise their duties on foreign tonnage, beyond a doubt, but at this moment we put the lowest rate on foreign tonnage of any nation in the world. The rates proposed by the Commission, while higher than those of England and a little higher than those of Germany, are lower than those of France and Italy—much lower. We do not—

Mr. BACON. Mr. President—

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

Mr. LODGE. I do not intend to discuss the merits of this question at all. I merely wish to point out that I went onto the Commission as strongly in favor of the policy of discriminating duties as anybody could be. I was convinced, upon what seemed to me excellent reasons, that it was utterly impracticable and impossible to adopt that system.

Mr. BACON. Mr. President—

Mr. LODGE. One word, and I will yield to the Senator. I never would have gone onto the Commission if I had supposed for one moment that we were expected to report any particular system. I understood the Commission to be serving under that act, and if it was not intended to have a free inquiry and an honest report of what the Commission believed to be the best and most practicable method of encouraging the American merchant marine, I for one should have thought it worthless and would have declined to render service upon it.

It is impossible to appoint a commission and have it understood beforehand that they will only report one way when their object is to investigate and report. It seems to me, Mr. President, there could not have been any understanding on the part of any member of the Commission that we could only report along one particular line.

Mr. BACON. I wish to ask the Senator from Massachusetts a question—

Mr. LODGE. Certainly.

Mr. BACON. As I have considerable interest in the question of discriminating duties. Does not the Senator recognize the fact that a schedule could be so framed as to apply only to dutiable goods?

Mr. LODGE. No more unjust system than that could possibly be devised, and the Senator will see it if he thinks about it for a moment.

Mr. BACON. I am not discussing that question, but I understood the Senator to say, not as a matter of policy or justice, but as a matter of fact, that the imposition of discriminating duties would necessarily involve the placing of duties upon all articles now on the free list.

Mr. LODGE. It would, absolutely, and there is no escape from it. For example, a ship from Liverpool comes into the port of New York loaded with dutiable goods, luxuries, carrying a very high duty. That vessel would get an enormous subsidy. Eighty per cent of our imports from South America are free of duty. A vessel comes from Brazil, as happens every day, bringing a great cargo, on which not one cent of duty is levied. That vessel would get nothing, while the man trading to Liverpool would get an enormous aid from the Treasury. A

system like that, the Senator must see, is an impossible system.

Mr. BACON. The Senator is now arguing as to the propriety. He spoke just now of the necessity. The Senator said, if I understood him correctly, that the imposition of discriminating duties would necessitate duties upon articles now on the free list.

Mr. LODGE. Absolutely it would.

Mr. BACON. The Senator may argue as to why it would be very important that it should be done—

Mr. LODGE. I am not arguing that it is important.

Mr. BACON. But there is no difficulty in the way of confining it to dutiable goods.

Mr. LODGE. I am arguing that it is impossible to give a great aid to a ship in one trade and refuse it to a ship in another trade.

Mr. FORAKER. Mr. President—

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

Mr. LODGE. Certainly.

Mr. FORAKER. I wish to ask the Senator from Massachusetts a question before he takes his seat, and that is whether or not he understands that by the policy of discriminating duties ships are to get subsidies? I do not understand that a ship gets any subsidy whatever. The rebate simply lessens the amount of duty that is to be collected into the Treasury of the United States. The ship gets nothing except only the business.

Mr. GALLINGER. In other words, the money is halted before it reaches the Treasury, which amounts to about the same thing as if it went into the Treasury and was paid out.

Mr. LODGE. The same thing.

Mr. FORAKER. I do not understand the Senator from New Hampshire.

Mr. GALLINGER. It amounts to this, that the money is halted before it gets into the Treasury. It amounts to the same thing as if paid into the Treasury and paid out again.

Mr. FORAKER. It does not go to the ship. If I understand the policy of discriminating duties, its object is to get business for the ship.

Mr. GALLINGER. Certainly.

Mr. LODGE. Yes.

Mr. FORAKER. It has to get that business in competition with other ships. Not a dollar of the rebate goes to any ship. Our contention has always been that if we could get business for our ships they could prosper; if we could get business for our ships then they could successfully compete. I may be in error about this. I have been reading the testimony which the Commission have taken; and I want to thank personally the Commission for the very splendid work they have done in that respect. I think we are having laid before us more information on this subject than we ever had before. It is all intensely interesting. I have always favored the policy of discriminating duties, not, however, upon the theory that anything went to the ship, but only on the theory that in that way the ship would command business. If a man be in Liverpool and wants to ship a cargo of goods to the United States, he will prefer the American bottom under such a policy, upon the theory that he will have to pay less tariff duty to our Government, and therefore it is that the ship will get the business. It does not get any duty, it does not get any bounty, it does not get any subsidy, it does not get any financial help, except what is derived from the business.

Now, I may be in error about all this. I only want to say that the remark of the Senator from Massachusetts arrested my attention when he said that under this policy the rebate was in the nature of a subsidy to the ship.

Mr. LODGE. I used the word incautiously probably and inaccurately. What happens of course is this: The duty being taken off goods brought in an American bottom, the American ship gets the business, and getting the business, the rebate goes into the freight and goes to the benefit of the American ship. Otherwise it would not take it.

The result of a system of discriminating duties in regard to articles now on the free list would be this: Vessels trading in articles on the free list would get no advantage. They would get no rebate. They would not be helped a particle in building up the trade where we most want the trade. That is, should be giving great advantages to vessels engaged in certain trade and no advantage to vessels engaged in other trades. Forty-three per cent of our imports are on the free list. It would be a great injustice to any man who wants to trade to South America and bring back coffee to give him no preference, and to give it to the man who trades to Liverpool.

But, Mr. President, that is not all there is in this thing. In the days of the old discriminating duties the balance of trade was very largely, very often, and very generally against us. It was rarely more than equal. Now to-day our export trade shows an immense balance in our favor. In other words, every

retaliating nation would have the opportunity to strike us twice where we could strike it once.

The purpose of the old discriminating duties—I can not enter into it now, but I am prepared to show that that is the fact—was to bring about these very treaties that we afterwards made. We had when we began no commercial equality under treaties with the other nations of the earth. We made the discriminating duties principally to assure to our ships an equal treatment in foreign ports, and the thirty and more treaties that we have were the result of the discriminating duties policy.

Now, to begin with, we have to denounce every one of those treaties as far as that clause goes. The moment we do that we open the door to retaliation. They can retaliate on us for two against one, because the balance of exports is so largely in our favor.

Moreover, suppose you put the discriminating duty at only 10 per cent. That, in round numbers, roughly speaking, on our revenue from dutiable imports alone, would mean to take out of the Treasury of the United States \$40,000,000. It is a pretty expensive way of getting at it—to reduce the revenues to that amount—and you could not with any justice by any possibility avoid a duty on the articles on the free list. There would be no way of getting at it.

Mr. BAILEY obtained the floor.

Mr. FORAKER. Mr. President—

Mr. BAILEY. I yield to the Senator from Ohio.

Mr. FORAKER. Mr. President, I only want to say a word in reply to the Senator from Massachusetts. I do not understand there is any difficulty in the way of adopting the policy of discriminating duties because of the fact that a large portion of the goods imported into this country come in free of duty. It has always been my understanding that as to such goods the discrimination would be by levying upon those goods a small tariff of 5 per cent or whatever the inducement might be.

Mr. LODGE. If the Senator will pardon me, that is exactly what I said. We would have to do it.

Mr. GALLINGER. On tea and coffee.

Mr. FORAKER. The Senator may have said that in some previous remarks.

Mr. LODGE. I said it repeatedly.

Mr. GALLINGER. On tea and coffee, and everything of that kind.

Mr. LODGE. We would have to put a duty on the whole free list. That is my whole contention.

Mr. FORAKER. That may be. I was answering what I understood the Senator to say in the remarks he made just before he last took his seat, namely, that it was impossible, because we were admitting goods free of duty, to resort to the policy of discriminating duties.

Mr. LODGE. The Senator from Ohio—

Mr. FORAKER. I understand the correction.

Mr. LODGE. The Senator will allow me. When I said impossible, it was in connection with my previous remarks—that is, impossible without putting a small duty on the articles now free, when brought in foreign bottoms.

Mr. FORAKER. I now understand the Senator thoroughly, and we are in accord about it. Later, when this matter comes up to be considered, I will take occasion to speak at more length upon that point, if I have opportunity. I can not now do anything more than merely refer to it.

One other remark the Senator from Massachusetts made was about retaliation. That has never had any terror for me. I can not understand, notwithstanding what the Senator has said, how we have anything to fear as to retaliation when we carry less than 10 per cent and the ships of foreign nations carry the other 90 per cent of our foreign commerce.

Mr. BACON. If the Senator from Ohio will permit me, I should like to make another suggestion in this connection, and that is that a very large proportion, if not the entire amount of the balance in our favor, is made up of agricultural products, cotton and grain, upon which the European nations could not afford to make any discriminating imposition.

Mr. FORAKER. That is probably true, and upon that I want—

Mr. BACON. In this morning's paper Mr. Chamberlain, the advocate of protection in England, announced in a speech that he would never favor the imposition of a duty on cotton. I simply use that as an illustration.

Mr. LODGE. Will the Senator allow me on that point, that the foreign nations can not afford to put a duty on cereals. They have an enormous duty on cereals in France and in every other European country, and if we raise the duty on French goods, do you suppose they will not raise the duty on the things we export? Of course they will.

Mr. BACON. The Senator knows that our exports of cereals—

Mr. LODGE. And England is the only country that does not put a duty on breadstuffs.

Mr. BACON. As I was about to say, the Senator knows that our exports of breadstuffs are principally to England.

Mr. LODGE. Certainly, and they are proposing to put a duty on now.

Mr. FORAKER. I did not rise to discuss this matter now. Later we will all have an opportunity, I suppose, to discuss it to our satisfaction.

In the matter of retaliation, aside from the remark I have already made, I wish to add one other observation. I do not know why a nation should retaliate upon us for adopting discriminating duties in order to build up our merchant marine any more than it should if we commence to pay subsidies or tonnage dues, as I understand this bill provides. The one is just as objectionable as the other I imagine.

Mr. LODGE. They are all doing it now.

Mr. FORAKER. Yes.

Mr. SPOONER. And the larger the export trade the greater the opportunity that foreign governments have for retaliating by a tonnage tax.

Mr. FORAKER. That is entirely correct.

Now, about the treaties. Every time this subject comes up we are told of these treaties, and we are told now that these treaties are the direct result of the policy of discriminating duties that was pursued prior to the making of those treaties. That is true, because under the discriminating duties policy we built up a merchant marine. We built it up because of the fact that we had a policy that was self-operating, a policy that did not take any money out of the Treasury directly for the benefit of anybody, and other nations seeing that inveigled us—I do not think that is too strong a term—into making a lot of reciprocal treaties.

Mr. LODGE. We sought them all.

Mr. FORAKER. I do not understand the records so to show. It may be that we to some extent did seek some of them, but I know that there was anxiety on the part of other nations to tie us up in reciprocal treaties of the character referred to, and then as soon as we were tied up under these reciprocal treaties or nonreciprocal treaties, treaties providing that we should not resort to discriminating duties, every other nation with which we were in competition as to a merchant marine commenced in spirit and practically to evade the purpose of those treaties by paying subsidies. We are the only nation that has suffered. We are tied up so that we can not return to the policy under which we had prosperity, and they have taken advantage of the situation to pay these enormous subsidies which we can not pay in this country, because the American sentiment will not sustain it. The result is our merchant marine is languishing. Fortunately the treaties provide for their abrogation, and we should act upon that provision.

Mr. CULLOM. I do not desire abruptly to interrupt the very interesting debate that is going on, but I wish to remind my friends that an appropriation bill is before the Senate, and that I desire to get back to its consideration as quickly as possible. I hope the Senators who are discussing this question will reserve some of their fire until the subject comes up in the regular way.

Mr. LODGE. Mr. President, I wish to say a single word on the point on which the Senator from Ohio made about retaliation on tonnage taxes. This Commission—I do not mean to attribute to it any undue glory—has been thinking about this thing and considering these difficulties for six months. The Senator says they will retaliate with tonnage taxes.

Mr. FORAKER. No; I said, will they not?

Mr. LODGE. Wait a moment and I will explain it to you.

Mr. FORAKER. They already have tonnage taxes.

Mr. LODGE. The Senator said very truly that we only carry 10 per cent. Therefore 90 per cent of our exports go in foreign bottoms. If they retaliate with tonnage taxes, on whom will the tonnage taxes fall? On their own ships.

Mr. FORAKER. Will that hurt us?

Mr. LODGE. They can not retaliate in tonnage taxes.

Mr. FORAKER. I yield to the appropriation bill. Later we will have an opportunity to discuss this matter.

I want to say, however, before we leave it, that I am reading with a great deal of interest the information that the Commission have brought here, and I have no fixed or settled purposes about this matter. I am like the Commission. I am open minded to hear all that can be said, and to reach a just conclusion afterwards, but I do think that one of the most important subjects for Congress to deal with is the question of the merchant marine, and we should divest ourselves of all

political prejudice and agree upon some American policy that will result in its rebuilding.

Mr. BAILEY. Mr. President, I do not complain that the Senator from Maine [Mr. FRYE], who expressed a confident opinion that the Commission would recommend discriminating duties, was mistaken in that opinion. I do not even complain that the Senator from Massachusetts [Mr. LODGE], by a change of opinion, disappointed the reasonable expectation of the Senator from Maine. I am somewhat surprised, however, that the Senator from Massachusetts confesses before the Senate and the country that he introduced a bill upon a disputed question without sufficient information on that question. The learning, the ability, and the scholarship of the Senator from Massachusetts always exempt him from the suspicion that he does not thoroughly understand every subject to which he addresses himself, and I was justified in believing that when the Senator from Massachusetts was so far committed to the doctrine of discriminating duties he could not be persuaded to abandon his view by the testimony of interested parties called before the Commission.

The Senator from Massachusetts is not a Senator to introduce bills merely to please his constituents, and he seldom drafts one that does not express his settled view. While I make no complaint against him because he has changed his opinion, I still must be permitted to say that I could not have been very greatly in error when I assumed that his recommendation as a member of the committee would coincide with the bill which he had introduced. If I were uncharitable or ungenerous I might say that one of the things which changed the views of the Senator from Massachusetts was the fact that this bill contains a provision for a bounty upon the deep-sea fishery along the Massachusetts and other New England coasts. But I do not make even that insinuation.

Mr. GALLINGER. It is a return to the Jeffersonian policy.

Mr. BAILEY. I would be gratified to repeal every law that is now here and to reenact every law that existed in Jefferson's time, and start with them as a basis.

Mr. GALLINGER. There was then a bounty on the deep-sea fisheries.

Mr. BAILEY. True enough; every law of that time was not a wise one, nor is every law of this time an unwise one; but, upon the whole, I would rejoice at an opportunity to exchange these for those.

Mr. President, while I am satisfied that the testimony has produced a change of view on the part of the Senator from Massachusetts, and I disclaim here and now any right to criticize the effect of that testimony upon the mind of any man, because I have not yet had the opportunity of reading it, but this much I do say, that when the Senator from Massachusetts declares on the floor of this body that a discriminating duty is impossible with a free list, he uses the word "impossible" certainly to signify "impracticable," because that we could do it no man questions. Whether we could do it without falling into difficulties—

Mr. LODGE. The Senator, of course, knows that I mean practically impossible, not theoretically impossible.

Mr. BAILEY. The Senator from Massachusetts usually is so accurate in the use of words that I seldom assume that he means anything except exactly what he says.

Mr. President, I have no purpose of entering upon a discussion of the main question now, but I want to say that if the testimony of the witnesses who have convinced the Senator from Massachusetts is not more accurate than the Senator's statement that even a 10 per cent rebate on our present duties would mean a loss of revenue equal to \$40,000,000 annually, the testimony is not very reliable.

A loss of \$40,000,000 annually upon a 10 per cent rebate means a revenue duty of \$400,000,000. Of course the Senator from Massachusetts knows that while we are collecting more than we ought to collect for the administration of a simple, efficient, and honest government, we are still not collecting through our custom-houses any such sum as \$400,000,000.

For the second or third and for the last time I disclaim any intention to reflect upon the Commission or to reflect upon the Senator from Maine or to reflect upon the Senator from Massachusetts. These changes of opinion will occur, and I have no respect for a man who when he changes his opinion refuses to change his position. A distinguished man has said that consistency is the virtue of fools, and I am much inclined to adopt that opinion. I make no complaint of anybody. I only called this matter to the attention of the Senate because I felt that by an objection at the proper time I could have prevented the creation of that Commission, and I regret now that I did not make the objection. It is possibly true that when the debate shall have been concluded and when I myself have examined all the

testimony submitted to the Commission I may rejoice that I did not prevent its creation.

Mr. LODGE. Mr. President, a change of opinion on the part of any individual is never a matter of sufficient importance for much debate. But after what the Senator from Texas has said I think I owe it to myself to say that I had always believed in a general way in discriminating duties. I introduced a bill which had been prepared by Mr. Bates, a former Navigation Commissioner of the United States, looking toward the adoption of that policy. I had never gone to the bottom of the question thoroughly. I did go to the bottom of it thoroughly during the work of this Commission, and I changed my mind. I agree with the quotation made by the Senator from Texas, although I have always heard it given that consistency was the bugbear of weak minds. I think there is no reason why a man should not change his mind on testimony. I changed mine on the investigations and the discussions of the Commission.

The Senator has alluded to the bounty to the fishing vessels. I changed my mind long before the bill was presented to the Commission. I did not draft the bill. I never suggested to any human being on the Commission that there should be a bounty on fishing vessels. It was embodied in the bill when the draft of the bill by the chairman was laid before the Commission. It was not objected to, so far as I am aware, by any member of the Commission. I said nothing about it. I have always favored bounties to the fishing vessels, and I have always agreed with Mr. Jefferson in that respect. But it was done without any knowledge of mine. As to my conviction against the possibility of using discriminating duties, which I should greatly prefer as an abstract proposition, that change was effected before any attempt was made to draft the bill; and I think that is the case with the whole Commission.

Mr. GALLINGER. Mr. President, apologizing to the Senator from Illinois [Mr. CULLOM] and assuring him that I will take but a moment, I want simply to add a word to this discussion, which I think is being conducted at an inopportune time.

While it is not necessary to do so, I wish to corroborate what the Senator from Massachusetts [Mr. LODGE] has said in reference to the provision of the bill relating to deep-sea fisheries. He was not present when the bill was drafted. He had not the least earthly knowledge that that provision was in the bill until after it was completed and submitted to the full Commission.

Now, Mr. President, I listened to a portion of the colloquy the Senator from Texas [Mr. BAILEY] read that occurred on the day the statute creating the Commission passed the Senate. I was present during a portion of the time and can recall the words that were said. The Senator from Maine [Mr. FRYE], not himself believing in discriminating duties, wanted to assure the Senate that he was not going to appoint, so far as he was concerned, five Senators who were hostile to that policy, and so he said that he proposed to put the Senator from Massachusetts [Mr. LODGE] on the Commission, who had introduced a bill providing for discriminating duties. The Senator from Maine did not consult me as to my views on that question and of course had no authority to speak for me. I presume he did not consult the Senator from Pennsylvania [Mr. PENROSE]. I do not know whether he consulted the Senator from Virginia [Mr. MARTIN] and the Senator from Florida [Mr. MALLOY].

But we could not, Mr. President, have in this body determined what action the Commission should take. There were five men to be added to the Commission from the other House. Of course no Senator could speak for those men. The Senator from Maine could not have spoken for them. Hence, as I said this morning, I believed then, as I believe now, that we were open to consider all the phases of this very perplexing question and reach conclusions that were warranted by the testimony presented to the Commission.

At the first meeting of the Commission, in New York—and it will take but a moment to allude to that—the Hon. Darwin R. James, formerly a distinguished Member of the House of Representatives, made a very felicitous little address to the Commission, welcoming them to that city, and the chairman, in an offhand way, made a brief response. I wish to read what the chairman said:

The Commission is here in the discharge of a responsible and troublesome task. We all realize the fact that the problem set before us is not one easy of accomplishment, but we are hopeful that through the kindly aid and cooperation of men like those assembled in this room this morning we may be able to reach some conclusion which will lay the basis, at least, for subsequent action that may result in accomplishing the object we all so much desire.

Then after alluding to the statute the chairman said:

Now, gentlemen, I assume that little time need be wasted in a discussion of existing conditions, so far as the merchant marine of our country is concerned. It is a matter of universal knowledge and almost universal regret that our deep-sea shipping is practically driven from the ocean, more than 90 per cent of our foreign commerce being

carried in foreign ships flying foreign flags. It seems to me that what we want more particularly to inquire into is the remedy for the existing deplorable state of affairs, and we will be fortunate indeed if the discussion, here and elsewhere, sheds such light on the subject as will enable this Commission to recommend to Congress legislation of a remedial character. It is the desire of the Commission that those of you who participate in the discussion will feel at liberty to present the subject each in his own way, it being understood in advance that the Commission is not here for the purpose of exploiting any particular theory or advancing the interests of any particular measure. We will be pleased to hear those who advocate direct subsidies, and equally those who believe that the adoption of a system of discriminating duties or postal subventions will solve the problem, or any other method that promises relief. We will also be glad to hear from the representatives of labor, the representatives of seamen, or other organizations, in the hope that they may be able to shed more or less light on this complex and troublesome question.

Mr. President, substantially what the chairman of the Commission said in New York was repeated in the other cities. The assurance was given that the minds of the Commission were open; that we were charged with a very important and a very complex and perplexing question; and that he wanted all the light that we possibly could get on the subject, every man who presented himself being at liberty to advocate any view or theory to which he held.

The Senator from Texas, very likely inadvertently, suggested to the Senator from Massachusetts that he changed his mind after interested parties had been heard. Mr. President, we opened this inquiry to the whole world. In every city where we went we advertised the fact that any man who wanted to be heard would be welcomed before the Commission, and we did hear advocates of every possible theory that has ever been advanced on this subject and we have embalmed them in the printed record.

Now, Mr. President, that is all I care to say. I think we ought to have a field day on this question, and I hope we will have it. I trust that we shall have a debate that will be enlightening to ourselves as a legislative body and to the country and to the world, because there is a great deal to be said on the various phases of this most interesting and troublesome question.

In reference to discriminating duties I will suggest that if Senators will refer, I think, to volume 2 of the printed testimony they will find a protest from the great agricultural States of the Northwest against discriminating duties, which had a good deal of effect upon the mind of some of us, in which it is pointed out that if we adopt a system of discriminating duties England will immediately proceed to give advantages to her colonies, especially to the great Dominion of Canada—

Mr. LODGE. Which she is trying to do now.

Mr. GALLINGER. Which she is trying to do now—that will prove very detrimental to the wheat and the flour interests of the great Northwest.

But that is only one opinion—it is only one phase of this controversy—and I now content myself with the single additional remark that I think we have said enough on this subject today, and I hope there will be a general concurrence on the part of the Senate that at an early day we will take up the bill for debate, and that every Senator will have an opportunity to express his views freely and frankly on the question.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15895) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1906, and for other purposes.

The next amendment of the Committee on Appropriations was, on page 34, after line 15, to insert:

Field force: For three examiners, at \$2,200 each; four examiners, at \$2,000 each; two examiners, at \$1,800 each; one clerk, \$1,800; one clerk, \$1,700; one clerk, \$1,200; six clerks, at \$1,000 each; seven clerks, at \$900 each; three clerks, at \$840 each; two clerks, at \$800 each; two clerks, at \$600 each; one messenger boy, \$450; in all, \$41,000.

The amendment was agreed to.

The next amendment was, on page 35, after line 2, to insert:

Rural carrier examining board: For the following clerical force now employed in the Civil Service Commission and detailed thereto from the Post-Office Department and the postal service, namely: One chief of board of examiners of rural carriers, \$2,250; one rural agent for rural carrier examining board, \$2,000; one clerk, \$1,600; two clerks, at \$1,400 each; three clerks, at \$1,200 each; three clerks, at \$1,000 each; ten clerks, at \$900 each, and two assistant messengers, at \$720 each, in all \$25,690; and all such employees are hereby transferred to the rolls of the Civil Service Commission, and their respective salaries shall be paid from the appropriations from which they are now paid for the balance of the fiscal year 1905: *Provided*, That no detail of clerks or other employees from the Executive Departments or other Government establishments in Washington, D. C., to the Civil Service Commission, for the performance of duty in the District of Columbia, shall be made for or during the fiscal year 1906.

The amendment was agreed to.

The next amendment was, under the head of "Department of State," on page 36, line 21, to increase the number of clerks of class 3 from eight to ten; in line 24, to increase the number of clerks at \$900 each from twelve to fourteen; and on page 37, line 5, to increase the total appropriation for the office of the Secretary of State from \$177,920 to \$182,920.

The amendment was agreed to.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, it becomes the duty of the Chair to lay before the Senate the bill coming over from a previous day as unfinished business. It will be stated.

The SECRETARY. A bill (H. R. 14749) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States.

Mr. CULLOM. I ask the Senator from Indiana to allow the unfinished business to be temporarily laid aside for the present in order that the appropriation bill may be proceeded with.

Mr. BEVERIDGE. I shall be glad to have the regular order temporarily laid aside for that purpose.

The PRESIDING OFFICER. If there be no objection, the unfinished business will be temporarily laid aside, and the consideration of the appropriation bill will be continued.

The next amendment of the Committee on Appropriations was, under the head of "Treasury Department," on page 38, line 23, before the word "dollars," to insert "two hundred and fifty;" and in line 24, before the word "hundred," to strike out "six" and insert "eight;" so as to read:

Office of chief clerk and superintendent: For chief clerk, including \$300 as superintendent of Treasury building, \$3,000; assistant superintendent of Treasury building, \$2,500; inspector of electric-light plants, gas, and fixtures for all public buildings under control of the Treasury Department, \$2,250; assistant inspector of electric-light plants and draftsman, \$1,800, etc.

The amendment was agreed to.

The next amendment was, on page 40, line 12, to increase the total appropriation for the office of chief clerk and superintendent from \$184,020 to \$184,470.

The amendment was agreed to.

The next amendment was, on page 41, line 1, after the word "four," to strike out "one clerk" and insert "two clerks;" and in line 5, before the word "hundred," to strike out "thirty-five thousand six" and insert "thirty-seven thousand two;" so as to make the clause read:

Division of customs: For chief of division, \$2,750; assistant chief of division, \$2,000; five law clerks, at \$2,000 each; three clerks of class 4; two clerks of class 3; two clerks of class 2; four clerks of class 1; four clerks, at \$1,000 each; one clerk, \$900; and two assistant messengers; in all, \$37,290.

The amendment was agreed to.

The next amendment was, on page 44, line 8, before the word "of," to strike out "one clerk" and insert "two clerks;" and in line 10, before the word "hundred," to strike out "thirteen thousand four" and insert "fourteen thousand eight;" so as to make the clause read:

Offices of disbursing clerks: For two disbursing clerks, at \$2,500 each; two clerks of class 4; two clerks of class 2; two clerks of class 1; one clerk, \$1,000; in all, \$14,800.

The amendment was agreed to.

The next amendment was, on page 47, line 18, to increase the number of clerks of class 4 in the office of Auditor for Interior Department, from nine to ten, and in line 24, to increase the total appropriation for the office of Auditor for Interior Department from \$165,860 to \$167,660.

The amendment was agreed to.

The next amendment was, on page 48, line 5, to increase the number of clerks of class 4 in the office of Auditor for State and other Departments from fifteen to sixteen; in line 6, to increase the number of clerks of class 3 from fifteen to seventeen; and in line 10, to increase the total appropriation for office of Auditor for State and other Departments from \$112,040 to \$117,040.

The amendment was agreed to.

The next amendment was, on page 50, line 1, to increase the number of expert counters at \$800 each in the office of the Treasurer of the United States from nine to fourteen; in line 2, to increase the number of expert counters at \$720 each from fifty to fifty-seven; and, in line 12, to increase the total appropriation for office of the Treasurer of the United States from \$399,270 to \$408,310.

The amendment was agreed to.

The next amendment was, on page 51, line 18, to increase the appropriation for the salary of the Deputy Comptroller of the Currency from \$3,000 to \$3,500, and, on page 52, line 3, to in-

crease the total appropriation for the office of the Comptroller of the Currency from \$121,420 to \$121,920.

The amendment was agreed to.

The next amendment was, on page 53, line 18, after the word "dollars," to insert "title and contract clerk, \$2,000;" in line 22, before the word "clerks," to strike out "four" and insert "three;" and, on page 54, line 2, before the word "hundred," to strike out "forty-five thousand nine" and insert "forty-six thousand one;" so as to make the clause read:

Office of Life-Saving Service: For General Superintendent of the Life-Saving Service, \$4,000, and \$500 additional while the office is held by the present incumbent; assistant general superintendent, \$2,500; principal clerk, \$2,000; title and contract clerk, \$2,000; topographer and hydrographer, \$1,800; civil engineer, \$1,800; draftsman, \$1,500; three clerks of class 4; five clerks of class 3; four clerks of class 2; five clerks of class 1; two clerks, at \$1,000 each; one clerk, \$900; two assistant messengers; and, one laborer; in all, \$46,100.

The amendment was agreed to.

The next amendment was, on page 54, line 23, to increase the appropriation for the salary of translator in the office of the Director of the Mint from \$1,600 to \$1,800, and, on page 55, line 2, to increase the total appropriation for the office of the Director of the Mint, from \$30,820 to \$31,020.

The amendment was agreed to.

The next amendment was, on page 55, line 23, before the word "clerks," to strike out "two" and insert "three;" in line 24, before the word "clerks," to strike out "four" and insert "three;" on page 56, line 5, after the word "messenger," to insert "three assistant messengers;" in line 6, before the word "laborers," to strike out "five" and insert "two," and, in line 8, before the word "dollars," to strike out "one hundred and forty" and insert "eight hundred and eighty;" so as to make the clause read:

Office of Surgeon-General of Public Health and Marine-Hospital Service: For Surgeon-General, \$5,000; chief clerk, \$2,000, and \$500 additional as disbursing agent for the Public Health and Marine-Hospital Service; three clerks of class 4; three clerks of class 3; private secretary to the Surgeon-General, \$1,800; clerk to the disbursing agent, \$1,400; five clerks of class 2, one of whom shall be translator; five clerks of class 1; clerk and translator, \$1,200; three clerks, at \$900 each; one messenger; three assistant messengers; and two laborers, at \$540 each; in all, \$41,880, the same to be paid from the permanent appropriations for the Public Health and Marine-Hospital Service, and said Service shall remain under the jurisdiction of the Treasury Department until otherwise hereafter specifically provided by law.

The amendment was agreed to.

The next amendment was, under the subhead "Collecting internal-revenue," on page 60, line 24, after the word "dollars," to insert the following proviso:

*Provided*, That internal-revenue agents assigned to the duty of examining the accounts of collectors of internal revenue shall receive for per diem in lieu of subsistence, when absent from their legal residences on duty, a sum, to be fixed by the Commissioner of Internal Revenue, approved by the Secretary of the Treasury, not to exceed \$4.

The amendment was agreed to.

The next amendment was, under the subhead "Independent Treasury," on page 63, line 5, after the word "dollars," to insert "assistant cashier, \$1,800;" in line 7, after the word "dollars," to strike out "receiving teller, \$1,500" and insert "two tellers, at \$1,500 each;" and, in line 15, before the word "and," to strike out "twenty-one thousand seven hundred" and insert "twenty-five thousand;" so as to make the clause read:

Office of assistant treasurer at Cincinnati: For assistant treasurer, \$4,500; cashier, \$2,000; assistant cashier, \$1,800; bookkeeper, \$1,800; two tellers at \$1,500 each; interest clerk, and five clerks at \$1,200 each; two clerks, at \$1,000 each; clerk and stenographer, \$720; clerk and watchman, \$840; night watchman, \$600; day watchman, \$600; in all, \$25,060.

The amendment was agreed to.

The next amendment was, under the head of "Mints and Assay Offices," on page 68, line 19, before the word "dollars," to strike out "one thousand eight hundred" and insert "two thousand;" in line 20, before the word "dollars," to strike out "two hundred and fifty" and insert "five hundred;" in line 21, before the word "assistant," to insert "and;" in the same line, after the word "coiner," to strike out "and bookkeeper;" in line 22, before the word "dollars," to strike out "one thousand eight hundred" and insert "two thousand;" in line 23, after the word "each," to insert "bookkeeper, \$1,800;" and on page 69, line 4, before the word "dollars," to strike out "thirty-seven thousand four hundred and fifty" and insert "thirty-eight thousand five hundred;" so as to make the clause read:

Mint at Denver, Colo.: For superintendent, \$4,500; assayer, melter and refiner, and coiner, at \$3,000 each; chief clerk, \$2,500; weigh clerk, \$2,000; cashier, \$2,500; assistant assayer, assistant melter and refiner, and assistant coiner, \$2,000 each; bookkeeper, \$1,800; abstract clerk, warrant clerk, assistant weigh clerk, and calculating clerk, at \$1,600 each; calculating clerk, \$1,400; and two clerks at \$1,200 each; in all, \$38,500.

The amendment was agreed to.

The next amendment was, on page 74, line 15, to increase the

appropriation for the salary of chief clerk of the assay office at Seattle, Wash., from \$1,800 to \$2,000, and, in line 19, to increase the total appropriation for the assay office at Seattle, Wash., from \$10,250 to \$10,450.

The amendment was agreed to.

The next amendment was, on page 74, line 22, to increase the appropriation of wages of workmen, etc., at the assay office, Seattle, Wash., from \$27,000 to \$27,720.

The amendment was agreed to.

The next amendment was, on page 74, line 25, to reduce the appropriation for incidental and contingent expenses, including rent of building, at the assay office, Seattle, Wash., from \$9,000 to \$8,000.

The amendment was agreed to.

The next amendment was, under the head of "War Department," on page 78, line 21, to reduce the appropriation for the salary of chief telegrapher in the office of the Secretary from \$1,800 to \$1,600, and, on page 80, line 2, to reduce the total appropriation for the office of the Secretary of War from \$134,980 to \$134,780.

The amendment was agreed to.

The next amendment was, on page 82, line 2, before the word "one," to strike out "one clerk, at \$450 (transferred from temporary roll);" and in line 4, before the word "dollars," to strike out "three hundred and fifty" and insert "eight hundred;" so as to make the clause read:

Signal Office: For chief clerk, \$2,000; two clerks of class 4 (increase of one by transfer from temporary roll); two clerks of class 2 (transferred from temporary roll); four clerks of class 1 (increase of three by transfer from temporary roll); six clerks, at \$1,000 each (transferred from temporary roll); three clerks, at \$900 each (transferred from temporary roll); two clerks, at \$840 each (transferred from temporary roll); one messenger; one assistant messenger (transferred from temporary roll); and one laborer; in all, \$25,800.

The amendment was agreed to.

The next amendment was, on page 84, line 1, before the word "clerks," to strike out "twenty-five" and insert "twenty-six;" in line 2, after the word "two," to insert "(increase of one by transfer from temporary roll);" in line 4, before the word "clerks," to strike out "eleven" and insert "ten;" and in line 5, after the word "of," to strike out "eight" and insert "seven;" so as to read:

Office of the Surgeon-General: For chief clerk, \$2,000; fourteen clerks of class 4; eleven clerks of class 3; twenty-six clerks of class 2 (increase of one by transfer from temporary roll); thirty-two clerks of class 1 (increase of four by transfer from temporary roll); ten clerks, at \$1,000 each (increase of seven by transfer from temporary roll); etc.

The amendment was agreed to.

The next amendment was, on page 84, line 19, to increase the total appropriation for office of the Surgeon-General from \$165,526 to \$165,926.

The amendment was agreed to.

The next amendment was, on page 87, line 1, to increase the number of clerks of class 4 in the office of the Bureau of Insular Affairs from five to seven; and in line 6, to increase the total appropriation for the office of the Bureau of Insular Affairs from \$79,800 to \$83,400.

The amendment was agreed to.

The next amendment was, under the head of "Public buildings and grounds," on page 88, line 23, before the word "overseers," to strike out "chief clerk, clerk and stenographer;" so as to make the clause read:

For overseers, draftsmen, copyists, foremen, gardeners, mechanics, and laborers employed in the public grounds, \$35,000.

The amendment was agreed to.

The next amendment was, on page 91, after line 8, to insert: For increasing height of stair rails, \$1,100.

The amendment was agreed to.

The next amendment was, under the head of "Navy Department," on page 91, line 22, before the word "dollars," to insert "one hundred;" in line 25, after the word "each," to insert "one messenger boy, \$420;" and on page 92, line 3, before the word "dollars," to strike out "three hundred and eighty" and insert "nine hundred;" so as to make the clause read:

Office of the Secretary: For compensation of the Secretary of the Navy, \$8,000; Assistant Secretary of the Navy, \$4,500; chief clerk, \$3,000; clerk to Secretary, \$2,500; one clerk, \$2,250; disbursing clerk, \$2,250; four clerks of class 4; stenographer, \$1,800; three clerks of class 2; four clerks of class 1; one clerk, \$1,100; five clerks, at \$1,000 each; telegraph operator, \$1,100; two copyists; carpenter, \$900; four messengers; four assistant messengers; four laborers; three messenger boys, at \$600 each; one messenger boy, \$420; one messenger boy, \$400; in all, \$61,900.

The amendment was agreed to.

The next amendment was, on page 93, line 15, before the word "of," to strike out "one clerk" and insert "two clerks;" and in line 19, before the word "hundred," to strike out "nineteen

thousand six" and insert "twenty thousand eight;" so as to make the clause read:

Judge-Advocate-General, United States Navy: For a solicitor, to be an assistant to the Judge-Advocate of the Navy, and to perform the duties of that officer in case of his death, resignation, absence, or sickness, \$2,500; chief clerk, \$2,000; two clerks of class 4; one clerk of class 3; one clerk of class 2; one clerk, \$1,300; two clerks of class 1; three clerks at \$1,000 each; one clerk, \$900; one clerk, \$840; one assistant messenger; one messenger boy, \$600; in all, \$20,860.

The amendment was agreed to.

The next amendment was, on page 93, line 21, to increase the number of clerks of class 3 in the Bureau of Navigation from three to four, and on page 94, line 3, to increase the total appropriation for the Bureau of Navigation from \$61,140 to \$62,740.

Mr. CULLOM. I move to amend the amendment of the committee on page 93, line 21, before the word "clerks," by striking out "four" and inserting "five;" so as to read:

Five clerks of class 3.

The amendment to the amendment was agreed to.

Mr. CULLOM. The amendment just adopted makes it necessary to amend the amendment of the committee on page 94, line 4, before the word "hundred," by striking out "sixty-two thousand seven" and inserting "sixty-four thousand three;" so as to make the total read "\$64,340."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, on page 98, line 17, before the word "assistant," to strike out "three" and insert "four;" in line 18, before the word "two," to strike out "and;" in line 19, after the word "each," to insert "and one at \$1,600;" one assistant in department of nautical instruments, \$1,600;" and on page 99, line 8, before the word "hundred," to strike out "thirty-nine thousand four" and insert "forty-two thousand six;" so as to make the clause read:

Naval Observatory: For pay of four assistant astronomers, one at \$2,000, two at \$1,800 each, and one at \$1,600; one assistant in department of nautical instruments, \$1,600; one clerk of class 4; one clerk of class 2; instrument maker, \$1,500; electrician, \$1,500; photographer, \$1,200; five computers, at \$1,200 each; librarian, \$1,400; assistant on equatorial, \$1,000; assistant in spectroscopic work, \$1,000; stenographer and typewriter, \$900; foreman and captain of the watch, \$1,000; carpenter and engineer, at \$1,000 each; three firemen; six watchmen; elevator conductor, \$720; and nine laborers; in all \$42,640.

The amendment was agreed to.

The next amendment was, on page 99, line 10, to increase the appropriation for miscellaneous computations at the Naval Observatory from \$4,000 to \$6,000.

The amendment was agreed to.

The next amendment was, on page 100, line 11, after the word "dollars," to insert "to be immediately available;" so as to make the clause read:

Observation, solar eclipse: For observations of the total eclipse of the sun on August 30, 1905: For preparation and outfit of instruments and their transportation, the purchase of additional apparatus and materials, including photographic material, the erection of suitable buildings at each station, and generally the expenses of preparation and observation, including the living expenses of parties at the several stations, \$5,000, to be immediately available.

The amendment was agreed to.

The next amendment was, on page 101, line 15, after the word "dollars," to insert "clerk of class 2;" and in line 23, before the word "and," to strike out "fifty-one thousand" and insert "fifty-two thousand four hundred;" so as to make the clause read:

Bureau of Construction and Repair: For chief clerk, \$2,000; three clerks of class 3; assistant draftsman, \$1,400; clerk of class 2; three clerks, at \$1,300 each; two clerks of class 1; nine clerks, at \$1,100 each; fifteen clerks, at \$1,000 each; five copyists; one assistant messenger; one laborer; nine messenger boys, at \$600 each; one messenger boy, \$400; in all, \$52,480.

The amendment was agreed to.

The next amendment was, on page 102, line 21, after the word "For," to strike out "chief clerk, \$2,000," and insert:

A civilian assistant, who shall perform the duties of chief clerk, and in case of the death, resignation, sickness, or absence of both the Paymaster-General of the Navy and his assistant, now provided for by law, unless otherwise directed by the President, as provided by section 179, Revised Statutes, such civilian assistant shall become the acting chief of the Bureau, \$2,250.

On page 103, line 5, before the word "clerks," to strike out "two" and insert "three;" in line 8, before the word "clerks," to strike out "fifteen" and insert "sixteen;" in the same line, before the word "clerks," to strike out "seven" and insert "eight;" and in line 17, before the word "dollars," to strike out "eighty-five thousand nine hundred and sixty" and insert "eighty-nine thousand nine hundred and ten;" so as to make the clause read:

Bureau of Supplies and Accounts: For a civilian assistant, who shall perform the duties of chief clerk, and in case of the death, resignation, sickness, or absence of both the Paymaster-General of the Navy and

his assistant, now provided for by law, unless otherwise directed by the President, as provided by section 179, Revised Statutes, such civilian assistant shall become the acting chief of the Bureau, \$2,250; three clerks of class 4; five clerks of class 3; three clerks of class 2; two stenographers, at \$1,400 each; one clerk, \$1,300; sixteen clerks of class 1; eight clerks, at \$1,100 each; twenty-two clerks, at \$1,000 each; three clerks at \$900 each; eight copyists; two copyists, at \$840 each; one assistant messenger; three messenger boys, at \$400 each; one laborer; one messenger boy, \$600; and two laborers, at \$600 each; in all, \$89,910.

The amendment was agreed to.

The next amendment was, on page 103, line 22, to reduce the number of clerks at \$1,000 each in the Bureau of Medicine and Surgery from three to two; and on page 104, line 1, to reduce the total appropriation for the Bureau of Medicine and Surgery from \$17,340 to \$16,340.

The amendment was agreed to.

The next amendment was, on page 105, line 5, to increase the appropriation for stationery, furniture, newspapers, plans, drawings, etc., from \$12,000 to \$14,000.

The amendment was agreed to.

The next amendment was, under the head of "Department of the Interior," on page 105, line 22, to increase the appropriation for the salary of the Assistant Secretary of the Interior from \$4,000 to \$4,500.

The amendment was agreed to.

The next amendment was, on page 106, line 20, before the word "special," to strike out "four" and insert "five;" and in the same line, after the word "special," to strike out "inspectors" and insert "agents;" so as to read:

Five special agents, Department of the Interior, to be appointed by the Secretary of the Interior and to be subject to his direction, at \$2,500 each.

The amendment was agreed to.

The next amendment was, on page 107, line 23, to increase the appropriation for the captain of the watch, Office of the Secretary, from \$1,000 to \$1,200; and on page 108, line 8, to increase the total appropriation for Office of the Secretary of the Interior from \$321,930 to \$325,130.

The amendment was agreed to.

The next amendment was, on page 109, line 17, to increase the number of special inspectors, Department of the Interior, from four to five; and on page 110, line 2, to increase the appropriation for per diem in lieu of subsistence of special inspectors, etc., from \$8,000 to \$10,000.

The amendment was agreed to.

The next amendment was, on page 113, line 10, to increase the appropriation for one clerk, office of the Commissioner of Indian Affairs, from \$1,200 to \$1,400; and in line 16, to increase the total appropriation for the office of Commissioner of Indian Affairs from \$174,620 to \$174,820.

The amendment was agreed to.

The next amendment was, on page 114, line 12, to increase the number of clerks of class 4 in the office of Commissioner of Pensions from 69 to 70; in line 13, to increase the number of clerks of class 2 from 319 to 329; in line 14, to increase the number of clerks of class 1 from 391 to 399; in line 15, to increase the number of clerks at \$1,000 each from 217 to 225; and in line 16, to increase the number of copyists from 140 to 145.

The amendment was agreed to.

The next amendment was, on page 114, line 17, after the word "dollars," to strike out "one engineer, \$1,200," and insert "two engineers, at \$1,200 each;" in line 20, before the word "messengers," to strike out "twenty-seven" and insert "thirty-three;" in line 22, before the word "laborers," to strike out "forty-four" and insert "forty-five;" and on page 115, line 6, before the word "hundred," to strike out "eight hundred and ninety-two thousand four" and insert "nine hundred and thirty-seven thousand two;" so as to read:

Superintendent of building, \$1,400; two engineers, at \$1,200 each; three firemen; thirty-three messengers; twelve assistant messengers; twenty messenger boys, at \$400 each; forty-five laborers; ten female laborers, at \$400 each; fifteen charwomen; one painter, skilled in his trade, \$900; one cabinetmaker, skilled in his trade, \$900; captain of the watch, \$840; three sergeants of the watch, at \$750 each; twenty watchmen; in all, \$1,937,210.

The amendment was agreed to.

The next amendment was, on page 117, line 4, to increase the number of chiefs of division, at \$2,000 each, in the office of the Commissioner of Patents, from three to five; in line 5, to increase the number of assistant chiefs of division, at \$1,800 each, from three to five; and in line 23, to increase the total appropriation for the Patent Office from \$847,950 to \$855,550.

The amendment was agreed to.

The next amendment was, on page 118, line 7, before the word "thousand," to strike out "sixty-seven" and insert "eighty;" in line 11, before the word "thousand," to strike out "eighty-three" and insert "one hundred;" and in line 12, before the

word "thousand," to strike out "fifty" and insert "eighty;" so as to make the clause read:

For photolithographing or otherwise producing plates and illustrations for the Official Gazette, \$80,000; for work to be done at the Government Printing Office, in producing the Official Gazette, including the letter-press, the weekly, monthly, bimonthly, and annual indexes therefore, exclusive of expired patents, \$100,000; in all, \$180,000.

The amendment was agreed to.

The next amendment was, on page 118, line 25, to increase the appropriation for producing copies of drawings of the weekly issues of patents, etc., Patent Office, from \$120,000 to \$130,000.

The amendment was agreed to.

The next amendment was, on page 119, line 14, to increase the appropriation for the salary of translator in the Bureau of Education from \$1,600 to \$1,800; in line 18, to increase the number of clerks of class 4 from two to three, and on page 120, line 1, to increase the total appropriation for the Bureau of Education from \$52,940 to \$54,940.

The amendment was agreed to.

The next amendment was, on page 120, line 22, to increase the appropriation for the salary of one clerk in the office of the Superintendent of the Capitol Building and Grounds from \$1,200 to \$1,400; and on page 121, line 8, to increase the total appropriation for office of the Superintendent of Capitol Building and Grounds from \$22,524 to \$22,724.

The amendment was agreed to.

The next amendment was, on page 121, line 15, before the word "five," to insert "not to exceed;" and in line 21, before the word "thousand," to strike out "ninety" and insert "ninety-five;" so as to make the clause read:

For contingent expenses of the office of the Secretary of the Interior and the bureaus, offices, and buildings of the Interior Department, including not to exceed \$5,000 for the Civil Service Commission: For furniture, carpets, ice, lumber, hardware, dry goods, advertising, telegraphing, expressage, wagons and harness, food and shoeing of horses, diagrams, awnings, constructing model and other cases and furniture, and other absolutely necessary expenses, including fuel and lights, \$95,000.

The amendment was agreed to.

The next amendment was, on page 121, line 23, before the word "five," to insert "not to exceed;" so as to make the clause read:

For stationery for the Department of the Interior and its several bureaus and offices, including not to exceed \$5,000 for the Civil Service Commission, \$60,000.

The amendment was agreed to.

The next amendment was, on page 122, line 12, before the word "dollars," to strike out "four thousand five hundred" and insert "five thousand;" and in line 14, before the word "hundred," to strike out "four" and insert "nine;" so as to make the clause read:

For rent of buildings for the Department of the Interior, namely: For the Bureau of Education, \$4,000; Geological Survey, \$29,200; additional rooms for the engraving and printing divisions of the Geological Survey, \$1,200; storage of documents, \$1,000; Civil Service Commission, \$5,000; Patent Office model exhibit, \$19,500; in all, \$59,900.

The amendment was agreed to.

The next amendment was, under the head of "Post-Office Department," on page 128, line 4, before the word "dollars," to strike out "two thousand five hundred" and insert "including \$500 as superintendent of Post-Office Department building, three thousand;" so as to read:

Office Postmaster-General: For compensation of the Postmaster-General, \$8,000; chief clerk Post-Office Department, including \$500 as superintendent of Post-Office Department building, \$3,000, etc.

The amendment was agreed to.

The next amendment was, on page 129, line 11, to increase the total appropriation for the office of the Postmaster-General from \$142,910 to \$143,410.

The amendment was agreed to.

The next amendment was, on page 131 line 9, after the word "adjustments," to insert "and law clerk;" in line 10, before the word "dollars," to insert "two hundred and fifty," and in line 21, before the word "dollars," to strike out "seven hundred and twenty" and insert "nine hundred and seventy;" so as to make the clause read:

Office Second Assistant Postmaster-General: For Second Assistant Postmaster-General, \$4,500; chief clerk, \$2,500; superintendent of railway adjustments, \$2,500; assistant superintendent of railway adjustments and law clerk, \$2,250; superintendent of foreign mails, \$3,000; chief clerk, \$2,000; chief of division of inspection, \$2,000; chief of contract division, \$2,000; chief of mail equipment division, \$2,000; eleven clerks of class 4; forty clerks of class 3; thirty-one clerks of class 2; stenographer, \$1,600; twenty-four clerks of class 1; seventeen clerks, at \$1,000 each; six clerks, at \$900 each; messenger in charge of mails, \$900; six assistant messengers; in all, \$207,970.

The amendment was agreed to.

The next amendment was, on page 132, line 1, to increase the appropriation for the salary of the superintendent postage-stamp supplies and postmasters' accounts, office Third Assistant

Postmaster-General, from \$2,500 to \$2,750, and in line 17 to increase the total appropriation for office Third Assistant Postmaster-General from \$227,940 to \$228,190.

The amendment was agreed to.

The next amendment was, on page 132, after line 19, to insert:

For the following force now employed in the office of the Third Assistant Postmaster-General on work in connection with stamped-paper agencies and paid from appropriations made in the post-office appropriation act for pay of agents and assistants to distribute stamps, stamped envelopes and newspaper wrappers, and postal cards, namely: One clerk, \$1,000; five clerks (now laborers), at \$840 each; one clerk (now laborer), \$720; and three laborers, at \$660 each (now paid \$720 each); in all, \$7,900; and such clerks and laborers as may be so employed on the 30th day of June, 1905, are hereby transferred to the rolls of the office of the Third Assistant Postmaster-General and placed in the classified service, without further examination, in the grades and at the rates of compensation herein provided.

Mr. GORMAN. Mr. President, I should like to have some explanation of the amendment now pending. I should like to know from the Senator in charge of the bill how many clerks, laborers, and other employees are to be placed by this provision under the classified service without examination, and what reason there can be for it.

Mr. CULLOM. As I understand, Mr. President, the force designated in the amendment are now paid under the post-office appropriation act, but are detailed to work in connection with stamped-paper agencies. These clerks are in the service now, but we have been trying to get them classified and in the proper Department, so that we may avoid the constant confusion resulting from details from one Department to another and from different bureaus in the same Department. The object of the amendment is to provide that the force now employed in the office of the Third Assistant Postmaster-General on work in connection with stamped-paper agencies and paid from appropriations made in the post-office appropriation act may be placed under the control of the Third Assistant Postmaster-General and paid from the appropriation for his office. The purpose is to enable Congress, when an appropriation bill comes before it, to know exactly what force each Department and each bureau in a Department has, so that we may tell, without hunting all over the Department, just what force they have on the rolls and at work in that Department.

Mr. GORMAN. That I can perfectly understand. A great number of these employees, whether clerks or laborers, are paid out of the general appropriation for the pay of agents and assistants to distribute stamps, etc.; and not being estimated for, are paid at the discretion of the Department. To have those clerks transferred to the office of the Third Assistant Postmaster-General and records and estimates made hereafter is a matter of good legislation, to which I agree; but I ask the Senator about how many employees now paid out of the general appropriation would be affected by the adoption of the amendment under consideration?

Mr. CULLOM. I do not know how many there are, but we have a list of them by names. So we know exactly what force they have. I will send it to the Senator to look at.

Mr. GORMAN. The number the Senator is unable to give me?

Mr. CULLOM. I do not remember the exact number. There are ten of these people, as I am now informed by the clerk of the Committee on Appropriations, who has counted them and knows exactly the number.

Mr. GORMAN. Ten? The list the Senator has sent me contains at least fifty names, if not more.

Mr. CULLOM. The Department asked for more than that number, but we did not give them all they asked for.

Mr. GORMAN. This provision relates, in its first subdivision, to all employees who are now at work in connection with stamped-paper agencies and paid from appropriations made in the post-office appropriation act for the pay of agents and assistants to distribute stamps, etc. But when it comes to the second clause, it says that all such clerks and laborers, who have gone in, of course, outside of the civil service, are to be placed in the classified service.

Mr. CULLOM. All these people have been in the service of the Post-Office Department for some time.

Mr. GORMAN. I understand.

Mr. CULLOM. Whether all of them have been examined under the civil service I do not know, as a matter of fact.

Mr. GORMAN. The Senator and I, of course, want to have the rule uniform. This is only one of many similar cases that come along, such as the temporary appointments in the War Department. I think as the law itself, the civil-service act, has given the President of the United States authority in the premises, we had better leave that to his discretion, and that it is unwise to insert these words, and I shall move to amend the bill by striking them out.

And such clerks and laborers as may be so employed on the 30th day of June, 1905—

That is providing for any employment that may occur between now and next June—

are hereby transferred to the rolls of the office of the Third Assistant Postmaster-General and placed in the classified service, without further examination, in the grades and at the rates of compensation herein provided.

While heretofore we have bodily transferred any number of clerks by provision of law and executive orders, I doubt very much whether we have ever made a provision for all other clerks who may be employed between now and next June, in addition to those in the service.

Mr. CULLOM. It is confined to those now in the service, I understand.

For the following force now employed—

Mr. GORMAN. Let us read it.

And such clerks and laborers as may be employed on the 30th day of June, 1905.

Mr. CULLOM. The word "such" relates back to "the following force now employed in the office."

Mr. GORMAN. It may be that it applies to them.

Mr. CULLOM. It seems to me it would be unfair, as these people have been in the service now for a long time, that they should be put out and somebody else put in.

Mr. GORMAN. I have no desire—

Mr. CULLOM. This legislation proposes to take care of these people who are now in the service or who may be in the service on the 30th day of June next. I think it is only fair play to the persons who are now engaged in the service, whether they went in under the civil service or not. They have been there so long that they ought not to be put out because they have not heretofore been examined. I hope the Senator from Maryland will not make any point on this amendment.

Mr. GORMAN. I would agree ordinarily with the Senator, and indeed I do agree with the Senator, that a very fair and a proper test of the efficiency of clerks is employment in the office; and to that test, if it were applied generally and made uniform, I should not object. I think myself it is the proper civil service, if the heads of Departments are careful, as they usually have been, in the selection of subordinates.

But the rule has been established, and the country has been given to understand that all of these new employees, since the passage of the civil service law, have gone in through that system, and therefore are rather permanent. I do not object to that, but I think it is an unwise action on the part of Congress to provide in a general appropriation bill for specific work and to authorize the employment of any number of clerks and messengers and after six or eight months or two years put a provision in another appropriation bill that those so employed temporarily shall all at once be classified.

Mr. CULLOM. I think when this bill becomes a law, if it ever does—

Mr. GORMAN. Oh, it will become a law.

Mr. CULLOM. It will result in having no more of this confusion in reference to the classification and transfer of clerks from one bureau and Department to another. It will clean up the Departments with respect to a situation of that sort which has existed as a result of the Spanish war. I think the Senator can hardly justify himself in making any trouble about this little squad of ten persons who are transferred from one bureau to another without requiring a civil service examination.

Mr. GORMAN. The Senator from Illinois entirely misunderstands me if he supposes that I am troubled about the employment of ten or twenty men in any one of the Departments. That is not the point at all. What I desire to call attention to is the system that has been inaugurated, which is rather a bad one. The rule is not uniform.

Mr. CULLOM. The Senator from Maryland will remember, although I do not know whether he was here at the time, that two or three years ago we transferred a whole force, under a similar provision, from one place to another in the War Department?

Mr. GORMAN. Yes.

Mr. CULLOM. This is only continuing what we have been trying to do in getting the detail business fixed up.

Mr. GORMAN. I am aware of that fact, and that is what called my attention to it. If the Senator in charge of the bill, who is familiar with what has been done, meant to convey the idea that this is the last and that this concludes all the Departments and ends special legislation of this class, I should be content. But I do not understand that that is the situation. I think there are in some of the Departments a number of temporary employees waiting to be put under the civil service by special act. We are doing it by piecemeal.

Mr. CULLOM. I think that most of these persons are under the civil service now. It is proposed to treat these clerks the

same as we treated other clerks whom we had in the War Department as the result of an extraordinary situation which existed for a time.

Mr. GORMAN. I should like to ask the Senator whether he does not regard that character of legislation as bad?

Mr. CULLOM. It is a little irregular, it is true. I do not know but that we get just as good clerks, however, by this policy as by any other.

Mr. GORMAN. We perhaps get better clerks.

Mr. CULLOM. Perhaps a little better clerks. So I hope the Senator will not make a point on these people.

Mr. GORMAN. I merely wish to call attention to the fact that while loud proclamations in regard to the civil service are made, not by the Senator from Illinois, but by others for the purpose of impressing the country, and especially those of our countrymen who regard the civil service as the one desirable thing in this Government—and that it has accomplished some good I am free to admit—and that unless the civil-service rules are enforced and honestly enforced the country is probably going to the bow-wows, yet with the passage of nearly every legislative bill, with this Administration and the one that preceded it insisting that the civil service is being properly and rigidly and honestly enforced, come provisions for the employment of ten, as the Senator says in this case, a hundred in another, and five hundred in another, and after a service of three months or six months they are legislated into the civil service without having passed an examination.

That is a discrimination which I think is unfair to the thousands and thousands of men and women who have taken the examination, until you have upon the list the names of 10,000 persons hoping and waiting, and many of them believing, from the declarations of the executive branch, that they are to have a fair opportunity for appointment whenever their names are reached in the order of merit on the roll. They wait. They are waiting now. They are hoping without hope, because but few of them will ever be able to gain the small place upon which their own affairs are so dependent.

I think we ought to adopt frankly one rule or the other. I am prepared to submit, as I have been for some years, to an honest enforcement of the civil-service rules and the President's orders under them. I only want to call attention to the fact that those who are insisting that there is an honest and a faithful enforcement of that law are holding out false hopes to the thousands who have taken the examinations, if this system is to be followed.

Mr. ALLISON. Mr. President, I think I am as zealous as is the Senator from Maryland [Mr. GORMAN] in the support and advocacy of the civil-service law and rules. I am not quite sure but that I am more so.

Mr. GORMAN. I will surrender to the Senator from Iowa.

Mr. ALLISON. I also think there is force in some things that the Senator from Maryland has uttered as respects this waiting.

The highest salary paid to any of these ten people is \$1,000. There is one clerk of a thousand dollars, and from that the salaries run all along down to six hundred and fifty. Now, the Committee on Appropriations found that those persons were not on the waiting list, but in the actual service of the Third Assistant Postmaster-General. Several of them were mere laborers, people who pack boxes and handle and deal with the various things that are sent out by the Third Assistant.

We wanted to rid ourselves of the responsibility of having them paid out of the general fund and to bring them into a specific fund, whereby we could keep run of the number, the compensation, etc. Therefore, speaking now from memory, although I think the testimony will bear me out, we called the Third Assistant Postmaster-General before us and asked him to state to us the character of these employees, the time they had been in the service, etc. He stated as to the five clerks we inserted here at a salary of \$840 each that they were designated as laborers, but were performing duty as clerks. Therefore we styled them "clerks," where they are now named as laborers. So we retain this force in form and substance as it exists now.

I submit to the Senator that it would be quite a hardship for these eight or ten people, who are now receiving these small salaries and who have been employed for some years and paid out of the general fund, to lose the places they are now occupying and to allow the places to be filled from the outside or from the waiting list. Therefore we endeavored to make it certain that those people would not be turned out in the cold and other people put in their places. That was all there was to this particular thing. I know of no general rule covering important matters that has not an exception, and this is an exception to the general rule respecting the civil service.

Mr. STEWART. Mr. President, I have no objection to the

amendment, but I want again to go on record that human nature must be changed or an honest administration of this system will be impossible. It is impossible to administer any governmental machinery which in its nature is secret. We have had a great many experiments of Cabinet advisers and secret organizations under monarchies all over the world, organized for the sake of reform, the councilors operating secretly. They have always led to corruption and unfair dealing. The trouble about the civil service is that its machinery is secret. I believe the whole system might be reformed and that we might have real reform and have really the merit system. I do not think there would be any difficulty if attention was given in that direction. I do not believe that any man or woman ought to be put in office until his or her name had been posted for thirty days.

The only objection to the old system—what is called "the spoils system"—was that there was some secrecy about it. There is great secrecy about this. Then Members of Congress would get persons appointed on verbal application. If you would let the Member of Congress or the governor of the State or anybody else nominate clerks when they are wanted for any Department or any Bureau, let the head of the Department or Bureau publish the name, let that information go back to the district or the locality where the man hails from and let it stand for thirty days, and then, if there is no objection, let the examination be taken in the Department with respect to the qualifications of the individual for the work desired and let him be appointed for six months on trial, and, if he fails, either on examination or on trial for six months, have that fact known and another nomination made, and keep this information before the public, there would not be the same chance for favoritism that there is in this.

People come to me constantly, and they have done so for many years, stating cases of hardship. They have worked up to sixteen or eighteen hundred dollars, and then somebody who is incompetent, as they say, has come in and stepped over them. I have offered in each case to present a resolution in the Senate to inquire into it, but they say: "Oh, no; then I will lose my place altogether. Do not do that. I must make a living." They are afraid to complain, and they ought not to have any reason to complain. Reorganize this machinery and make it public so that the world may know how it is done. I do not care how strict you are. I do not care how high grade you require in the service if you will let the world know what is required and let the people judge the character of the individual. Let the neighbors judge him, and then you will have a very different class and a much more effective class.

I predict if this goes on, although the intention of it is undoubtedly very good—to avoid corruption in office—and if you do not reform this reform, the time will come when the people will rise and sweep it all away. They are not going to have a favorite class here that are put in, as they think, through unfair means or unfairly.

The only way to popularize civil-service reform is to have every step of it public and let the world know whether A B C is put in a high clerical position. He lives in a particular neighborhood, and everybody knows that he is incompetent to do any kind of business. But he has learned to answer the questions. The people would not indorse him. He would not be nominated by a Member of Congress for the place if the community knew that he was an applicant. Let us have the real merit system. The time will come when there will be public sentiment enough to force the adoption of the merit system. People call this the merit system. We do not know how it is operated. You say that we can know all about it; that it is fair. Perhaps it is; I do not make any charges against individuals. But how does the public know whether these marks are fair? How does the public know whether the record is made up correctly? How does the public know that such an examination has been made of the individual as to determine his qualifications and his fitness for the particular place? It is all done by a few men, and they can not know everything.

Let the head of each Department and each bureau make the examination of the applicant, after his name has been properly advertised, so that the people in the community where he lives may know, and may make any objection to his character that they desire to submit. Then let the head of the bureau give him a trial. That is the way to get effective service.

I would have no communication by word of mouth between any Member of Congress or any other person and the appointing power. It should be in writing, so that everybody could know all about it. Make this thing public. The difficulty about the old system was that there was private application. There should be no more private applications, no private communication between the person seeking employment and the head of the Department any more than there is between the litigants in a

court and the judge. The party who is at the head of a bureau or the Department has the responsibility, and he ought to be an untrammelled judge of the qualifications of the applicant.

You can get better selections if you allow Members of Congress from their districts to nominate men. You start with a better selection, because they know better. That system would be very much superior to this. They know the character of the applicants; whether they are business men or not, and they will be held by their constituents to the responsibility of making proper nominations. They will have the responsibility of making—

Mr. SPOONER. They would have to devote themselves exclusively to that business.

Mr. STEWART. I do not think you would be troubled by that business. If you were, others would attend to it. You would find plenty of Members of Congress willing to attend to that business. The number of clerks you would be called upon to name would not make it a very onerous duty. It is a duty that a Member of Congress ought to perform, because he knows the people in his district. Let him name them in writing, then let the person who has the responsibility of having the work performed, after due notice, examine the applicant and try him. Then you will get effective service, and everybody will know how it is done. Then it will be practical. It will not be the spoils system. The only objection to the spoils system was the secret application of Members of Congress to the heads of Departments for appointments. Cut that off. Do not have any verbal applications. Let the head of the Department be the judge. Treat him as a judge. Let the application be submitted to him. If the civil-service system can be reformed so that the people will know what it is, and it meets their approbation, then it will be permanent. But there never will be thorough acquiescence in it until the people know how it is that one person, whom they know to be inferior in qualifications, gets up above another. They know that that young man or this young lady is vastly superior in qualifications to discharge the duties to which they are assigned. Still he or she does not pass the examination or meet the requirements. They say, "How is this? This young man was qualified to be a clerk in a bank. He is an intelligent man. He is a good business man. He has been well reared. Why is it that he is rejected?"

Then there is another thing to which the Senator from Maryland alluded, which is a great hardship. You have thousands on the waiting list not disposed of. I do not know how many there are. I suppose there are hundreds of thousands who have been on the waiting list since this system went into vogue, and some of them are examined year after year and stay on the waiting list for life, waiting for something to turn up. That ought not to be. No more ought to be examined than have chance of employment, and they should only be examined when the heads of Departments want clerks and make it known that they want clerks. Let the people know this. Let the others stay at home. Thousands of people on the waiting list are suffering, and while they wait the opportunity to engage in other business passes. This is wrong. A system that involves having a vast number on the waiting list is wrong. Still, when people want to take an examination and stand their chances under this system, the Departments can not very well refuse to examine them and give them a show. They have to have their days for examinations. It is a hardship if they are not given an opportunity to be examined; and then, after they are examined and pass, their prospects of life are destroyed while they are on the waiting list.

I want to put myself on record. It is premature to attempt to reform this, because everything of this kind is very strong, and it will go on until the people rise up and put it aside. If it goes on as it is now and is not remedied by legislation and administration, the storm will come. There is an undercurrent of sentiment throughout the whole community that it ought to be wiped out. Almost every person I meet who wants good government complains of the civil service. There is nothing in this Government that is complained of as much by the people as the working of the civil service. No one of you can go home, if you communicate with the people, but that you hear complaints about this system, whereas if it was public and everybody knew what was done they would not be troubling you with complaints. So I say the civil service has to be reformed and made public or it can not survive for a generation.

Mr. GORMAN. Mr. President, the senior Senator from Iowa [Mr. ALLISON] started with the general proposition that he thought he was a better civil-service reformer than myself. I agree with him in that matter, and that he is better than I am in every respect. His knowledge of legislation is greater than that of any other member of either House of Congress, in my judgment.

The first proposition the Senator makes is that he is anxious

to have this provision enacted into a law so as to stop to some extent the employment of clerks and messengers in the Departments unless there is some specific provision by law for their appointment and a specific amount appropriated for their compensation. That is a proposition I know the Senator from Iowa is entirely sincere in. I know it from my association with him and the discussion of kindred questions galore, and I am delighted to know that even in this small matter of ten clerks the Senator is himself again, and that he has determined to stop the loose system of legislation which has grown up in the last eight years, and which would have amazed the fathers, transferring the power of appropriations and the employment of persons from the control of Congress to the executive branch. A little war of ninety days with Spain led to a condition of affairs that has compelled the distinguished chairman of the Committee on Appropriations and his committee to submit to a system which has been as bad as it could be, and which I trust to see eliminated—the system of making a lump appropriation and saying to the President or to the head of a Department, "Use it for any purpose you deem proper; employ one or a thousand clerks, or build ten ships, and out of the appropriation expend for clerical labor \$100,000 per annum; but continue within the appropriation in a lump sum." I agree with the Senator. There can not be any mistake about that.

The first proposition in this amendment is that Congress shall fix the salaries and limit the number of persons to be employed rather than to have them paid out of a fund to print postage stamps. That proposition is right. There can not be any objection to it on my part. That is not my objection. It is not a question of the civil-service law with me, except as to its honest enforcement.

I was not in favor of the passage of that law, although I believe my vote was recorded in favor of it in the early stages. Now that it is upon the statute books I want to see it enforced honestly and fairly. Yes; let it be enforced, as its authors and advocates believe in it.

I think the proposition now, by legislation, to place in office permanently without examination even ten clerks is violating the spirit of that law. I think those under the order of the President of the United States and all of the class of employees, amounting to thousands in the Navy Department, who have shown their efficiency, as these clerks have by their work for a year or two, and the thousand and more in the War Department, who were employed temporarily during the trouble with Spain by an order or by legislation, as I remember, should be placed in the classified service. To do otherwise is a violation of the spirit of the law, and, what is more, it is a hardship upon the men and women who are thus employed. There are over ten thousand of them on the rolls now who have been assured by every Executive publication and by the act itself that when a vacancy shall occur a cultivated woman or an educated man who is first on the list for a clerkship and so rated, the highest being a hundred, shall be entitled to employment. But they are set aside and excluded, and it becomes impossible for them to get a place that they have won, by merit, under the law. Such a system is wrong in itself, and it ought to be prohibited rather than encouraged by this amendment.

The other proposition, coming back to it, is worth more to me in the way of honest legislation and in the proper conduct of this Government than all the number of people who are employed or may be employed and put in the classified service under this provision. We now have the assurance from the distinguished Senator from Iowa and from the Senator from Illinois, honored members of the Committee on Appropriations, that the day has passed for an Executive order or when the request of the head of a Department will be regarded here any longer for a lump appropriation to permit the Departments to employ as many persons as they see proper without examination.

Mr. President, the expenditures of this Government have increased fearfully. It is the most expensive Government now on the face of the earth. What has it come from? From this very system of placing lump sums in the hands of disbursing officers or executive officers. Congress has permitted the purse strings to be placed in the hands of the Executive, and it has not been discharging the duty imposed upon it by the Constitution of the United States.

This is a small matter, it may be said, involving but ten or twenty clerks. If you should stop there it would be insignificant, although vicious in itself. But the appropriations for the Army, for the Quartermaster's Department, for the Ordnance Bureau, and for every bureau in that great Department, run to hundreds of thousands and to millions of dollars. How is the Department administered? Even the Senator from Iowa could not make a guess within ten thousand of the number of employees in that Department who have never passed a civil-

service examination and for the necessity of whose employment Congress has never had an estimate.

When we were prosperous, when the taxation both from internal revenue and from customs duties was sufficient to leave a balance of thirty or forty million dollars in the Treasury, yes, \$70,000,000 per annum, a voice against extravagance was not heard outside of this Chamber, and it was not listened to here. But now, Mr. President, the result of these indiscretions comes to us. It comes to us with a force that must be recognized and must be dealt with. Appropriations that are absolutely necessary, giving additional facilities to our people to increase the wealth of the country, are being stayed, and Congress must fail to make provision for them by reason of the fact that you have pursued a policy of wild extravagance, permitting the people's money to be expended by men who are not directly responsible to them, as Members of the House and Senators are directly responsible to the people.

I did not intend to say half as much as I have said, but I again express my great gratification that on a little matter of ten clerks, where the civil-service law is to be circumvented by the proposition of the Committee on Appropriations, we have laid the foundation of a statement from the distinguished chairman of the committee, the Senator from Iowa, that hereafter we will cut off the Executive and that Congress will perform its duty by making specific appropriations.

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

The amendment was agreed to.

The reading of the bill was continued. The next amendment was, on page 134, line 18, to increase the total appropriation for the Office of the Fourth Assistant Postmaster-General from \$410,330 to \$411,170.

The amendment was agreed to.

The next amendment was, under the head of "Department of Justice," on page 138, line 14, to increase the number of clerks of class 4 in the Office of the Attorney-General from four to five.

The amendment was agreed to.

The next amendment was, in the appropriation for the Office of the Attorney-General, on page 138, line 20, after the word "dollars," to insert "assistant engineer, \$900;" on page 139, line 2, after the word "dollars," to insert "assistant messenger;" and in line 5, before the word "dollars," to strike out "eight thousand nine hundred and forty" and insert "twelve thousand three hundred and sixty;" so as to read:

Engineer, \$1,200; assistant engineer, \$900; three firemen; two conductors of the elevator, at \$720 each; eight charwomen; superintendent of buildings, \$250. Division of accounts: Chief of division of accounts, \$2,500; four clerks of class 4; five clerks of class 3; seven clerks of class 2; six clerks of class 1; two copyists; one packer, \$840; assistant messenger; in all, \$212,360.

The amendment was agreed to.

The next amendment was, on page 139, line 17, to increase the appropriation for stationery for the Department of Justice, including Office of the Solicitor of the Treasury, etc., from \$3,500 to \$4,000.

The amendment was agreed to.

The next amendment was, on page 139, line 22, to increase the appropriation for miscellaneous expenditures, including telegraphing, fuel, lights, etc., in the Department of Justice from \$12,000 to \$13,500.

The amendment was agreed to.

The next amendment was, on page 140, line 20, after the word "dollars," to insert "chief clerk and law clerk, \$2,000;" and in line 22, before the word "thousand," to strike out "eight" and insert "ten;" so as to make the clause read:

Office of the Solicitor of the Department of Commerce and Labor: For Solicitor of the Department of Commerce and Labor, to be appointed by the President, by and with the advice and consent of the Senate, \$4,500; chief clerk and law clerk, \$2,000; clerk of class 3; clerk of class 1; and messenger; in all, \$10,140.

The amendment was agreed to.

The next amendment was, under the head of "Department of Commerce and Labor," on page 141, line 8, after the word "dollars," to strike out "chief of division, \$2,000" and insert "two chiefs of division, at \$2,000 each;" so as to read:

Office of the Secretary: For compensation of the Secretary of Commerce and Labor, \$8,000; Assistant Secretary, \$5,000; private secretary to the Secretary, \$2,500; confidential clerk to the Secretary, \$1,600; private secretary to the Assistant Secretary, \$1,800; chief clerk and superintendent, \$3,000; disbursing clerk, \$2,500; two chiefs of division, at \$2,000 each., etc.

The amendment was agreed to.

The next amendment was, in the appropriation for the office of the Secretary of Commerce and Labor, on page 142, line 2, before the word "dollars," to strike out "two hundred;" and in line 4, before the word "hundred," to strike out "fifty-seven

thousand six" and insert "fifty-nine thousand seven;" so as to read:

One carpenter, \$900; captain of the watch, \$1,000; five watchmen; fifteen charwomen; in all, \$159,760.

The amendment was agreed to.

The next amendment was, under the head of "Department of Commerce and Labor," on page 142, after line 5, to insert:

For compensation and expenses of special agents to investigate trade conditions at home and abroad, with the object of promoting the domestic and foreign commerce of the United States, \$30,000; and the results of such investigations shall be reported to Congress.

Mr. CLAY. I desire to call attention to this amendment. I ask the Senator from Illinois if there is any law authorizing the appointment of these agents; and if not, why we should make the appropriation before there is any law authorizing their appointment?

Mr. CULLOM. This provision is the result of a hearing before the committee of Mr. Garfield, Commissioner of Corporations, of the Commerce and Labor Department. He wanted a good deal more money than is provided in the amendment. The committee thought that in view of the importance which he showed was attached to the work we ought to give him something to do in that regard, and we provided finally, as a compromise, \$30,000 instead of \$60,000, or some other large sum that he named.

Mr. CLAY. I should like to ask the Senator if it is not true that there is a bill pending here, and has been pending for some time, providing for the appointment of such agents, and that bill has never passed? Ought we not to wait until it becomes a law before we provide an appropriation of that kind?

Mr. CULLOM. The work is going on in a way now, but not to the extent that the Commissioner of Corporations believed it ought to be performed. This provision will enable the Department of Commerce and Labor to commence the work in a small way and continue it if the Congress of the United States desires it hereafter. I do not know but that the amendment is subject to a point of order, but I hope the Senator from Georgia will not take advantage of it in that respect.

Mr. ALLISON. No; it is not subject to a point of order.

Mr. CULLOM. It may not be. I do not know anything about the rule in reference to such a case. My friend the chairman of the committee says it is not subject to a point of order, and if it is not I hope the Senator from Georgia will not oppose the appropriation, because it is necessary.

Mr. CLAY. I am frank to say that I do not see how the Commissioner would be entitled to appoint these agents unless there was some law authorizing it.

Mr. CULLOM. It is the law itself. We make the law by the appropriation.

Mr. CLAY. This amendment simply provides for an appropriation to pay special agents.

Mr. CULLOM. I think if we give the Department the money they will find a way to get them appointed.

Mr. GORMAN. Are these special agents to be appointed through the civil service? Mr. President, here is a case in point, where both the Senator in charge of the bill and the chairman of the committee have departed from the rule which I have been congratulating myself they adopted, and that is to make a specific appropriation for officers. Here is a lump sum of \$30,000, which is to be placed in the hands of a subordinate officer of the Government who will employ the agents.

Mr. CULLOM. He is a Cabinet officer.

Mr. GORMAN. He is a Cabinet officer. I beg the Senator's pardon. He is an officer of the Government in an Executive Department. We have just been talking about the vicious rule that has been followed, and in the matter of four or five clerks employed as messengers and doing clerical duties it was said we ought to fix the salary by law. That is right, and we all agree to it. Now, there immediately comes a provision making an appropriation of \$30,000 for compensation and expenses of agents, not for one or two or three special agents, but a lump appropriation of \$30,000. That is, of course, all outside of the civil service, and again we resort to temporary appointments. If there were a rule in the Senate that would throw out the amendment on a point of order, I certainly would make it.

Besides, what has that particular Department to do in the way of inquiring into foreign commerce? Does it want to send some agents abroad? The State Department, with its Consular Bureau, and the Treasury Department look into all commercial matters abroad, yet we propose to place in the hands of this Department \$30,000 in a lump sum to look into such matters, not only at home, but abroad.

It does seem to me that this very distinguished gentleman, and I have no doubt of his ability and his capability, has already marked out for himself in domestic affairs about all the

work he can do during the balance of this Administration. Does he require additional agents to ascertain how he can draw up licenses for all the corporations transacting business in the country, insurance companies and railroad companies? Is it necessary for him to send agents abroad to inquire into that subject? No, Mr. President; it is not, because there are no conditions on the other side that would apply here.

Without the slightest desire to hamper this Department or any other in any way, if we give the whole amount they want, how many agents, I should like to ask the Senator from Illinois, did this executive officer say he desires?

Mr. CULLOM. I did not hear the first part of the Senator's inquiry.

Mr. GORMAN. In the investigation that was had, when the statement was made by the executive officer in charge of this particular branch, how many agents did he desire?

Mr. CULLOM. He did not state, I think, the number of agents desired by the Department, but he wanted a larger sum of money than was given to him in the amendment. I suppose he expected to employ five or six agents for this work, though I do not recollect whether he stated in his testimony any given number. But he advocated the general policy of appropriating a good sum of money so that the investigation could be made at home as well as in regard to foreign commerce in the interest of the development of our commerce with other nations.

Mr. GORMAN. I should like to ask the Senator what is to be the general scope of this investigation at home?

Mr. CULLOM. I refer the Senator to the document that he prepared and which has been already submitted to Congress, I believe, for his view on the general subject.

Mr. GORMAN. I ask the Senator if we have not made ample provision for all the officers estimated by the Secretary of the Treasury for that Department?

Mr. CULLOM. No, sir; we have not, nor for any other Department.

Mr. GORMAN. I find from the statement made here, which I have only had an opportunity to glance at, that the appropriations contained in this bill exceed by \$590,000 the appropriation of a year ago.

Mr. CULLOM. That is true. The Department of Commerce and Labor is in process of organization. A year ago the Department did not know exactly what it wanted, and it had not gotten so far along as to classify the service that was given it. But we demanded then and have since demanded that as they went along with the work they should find out exactly how much money they needed for each particular bureau or branch of the service involved in their administration. So we are getting the Department organized, and we may tell a little better from year to year than we did before exactly the amount of money for one branch of service as against another which should be appropriated. In this case the gentleman referred to came before the committee. He advocated an appropriation of \$50,000, I think.

Mr. ALLISON. The estimate was \$100,000.

Mr. CULLOM. The estimate was \$100,000, but I do not think he expected to get more than half of it. We heard him quite at length and finally concluded, as the judgment of the committee, that it was the best thing for the country that he should have a certain amount of money to begin with, and then we could ascertain from the result of the use of that amount of money what the value of the service would be.

Mr. GORMAN. As to that estimate, Mr. President, I should like to know upon what it is based and how many agents are to be employed, or to receive some information of what is intended. My objection is not designed in any way to hamper the Department, but if they want an agent or agents they should demonstrate the necessity for such officials to the Committee on Appropriations.

Mr. CULLOM. We do not want to be working along at this slow pace to ascertain whether there is any good in the thing, but certainly there is a feeling on the part of the Department that the investigation ought to be made.

Mr. GORMAN. I agree to that.

Mr. CULLOM. And if it is to be made, we should give them a reasonable amount of money to begin it.

Mr. GORMAN. Very good.

Mr. CULLOM. And we thought that \$30,000 was as small an amount as we ought to appropriate.

Mr. GORMAN. I will agree to that, provided the Senator will insert in this bill one or two agents, at \$3,500. The same principle is involved here that we have been discussing for an hour in regard to these small clerkships, and now the head of this Department comes to Congress and says, "I have a great scheme on hand for which I want a hundred thousand dollars," and the committee finally says, "We will compromise and give

you \$30,000, and you may do as you please with it." That is bad legislation.

Mr. CULLOM. It is almost absolutely impossible for the Committee on Appropriations to determine exactly what the amount of the appropriation should be, or whether it should be confined to one employee or to three or five, but the Department itself can ascertain, and if they find that they do not want to employ a sufficient number to absorb that amount of money they need not do it and would not do it.

Mr. GORMAN. I understand that; but they will absorb all we give them and then have a deficiency. Therefore I want the Senator to get back to what has been provided for in the case of the poor clerks, charwomen, and laborers in the Post-Office Department, whose compensation is fixed in this bill, and to also fix the compensation of these agents. This Department is a great Department, a very extraordinary Department, and I am inclined to think one whose head has now a greater power than Congress ought to have delegated to any executive officer on the face of the earth. He ought to know whether he wants ten or six or two agents, and the class of men he wishes to employ. If he is to have an expert and pay him \$5,000 a year, let him say so to Congress and I will agree to vote for the appropriation, if the committee, after investigation, thinks it wise, but I object to saying that this particular officer, or any other officer of the Government, shall take a lump sum and do as he pleases with it, and I think the Senate ought to object to it unless we agree to put a limitation on the number of employees and their compensation. If, under the rule, I can make the point of order against it, I shall certainly do so.

Mr. CLAY. Will the Senator allow me to ask him a question?

Mr. GORMAN. Certainly; with great pleasure.

Mr. CLAY. I believe the Senator from Illinois [Mr. CULLOM] stated that this amendment authorizes the appointment of these agents and appropriates the money to pay their salaries. Without this amendment, undoubtedly, the head of that Department could not employ such agents. There is no existing law at this time providing for their employment, and unless this amendment authorizes their employment they can not be employed.

Mr. CULLOM. This is the provision:

For compensation and expenses of special agents to investigate trade conditions at home and abroad, with the object of promoting the domestic and foreign commerce of the United States, \$30,000; and the results of such investigations shall be reported to Congress.

Does not the Senator think that that provision authorizes the appointment?

Mr. CLAY. I think the Senator is correct about that. Then, if this amendment authorizes the appointment of certain agents and appropriates the money to pay them, is it not in violation of clause 3 of Rule XVI, which especially provides that "no amendment which proposes general legislation shall be received to any general appropriation bill?"

Mr. ALLISON. Mr. President, if I understand the amendment, it is not subject to a point of order in any sense, because it is not in violation of law, but in exact pursuance of law.

Mr. GORMAN. What law?

Mr. ALLISON. Senators will remember that in 1903 in this Chamber we spent several weeks in the discussion of the question of the extension of our commerce, especially of our foreign commerce. Under the splendid leadership of the senior Senator from Minnesota [Mr. NELSON] we passed a law authorizing the establishment of the Department of Commerce and Labor. It was stated that the object of that Department was to revive, reinvigorate, and establish our trade relations with other countries, especially with the South American countries. Therefore the Senator from Minnesota persuaded us to pass a bill, which came to us from the Committee on Commerce, one of the leading committees of this body, providing for this new Department of the Government. In section 3 of that law, approved February 14, 1903, there is a general provision which says:

Sec. 3. That it shall be the province and duty of said Department to foster, promote, and develop the foreign and domestic commerce, the mining, manufacturing, shipping, and fishing industries, the labor interests, and the transportation facilities of the United States.

I suggest to my friend that that is a very extensive and almost unlimited power. The Secretary of Commerce now says to us that if he is to exercise this power, he must have agents who will not only make such investigations as are necessary at home, but abroad, and particularly in the South American countries. He estimated for this work \$100,000; and through the chief of the Bureau of Transportation—the Secretary being unable to be present on the day assigned—this appropriation was urged upon the committee. The committee, instead of appropriating the amount provided for in the Book of Estimates, believing that it was largely discretionary with Congress to fix the policy, appropriated \$30,000. This sum was to be used in gathering information, especially

in the countries south of us. It is the expectation of the Secretary of Commerce and Labor, according to my understanding, to employ five or six or seven agents from time to time to promote our foreign commerce in those countries. I understood him to say that he could secure very competent persons, well qualified for this service, at a compensation of \$2,500 each or at a reasonable per diem compensation. That is all there is in the provision.

If we do not wish to execute in any particular this law, which we adopted here two or three years ago—if we do not wish to extend and expand our foreign and domestic commerce, of course we will appropriate nothing; but, as I understand it, both Houses of Congress and both political parties are in favor of an extension of our foreign commerce. We have had reported here this morning a bill having substantially that same purpose in view. Now, we stand here and higggle about an expenditure of \$30,000 to employ five or six agents to promote our foreign commerce to the south of us, and yet we will seriously consider in that measure the question of expending \$8,000,000 or \$10,000,000 for the same object.

Mr. President, if we are to execute the provisions of this law there must be a reasonable sum appropriated for the purpose. I assume it will be used wisely, judiciously, and economically in exploring the regions to which we hope to extend our trade. If the Senate does not want to do this, if we are going to ignore this statute, which we put upon our statute book with so much pains, after careful consideration and with practically absolute unanimity—for there were no objections to it on either side of the Chamber, so far as I remember—and make it a dead letter, then, of course, we will stop all this business and all the necessary expenditures required for its promotion.

There is no difficulty about this provision. There is nothing in it that is not perfectly explicable and plain. It is a small sum with which to begin this great work if we expect to undertake it at all. That is all there is in this case.

Mr. GORMAN. Mr. President, the Senator from Iowa [Mr. ALLISON], with his remarkable ability, makes an excuse for this lump appropriation in a more plausible and forcible way than any other Senator could possibly make it; but he can not be permitted, so far as I am concerned, to base that excuse upon the ground that there is the slightest intention here to impede any movement that looks to the development of the commerce of our country.

I bring the Senator back again to his original proposition, stated not over an hour ago, that in the framing of these appropriations it is not a proper thing to make them in a lump sum to be expended in the discretion of any executive officer. Right in the face of the estimates which have been submitted, on which the committee acted in this case, in face of the fact that the law requires and Congress requires—and the rule is a perfect one—that the Secretary of Commerce and Labor shall tell us, for instance, that he wants an Assistant Secretary to help conduct the affairs of his Department; that he wants a confidential clerk; that he wants so many messengers, engineers, and skilled laborers—after getting through with those details, which are minor in their nature, he presents a proposition to do what? That Congress shall give him the lump sum of \$100,000 to investigate what?

For the compensation and expenses of special agents to investigate trade conditions at home and abroad, with the object of promoting the domestic and foreign commerce of the United States.

I say, Mr. President, in view of the organization of the State Department, with a special service looking to the development of commerce with all these countries, with a consular bureau which looks carefully after our commercial interests in every port in the world, and whose reports are sought for now by the business people of the country, the work of these agents, when they go abroad, will be largely a duplication of the work now performed by our consuls. There ought not to be under this Government two heads of Departments through their agents making inquiries abroad, and, above all, the amount of money to be expended for salaries on such account ought to be specifically stated. If the Secretary of Commerce and Labor does not know how many such agents he desires as well as he does how many messengers he desires, the appropriation ought not to be made.

Mr. CULLOM. Will the Senator allow me to make a statement which will possibly relieve him from his anxiety in this case?

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Illinois?

Mr. GORMAN. Certainly; with pleasure.

Mr. CULLOM. Suppose the amendment be amended by inserting after the words "for compensation" the words "at not

more than \$10 a day and actual necessary traveling expenses." Would the Senator be satisfied with that?

Mr. GORMAN. I think we had better limit the actual traveling expenses. We have done that in some cases.

Mr. CULLOM. "Necessary traveling expenses" is the language. It seems to me that covers the case. If such a provision is in the bill no more than the amount of money that is appropriated can be spent, and only such number of agents can be appointed whose employment could be paid for out of the appropriation.

Mr. GORMAN. I suggest that their duties be confined to this country. Mr. President, we ought not to have two sets of officers, one under the State Department and the other under the Department of Commerce and Labor, engaged in the same work. I think that would be unfortunate.

Mr. CULLOM. Mr. President, the State Department is simply acting through its consuls. We are not sending out other agents on the same kind of business. Our consuls are not spending an extra amount of money in securing the information which they report to Congress. So I do not think there is anything in the Senator's criticism that ought to constitute an objection to the appropriation of this money for the proposed investigation by the Department of Commerce and Labor.

Mr. GORMAN. I should be glad to have the Senator modify the amendment so as to fix the compensation of the special agents at not more than \$10 a day. How many of them are there to be?

Mr. CULLOM. Let the amount appropriated regulate that. The Secretary can not employ very many men with \$30,000 if they go abroad and have a salary of \$10 a day and actual necessary traveling expenses. It seems to me the amendment as proposed to be amended is sufficiently definite.

Mr. GORMAN. I do not think so; but it is better than nothing.

Mr. CULLOM. I offer the amendment to the amendment and ask that it may be read.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 142, line 6, it is proposed to strike out the words "and expenses" and insert in lieu thereof the words "at not more than \$10 a day and actual necessary traveling expenses;" so as to read:

For compensation at not more than \$10 a day and actual necessary traveling expenses of special agents to investigate trade conditions at home and abroad, with the object of promoting the domestic and foreign commerce of the United States, \$30,000; and the results of such investigations shall be reported to Congress.

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

Mr. ALLISON. Mr. President, I want to say just a word more in this connection. I think the criticism made by the Senator from Maryland [Mr. GORMAN] as respects our consular service has much merit, but the consular service was in existence before the Department of Commerce and Labor was created. In a conversation with the Secretary of Commerce and Labor—and I am sure that I may be permitted to repeat it in the presence of the Senate—he stated to me that in this work he hoped to utilize consuls occasionally, but that the consuls, in fact, have stated places where their business is transacted, and that they do not now go about and make investigations at other places because there is no provision for the payment of their expenses while so engaged. He said he could utilize this relatively small appropriation, in many instances, by employing consuls and paying their expenses to make investigations in certain foreign countries.

I know there seems to be a duplication here of power and of work, but I am of the opinion that it will be found that the work of this new Department will be useful, and will be in addition to the regular work of our consuls in various countries. So, I think, with the amendment which the Senator from Illinois has proposed to it, the amendment of the committee ought to be reasonably satisfactory to the Senator from Maryland. I am sure that no one on this side of the Chamber desires to appropriate money extravagantly, or to appropriate it for any purpose that is not judicious and wise; but I think we had better try the experiment of making this appropriation. It is a small sum, and a report must be made not only of the expenditure, but of the results of the expenditure. It may be that this appropriation ought not to be continued, but at least, Mr. President, I hope that the appropriation will be made this year, in order that this new Department may make the experiment.

Mr. GORMAN. I dislike to detain the Senate, but I must say that I am as earnestly in favor of any provision that looks to the extension of our trade and commerce, particularly with the countries south of us, as any Senator on the other side of the

Chamber can be. I am aware, as everybody who has given the subject any attention must be, that we, of all the great commercial nations of the earth, have probably paid less attention to the development of the trade and commerce of our country through official action than has any other. It is as well known as it is that I stand in your presence, sir, that the great German people—the most thrifty, active, and intelligent nation of the world—have a perfect system, under which young men are employed for the purpose of ascertaining the character of trade that can be secured and the different varieties of wares that can be sold in foreign countries. These young men are educated for the purpose and sent to every quarter of the globe. That system places them directly under the consular service of the German Empire.

You can not have success in any enterprise, and particularly one so great as this, unless there is one directing mind. Here it is proposed that our consuls, who act through and under the direction of the State Department, shall perform service under another Department of the Government. I want to say for the consular service, that never, in my judgment, since the foundation of the Government has there occurred such a revolution in its efficiency, in the character of men who are engaged in it, and in the service it has rendered, as has occurred within the last ten or fifteen years.

Now, you propose to send four or five agents from the Department of Commerce and Labor to travel, as the Senator from Iowa [Mr. ALLISON] says, through South and Central America. They would be lost. The only thing they could possibly do—and it would be the natural thing—would be to come in conflict with the agents of the State Department we already have there, and the number of the new agents would be so insignificant that they would scarcely count. If the service is to be of practical benefit it must grow, be enlarged, and placed under the head of one Department. I do not believe the Department of Commerce and Labor is the proper Department for such service. I should prefer to have the State Department, with its Consular Bureau, and with an intelligent man devoting himself to the work, take charge of it.

The Secretary of the Department of Commerce and Labor, with all his great power—as I said a moment ago, a power, in my judgment, too great to be intrusted to any single executive officer, or to all the executive officers combined—has more than he can do intelligently and well in the next ten years devoting himself to internal affairs. Problems such as have never been presented to a civilized people are before us. He had better look to preventing the discriminations and correcting the abuses that exist at home. His work in this connection, even if his attention is given to it as it should be, is more than he can accomplish during the next Administration, I fear. With all the aid he can get from other Departments of the Government, and with \$500,000 in a lump sum placed in the hands of a distinguished member of the Cabinet—the Attorney-General—to aid him at home, his work is still an enormous one.

I do not question the intelligence or the capacity or the desire of the Secretary of Commerce and Labor to accomplish this work, but he ought not to ask for more power or to interfere in another field for which, by training at least, he is unfitted.

The Senator from Iowa says we are making provision for the extension of this trade by a bill that is pending here. Yes, Mr. President, we have been trying to make provision for that trade, too long neglected, by securing facilities to reach the people south of us both by rail and by water. If the Secretary of Commerce and Labor will devote his whole time to seeing that we are not discriminated against and that we secure fair rates from the lines already existing running through to the center of Mexico, his entire time will be occupied until 1908.

If it requires an appropriation to ascertain how we can possibly extend our trade and commerce with South America, the Secretary of State, through his officer, who has spent some years in the investigation and who has done it most intelligently and well, should present a detailed statement to this Congress; and, if I have an opportunity to vote on such a proposition, I should consider that a hundred thousand dollars would be as nothing. I would give him an agent in every consular district in every one of the South American states. Let him devise a system which he believes will bring results, and I will not haggle about money. I would only ask that he estimate for this service as he does for the other expenditures of his Department.

Do you want in the conduct of such affairs a secret fund? The State Department is the one Department that is entitled to a large annual fund for such a purpose. No Senator on either side of the Chamber at any time in the history of the Government, no matter how high the heat of party excitement, ever inquired or ever thought of inquiring from the Secretary of

State, "What is your account of the secret fund?" We have trusted him, and we do now, as we trust the President of the United States, for in certain events under the law the Secretary of State would become President of the United States. No man has ever occupied the position of Secretary of State whose good faith to his country has ever been questioned. So the Senator from Iowa and I do not differ in regard to the importance of the fund that is proposed to be appropriated; but we do differ widely as to its disposition and as to the hands in which it should be placed. The Department of Commerce and Labor is not, in my judgment, the Department under which this work should be prosecuted. In order that there may be no question about the fact, I repeat that I have the highest regard for the distinguished gentleman who occupies the position of Secretary of the Department of Commerce and Labor. He served too long in Congress, and I know him too well, to cast the slightest reflection upon him. I would make this statement if my brother occupied the place. It does not belong to him. He has no right to deal with it.

The Senator says the original act contemplated that he should look after foreign commerce as well as domestic. Mr. President, I venture nothing when I say that act, drawn at the time and in the manner in which it was, could not pass Congress now. Unfortunately, under our form of government, times come when seeming political necessity makes men lose or set aside for the moment their honest judgment. It was a Department created by a pressure extraordinary, but not without some reason. But in providing the powers and the scope of the authority of that officer the act went beyond sound reason and safe government. He is there. Probably his power will never be curtailed.

The Senator from Iowa says if we give him this appropriation and it does not work well we can omit it hereafter. Mr. President, that is not the history of such affairs. You give any one of the Departments of the Government jurisdiction over any subject and no matter how foreign it is to the Department in the beginning it grows; estimates come, a hundred thousand this year, and one year from now there come glowing reports from these agents, who are to draw \$10 a day and all their expenses, that there are bonanzas in Brazil and the Argentine; that "we have only had time to skim the surface; the information you have heretofore had through your consuls amount to nothing. Give us more time and more money and we will build up a trade and a commerce that will astonish the world." And then boards of trade in every city in the country will be visited by these special agents or their allies and furnished with these glowing reports of the great possibilities. Representations will come from every city and every corporation, and the pressure will be so strong that even the Senator from Iowa and the Senator from Illinois will not be able to resist it. They are unable to resist a simple appeal to-day from the head of the Department, except to the extent that they have cut down what was wanted, both as to the amount and the scope of the investigation desired.

The Secretary, in his estimate, said he wanted part of this money not only for commerce, but to ascertain how he could best organize his own Department. That is stricken out and is not included in this amendment. Mr. President, I do not know why it was stricken out. I am rather inclined to think it was properly stricken out, because a man of very considerable capacity, as is the present Secretary, with his force ought to be able in a very short time to ascertain how to organize the internal affairs of his own Bureau.

I trust the Senator from Iowa and the Senator from Illinois will both permit this amendment to go out. Nothing will suffer between now and the coming session of Congress. Mr. President, if it is true, as rumor has it, and we get most of our information from the rumors flying from one end of the city to the other, it will not be long, in fact only a short time, before we will be here to deal with this question; and if after mature deliberation, if after consultation with the Secretary of State and the intelligent head of the Consular Bureau, they can devise a scheme or make a proposition looking to the development of this trade, I say to the Senator from Illinois, in charge of this bill, I for one shall be more than delighted to join him. It would be a hopeful sign indeed for the country if, at the very beginning of this new Administration and under President Roosevelt, we could lay aside all the preparations for destruction and do something to aid and develop the commerce of the country. Such a movement would have my very hearty support. In matters that look to the development of the country, after we have fought our political fights before the people, I have never found very much division between the Senator from Iowa and myself upon either the amounts to be appropriated or

the officers to be employed fairly and honestly to conduct this Government. I beg of that distinguished Senator not to mar the pending bill by making this lump appropriation or making it at all to this particular Department. Let us stand upon the declaration made this day, and go back to the old rule and restrict and carefully guard the powers of executive officers.

Mr. CULLOM. Mr. President, I wish to make a remark or two. I was very much gratified to hear the distinguished Senator from Maryland eulogize our Secretary of State. He can say nothing in praise of that distinguished gentleman which I would not indorse. I think he is one of the ablest men of the country, and has made one of the best Secretaries of State the Government has ever had. But, Mr. President, why this business, if we are going to inaugurate it, shall go into the hands of the Secretary of State as against the man in charge of the commerce of the country is what I can not understand. Here we have a Secretary of Commerce and Labor whose duty it is, naturally as well as lawfully, to investigate commerce, both at home and abroad, and yet the Senator from Maryland seems to want to refuse to let it go into the hands and control of the Secretary of Commerce, who has to deal with commerce, and to put it in the hands of the Secretary of State, who deals with foreign relations generally in a diplomatic way. And really the Secretary of State has nothing to do with the actual commerce of the country. His consuls have been charged with the duty of making reports to the Government of the United States or to the Secretary of State as to what they see in their neighborhoods or about the development of commerce, and whether there is not something they can do that will help the commerce of the United States. But to put the State Department at the head of the management of the commerce of the country is something that has never been heard of before, in my judgment.

I like to hear the Senator from Maryland talk. He talks splendidly, and he is always good-natured. And he makes his suggestions in such a mild and loving way that one can hardly get around them. Let us see what is the matter with this thing. He is against this lump sum. We have already amended the provision in such a way that there is no lump sum about it, except so many agents at \$10 a day and actual expenses, who may be appointed within the appropriation provided for. Now, there is no lump sum about it in the proper sense. And so while we on this side are always glad to hear the Senator from Maryland—I do not know how it is on the other side [laughter]—we think he ought to withdraw any further objection to this item in the bill and let us proceed.

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

The amendment as modified was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, on page 143, line 10, to increase the total appropriation for compensation and per diem of special attorneys, special examiners, and special agents, for the purpose of carrying on the work of the Bureau of Corporations, etc., from \$100,000 to \$150,000.

The amendment was agreed to.

The next amendment was, on page 143, line 13, after the word "dollars," to insert:

Clerk of class 4; clerk of class 2; clerk of class 1; clerk, at \$1,000; clerk, at \$900; and assistant messenger; in all, \$11,020.

So as to make the clause read:

Bureau of Manufactures: Chief of Bureau of Manufactures, \$4,000; clerk of class 4; clerk of class 2; clerk of class 1; clerk, at \$1,000; clerk, at \$900; and assistant messenger; in all, \$11,020.

The amendment was agreed to.

The next amendment was, on page 146, line 5, before the word "dollars," to strike out "five hundred" and insert "seven hundred and fifty;" and in line 20, before the word "thousand," to strike out "forty-five" and insert "forty-six;" so as to make the clause read:

The Census Office: For Director, \$6,000; four chief statisticians, at \$2,750 each; \* \* \* in all, \$746,760.

The amendment was agreed to.

The next amendment was, on page 147, line 12, to increase the appropriation for rental of quarters for the Census Office from \$20,000 to \$22,080.

The amendment was agreed to.

The next amendment was, on page 150, after the word "made," in line 15, to insert the following proviso:

Provided further, That annual leave of absence, as authorized by existing law, accruing to officers and employees of the immigration service stationed in the Territory of Hawaii and in Porto Rico shall, in the discretion of the Secretary of Commerce and Labor, be cumulative, except that the maximum leave granted to any such employee at one time in consequence of such accumulation shall not exceed ninety days.

The amendment was agreed to.

The next amendment was, on page 152, line 2, after the word "dollars," to strike out "skilled laborer, \$720," and insert "two skilled laborers, at \$720 each;" in line 9, before the word "laborers," to strike out "two" and insert "three;" and in line 12, before the word "dollars," to strike out "ninety-eight thousand two hundred and eighty" and insert "ninety-nine thousand six hundred and sixty;" so as to read:

Bureau of Standards: \* \* \* Two watchmen; skilled wood-worker, \$840; two skilled laborers, at \$720 each; draftsman, \$1,200; two assistant messengers; engineer, \$1,800; two assistant engineers, at \$1,000 each; assistant engineer, \$900; three firemen; electrician, \$900; three laborers; janitor, \$600; and two female laborers, at \$360 each; in all, \$99,660.

The amendment was agreed to.

The next amendment was, on page 152, line 19, to increase the appropriation for apparatus, machinery, tools, and appliances used in connection with the buildings or with the work of the Bureau of Standards from \$40,000 to \$50,000.

The amendment was agreed to.

The next amendment was, under the head of "Judicial," on page 158, line 24, after the word "mints," to insert "and assay offices;" so as to make the section read:

SEC. 2. That the pay of assistant messengers, firemen, watchmen, laborers, and charwomen provided for in this act, except those employed in mints and assay offices, unless otherwise specially stated, shall be as follows: For assistant messengers, firemen, and watchmen, at the rate of \$720 per annum each; for laborers, at the rate of \$660 per annum each, and for charwomen, at the rate of \$240 per annum each.

The amendment was agreed to.

The next amendment was, on page 159, line 8, after the word "incapacitated," to insert "otherwise than temporarily;" so as to make the section read:

SEC. 3. That the appropriations herein made for the officers, clerks, and persons employed in the public service shall not be available for the compensation of any persons incapacitated, otherwise than temporarily, for performing such service.

The amendment was agreed to.

The next amendment was, on page 159, line 10, after the word "this," to insert "or any other;" in line 12, after the word "those," to strike out—

specifically authorized and named for personal purposes in section 3 of the legislative, executive, and judicial appropriation act for the fiscal year 1905

And insert:

for the use of the President of the United States, the heads of the Executive Departments, and the Secretary to the President;

And in line 19, after the words "for the," to insert "personal or;" so as to make the section read:

SEC. 4. No part of any money appropriated by this or any other act shall be used for purchasing, maintaining, driving, or operating any carriage or vehicle (other than those for the use of the President of the United States, the heads of the Executive Departments, and the Secretary to the President, and other than those used for transportation of property belonging to or in the custody of the United States), for the personal or official use of any officer or employee of any of the Executive Departments or other Government establishments at Washington, D. C., unless the same shall be specifically authorized by law or provided for in terms by appropriation of money, and all such carriages and vehicles so procured and used for official purposes shall have conspicuously painted thereon at all times the full name of the Executive Department or other branch of the public service to which the same belong and in the service of which the same are used.

The amendment was agreed to.

The reading of the bill was concluded.

Mr. FORAKER. I move to strike out, on page 159, commencing in line 24, after the word "money," all the rest of the section.

The PRESIDING OFFICER. The Senator from Ohio proposes an amendment, which will be stated.

The SECRETARY. On page 159, line 24, after the word "money," it is proposed to strike out the following:

and all such carriages and vehicles so procured and used for official purposes shall have conspicuously painted thereon at all times the full name of the Executive Department or other branch of the public service to which the same belong and in the service of which the same are used.

Mr. CULLOM. I hope the words will not be stricken out. I do not care to debate the amendment.

Mr. FORAKER. Mr. President, I wish to say just a word about it. If the Solicitor-General of the United States wants to ride from his office in the Department of Justice to the Capitol building, he can not do it, if this remains in the bill, except in a vehicle that is branded in the way prescribed by the statute. I think it is getting down to pretty small business to put such a provision in a bill of this kind, and I am opposed to it. That is all I want to say about it, and I desire the RECORD to show that I have not any sympathy with that kind of a provision. Nobody can have a carriage except the heads of Departments. It does not cost the Government a cent more to have

this out than it does now, and it does not enlarge the rightful use of carriages.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Ohio.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The question is on concurring in the amendments made as in Committee of the Whole. Is a separate vote desired on any particular amendment?

Mr. BERRY. I desire to reserve for a separate vote the amendment on page 33, line 23.

The PRESIDING OFFICER. The Senator from Arkansas desires to reserve for a separate vote in the Senate the amendment on page 33, beginning in line 23. If there is no objection, the other amendments made as in Committee of the Whole will be concurred in.

Mr. BERRY. I ask that the amendment on which I have asked for a separate vote may be stated.

The SECRETARY. On page 33, line 23, under the heading "Civil Service Commission," it is proposed to strike out "three thousand five hundred" and insert "four thousand;" so that if amended it will read:

For three Commissioners, at \$4,000 each.

Mr. BERRY. Mr. President, if I am correctly informed the Civil Service Commissioners, from the time of the creation of the offices, have been allowed \$3,500 each. The amount is fixed by law. They have never received any more than that. There has never been any complaint, so far as I know. The President has been able to get efficient men at that salary.

Now, it is proposed in this bill, an appropriation bill, to raise the salaries, which have long since been fixed by law.

I should like the Senator from Illinois to show what necessity there is for raising these salaries. There are a number of salaries raised in this bill—salaries of clerks and others—but here is a salary that has proven sufficient, I take it, to get efficient service. It is fixed by the statutes of the country. And what necessity there is now that the Civil Service Commissioners should be paid more I am unable to understand.

If I am correctly informed, the duties now are far less than when the Commission was first created. The positions do not require so much labor, and I would be glad if the Senator from Illinois would show some reason why this increase should be made.

Mr. CULLOM. Mr. President, I shall not take up the time of the Senate for more than a moment.

In the first place, the salaries of the Civil Service Commissioners are lower than those of any other officials of their class. I can furnish a list, if necessary, of hundreds perhaps who are engaged in the service of the Government here as assistants and in different positions where the salaries are four thousand or forty-five hundred or five thousand dollars, and none of them are occupying any higher rank in office than these men do. And so far as the labor is concerned, there is no set of men, in my judgment, in the service of the Government who work harder than the gentlemen who occupy these positions. I know only one of them, General Black.

These men are working day and night, almost, and doing good service. Whatever may be said about the question of civil service, they are doing good work. They are able men, and yet because they are Civil Service Commissioners they have always seemed to be kept down and nobody has ventured to undertake to raise their salaries for fear the effort might be beaten.

So far as I am concerned—and this is true of the Committee on Appropriations—we raised those salaries because it seemed to us that it was but right to do it when we ascertained the situation as between these and other officials of the same rank. I do not think that because the civil service is a little unpopular in the Senate we ought to discriminate against the men who happen to hold offices under the law.

I desire to say another thing. While we criticize the Civil Service Commission for this and that and the other thing, whenever we get to national-platform making there is not a party in the country that does not recognize it as useful and necessary. I think we ought to give this little increase of salary, although the original act only provided for \$3,500, as I admit.

I do not care to take up the time of the Senate longer on the subject.

Mr. BERRY. I said nothing whatever in opposition to the civil service.

Mr. CULLOM. I know the Senator did not.

Mr. BERRY. And I did not criticize the Civil Service Commission. The truth is that I do not share the objection which the Senator from Illinois says universally prevails in the Sen-

ate. I think in a great many particulars, as the Senator from Maryland said to-day, it has been a great service to the country. It is not that. But what I object to is that on an appropriation bill the committee should raise the salary of any officer where the law fixes a smaller salary. If he is not getting sufficient salary, I submit that the honest way and the proper way and the open way is to amend the law and give him a larger salary, but I do say it is not a proper thing to do, when the law creating the office fixes the salary, to step in and simply on an appropriation bill for a particular year give him more than the law says he shall have. That is what I object to.

Mr. CULLOM. If the Senator will allow me, he knows very well that, time out of mind, whenever a case came before the Committee on Appropriations having charge of the subject and it appeared from the testimony that any man or officer deserved a promotion or an increase in salary it has always been the habit of the committee and of the Senate to increase it.

Mr. BERRY. Mr. President, I do not think that has always been the habit. If it was the desire to increase a particular man's salary, to do him a special favor, it has been done in this way frequently I know, but it is not the proper way to do it, and the Senator from Illinois knows it is not the proper way. It has occurred that for one year they would raise the salary in this way by appropriating more than the law provides, and the next year the House of Representatives would refuse to include it at that amount and it would drop back to the salary provided by law. That has occurred, too, I will say to the Senator from Illinois.

Mr. CULLOM. I know it has occurred. At the same time the House does the same thing very often. It increases a salary.

Mr. FORAKER. I wish to inquire of the Senator having the bill in charge as to the amendment on page 133. I do not know that I fully understand it.

Mr. BERRY. Is that connected with this amendment?

Mr. FORAKER. That amendment provides as follows:

And such clerks and laborers as may be so employed on the 30th day of June, 1905, are hereby transferred to the rolls of the office of the Third Assistant Postmaster-General and placed in the classified service, without further examination, in the grades and at the rates of compensation herein provided.

Mr. BERRY. I should like to ask the Senator from Ohio if that is connected with this amendment? I should like to dispose of this question.

Mr. CULLOM. I suggest to the Senator from Ohio that the Senator from Arkansas has asked for a vote on the amendment.

Mr. BERRY. I will make the point of order that this appropriation is not estimated for and that it is not provided for by law. I think that will settle it.

Mr. CULLOM. The amendment has been adopted as in Committee of the Whole and reserved in the Senate.

Mr. BERRY. A point of order lies in the Senate, I submit, the same as it would lie as in Committee of the Whole, as the Senator well knows.

Mr. FORAKER. I make inquiry about an entirely different matter, as I understand it, and I simply wanted to recur—

Mr. CULLOM. Let us get through with one proposition at a time.

Mr. FORAKER. I thought we were through.

Mr. CULLOM. I hoped we were, but we are not.

The PRESIDING OFFICER. The Chair will state that this amendment was adopted as in Committee of the Whole, and it is now in the Senate, having been reserved by the Senator from Arkansas.

Mr. CULLOM. It was reserved, it is true, but a vote would have to be taken to reconsider the vote adopting it.

Mr. BERRY. Oh, no, Mr. President; the Senator is mistaken.

The PRESIDING OFFICER. Does the Senator from Arkansas make a point of order that the amendment is not germane or that it is new legislation?

Mr. BERRY. I make the point of order that there is no law which authorizes it, and it has not been estimated for.

Mr. LODGE. The point of order does not lie now.

Mr. CULLOM. I insist it does not.

Mr. BERRY. Why does not the point of order lie, I submit to the Senator from Massachusetts?

Mr. LODGE. Because the amendment has already been adopted in the Senate.

Mr. GORMAN and Mr. BATE. Oh, no.

Mr. BERRY. It has not been adopted. The rule provides that any amendment adopted as in Committee of the Whole may be reserved for a separate vote in the Senate.

Mr. LODGE. Certainly.

Mr. BERRY. This amendment has been so reserved.

Mr. LODGE. Certainly. I am not objecting to a separate vote. Of course the Senator has that right.

Mr. BERRY. It has been so reserved, and it stands in the Senate precisely as though no action had been taken upon it as in Committee of the Whole.

Mr. CULLOM. Not at all.

Mr. BERRY. It is subject to a point of order.

The PRESIDING OFFICER. The Chair thinks that the position of the Senator from Arkansas is correct, and that at this stage in the consideration of the bill he has a right to make the point of order. The present occupant of the chair, however, occupying the chair by courtesy, will submit the question to the Senate whether the point of order is well taken.

Mr. GORMAN. On that let us have the yeas and nays.

The yeas and nays were ordered.

Mr. CULLOM. I hope the amendment will be retained in the bill.

Mr. BERRY. That is not the question, I submit, Mr. President. The question is, Shall the point of order be sustained?

The PRESIDING OFFICER. The Chair so understands.

Mr. BERRY. The question is not whether the amendment should be retained in the bill, but whether the point of order is well taken.

The PRESIDING OFFICER. Those in favor of sustaining the point of order made by the Senator from Arkansas will please signify the same by saying "yea" when their names are called; those opposed "nay."

The Secretary proceeded to call the roll.

Mr. McLAURIN (when his name was called). I have a general pair with the senior Senator from Washington [Mr. FOSTER]. If he were present, I should vote "yea."

Mr. PROCTOR (when his name was called). I am paired with the Senator from Florida [Mr. MALLORY], and withhold my vote. If he were here, I should vote "nay."

Mr. SIMMONS (when his name was called). I have a general pair with the junior Senator from Minnesota [Mr. CLAPP]. If he were present, I should vote "yea."

Mr. STONE (when his name was called). I have a general pair with the Senator from Wyoming [Mr. CLARK]. He is absent, and I withhold my vote.

Mr. TALIAFERRO (when his name was called). I have a general pair with the junior Senator from West Virginia [Mr. SCOTT]. As he is not present, I withhold my vote.

Mr. TILLMAN (when his name was called). I have a general pair with the Senator from Vermont [Mr. DILLINGHAM]. I suggest to the senior Senator from Vermont [Mr. PROCTOR] that we transfer our pairs and both vote.

Mr. PROCTOR. Very well.

Mr. TILLMAN. I vote "yea."

Mr. PROCTOR. I vote "nay."

Mr. WARREN (when his name was called). I have a general pair with the senior Senator from Mississippi [Mr. MONEY]. In his absence, I do not feel justified in voting upon this question. The roll call was concluded.

Mr. FOSTER of Louisiana. I have a general pair with the Senator from North Dakota [Mr. McCUMBER]. He is absent, and I withhold my vote.

Mr. CULBERSON. I have a general pair with the Senator from Wisconsin [Mr. QUARLES], and withhold my vote. If he were present, I should vote "yea."

Mr. PETTUS (after having voted in the affirmative). I have a general pair with the junior Senator from Massachusetts [Mr. CRANE]. I notice that he is not present, and I withdraw my vote.

Mr. LODGE. My colleague has left the city.

Mr. WARREN. A moment ago I announced my pair with the senior Senator from Mississippi [Mr. MONEY]. It is suggested that I transfer that pair, so that the senior Senator from Mississippi [Mr. MONEY] may stand paired with the senior Senator from Washington [Mr. FOSTER], and thus relieve the junior Senator from Mississippi [Mr. McLAURIN] and myself. I vote "nay."

Mr. McLAURIN. I vote "yea."

Mr. BEVERIDGE (after having voted in the negative). I voted, forgetting for the moment that I have a general pair with the senior Senator from Montana [Mr. CLARK]. I transfer that pair to the senior Senator from Rhode Island [Mr. ALDRICH], and let my vote stand "nay."

Mr. BLACKBURN. The senior Senator from Colorado [Mr. TELLER] is absent by reason of sickness. He is paired with the senior Senator from Maine [Mr. HALE].

Mr. BATE. My colleague [Mr. CARMACK] is not here. If he were here, I am satisfied he would vote "yea." I see his pair has voted "yea," too.

The result was announced—yeas 27, nays 17, as follows:

YEAS—27.			
Bacon	Foraker	Kittredge	Newlands
Bailey	Fulton	Knox	Overman
Ball	Gallinger	Latimer	Platt, Conn.
Bate	Gamble	Long	Spooner
Berry	Gorman	McLaurin	Stewart
Blackburn	Hansbrough	Millard	Teller
Clay	Kean	Morgan	

  

NAYS—17.			
Alger	Cockrell	Hopkins	Proctor
Alliee	Cullom	Lodge	Warren
Allison	Dick	McComas	
Beveridge	Dryden	Nelson	
Burnham	Heyburn	Perkins	

  

NOT VOTING—46.			
Aldrich	Daniel	Hale	Pettus
Ankeny	Depew	Hawley	Platt, N. Y.
Bard	Dietrich	Kearns	Quarles
Burrows	Dillingham	McCreary	Scott
Burton	Dolliver	McCumber	Simmons
Carmack	Dubois	McEnery	Smoot
Clapp	Elkins	Mallory	Stone
Clark, Mont.	Fairbanks	Martin	Taliaferro
Clark, Wyo.	Foster, La.	Mitchell	Tillman
Clarke, Ark.	Foster, Wash.	Money	Wetmore
Crane	Frye	Patterson	
Culberson	Gibson	Penrose	

The PRESIDING OFFICER. It is disclosed that there is no quorum present.

Mr. CULLOM. Under the circumstances, it being pretty well along in the afternoon, I think it will probably be impracticable to undertake to get a quorum to-night. So I move that the Senate adjourn.

The motion was agreed to; and (at 4 o'clock and 55 minutes p. m.) the Senate adjourned until to-morrow, Friday, January 13, 1905, at 12 o'clock meridian.

## HOUSE OF REPRESENTATIVES.

THURSDAY, January 12, 1905.

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Parkinson, its reading clerk, announced that the Senate had passed without amendment bills of the following titles:

H. R. 15981. An act to amend an act entitled "An act to authorize the Pearl and Leaf Rivers Railroad Company to bridge Pearl River, in the State of Mississippi;" and

H. R. 6351. An act to pay J. B. McRae \$99 for services as hospital steward, and so forth.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 6270. An act directing the issue of a check in lieu of a lost check drawn in favor of W. W. Montague & Co., of San Francisco, Cal.;

S. 6261. An act permitting the building of a railroad bridge across the Mississippi River at the city of Minneapolis, State of Minnesota, from a point on lot 2 to a point on lot 7, all in section 3, township 29 north, range 24 west, of the fourth principal meridian; and

S. 5798. An act to extend the time for the completion of a bridge across the Missouri River at Yankton, S. Dak.

### IMPEACHMENT OF JUDGE CHARLES SWAYNE.

Mr. PALMER. Mr. Speaker, I call up the matter of the impeachment of Charles Swayne, and ask that the articles presented by the select committee appointed to formulate the articles be read by the Clerk.

The Clerk read as follows:

*Articles exhibited by the House of Representatives of the United States of America, in the name of themselves and of all the people of the United States of America, against Charles Swayne, a judge of the United States, in and for the northern district of Florida, in maintenance and support of their impeachment against him for high crimes and misdemeanors in office.*

ARTICLE 1. That the said Charles Swayne, at Waco, in the State of Texas, on the 20th day of April, 1897, being then and there a United States district judge in and for the northern district of Florida, did then and there, as said judge, make and present to R. M. Love, then and there being the United States marshal in and for the northern district of Texas, a false claim against the Government of the United States in the sum of \$230, then and there knowing said claim to be false, and for the purpose of obtaining payment of said false claim, did then and there as said judge, make and use a certain false certifi-

cate, then and there knowing said certificate to be false, said certificate being in the words and figures following:

"UNITED STATES OF AMERICA, Northern District of Texas, ss:

"I, Charles Swayne, district judge of the United States for the northern district of Florida, do hereby certify that I was directed to and held court at the city of Waco, in the northern district of Texas, twenty-three days, commencing on the 20th day of April, 1897; also, that the time engaged in holding said court, and in going to and returning from the same, was twenty-three days, and that my reasonable expenses for travel and attendance amounted to the sum of two hundred and thirty dollars and — cents, which sum is justly due me for such attendance and travel.

"CHAS. SWAYNE, Judge.

"WACO, May 15, 1897.

"Received of R. M. Love, United States marshal for the northern district of Texas, the sum of 230 dollars and no cents, in full payment of the above account.

"CHAS. SWAYNE."

When in truth and in fact, as the said Charles Swayne then and there well knew, there was then and there justly due the said Swayne from the Government of the United States and from said United States marshal a far less sum, whereby he has been guilty of a high crime and misdemeanor in his said office.

ART. 2. That the said Charles Swayne, having been duly appointed, confirmed, and commissioned as judge of the United States in and for the northern district of Florida, entered upon the duties of his office, and while in the exercise of his office as judge, as aforesaid, the said Charles Swayne was entitled by law to be paid his reasonable expenses for travel and attendance when lawfully directed to hold court outside of the northern district of Florida, not to exceed \$10 per diem, to be paid upon his certificate by the United States marshal for the district in which the court was held, and was forbidden by law to receive compensation for such services. Yet the said Charles Swayne, well knowing these provisions, falsely certified that his reasonable expenses for travel and attendance were \$10 per diem while holding court at Tyler, Tex., twenty-four days, commencing December 3, 1900, and seven days going to and returning from said Tyler, Tex., and received therefrom the United States marshal for the eastern district of Texas, the sum of \$310, when the reasonable expenses incurred and paid by the said Charles Swayne for travel and attendance did not amount to the sum of \$10 per diem.

Wherefore the said Charles Swayne, judge as aforesaid, misbehaved himself and was and is guilty of a high crime, to wit, the crime of obtaining money from the United States by false pretense and of a high misdemeanor in office.

ART. 3. That the said Charles Swayne having been duly appointed, confirmed, and commissioned as judge of the United States in and for the northern district of Florida entered upon the duties of his office, and while in the exercise of his office of judge as aforesaid, the said Charles Swayne was entitled by law to be paid his reasonable expenses for travel and attendance when lawfully directed to hold court outside of the northern district of Florida, not to exceed \$10 per diem, to be paid upon his certificate by the United States marshal of the district in which the court was held, and was forbidden by law to receive any compensation for such services. Yet the said Charles Swayne, well knowing these provisions, falsely certified that his reasonable expenses for travel in going to and coming from and attendance were \$10 per diem while holding court at Tyler, Tex., thirty-five days from January 12, 1903, and six days going to and returning from said Tyler, Tex., and received therefrom the United States marshal for the eastern district of Texas, the sum of \$410, when the reasonable expenses of the said Charles Swayne incurred and paid by him during said period were much less than said sum.

Wherefore the said Charles Swayne, judge as aforesaid, misbehaved himself and was and is guilty of a high crime, to wit, obtaining money from the United States by a false pretense, and of a high misdemeanor in office.

ART. 4. That the said Charles Swayne having been duly appointed, confirmed, and commissioned as judge of the United States in and for the northern district of Florida entered upon the duties of his office, and while in the exercise of his office of judge as aforesaid, heretofore, to wit, A. D. 1893, did unlawfully appropriate to his own use, without making compensation to the owner, a certain railroad car belonging to the Jacksonville, Tampa and Key West Railroad Company for the purpose of transporting himself, his family, and friends from Guyencourt, in the State of Delaware, to Jacksonville, Fla., the said railroad company being at the time in the possession of a receiver appointed by said Charles Swayne, judge as aforesaid, on the petition of creditors.

The said car was supplied with provisions by the said receiver, which were consumed by said Swayne and his friends, and was provided with a conductor or porter at the cost and expense of said railroad company, and with transportation over connecting lines. The expenses of the trip were paid by the said receiver out of the funds of the said Jacksonville, Tampa and Key West Railroad Company, and the said Charles Swayne, acting as judge, allowed the credit claimed by the said receiver for and on account of the said expenditure as a part of the necessary expenses of operating said road. The said Charles Swayne, judge as aforesaid, used the said property without making compensation to the owner, and under a claim of right, for the reason that the same was in the hands of a receiver appointed by him.

Wherefore the said Charles Swayne, judge as aforesaid, was and is guilty of an abuse of judicial power and of a high misdemeanor in office.

ART. 5. That the said Charles Swayne was duly appointed, commissioned, and confirmed as judge of the United States in and for the northern district of Florida, and entered upon the duties of said office, and while in the exercise of his office of judge, as aforesaid, heretofore, to wit, A. D. 1893, did unlawfully appropriate to his own use, without making compensation to the owner, a certain railroad car belonging to the Jacksonville, Tampa and Key West Railroad Company for the purpose of transporting himself, his family, and friends from Jacksonville, Fla., to California, said railroad company being at the time in the possession of a receiver appointed by the said Charles Swayne, judge as aforesaid, on the petition of creditors.

The car was supplied with some provisions by the said receiver, which were consumed by the said Swayne and his friends, and it was provided with a porter at the cost and expense of the railroad company, and also with transportation over connecting lines. The wages of said porter and the cost of said provisions were paid by the said receiver out of the funds of the Jacksonville, Tampa and Key West Railroad Company, and the said Charles Swayne, acting as judge as aforesaid, allowed the credits claimed by the said receiver for and on account of the said ex-

penditures as a part of the necessary expenses of operating the said railroad. The said Charles Swayne, judge as aforesaid, used the said property without making compensation to the owner under a claim of right, alleging that the same was in the hands of a receiver appointed by him and he, therefore, had a right to use the same.

Wherefore the said Charles Swayne, judge as aforesaid, was and is guilty of an abuse of judicial power and of high misdemeanor in office.

ART. 6. That the said Charles Swayne, having been duly appointed and confirmed, was commissioned district judge of the United States in and for the northern district of Florida on the 1st day of April, A. D. 1890, to serve during good behavior, and thereafter, to wit, on the 22d day of April, A. D. 1890, took the oath of office and assumed the duties of his appointment, and established his residence at the city of St. Augustine, in the State of Florida, which was at that time within the said northern district. That subsequently, by an act of Congress approved the 23d day of July, A. D. 1894, the boundaries of the said northern district of Florida were changed, and the city of St. Augustine and contiguous territory were transferred to the southern district of Florida; whereupon it became and was the duty of the said Charles Swayne to change his residence and reside in the northern district of Florida and to comply with the five hundred and fifty-first section of the Revised Statutes of the United States, which provides that—

"A district judge shall be appointed for each district, except in cases hereinafter provided. Every judge shall reside in the district for which he is appointed, and for offending against this provision shall be deemed guilty of a high misdemeanor."

Nevertheless the said Charles Swayne, judge as aforesaid, did not acquire a residence, and did not, within the intent and meaning of said act, reside in his said district, to wit, the northern district of Florida, from the 23d day of July, A. D. 1904, to the 1st day of October, A. D. 1900, a period of about six years.

Wherefore the said Charles Swayne, judge as aforesaid, willfully and knowingly violated the aforesaid law, and was and is guilty of a high misdemeanor in office.

ART. 7. That the said Charles Swayne, having been duly appointed and confirmed, was commissioned district judge of the United States in and for the northern district of Florida on the 1st day of April, A. D. 1890, to serve during good behavior, and thereafter, to wit, on the 22d day of April, A. D. 1890, took the oath of office and assumed the duties of his appointment, and established his residence at the city of St. Augustine, in the State of Florida, which was at that time within the said northern district. That subsequently, by an act of Congress of the United States approved the 23d day of July, A. D. 1894, the boundaries of the said northern district of Florida were changed, and the city of St. Augustine, with the contiguous territory, was transferred to the southern district of Florida, whereupon it became and was the duty of the said Charles Swayne to change his residence and reside in the northern district of Florida, as defined by said act of Congress, and to comply with section 551 of the Revised Statutes of the United States, which provides that—

"A district judge shall be appointed for each district, except in cases hereinafter provided. Every judge shall reside in the district for which he is appointed, and for offending against this provision shall be deemed guilty of a high misdemeanor."

Nevertheless, the said Charles Swayne, judge as aforesaid, totally disregarding his duty as aforesaid, did not acquire a residence, and within the intent and meaning of said act did not reside in his said district, to wit, the northern district of Florida, from the 23d day of July, A. D. 1894, to the 1st day of January, A. D. 1903, a period of about nine years.

Wherefore, the said Charles Swayne, judge as aforesaid, willfully and knowingly violated the aforesaid law, and was and is guilty of a high misdemeanor in office.

ART. 8. That the said Charles Swayne, having been appointed, confirmed, and duly commissioned as judge of the district court of the United States in and for the northern district of Florida, entered upon the duties of said office, and while in the exercise of his office as judge, as aforesaid, to wit, while performing the duties of a judge of a circuit court of the United States, heretofore, to wit, on the 12th day of November, A. D. 1901, at the city of Pensacola, in the county of Escambia, in the State of Florida, did maliciously and unlawfully adjudge guilty of a contempt of court and impose a fine of \$100 upon and commit to prison for a period of ten days E. T. Davis, an attorney and counselor at law, for an alleged contempt of the circuit court of the United States.

Wherefore the said Charles Swayne, judge as aforesaid, misbehaved himself in his office of judge, and was and is guilty of an abuse of judicial power and of a high misdemeanor in office.

ART. 9. That the said Charles Swayne, having been appointed, confirmed, and duly commissioned as judge of the district court of the United States in and for the northern district of Florida, entered upon the duties of said office, and while in the exercise of his office as judge as aforesaid, to wit, while performing the duties of a judge of a circuit court of the United States heretofore, to wit, on the 12th day of November, A. D. 1901, at the city of Pensacola, in the county of Escambia, in the State of Florida, did knowingly and unlawfully adjudge guilty of a contempt of court and impose a fine of \$100 upon and commit to prison for a period of ten days E. T. Davis, an attorney and counselor at law, for an alleged contempt of the circuit court of the United States.

Wherefore the said Charles Swayne, judge as aforesaid, misbehaved himself in his office of judge and was and is guilty of an abuse of judicial power and of a high misdemeanor in office.

ART. 10. That the said Charles Swayne, having been appointed, confirmed, and duly commissioned as judge of the district court of the United States in and for the northern district of Florida, entered upon the duties of said office, and while in the exercise of his office as judge as aforesaid, to wit, while performing the duties of a judge of a circuit court of the United States, heretofore, to wit, on the 12th day of November, A. D. 1901, at the city of Pensacola, in the county of Escambia, in the State of Florida, did maliciously and unlawfully adjudge guilty of a contempt of court and impose a fine of \$100 upon and commit to prison for a period of ten days Simeon Belden, an attorney and counselor at law, for an alleged contempt of the circuit court of the United States.

Wherefore the said Charles Swayne, judge as aforesaid, misbehaved himself in his office of judge, and was and is guilty of an abuse of judicial power and of a high misdemeanor in office.

ART. 11. That the said Charles Swayne having been appointed, confirmed, and duly commissioned as judge of the district court of the United States in and for the northern district of Florida entered upon the duties of said office, and while in the exercise of his office as judge

as aforesaid, to wit, while performing the duties of a circuit judge of the United States heretofore, to wit, on the 12th day of November, A. D. 1901, at the city of Pensacola, in the county of Escambia, in the State of Florida, did knowingly and unlawfully adjudge guilty of contempt of court and impose a fine of \$100 upon and commit to prison for a period of ten days Simeon Belden, an attorney and counselor at law, for an alleged contempt of the circuit court of the United States.

Wherefore the said Charles Swayne, judge as aforesaid, misbehaved himself in his office as judge and was and is guilty of an abuse of judicial power and of a high misdemeanor in office.

ART. 12. That the said Charles Swayne, having been duly appointed, confirmed, and commissioned as judge of the United States in and for the northern district of Florida, entered upon the duties of his office, and while in the exercise of his office of judge, heretofore, to wit, on the 9th day of December, A. D. 1902, at Pensacola, in the county of Escambia, in the State of Florida, did unlawfully and knowingly adjudge guilty of contempt, and did commit to prison for the period of sixty days, one W. C. O'Neal, for an alleged contempt of the district court of the United States for the northern district of Florida.

Wherefore the said Charles Swayne, judge as aforesaid, misbehaved himself in his office of judge, as aforesaid, and was and is guilty of an abuse of judicial power, and of a high misdemeanor in office.

And the House of Representatives by protestation, saying to themselves the liberty of exhibiting at any time hereafter any further articles of accusation or impeachment against the said Charles Swayne, judge of the United States court for the northern district of Florida, and also of replying to his answers which he shall make unto the articles herein preferred against him, and of offering proofs to the same and every part thereof, and to all and every other article or accusation or impeachment which shall be exhibited by them as the case shall require, do demand that the said Charles Swayne may be put to answer the high crimes and misdemeanors in office herein charged against him, and that such proceedings, examinations, trials, and judgments may be thereupon had and given as may be agreeable to law and justice.

#### VIEWS OF MINORITY.

The House must establish the truth of these articles, by competent testimony, beyond reasonable doubt.

The only articles which, in our judgment, the record as it now stands would sustain are based upon the certificates of expenses. As to these it was claimed in the hearings that other judges have construed the law as it was construed by Judge Swayne, and evidence was offered to establish that claim and excluded.

We dissent from all the other articles, and especially as to those based upon the contempt proceedings in the Davis, Belden, and O'Neal cases. These cases clearly involved willful and marked contempt of court, and demanded exemplary and summary punishment from any self-respecting court.

The charge as to nonresidence is not supported by such evidence as warrants the adoption of articles in that regard.

The use of the private car, which is the proper subject of adverse criticism, taking into account the fact that there is no intimation or claim that any judicial act was influenced, or attempted to be influenced thereby, is not of such gravity as to justify impeachment proceedings therefor.

The car incident occurred more than ten years ago, and no residence question has existed for more than four years. No statute of limitations can apply, but the great proceeding of impeachment is not to be used as to stale charges not affecting the moral character or the present fitness of the officer to perform his duty.

C. E. LITTLEFIELD.  
RICHARD WAYNE PARKER.

I concur in all that is said in the foregoing "Views of the minority" except as to the certificates for expenses. At the hearing before the committee Judge Swayne offered to prove the custom and practice of the Federal judges in making certificates for their reasonable expenses for travel and attendance when holding court out of their district, the purpose being to show a judicial construction of the statute under which these expenses were allowed. This offer was denied by the committee and all inquiry upon this subject shut off.

Therefore, for this reason, the record is silent upon matters which, in my judgment, should have been submitted to the consideration of this House. The record is silent as to the custom and practice of other judges in this particular, as to the construction which they placed upon the statute, and as to the construction which the disbursing and auditing officers of the Government gave it.

The intent with which Judge Swayne made these certificates is of controlling importance, and all of the facts and circumstances surrounding the matter, the practice and customs of other judges, and the construction placed upon the statute by them and by the Government, if any, are and were proper subjects of inquiry. While the record is silent on all these questions, for the reason above stated, still it appears from official records, some of which have been furnished to me by the Treasury Department, that a majority of the district and circuit judges in five circuits, selected at random, make out certificates for \$10 a day, and in two of these districts every judge made out such certificates.

I am inclined to believe that where a practice has been so general, these judges acted in good faith with an honest belief that a fair construction of the statute gave them \$10 a day for an allowance for travel and attendance while attending court out of their district, and I also feel that this House would with great reluctance pass a resolution impeaching them all; and if not all, why one?

On this article my mind is not satisfied beyond a reasonable doubt that Judge Swayne, in following a practice so well established by so many honorable men, committed a criminal offense for which he should either be prosecuted or impeached, and giving him the benefit of this doubt I can't consent to any impeachment on that ground.

J. N. GILLETT.

Mr. PALMER. Mr. Speaker, I notice an error in the sixth article—a clerical error. The figures 1904 should be 1894. I ask unanimous consent that that error be corrected in the Journal.

The SPEAKER. The gentleman asks unanimous consent for the correction of the clerical error. Is there objection? [After a pause.] The Chair hears none.

Mr. PALMER. Mr. Speaker, in a matter of this consequence, it seems to me that an opportunity ought to be given for every

gentleman who has views on this question to submit them to the House. I therefore ask unanimous consent that debate shall proceed, the time to be controlled one half by the gentleman who represents the minority views, the gentleman from California [Mr. GILLET], and the other side by the chairman of the committee who formulated the articles of impeachment.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent that the time for debate be divided equally, one half to be controlled by himself and one half by the gentleman from California [Mr. GILLET]. Is there objection? [After a pause.] The Chair hears none.

Mr. PALMER. Mr. Speaker, in obedience to the command of the House, your committee appeared at the bar of the Senate, and in the name of the House of Representatives and all the people of the United States impeached Charles Swayne, judge of the United States district court in and for the northern district of Florida, of high crimes and misdemeanors, and gave notice that in due time the House would exhibit articles of impeachment against him and make them good, and demanded on the part of the House that the Senate should take order in the premises. Answer was made that order would be taken. Subsequently a committee was appointed by the House to formulate the articles of impeachment. That committee has made report, and the report has just been read by the Clerk at the desk. The time has now come that the House should perform the duty of preferring the articles of impeachment against Charles Swayne, as they gave notice to the Senate of the United States that they intended to do.

The first question for consideration is, For what reason and for what crimes and misdemeanors can a judge be impeached? The Constitution provides that all civil officers may be impeached for high crimes and misdemeanors.

In all the cases that have come before the Senate up to this time the point has been made that a judge can not be impeached except for an indictable offense; that the language of the Constitution is that a man may be impeached for high crimes and misdemeanors, and that anything short of an indictable offense is not and ought not to be impeachable. That defense never has prevailed, but the uniform ruling has been that a judge could be impeached for any misbehavior in office which evinced such turpitude, such a condition of mind or body, as rendered him unfit to perform the duties of his office; for any misbehavior in office; for the reason that he holds his office so long as he shall behave himself well; and in all the cases where impeachment has been moved by the House and tried in the Senate the articles have exhibited offenses which have not been indictable.

In the case of Judge Pickering, of New Hampshire, the articles set forth that he had released the bark *Eliza* to her owner, she having been seized under the laws against smuggling, without having taken the bond that the law required, and for having refused the United States the right of appeal; for having appeared on the bench in a drunken condition and for having used obscene language. For these offenses he was tried, convicted by the Senate, and removed from office. Of course, I need not state to any lawyer in this body that these offenses were not indictable.

Judge Chase was arraigned, impeached, and tried by the Senate upon the charge that he refused to allow counsel in a case to argue a question of law to the court which the court had already decided in a previous case. That offense was not indictable, but for it he was impeached and tried, but not convicted.

In the case of Judge Peck, he was impeached for having imprisoned an attorney at law for twenty-four hours and having disbarred him for eighteen months for publishing a criticism in a newspaper upon a written opinion of the judge. He was not convicted, but the offense for which he was impeached was not indictable.

So that the precedents all show that a judge may be impeached for matters which are not the subject of indictment.

In this case the articles that have been formulated are grouped under four heads. I shall not consider them in the order in which they are placed in the articles, but in the order which seems to me to be most useful.

First, Judge Swayne is accused of having violated an act of Congress by not having taken up his residence in his district, as the law requires; secondly, having imprisoned and fined certain lawyers in his district and certain citizens of his district without authority of law upon an alleged contempt proceeding; third, that he used the property of a bankrupt corporation, which was in the possession of the court, for his own convenience and the convenience of his friends and family without making compensation to the owner, and under a claim that he had the right to do it because the property was in the hands of

the court; and, lastly, that he obtained money from the United States by a false pretense, under the claim that he had expended \$10 a day for his necessary expenses of travel and attendance while holding court outside of his district, when in point of fact his expenses had been far less.

These are the subjects of the charges. The committee formulating the charges were not agreed. Six of the members of the committee agreed to the charge upon the subject of the fees and one member disagreed. Four of the members of the committee agreed to all the charges, and three of the members of the committee disagreed to all the charges except that pertaining to the fees. I may say that there is no particular disagreement about the facts of this case, but the disagreement arises out of the inferences to be drawn from the facts—as, for example, in the matter of Judge Swayne's residence in the northern district of Florida. There is no dispute about the facts, but the disagreement arises out of the inferences to be drawn from the facts. The law is that he shall reside in his district. The fact is that when he was appointed judge he took up his residence in his district as it was then constituted, in the year 1890. He lived in St. Augustine, Fla., he had a house there, his furniture was there, his family was there, and he had a legal residence there beyond any doubt.

In the year 1894 the Congress of the United States took away a portion of his district and added it to the southern district of Florida, and within that portion the city of St. Augustine was included. Judge Swayne did not remove his family and his furniture and his residence to the northern district of Florida, as the law commanded him to do. He never did remove there, and in point of fact he never removed there up to the year 1900. But he says that he had a legal residence in Florida, though not an actual residence. He states that he was informed by some of his friends that this act of Congress was a political measure and that it would be changed in the next session and that he might continue to maintain his residence at St. Augustine, and that therefore he did not move his family into the northern district. He says that he went to the hotel at Pensacola and there registered himself as "Charles Swayne, City," and announced his determination to take up his residence in Pensacola; that he asked some clerk in a bank, who is now dead, to put his name on the registration list; that afterwards, from that time on—1894 until the year 1900—he visited the northern district of Florida whenever his court was in session and whenever he had any legal business to transact; that he lived sometimes at the Escambia Hotel and sometimes at the house of one Captain Northrup; that in Tallahassee he lived at some hotel there.

The extent of his bodily presence in the northern district of Florida during these years, from 1894 to 1900, was about sixty-one days in the year. He held court outside of his district about ninety-three days in the year. For two hundred and twelve days in the year he lived with his family at Guyancourt, Del. Whenever he left the district he left word that if anybody wanted him, if anybody wished to transact any business with him, they would direct their correspondence to Guyancourt, Del. He stated to at least one person that his home was in Guyancourt, Del.

Now, I say there is no dispute about these facts. He claimed that he had a legal residence in Florida, and therefore he complied with the law. The committee is of the opinion that the act of Congress, which required him to maintain a residence in Florida, meant an actual residence; that the purpose of the act was to secure the bodily presence of the judge in his district, where the people of his district had business to do in his court could get at it. That it did not comply with the law for Judge Swayne to live a thousand miles away; that on his theory he might as well have said, "I mean to live in the northern district, but have gone to England or France," or any other foreign country, and then gone back and forth as the business in his district might require.

We are of the opinion that for six years, at any rate from 1894 to 1900, this judge did not reside in his district; that he had no legal residence there, and he certainly had no actual residence there. He had a number of excuses for not residing there. He says from time to time he endeavored to purchase a house. Well, endeavoring to purchase a house did not give him a residence. He says from time to time he endeavored to buy land upon which to build a house, but that he could not satisfy himself as to the lot or the price. That certainly did not give him a residence. He says that he asked a man not connected with registration—some officer of the bank—to put him on the registry. That did not give him a residence. If Judge Swayne had been sued in Florida and the officer of the law had had a summons to serve on him he could not have found his last place of residence to serve the summons. He

never voted there, he never paid the tax there, he never owned an inch of property there, and he does not to this day. Judge Swayne appeared before the committee at divers times. He was present at every hearing. His counsel cross-examined the witnesses. He himself testified; he made two arguments before the committee under the pretense of giving testimony, and in his first argument he never claimed that he was a resident of the northern district of Florida, and in the majority report the testimony on that subject is quoted, and the conclusion of the committee was reached on the testimony of Judge Swayne himself that he never lived in the northern district of Florida after 1900. I want no better witness on that subject than Charles Swayne, and I ask any lawyer in this body to read that testimony and tell me, as a matter of law, whether he had even a legal residence in the northern district of Florida.

In the year 1900 he says he rented the Simmons cottage, and that he moved into it with his furniture and family, and that he lived there from October until after the holidays. That then he went north on account of the sickness of his son. He never actually lived in the Simmons cottage after that time a day nor a minute. In his last argument before the committee he stated that he lived there from 1900 to 1903, when his wife purchased a house. On examination he could not give the day, nor the year, nor a time when he ever stepped into that house after the holidays of the year 1900. Of course, what he meant to say was that he had a legal residence there because he had moved his furniture into the house and had occupied it for the space of three months.

There are two articles, one charging him with having failed to reside in the northern district of Florida from 1900 to 1903, a period of three years, and the other from 1894 to 1900, a period of six years. We think both articles can be sustained, but whether both can be sustained or not the question is whether either one of them ought to be made a subject of impeachment.

It is stated that Judge Swayne ought not to be impeached for this offense, because it happened so long ago, because so many years have gone by from 1894 to 1900 and no impeachment proceedings have been commenced against him. I beg Members of this House to remember that judges are not impeached for non-residence or for any other cause until the patience of the people is worn out. It is not for one offense nor for two offenses that the people engage upon the task of impeaching a judge. It is long, it is tedious, it is uncertain, and if it fails those who undertake it are in the jaws of the lion; and therefore it is not for the first nor the second nor for many subsequent offenses that the judge is impeached, but it is when the patience of the people is worn threadbare, and after they can stand the misbehaviors of the judge no longer that this extreme remedy is resorted to.

He was not impeached for nonresidence in his district from 1894 to 1900 or 1903, but when the time came, when the patience of the people of Florida was worn out, then they had a right to take up all the offenses that he had committed. There is no statute of limitations that runs against the United States; there is no statute of limitations that runs against the people of Florida. They had the right to go back and complain of the fact that this judge had not resided in their midst up to 1903, that after this impeachment proceeding commenced, then, for the first time, his wife purchased a house there, and there is no testimony in this case that up to this hour he or she have ever resided in it.

What are called the "contempt cases" present serious charges against this judge. They involve the question whether a Federal judge has the right, without authority of law, to commit to prison and disgracefully punish a citizen of the United States. They involve the question whether the citizens of the United States have a right to the protection of that part of their Constitution which provides that all criminal trials, except in cases of impeachment, shall be by jury, and they involve the question as to the right of the people of the United States to the protection of that clause of their Constitution which provides that they shall be exempt from unusual and severe punishments. This judge put into prison and subjected to a fine two members of the bar of this court, having, as I believe, no more power, no more right, and no more authority to do it than he would have to imprison a Member of this House to-day.

Mr. COCKRAN of New York. Mr. Speaker, will the gentleman permit a question?

The SPEAKER. Does the gentleman yield?

Mr. PALMER. Certainly.

Mr. COCKRAN of New York. My seat in the Chamber is so far distant that I have not been able to follow the gentleman's speech as well as I desire, and so have not heard everything. In discussing the question of the nonresidence of this judge, I am not aware whether the gentleman from Pennsylvania [Mr. PALMER] mentioned any particular instances in which litigants

were oppressed or deprived of prompt service by reason of this nonresidence.

Mr. PALMER. Mr. Speaker, I did not mention any incident, but the testimony is quite full on that subject. I have extracted the testimony and will print it as part of the record. A number of witnesses testified that they had been inconvenienced, that they had been subjected to unnecessary expense, and, in point of fact, of course it would make no difference really whether litigants had been inconvenienced or not.

Mr. COCKRAN of New York. Oh, I understand that.

Mr. PALMER. That is, on the question of whether the judge was bound to obey the law.

Mr. COCKRAN of New York. I understand that. Was there testimony to that effect?

Mr. PALMER. Oh, yes; plenty of testimony, and I can refer the gentleman to it if he wishes.

Mr. Speaker, the present purpose of this argument is to show, first, that the Federal courts of the United States are limited as to the cases in which they can punish and in their power to punish contempts by the act of 1831. Now, let me state that proposition again; the Federal courts are limited by the act of 1831 as to the cases in which they can punish contempts and as to the character of the punishment. The act of 1831 is a limitation on the power of the Federal courts, and was passed for that purpose.

Second, that Davis, Belden, and O'Neal were committed to prison for alleged contempt of court on nothing that gave Judge Swayne lawful authority to punish either of them for contempt under the act of 1831 or under any other act.

Third, that if Judge Swayne had the authority under the act aforesaid to punish either of them for contempt, and if they were properly adjudged guilty of contempt, then he abused his power by imposing upon them an unlawful sentence.

Fourth, that Judge Swayne imposed the unlawful sentence either knowingly or ignorantly. If he did it knowingly, then he is guilty; if he did it ignorantly, then he is guilty if he did it maliciously or willfully, or for any other motive except to vindicate the dignity of his court.

Those are the propositions, Mr. Speaker, that I shall endeavor to establish. First, that the power of the Federal courts over contempts is limited by the act of 1831. I have the act, and I shall send it to the desk and ask the Clerk to read it.

The Clerk read as follows:

CHAP. XCIX.—*An act declaratory of the law concerning contempts of court.*

*Be it enacted, etc.,* That the power of the several courts of the United States to issue attachments and inflict summary punishments for contempts of court shall not be construed to extend to any cases except the misbehavior of any person or persons in the presence of the said courts, or so near thereto as to obstruct the administration of justice, the misbehavior of any of the officers of the said courts in their official transactions, and the disobedience or resistance by any officer of the said courts, party, juror, witness, or any other person or persons, to any lawful writ, process, order, rule, decree, or command of the said courts.

Sec. 2. *And be it further enacted,* That if any person or persons shall, corruptly or by threats of force, endeavor to influence, intimidate, or impede any juror, witness, or officer in any court of the United States in the discharge of his duty, or shall, corruptly or by threats of force, obstruct or impede, or endeavor to obstruct or impede, the due administration of justice therein, every person or persons so offending shall be liable to prosecution therefor by indictment, and shall, on conviction thereof, be punished by fine not exceeding \$500 or by imprisonment not exceeding three months, or both, according to the nature and aggravation of the offense.

Approved, March 2, 1831.

Mr. PALMER. Mr. Speaker, I invite the attention of the House to the history of this act. It is instructive and interesting. It is entitled "An act declaratory of the law concerning contempts of court." It was passed in 1831. That was immediately after the Peck case, which was tried in 1830, had been concluded. Judge Peck was impeached for striking a lawyer off the rolls and for putting him in jail for twenty-four hours because he criticised an opinion of the judge in a certain case which had been published in a newspaper. In that case the contention on the one side and on the other turned upon the question as to the power of the Federal courts in cases of contempt.

On the one side it was contended, with all the zeal and vigor that the learned counsel for the judge possessed—and among them was William Wirt—that the Federal courts had all the power to punish contempts that any courts possessed anywhere; that inherent in a court, as a part of its constitution, necessarily the power to punish contempt wherever committed must be lodged; that the Federal courts had all the powers of the court at Westminster Hall before the Revolution; that they have all the powers of the common-law courts. On the other hand, the contention was that the Federal courts were courts of limited jurisdiction; that they had no power except that conferred by acts of Congress; that they could do nothing except by vouch-

ing some act of Congress supporting the authority; that the acts of Congress provided only for the punishment of contempt committed in "any cause of hearing before the same" court. That is the act of 1789. The Peck case concluded nothing, because twenty Senators voted in favor of convicting Peck and twenty-two voted against convicting him.

As it required a two-thirds vote he was not convicted and the case concluded nothing, but at the very next session of Congress Mr. Draper, a member of this body, introduced a resolution authorizing the Judiciary Committee to inquire whether or not it would be feasible to pass an act of Congress which should define the power of the Federal courts over contempt, and limiting the punishment which a Federal judge could impose on a citizen of the United States, and as a result of that investigation this act of 1831 was passed. Mr. Draper said in his remarks, which were made on that occasion and which were published, that he wanted to know and he wanted to be able to read in the statute when he was violating the law that would subject him to be imprisoned at the whim of a judge, and in answer to that inquiry and for the purpose of defining the rights and duties of the judges of the Federal courts and the rights and privileges of the citizens of the United States, this act was passed, and it is so plain that the wayfaring man, though a fool, need not err therein.

It provides that the Federal courts may punish contempts that are committed in their presence or so near thereto as to disturb the administration of justice. That is plain enough. It provides that they may punish contempts committed by the officers of the court in their official transactions. That is plain enough. It provides that any person who violates the order, the command, the decree, or a rule of the court may be punished as for a contempt. That is plain enough. And the second section provides for the offense which Lawless committed and for the offense which Davis and Belden and O'Neal committed, if they committed any. It provides that offenses of that kind which are endeavors to obstruct the administration of justice, or impede or hinder it, shall be tried, not as for a contempt where the judge is the judge, the jury, and executioner, but they shall be tried by an indictment where a citizen of the United States has the right to come before a jury of his peers. That is where this man sinned. Well, he need not have sinned, because the Supreme Court of the United States have passed upon this act. They have construed it, and the court has said as plain as language can say that this act is a limitation upon the power of Federal judges, and that the three cases I have mentioned are the only ones in which they can impose a penalty for contempt of court. (Ex parte Robinson, 19 Wall., 511.) Now, then, I am contending that Davis and Belden did nothing to bring them within the limits of this act.

Mr. CHARLES B. LANDIS. Was an appeal taken in that case?

Mr. PALMER. It went to the circuit court, and the judgment was reversed in part. Of course the circuit court could not go into the merits. There was no appeal on the merits. What were the facts in the Belden and Davis case? Why, Judge Swayne arraigned them before the bar of his court for contempt because they brought a suit against him in the courts of Escambia County, Fla., in which they charged that their client was the owner of a certain piece of land, and that Judge Swayne was sufficiently interested to be made defendant in the case and they published or caused to be published in a newspaper the next day the fact that such a suit had been brought.

Mr. SHERLEY. Will the gentleman inform me about one question of evidence? I have been unable to find in the testimony evidence to show that the statement filed in the paper Sunday morning was prepared by these lawyers. Is there any evidence to that effect in this record?

Mr. PALMER. Well, I do not know whether there is or not, but in point of fact it was prepared by Paquet, that New Orleans man who was there, and who went away to New Orleans because his family was sick. I think it is in the record somewhere; but there is no dispute that Paquet prepared that statement.

Mr. SHERLEY. Is there any evidence to show that either Davis or Belden did?

Mr. PALMER. I do not think there is.

Mr. CHARLES B. LANDIS. Is the statement in the record?

Mr. PALMER. Yes, sir.

Judge Swayne's position was this: That these men brought this suit against him, and they had published in a newspaper an account that they had brought the suit, and that the purpose they had in bringing the suit was to force him to recuse himself in a case which was on trial before him, or which was at issue in his court. That was the case of Florida McGuire against the Pensacola Land Company and a number of other de-

endants. That was one purpose, he said, to force him to get some other judge to try that case. That is what it means to "recuse himself." Secondly, he alleged that they meant to insult him and to degrade him in the eyes of the people by practically doubting the word he had given that he had no interest in the land.

The facts out of which the controversy grew were these:

Judge Swayne had contracted for a certain piece of ground called "Block 91," in the city of Pensacola. He had agreed with the agent who had the land to sell upon a price and upon the terms and the conditions of sale.

There was nothing left to be done in that case but to pay the money and to take the deed. There is no doubt about that. Then he went up home to Guyencourt, Del., and the agents, Watson & Co., wrote him a letter in which they said to him, "The owner of this land, a Mr. Edgar, who lives in New York, will not give a general warranty deed for it; he will only give a quitclaim, because he is afraid of the claim of the Caro heirs." That is what their letter said.

And they went on to say further, We are satisfied that the quitclaim is just as good as the warranty, because the title is all right; but if you are not satisfied with the quitclaim, then you can leave it until you come here and we will send you the papers for the other lands. There were some other lands involved in that trade. Judge Swayne wrote back to them, "Omit block 91, and send on the papers for the rest."

That was the state of the case, and Belden & Paquet, who were lawyers for the plaintiff in the Florida McGuire case, which involved the title to this very land, found it out. They found it out from the general rumor in Pensacola or from conversation with the agent or in some other way that Judge Swayne had purchased this piece of land.

Mr. NORRIS. You mean this block 91?

Mr. PALMER. Block 91.

Mr. HENRY of Texas. I would like to interrupt the gentleman. Is it not a fact that the record shows that Watson & Co., the real estate agents, brought a suit against Edgar for commissions for selling this land to Judge Swayne, and secured a judgment against him for the commission?

Mr. PALMER. They brought a suit, but did not get a judgment. That was one of the circumstances that attracted the attention of these lawyers. There is no doubt about the fact that Judge Swayne had negotiated for this land and agreed on terms of purchase. Now, the transaction was all completed, except getting the deed and paying the purchase money. Then, when this firm of real-estate agents in Pensacola wrote to Judge Swayne, they said to him: "The owner of this land will not give a warranty, but will only give a quitclaim, and you can leave it until you come down, or you can drop the block out, and we will send you a deed for the other." He wrote back: "Omit block 91 and send on the papers for the rest."

They sent on the papers for the rest, and they sent on a mortgage and a note. They left the amount to be paid by Judge Swayne blank, and they invited him to fill in whatever amount he was willing to pay. That was strange. That being the state of the case, the lawyers for the plaintiff in the Florida McGuire case wrote a letter to Judge Swayne and politely, decently, and properly asked him to recuse himself—that is, to get out of that case and to secure some other judge to try it. To that letter Judge Swayne paid no attention. He never answered the letter at all. But on the 5th of November he appeared in Pensacola, and his court was opened. Then he remarked from the bench that he had been asked to recuse himself in the Florida McGuire case, but that the request was not in proper form, in the first place, and, in the second place, that while he had bargained for this land he had found out through a letter written to him by the agents that it was in litigation before him, and therefore he had abandoned the contract.

Well, that statement was not true. The letter written to him by the agent did not inform him any such thing. The letter written to him by the agent never informed him that the property was in litigation before him. But in the letter the statement was that the Caro heirs claimed title to this property. There is nothing in the record of Judge Swayne's court to give him information that there was litigation before him concerning the tract claimed by the Caro heirs when he sent them word to drop out lot 91. He said, in his statement, he had bought this land for a relative. That was the first statement made on the Monday; later on in the week he said that that relative was his wife and that she was purchasing this land out of funds that she had received from her father's estate.

The practice of that court was to try the criminal cases first, and after the criminal list was finished to take up the civil list, call the list and fix the cases for convenient days thereafter.

Now, the criminal list was not concluded until 5 o'clock on Saturday evening, and Judge Swayne took up the civil list and called this case of Florida McGuire against the Pensacola Land Company, Mr. A. C. Blount, and certain other defendants, and told the counsel of the plaintiffs before him that the case should be tried on Monday. This was Saturday evening at 5 o'clock. The counsel stated that it was impossible to get ready for this case by Monday. Relying on the practice of the court, they expected to get a day or two, or some reasonable time, to get the witnesses. They said, "We can not get ready for this case on Monday." Judge Swayne said, "You will try this case on Monday unless you lay legal ground for a continuance." They told him that there were thirty or forty witnesses to subpoena and they could not get ready on Monday, and they asked him, "Give us till Thursday?" and he said "No;" and then they asked him, "Give us till Tuesday?" and he said, "No; on Monday you go on."

What under the circumstances had these lawyers the right to think; what under the circumstances of the case had they the right to think? Did they have the right to think that they were going to get a fair trial before Judge Swayne? They had the right to think that inasmuch as he had bargained for the land, that he had agreed upon the price for it, they had the right to believe that he had made up his mind on the question of the validity of the title, whether from his own investigation or the investigation of some other person, or because some man in whom he had confidence had told him the title was good. Under these circumstances could Judge Swayne bring to the consideration of that case the fair, impartial mind that a judge is bound to have in every case? He bought this land; I do not care whether he threw up the trade or not.

He said, "Omit block 91." What did that mean? Did that mean that he had abandoned it absolutely, or did it mean that after he had settled this title in his court in favor of these defendants he could go back and take up the negotiation and say, "Now I will take lot 91?" What had these lawyers to do? Why, exactly what they did do. They said, "We will discontinue this case in Judge Swayne's court; we will go into court on Monday morning and discontinue that case and bring suit against him in the courts of Florida, and if he has bought this land, as we believe, and he stands in the place of Mr. Edgar, the owner, we will see whether he has got title to it or whether Edgar has got title to it or whether we have the title." When the question was put to Judge Swayne whether or not these lawyers did not have the right to bring that suit, he says, "Yes, of course they had the right to bring it," and of course they had the right to put the piece in the paper next day stating that it had been brought; and the only thing that he complains of was that it was an attempt on their part to force him to do what he declined to do, viz, recuse himself in the case of Florida Maguire.

Well, I say that if that was their intention—of which there is no proof; they denied it and there was no proof on the subject, except what Judge Swayne gathers from the circumstances, there is no testimony on that subject—I say that if that had been their intention, a man can not be disbarred and put in jail for a bad intention. I may intend to kill you, but if I do not kill you there is no law to punish me for it. I may intend to do many things, but there is no law to punish men for bad intentions if they are not executed. In point of fact the testimony was full and complete that these men agreed together to discontinue the case of Florida Maguire in Judge Swayne's court as the first thing that they would do in connection with bringing this suit, and in point of fact they did go into Judge Swayne's court and they did discontinue the case of Florida Maguire with his consent. And then what did Swayne do? Why, he agreed with a lawyer named Blount, who was one of the defendants in the Florida Maguire case, and who was also lawyer for the defendants—Judge Swayne agreed with Blount over Sunday, when he saw this publication in the newspaper, to put these men up for contempt, and as quick as the case of Florida Maguire was discontinued Mr. Blount arose and stated that these men had been guilty of a contempt of court, and moved that they be punished. Well, there was a wonderful unanimity of opinion between Blount and Swayne. They agreed beautifully on that subject. Of course, Blount was the last man on earth that Swayne ought to have gone to to have moved the contempt proceeding, because Blount was one of the defendants in the Florida Maguire case, and he was lawyer for the other defendants. He was the man whose grist Swayne had been grinding out by refusing to recuse himself. And yet he was the man who was selected by Judge Swayne to move this contempt proceeding. The next day Davis and Beiding were arraigned before the court, and they put in their answer, in which they explained the reasons why they brought the suit, in which they purged themselves of the contempt.

Then Judge Swayne went through a sort of a perfunctory trial, if you could call it a trial, and in about a half an hour he sentenced these men to pay a fine of a hundred dollars and to be imprisoned for ten days and to be disbarred and stricken from the roll of attorneys for two years. For what? He said they had a right to bring the suit, and we know they had the right to publish it in the newspaper; but he said they did it because they intended to degrade him and blacken his character—because they intended to force him out of the Florida Maguire case. Well, if he had read the law, which he is presumed to know, he would have known that that offense, if it was an offense, was punishable under the second section of this act and not under the first; that the second section was passed for that very case, passed to meet the case of a lawyer who, outside of the court, criticised an opinion of the judge; and in that case the lawyer had been a lawyer in the case, and the case was still pending in the supreme court, and there were many other cases depending on that opinion.

Those were the facts under which this man imposed this sentence. He either did it knowingly—that is, he knew the law and imposed the sentence—and if he did it knowingly he is guilty, because he imposed an unlawful sentence (there is no dispute about that; the statute provided that he might fine or imprison, but he fined and imprisoned), and when the case was taken to the circuit court of appeals that court said that he had exceeded his jurisdiction, that he could not do both; but inasmuch as these men were lawyers, and as on the face of the papers he seemed to have jurisdiction, the circuit court could not look into the merits of the case to see whether he had done right or not, but they could say that he had exceeded his jurisdiction, and they gave the lawyers an opportunity to pay the fine or go to jail. One of them went to jail and the other paid the fine. So that there is no doubt about the unlawfulness of the sentence.

Mr. SHERLEY. Can the gentleman tell the House of any decision of the Supreme Court of the United States upon the question as to the power of a court, on a proceeding in the nature of habeas corpus, to review the merits of a contempt proceeding? I want to know whether there is such a decision.

Mr. PALMER. There is no such decision.

Mr. CHARLES B. LANDIS. I would say to the gentleman from Pennsylvania that a case of that kind came from Indiana within the last year.

Mr. PALMER. And the Supreme Court took jurisdiction and did review the merits and release the defendant.

Mr. CHARLES B. LANDIS. Yes.

Mr. COCKRAN of New York. On habeas corpus.

Mr. PALMER. On habeas corpus; and whenever that court take a fancy to look into the proceeding they do it, and whenever they do not take a fancy they say they have no power.

Mr. SHERLEY. That is the point I wanted to get at.

Mr. PALMER. When they want to do it, they have the power, and when they do not want it they have not got it; and I propose to introduce into this Congress a bill giving every man who is punished for contempt by any judge a right to appeal to some court on the merits. [Applause.]

As I was saying, Judge Swayne had the right to impose the sentence or he did not have the right. If he had the right and he imposed an unlawful sentence, he ought to be impeached. If he did not have the right and imposed it in ignorance of the law, or did it maliciously and for bad motives, he ought to be impeached. That catches him going and coming. [Laughter.]

Now, did he know the law? I need not state to this body of lawyers that every man is presumed to know the law, and, within certain limits, that is a conclusive presumption. If I steal my neighbor's property and carry it away and convert it to my own use, it is no excuse for me to say that I did not know that was larceny. If I aim a deadly weapon at my neighbor and put a bullet into a vital part, I can not excuse myself by saying I did not know that he would die. Ignorantia juris non excusat.

Mr. OLMSTED. You might excuse yourself by saying you didn't know it was loaded.

Mr. PALMER. We inherit this maxim from the civil law and it has been the law since "Rome sat on her seven hills and from her throne of beauty ruled the world." It is a part of the jurisprudence of every civilized nation, and it will be the law until "the heavens are rolled together like a scroll and the angel shall stand with one foot on sea and one on solid land and proclaimed that time shall be no more."

Ignorantia legis non excusat is particularly applicable to Judge Swayne. He could not be a lawyer until he knew the law. He ought not to be a judge until he knows the law. He ought not to try to excuse himself on the ground that he did not know the law. I have got this to say of Judge Swayne:

He had the manliness and the courage to stand up and not plead the baby act, as those who apologize for him will do. He did not come here and say, "I was ignorant," but he came and said, "I did know the law and I am within my rights, and I punished these men as I had a right to do." That is what he said.

Now, if he was ignorant of the law, if the excuses of his apologists are to be entertained, and if he made a mistake in imposing this unlawful sentence, then, if he did it maliciously or for any bad motive—if he sought to punish these men not because they had infringed the dignity of his court, but because they had put upon him a personal insult—I say, if his motive was malicious, then he is guilty and ought to be impeached. His authority as judge—his judicial authority—was put in his hands not for the purpose of punishing his enemies, but for the purpose of facilitating the administration of justice.

Was he ignorant? If he was—for the sake of argument let us admit that he was. If he made an innocent mistake when he imposed this unlawful sentence, then was he malicious? Well, that is a condition of the mind. His intentions were a condition of his mind. A judge who imposes an unlawful sentence is not apt to declare his intention in advance, and he is not very apt, after he does it, to confess that he has done it maliciously.

You have got to get at the facts as to his intention just as you do any other fact, and as a judge is a man like any other human being you have a right to judge of his intentions the same as you judge of other people's intentions. What did Judge Swayne do? He imposed this unlawful sentence, and he did it in a case where his personal dignity had been affronted. He found as a matter of fact that these men did this thing for the purpose of forcing him to recuse himself without testimony. He got the last man, I think, that he should have gotten to move the contempt proceedings. He put these men up without submitting them to interrogatories that ever since the days of William Blackstone have been submitted, and thus did not give them an opportunity to purge themselves from contempt, as he should have done. Was he malicious? Well, from his action, from what he said when he imposed the sentence, we can judge what his motives were. When these lawyers appeared before the bar—the trial was about a half an hour long; they were lawyers, mind you, one of them was a young man just entering on his career, with about three and a half years of practice; the other was an old man past three score years and ten, who had been attorney-general for the State of Louisiana; he had been sick about a week and confined to his bed, a poor old man shivering on the brink of the grave—when these men were brought before Judge Swayne he denounced them as ignorant.

He said, "You are a stench in the nostrils of the community." When his attention was called to that language he stated before the committee that he addressed them in the same way that he always addressed prisoners and criminals. Was he malicious? Did he do this act maliciously? Was he imposing this awful sentence maliciously—disbarment for two years, which spells ruin to a lawyer; imprisonment for ten days in the county jail among the common criminals, disgraceful to the last degree; a fine of \$100—did he impose this awful sentence on these men because he wanted to vindicate the dignity of his court, or did he do it because he meant to wreak his vengeance on them and to use the power that the law permitted to him to punish his enemies? Now, that is a question for the jury.

Mr. BOWIE. Mr. Speaker, may I ask the gentleman a question?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. PALMER. Certainly.

Mr. BOWIE. I understand that the evidence shows that a statement was given out by one of the attorneys for the plaintiffs on Saturday night, which was published on Sunday morning, to the effect that a suit in the State court had been brought and that the suit in the United States court would be dismissed the next day. Is that true or not?

Mr. LITTLEFIELD. Did the notice so state? Not by any means.

Mr. BOWIE. I just wanted to know.

Mr. PALMER. Excuse me, Mr. Speaker, but if the gentleman from Maine [Mr. LITTLEFIELD] is making this speech and is answering these questions, I shall sit down.

Mr. LITTLEFIELD. Oh, I beg the gentleman's pardon most humbly.

Mr. PALMER. I grant it, but I shall ask the gentleman not to do it again.

Mr. COCKRAN of New York. Mr. Speaker, could the gentleman from Pennsylvania [Mr. PALMER] tell me at what page I can find the language of the judge in this contempt proceeding—the language in which he addressed these defendants?

Mr. PALMER. The gentleman will find it in the testimony of Messrs. Davis and Belden.

Mr. CHARLES B. LANDIS. Did he admit that he used that language?

Mr. PALMER. He did not deny it. Yes; I think he did admit it.

Mr. COCKRAN of New York. I would like the exact page on which the language appears.

Mr. CHARLES B. LANDIS. I could not find that he admitted that he did use that language; but I understand the language as reported came from the witnesses from memory.

Mr. PALMER. Did the gentleman read his statement that he made, thirteen pages long, a typewritten statement, printed in the record here?

Mr. CHARLES B. LANDIS. No; I did not.

Mr. PALMER. I would suggest to the gentleman that he read that.

Mr. GAINES of Tennessee. What excuse does Judge Swayne give for both fining and imprisoning these lawyers?

Mr. PALMER. Oh, nothing. He says he made a mistake.

Mr. GAINES of Tennessee. Did he say that because the court reversed him on that proposition?

Mr. PALMER. He said it after the court reversed him.

Mr. HAMILTON. I understood the gentleman to state that Judge Swayne knows the law.

Mr. PALMER. Why, he did say he knows the law.

Mr. COCKRAN of New York. Is there any doubt, dispute, or question anywhere that this language which the gentleman has quoted was used by Judge Swayne on this impeachment proceeding?

Mr. PALMER. No; I do not think there is any doubt about it or dispute about it.

Mr. CLAYTON. I can give the gentleman the page.

Mr. LITTLEFIELD. Mr. Speaker, I do not understand that he did use that language. It is absolutely disputed.

Mr. PALMER. Very well, now who disputes it?

Mr. LITTLEFIELD. I do.

Mr. PALMER. Yes. Was the gentleman there?

Mr. LITTLEFIELD. Well, now, I will say this to the gentleman; he will hear me when I get around to the discussion.

Mr. PALMER. I am asking the gentleman a plain question. The gentleman says that he disputed it, and I ask him if he was there.

Mr. LITTLEFIELD. No.

Mr. BUTLER of Pennsylvania. Did the judge in his statement admit it?

Mr. PALMER. Yes.

Mr. LITTLEFIELD. The record shows that he disputed it.

Mr. CLAYTON. Mr. Speaker, with the permission of the gentleman from Pennsylvania [Mr. PALMER], I will answer the question propounded by the gentleman from New York [Mr. COCKRAN], and read the following from the testimony of Mr. E. T. Davis, found on page 126 of the testimony:

Q. Can you state what he said?—A. I don't know that I can state it in so many words. He called us ignorant; said our action was a stench in the nostrils of the people, and a good many other things I can not repeat.

Q. His manner was very harsh and abusive?—A. Extremely so.

Mr. CHARLES B. LANDIS. Will the gentleman recite that page of the record where the judge admits that he used that language?

Mr. CLAYTON. I will look that up in a moment.

Mr. PALMER. Now, Mr. Speaker, I was on the subject of what Judge Swayne's motives were in sentencing these men and endeavoring to establish the proposition that if he was ignorant of the law, as his apologists say, then he maliciously and willfully, and to wreak his vengeance, imposed this sentence.

Another evidence of that fact is found in the fact that he struck these men off the roll of attorneys for two years. It is very true that when his attention was called to the law that he could not in a proceeding for contempt also disbar these men, he relieved them from that portion of the sentence immediately. After Mr. Blount, his next friend, his amicus curiæ, called his attention to the fact, then he says he reflected for a moment and concluded he could not do that, and he remitted that part of the sentence.

But, Mr. Speaker, that does not in any way change the condition of Judge Swayne's mind when he put it on. What we are driving at now is to find out what he had in his heart when he imposed upon these men this awful sentence of two years' disbarment. Why, what does that mean for a lawyer, to be struck off the rolls and deprived of his means of livelihood for two years? Mr. Speaker, the Supreme Court of the United States has passed upon that subject in a case which I quote. They say that a lawyer's profession is his property;

that he can not be deprived of it, except for very extreme reasons; that he ought not to be deprived of it when any punishment less severe would accomplish the end desired.

Admission as an attorney is not obtained without years of labor and study. The office which the party thus secures is one of value and often becomes the source of great power and emolument to its possessor. To most persons who enter the profession it is the means of support to themselves and their families. To deprive one of an office of this character would often be to decree poverty to himself and destitution to his family. A removal from the bar should, therefore, never be decreed where any punishment less severe, such as a reprimand, temporary suspension, or fine, would accomplish the end desired. (Brady and Fisk, 13 Wall., p. 355.)

It spells ruin to the lawyer so disbarred, as his capital is the confidence of his clients, and if that confidence is disturbed or shaken, if he is stricken for two years from the rolls and forbidden to practice, why does not that ruin him? It does ruin him. And is not that an evidence that this judge had something in his heart besides the desire to vindicate the integrity of his own court? Then the severity of this sentence is another indication. In the case of Judge Peck the sentence was the lawyer should be imprisoned for twenty-four hours and be disbarred for eighteen months in addition; and yet Mr. Buchanan, who was of counsel of the board of managers in this case, waxed eloquent on the subject that this was a cruel and unusual punishment. In this case, in addition to the imprisonment, there is also a fine of \$100, and there was also a disbarment for two years, which was a cruel and unusual punishment even if the judge had been right that the purpose of these lawyers had been to do what he said it was.

Mr. POWERS of Massachusetts. Mr. Speaker, if the gentleman will yield I would like to call his attention to what Judge Swayne said on page 593 of the record, near the top of the page:

Q. You say you used no harsh language in imprisoning them?—A. I say I used no unnecessarily harsh language. I think I spoke to them as they deserved to be spoken to by a judge speaking to lawyers under those circumstances. I can not recall my words.

Q. You say it was not "unnecessarily harsh"?—A. I think it was not unnecessarily harsh.

Q. Although it might have been too harsh?—A. I generally speak to a prisoner when I sentence him as I think he deserves. It must be at all times very unpleasant for the prisoner; there is no question about it; but that is not the fault of the court.

Mr. COCKRAN of New York. Mr. Speaker, I would just like to say to the gentleman from Pennsylvania and the gentleman from Massachusetts that I consider this the gravamen of the entire accusation, and when the gentleman from Pennsylvania stated that the judge charged these men with being a stench it was a characterization of language that it seems to me of itself almost to be a characterization of the entire proceedings. Now, the language just quoted is not precisely that. The language just quoted, as I understand it, is that the conduct was a stench, which, while we may have different opinions as to the propriety of the language, possesses a different significance, and what I would like to find out is what language was actually used, and especially if that judge made use of it.

Mr. PALMER. Well, that is what the witnesses testified to.

Mr. COCKRAN of New York. Well, but here it says "conduct."

Mr. PALMER. What is the difference between saying that "their conduct was a stench in the nostrils of the community," if he did say so, and saying that "they were a stench in the nostrils of the community." It seems to me it is a distinction without a difference. The point is they were a stench in the nostrils of the community.

Mr. OLMSTED. Because of their conduct.

Mr. SIMS. I would like to ask the gentleman from Pennsylvania how anything but their conduct could make them a stench?

Mr. COCKRAN of New York. A man's general conduct might be a stench and some specific conduct might be a stench. I do not say either language is proper. I merely wanted to call attention to the distinction and to get some accurate information before the House.

Mr. PALMER. When Judge Swayne's attention was called to the fact that he had stricken these men off the roll of attorneys he said in reference to that:

Upon a moment's reflection, the matter having been called to my attention by Mr. Blount, I saw that the contempt proceedings could not be joined with a proceeding to disbar them; that such sentence could only be pronounced on a separate proceeding for that purpose, and I immediately eliminated this phase of the sentence.

Mr. COCKRAN of New York. What page is that?

Mr. PALMER. Five hundred and eighty-three.

Mr. SCOTT. Read the next sentence.

Mr. PALMER. The gentleman from Kansas asks me to read the sentence on the next page.

That I imposed both fine and imprisonment was a mistake of law, which I was not cognizant of at the time.

And for his benefit I will read the next sentence:

That this fact is evidence of malice on my part toward these attorneys in imposing such sentence seems to be a vivid stretch of the imagination. I had no malice or personal feeling in the matter. I did have a keen interest in protecting the dignity of the court over which I presided; if I had been possessed of this feeling in the degree I have been charged with, would not the natural result have been a sentence of these attorneys to jail for ten months instead of ten days? The moderation of the entire sentence is my best answer to this charge.

Well, if that was a moderate sentence under the circumstances I hope the bon Dieu will be good to the men that Judge Swayne imposes a severe sentence upon. If he intended to do these men justice and not wreak vengeance upon them, would he not have given this matter a "moment's reflection" before proceeding to disbar them?

He says himself that reflection convinced him he was wrong. He had reflected, then, before. If he had reflected a moment before he would not have struck them off the roll of attorneys. Of course it makes no difference that he relieved them of the sentence when it was pointed out to him it was wrong. What we desire to know is the condition of mind when he passed the sentence; and if the circumstances do not prove he was wreaking vengeance on these men, then you can never prove that fact on a judge unless he reduces his intention to writing and acknowledges it before a justice of the peace and has it recorded.

A MEMBER. Does it not also prove that he pronounces judgment without a moment's reflection?

Mr. PALMER. Yes; without any reflection.

Mr. GAINES of Tennessee. Judge Swayne says that these lawyers had a right to go and file this suit against him. It is undisputed here that he did have, or his wife had, an interest in this property.

Mr. PALMER. It is not undisputed. They bargained for it, and he says they threw it up.

Mr. GAINES of Tennessee. They had a right to believe that he did have such an interest, and therefore they had a right to file the suit. Did he give any reason why he did not leave the bench and have some other judge try the suit?

Mr. PALMER. None whatever.

Mr. GAINES of Tennessee. I want to remind my distinguished friend of what Judge Holmes recently said in the beef-trust hearing before the Supreme Court. In substance he said to the lawyers trying the case before the court: "I have an interest in some beef concerns out there (naming them). Have they anything to do with this lawsuit?" And the counsel for the United States and the counsel for the beef trust said, "No, nothing in the world;" and then went on with the case. I make that statement to show the difference between a man who wants to do the clean thing from start to finish and one who does not wish to do it.

Mr. PALMER. Any judge who had any appreciation of his position, the least desire to do right, would not have hesitated a moment to recuse himself. He would not have waited until the lawyers had requested him to do it. He would have said at once: "I bargained for this land and thought this title good; I can not try the case." Is there a judge on the face of the civilized earth who would have done as Judge Swayne did in this case? Did you ever hear of such a case? Judges are not generally looking to find work; they are generally trying to get rid of it, and if they can get out of trying a case they generally do it. If their relations, their sisters, their cousins, or their aunts, or wife's relations have any interest, remote or contingent, in a lawsuit, they always get out. I know a judge that will not try a case against a corporation if any of the family happen to hold a share of stock in that corporation. There is nothing on the record in this case that shows that Judge Swayne abandoned the contract, and even if he had given it up in all decency he should have gotten out and procured some other judge to try the case.

Then there is the O'Neal case.

Mr. RANDELL of Texas. Is there anything to indicate whether or not the purpose of Judge Swayne was to intimidate other lawyers from attending to that case?

Mr. PALMER. No; I do not think so. The O'Neal case was another contempt case. He seemed to have a passion for them. I have had the honor to practice law over forty years and I have never heard of but one contempt case in our court, and that amounted to putting a man in jail for twenty-four hours. Judge Swayne's record is full of contempt cases. The O'Neal case is that of a man who got into a fight with a man named Greenhut.

The facts were that Greenhut was a director in O'Neal's bank—the First National Bank of Pensacola—that the bank had loaned Scarratt Merino \$14,000 on a mortgage, and that Greenhut was present when the transaction was made. He knew that it was an honest transaction. He knew that Merino had the

money, and that the bank had sold the mortgage to somebody else. Merino went into bankruptcy. Greenhut was appointed the receiver, and he brought suit against the bank and the party who had bought the mortgage and alleged that it was a fraudulent mortgage. Mr. O'Neal met Greenhut one day and reproached him with having brought this suit when he knew the transaction was honest. One word led to another, and finally these men got into a fight.

O'Neal said he was much the smaller and weaker man; that Greenhut attacked him, and in his defense he took his knife and cut Greenhut, cut him so that he was laid up for some time; whereupon O'Neal was hauled up before Judge Swayne, in the Federal court, because he had obstructed Greenhut as a receiver in doing his duty as receiver. Now, was anything like that ever heard of before? The court was not in session. The Judge was up at Guyencourt, Del., a thousand miles away, or somewhere else. There was nothing done in the presence of the court or so near thereto as to obstruct the administration of justice; it was not done by an officer of the court; there was no resistance to any rule or decree or order. It was wholly an assumption of arbitrary power on the part of this judge, who snatched this bank president into his court and put him in jail for sixty days without authority of law.

When O'Neal tried to get his case before the circuit court they said they had no jurisdiction and they could not help him. When he tried to get his case before the Supreme Court of the United States they said they had no jurisdiction and could not help him; and then he died. He never went to jail, but he went up to that other tribunal beyond the grave. He escaped the vengeance of Judge Swayne and appeared before his Maker. [Applause.]

Poor Hoskins's case is not here now. Charley Hoskins, who was also brought up by Judge Swayne for contempt of court, said that he would die before he would go to jail; and die he did. He committed suicide. The track of this man since the time he was appointed a judge in Florida down to this date is spread all over with bankruptcies, scandals, and suicides. I believe he has not a friend on earth in the northern district of Florida. Political—oh, no; the strongest witnesses against him were of his own political party.

The next charge against this man is that he used the property of a bankrupt corporation, which was in the hands of a receiver appointed by him, without making any compensation to the company, and on the claim that he had the right to do it. If Judge Swayne had come before the committee and had said that as a matter of courtesy the receiver of this railroad furnished him with this car, and "I did not stop to think about the impropriety of it, but I used it because other judges did likewise, and I made no compensation; I do not think it was a proper transaction, but it was done," he might have had some standing before the committee and before this House. But he makes no excuse; he makes no such claim; but he is absolutely defiant, and says, "I used the car at the expense of the treasury of that company because the property was in my hands, in my court, and because I had the right to do it." Now, if he wanted to stand upon that proposition, he has got the chance to do it. He was asked this question:

You said this car was one of the cars in the possession of the court because the road was in the hands of a receiver?

This is in the testimony of Charles Swayne, and will be found on page 595. He answered "Yes." He was then asked:

You say that it was the privilege of the court to use that car because the road was in the hands of a receiver?

He answered:

Yes; that was the reason why it was used.

He was then asked:

You thought that, the railroad being in the hands of the court, you had the right to use the property of the railroad without rendering the railroad any compensation for it?

Judge Swayne evaded the question. He said:

The receiver in talking that over with me stated that it was generally understood that a car was in better condition running than if it were standing idle on a siding.

Then this occurred:

Mr. PALMER. Will the stenographer read that question, please?

The STENOGRAPHER (reading): "Q. You thought that, the railroad being in the hands of the court, you had the right to use the property of the railroad without rendering the railroad any compensation for it."

Mr. PALMER. That is the question.

The WITNESS. Yes, sir. I had ten railroads in my hands as judge in six years.

[Laughter.]

Then he was asked the question:

Q. And you fancied you had the right to use the property of any of the railroads that were in the hands of the court whenever you pleased without rendering any compensation to the railroad for it?

He answered: "I would not say that."

If he had the right to use one, why not the right to use ten?

Now, Mr. Speaker, just consider that proposition for a minute. Consider the moral turpitude; just consider the moral insensibility of a man, a judge of a court, who could take that position. If he had a right to use the property of this railroad company without compensation, suppose the railroad company had a coal mine somewhere. Would he have had the right to have filled the bunkers in his cellar with coal? Suppose the bankrupt, instead of being a railroad company, had been a merchant. Would he have had the right to have gone into his stock and clothed himself and his family out of it? Why, it is ridiculous; it is preposterous.

What did he do? This receiver provisioned this car, and he put on a conductor and a porter at the expense of the railroad company, and he sent this car and this conductor and this porter from Jacksonville, Fla., to Guyencourt, Del., where Judge Swayne lived, and it lay there over night awaiting the convenience of the judge.

Then he and his wife and his wife's sister and her husband boarded this car that belonged to the Jacksonville, Tampa and Key West Railroad Company, and they regaled themselves upon the provisions provided by the receiver, and they traveled over the intervening lines on transportation furnished by the receiver to Jacksonville, Fla., and they did it at the expense of this company; and when this receiver's accounts came in, when this charge, which to a private individual would have amounted to four or five hundred dollars, came to be passed upon, Judge Swayne allowed it to the receiver as a necessary expense; and he stands here now and has the audacity to claim that he had the right to do it. I say if the Members of this House want to stand behind that proposition they will have an opportunity to do it, and they will do it on a yea-and-nay vote.

The last remaining count, on which the committee are unanimous with one exception, is that Judge Swayne ought to be impeached for filching money out of the Treasury of the United States by filing a false certificate, which is contrary to the act of Congress in such case made and provided. It is a crime for which he might be indicted. The facts are that in eight years he held court out of his district about ninety-three days in every year, and during that time he received about \$7,400 from the Government. He charged \$10 for every day that he held court outside of his district. The testimony shows, and there is no dispute about it, that he spent a far less sum than \$10 a day.

A MEMBER. Are any of these certificates in the record?

Mr. PALMER. There is one of them copied in the first article. In one case he held court forty-one days at a place in Texas—I think it was Tyler. He boarded with a lady who was good enough to give him his board for \$40 a month, so he expended \$52.50. His traveling expenses from Pensacola to that point, going and returning, at a very liberal estimate for sleeping cars and board and everything else, would amount to \$50. For that he took \$410 out of the Treasury of the United States. That is a sample case.

Now, the law is that no judge of the United States who holds court out of his district shall receive any compensation therefor. That is positive and prohibitory. There is no way to get around that. And the law formerly was that he should have nothing for his expenses. But that law, as to expenses, was repealed, and then the judges were paid their actual expenses. Sometimes they charged as much as \$36 a day, and the Treasury would not stand it.

Mr. LACEY. I would like to ask the gentleman a question. From what source does the gentleman get his information about the cost of going from Jacksonville to Waco?

Mr. PALMER. From the testimony of a witness who made the journey.

Mr. LACEY. I made an inquiry of the passenger agent to get the rate, and the round trip rate is about \$50, without any sleeping-car fare, without hotel bills, or any other expenses.

Mr. PALMER. We have the testimony of a witness who went over the route.

Mr. LITTLEFIELD. How much was it?

Mr. PALMER. I believe about \$50, from Pensacola to Waco.

Mr. LACEY. Twenty-three dollars and fifty-five cents, it is reported, is the regular fare one way.

Mr. PALMER. Let it be \$75 a day or let it be a hundred. Do not let us minimize this thing. Do not let us quarrel about tuppenny bits. He got more than he spent; that is what he did, and he filed a certificate that was not true to get it.

Mr. LACEY. Well, we ought to get the facts here, ought we not? We condemn him for not giving them, and at least the gentleman ought to give them to us.

Mr. GAINES of Tennessee. The facts are that this witness

who has testified to this has been over this route and he has been sworn in this case.

Mr. PALMER. Yes.

Mr. GAINES of Tennessee. He is not connected with any railroad, I hope.

Mr. PALMER. The law is that the judge shall have no compensation and the law was that the judge might have his actual expenses. Then this law was passed to give him his reasonable expenses for travel and attendance; but if the Treasury Department caught a judge spending \$36 a day, as they had done before, they cut him down to \$10 a day. Ten dollars is the limit, but he can only have his expenses if they are less than \$10 a day.

I am told that some gentlemen here are of the opinion that because there is a rumor around the street somewhere, because some newspaper has published the statement and some men imagine that somebody else has taken \$10 a day when he did not spend \$10 a day, that therefore this man ought to be excused. Well, if a man is accused of stealing a chicken, do you think he could defend on the ground that some other man stole a chicken? [Laughter.] If any man is accused of an offense, can he defend on the ground that somebody else has done the same thing?

Mr. GAINES of Tennessee. Who are the judges that have done this thing?

Mr. PALMER. I say none. I say it is false. I say it is a slander on the judiciary of the United States. I say there is not a syllable of testimony in this record and not a syllable of testimony anywhere on earth that any judge ever did this thing but Judge Swayne. That is what I say. I say it on my responsibility as a Member of this House.

We are not trying this case on newspaper reports, thank God. Why, there has been published in the newspapers within a day or two a statement alleged to have come from the Treasury Department, in which five circuits have been enumerated. They do not give us the name of the circuit or where they are located, but they are lettered A, B, C, etc. They say that the record shows that 41 per cent of the judges of these circuits took less than \$10 a day—that is, for their actual expenses. Some took \$10 a day sometimes and less at other times. The remainder took \$10 a day. What does that prove? Now, I put it up to you, what does that prove? Does that prove that any of these honorable gentlemen took \$10 a day when they were not entitled to it? Do you want to assume that because a man takes \$10 a day he is not entitled to it? Why, if a judge holds court in Chicago or Philadelphia or New York or Boston or San Francisco, or any of the large cities, he could easily spend \$10 a day, and if he does spend \$10 a day he would be entitled to it. Do you propose to stop impeaching this man because you guess, without proof, that some other judge has done wrong besides this man? I would not care if every judge in the United States had done it. That would be no excuse for this man.

When Sir Francis Bacon, who has come down through history as the wisest and the meanest of men, was called to account for his crimes and misdemeanors in office, he was impeached for taking a bribe as a judge. Giving bribes to judges in those days was just as common as for judges to eat their dinners, and the reason why Bacon was impeached was because he took a bribe from a man and then decided his case against him. [Laughter.] He didn't stay bought. But it was no excuse for him, and the English Parliament did not for one second entertain the proposition because it was a common custom it was not an impeachable offense.

They said to Francis Bacon, "You are guilty," and that wisest of men was stripped of his judicial robes and sent in disgrace into retirement, as this man ought to be, even if all of the judges of the United States have been guilty of a like offense.

The question before this House, Mr. Speaker, is not, Shall Judge Swayne be tried? That has been settled by the solemn vote of this House, practically unanimous. You notified the Senate that in the name of the House of Representatives and of all of the people of the United States you impeached Judge Swayne, and you notified that high tribunal, the constitutional triers, that you would exhibit articles of impeachment and make them good. It is within the power of the House to vote down these articles of impeachment and stultify itself, to make itself the laughing stock of the people of the United States and to drop the proceedings altogether. But you can not obliterate the fact that Judge Swayne has been charged with serious crimes and high misdemeanors. You can not obliterate the fact that the testimony in the case has satisfied a majority of the Judiciary Committee that he ought to be impeached. You can not obliterate the fact that these charges have gone broadcast through this country, and that the people of this country in

their simplicity believe that the same law that applies to private citizens ought to apply to a judge. They believe that a man who steals is a thief, whether he be a private citizen or whether he is a judge. They believe that a trustee who loots the property in his hands has done a grave wrong. They believe that a judge who has abused his judicial power for the purpose of punishing a personal affront ought not to go unwhipt of justice.

They believe that a man who has deprived citizens of the United States of their liberty and subjected them to infamous punishment to gratify his malice, when he had no authority to do it, has abused his discretion, and that belief will never be eradicated by voting not to try him. The only place where the character of Judge Swayne can be relieved of this stain is before the body of constitutional triers. If I were a friend of Judge Swayne, I should be crying in season and out of season for a speedy trial. If these charges are frivolous, if they can not be supported, it will be all the more easy for him to vindicate himself. He can be vindicated only in the Senate of the United States. If I were Judge Swayne, I should cry without ceasing, not for a trial on the least of these offenses, but for a trial upon all. His good name is in issue. Nothing but a verdict of the Senate of the United States can make it clear.

Good name in man or woman, dear my lord,  
Is the immediate jewel of their souls;  
Who steals my purse steals trash; 'tis something, nothing;  
'Twas mine, 'tis his, and has been slave to thousands;  
But he that filches from me my good name  
Robs me of that which no enriches him,  
And makes me poor indeed.

[Prolonged applause.]

Mr. LITTLEFIELD. Mr. Speaker, inasmuch as the gentleman from Pennsylvania [Mr. PALMER] was allowed to proceed without limit, I do not know that I need to request unlimited time. I do not, however, wish to be interrupted in the course of the statement that I am about to make, and I therefore ask unanimous consent to proceed without limit.

Mr. PALMER. Oh, Mr. Speaker, I understand that the gentleman has charge of the time and he can go on as long as he pleases.

Mr. LITTLEFIELD. Very well. I shall then proceed without limit.

The SPEAKER pro tempore. The time is under the control of the gentleman from California [Mr. GILLETT].

Mr. LITTLEFIELD. Very well. I did not know but that my time might be limited.

Mr. GILLETT of California. I yield to the gentleman such time as he wishes.

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

Mr. GAINES of Tennessee. I understand that my friend from Pennsylvania [Mr. PALMER] this morning stated that Judge Swayne said that these lawyers had the right to file this suit, that they did file the suit in the State court, and when they did that it seems the trouble came up in court Monday morning. Now, then, if that is true, Judge Swayne is guilty of punishing these men by fine and imprisonment for doing something they had the legal right to do, and as lawyers they should have done, and which he admits they should have done; and yet he not only fines them, but transgresses the law, which he ought to know, and did know, by putting them in jail. This is the way I understand the matter.

Mr. LITTLEFIELD. Let me say for the benefit of the gentleman from Tennessee [Mr. GAINES] he does say they had a technical right to bring the suit in a State court. He says they had no right to bring it for this purpose. He couples with that statement the statement that they had not the right to bring it for this purpose. Everybody concedes they had the right to bring this suit. That is a naked proposition. But that did not indicate a right to bring a groundless suit, or for this purpose.

Mr. DALZELL. I would like to ask the gentleman from Maine if it would not suit his convenience to go on with his address in the morning? It is getting late and Members are scattering.

Mr. LITTLEFIELD. I prefer to do so.

Mr. PALMER. About how much time will the gentleman occupy?

Mr. LITTLEFIELD. About three-quarters of an hour in the morning.

Mr. GAINES of Tennessee. Can not we begin earlier in the morning than 12 o'clock?

Mr. LITTLEFIELD. I do not know how that is, but I will begin when the House gets here.

Mr. BOWIE. Would the gentleman from Maine allow me to

ask him one question before the House adjourns? I want to ask the gentleman one question.

The SPEAKER. The House will first be in order.

Mr. BOWIE. Just one question.

Mr. DALZELL. Ask your question in the morning.

Mr. BOWIE. It will take just a minute.

Mr. LITTLEFIELD. If the Speaker please, I suspend with the understanding that I have the right of way in the morning to conclude my remarks upon the articles of impeachment.

The SPEAKER. The gentleman from California [Mr. GILLETT] absolutely controls the time. Does the gentleman from California yield to the gentleman from Ohio, for the purpose of making a request?

Mr. GILLETT of California. Yes.

#### CHANGES OF REFERENCE.

Mr. GROSVENOR. Mr. Speaker, I ask unanimous consent for a change of reference of two bills, which the Clerk has in his possession, to be made from the Committee on Interstate and Foreign Commerce to the Committee on the Merchant Marine and Fisheries. I do this on the wish of the chairman of that committee.

The SPEAKER. The Clerk will report the titles of the bills. The Clerk read as follows:

H. R. 15613. A bill for the better protection against fire on steam vessels carrying passengers and for the protection of life thereon.  
H. R. 16789. A bill for the prevention of fire from electrical apparatus on steam vessels carrying passengers.

The SPEAKER. Without objection, the request of the gentleman from Ohio is agreed to.

Mr. FITZGERALD. I wish to inquire if these bills were introduced by the gentleman from New York [Mr. BASSETT]?

Mr. GROSVENOR. They were.

Mr. FITZGERALD. If so, I ask that they go over until the morning, when he may be here.

Mr. GROSVENOR. I make this request at his instance. The gentleman has put a written request upon my desk to make that motion.

Mr. FITZGERALD. I did not hear the gentleman's statement.

Mr. GROSVENOR. I made the motion on that request.

Mr. FITZGERALD. The gentleman from Ohio need not get excited. He did not make that statement at first, and if I had heard that I would not have made the suggestion I did.

Mr. GROSVENOR. The gentleman had followed me around three or four weeks asking me to make this motion.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. COCKRAN of New York. I would like to know the question before the House.

The SPEAKER. The question before the House is a change of reference of two bills from the Committee on Interstate and Foreign Commerce to the Committee on the Merchant Marine and Fisheries, the gentleman from Ohio having said, as the Chair gathered, that he did this at the request of the chairman of the Committee on Interstate and Foreign Commerce.

Mr. MANN. What is the title of the bill?

The SPEAKER. The Clerk will again report the titles of the bills.

The titles of the bills were again reported.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. Does the gentleman from California [Mr. GILLETT] yield further? A number of gentlemen desire to ask unanimous consent.

Mr. GILLETT of California. I yield.

#### BRIDGE ACROSS THE MISSISSIPPI RIVER AT MINNEAPOLIS, MINN.

Mr. LIND. Mr. Speaker, I ask unanimous consent for the present consideration of the bill S. 6261, which is on the Speaker's table.

The SPEAKER. The Clerk will report the bill by its title.

The Clerk read as follows:

A bill (S. 6261) permitting the building of a railroad bridge across the Mississippi River at the city of Minneapolis, State of Minnesota, from a point on lot 2 to a point on lot 7, all in section 3, township 29 north, range 24 west, of the fourth principal meridian.

The SPEAKER. Is there objection? The Chair hears none.

The bill was read at length.

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

On motion of Mr. LIND, a motion to reconsider the vote by which the bill was passed was laid on the table.

The SPEAKER. Without objection, a similar House bill will be laid on the table.

There was no objection.

#### COMMUNICATION FROM THE SECRETARY OF THE TREASURY.

Mr. BURKETT. Mr. Speaker, I have a communication here from the Secretary of the Treasury that I would like to have printed as a public document, and referred to the committee on Appropriations.

The SPEAKER. The gentleman from Nebraska asks unanimous consent that a communication addressed to him instead of the Speaker of the House shall be printed as a public document and referred to the Committee on Appropriations. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

#### FAYETTE COUNTY, TEX.

Mr. BURGESS. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 16284) to transfer Fayette County from western to southern judicial district of Texas.

The SPEAKER. The gentleman from Texas asks unanimous consent for the present consideration of a bill the title of which the Clerk will report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

There was no objection.

The bill was read, as follows:

*Be it enacted, etc.,* That Fayette County shall be taken out of the western judicial district of Texas and placed in the southern judicial district of said State, and all process in causes arising in said county shall hereafter be returnable to Houston.

SEC. 2. That all causes of action, civil and criminal, that have accrued or may hereafter accrue in said county of which the courts of said southern judicial district of Texas have jurisdiction shall be cognizable in said courts at Houston in said district.

SEC. 3. That the provisions of this act shall not effect any civil or criminal cause pending in said western judicial district out of said Fayette County at the time this act becomes a law, but such case or cases shall proceed as if under existing law.

SEC. 4. That all laws and parts of laws in conflict herewith are hereby repealed.

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

On motion of Mr. BURGESS, a motion to reconsider the last vote was laid on the table.

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

Mr. SHACKLEFORD. Will the gentleman from Pennsylvania withhold that motion until I make a request for unanimous consent?

Mr. PALMER. Yes.

#### PANAMA RAILWAY COMPANY.

Mr. SHACKLEFORD. Mr. Speaker, I desire to call up House Resolution 384, and ask unanimous consent for its immediate consideration.

The SPEAKER. The gentleman from Missouri asks unanimous consent for the present consideration of a resolution, which will be reported by the Clerk.

The resolution was read, as follows:

Whereas the United States is now the owner of more than 98 per cent of the shares of the capital stock of the Panama Railway Company, and it is for that reason expedient that Congress should have full knowledge of the affairs of said company: Therefore be it

*Resolved,* That the Committee on Interstate and Foreign Commerce be, and is hereby, directed to investigate the operation, management, and condition of said railway company, and all franchises and property belonging thereto, including steamships owned, operated, or controlled by it, or under any contract or agreement of any kind or character with it; that said committee make such investigations and report the testimony with their conclusions thereon as soon as possible, and that said committee or any duly appointed subcommittee thereof shall have power to examine any or all records, books, documents, accounts, and vouchers of said company, or of any officer or agent thereof or of any person, company, or corporation which may have had any agreements or relations with said railway company, and all records and minutes of the acts and proceedings of any meeting of the stockholders or directors of said railway company, and shall have power to administer oaths, to employ or have the services of a stenographer, clerk, accountant, and messenger, and incur such other expenses as may be deemed necessary; that the meetings of said committee or subcommittee be held in the Capitol building at the city of Washington and in such other places as said committee or subcommittee shall determine, and the necessary expenses shall be paid out of the contingent fund of the House on the usual vouchers.

The SPEAKER. Is there objection?

There was no objection.

The resolution was agreed to.

On motion of Mr. SHACKLEFORD, a motion to reconsider the last vote was laid on the table.

#### LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. TATE, indefinitely, on account of illness in his family.

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

The motion was agreed to.

Accordingly (at 5 o'clock and 37 minutes p. m.) the House adjourned.

## EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Coosa and Alabama rivers, Georgia and Alabama—to the Committee on Rivers and Harbors, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a communication from the president of the Board of Commissioners of the District of Columbia submitting an estimate of appropriation for fuel for the schools of the District of Columbia—to the Committee on Appropriations, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of War submitting an estimate of appropriation for improvement and care of public grounds, District of Columbia—to the Committee on Appropriations, and ordered to be printed.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. HENRY of Texas, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 16284) to transfer Fayette County from the western to the southern judicial district of Texas, reported the same without amendment, accompanied by a report (No. 3527); which said bill and report were referred to the House Calendar.

Mr. LACEY, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 8135) for the protection of wild animals, birds, and fish in the forest reserves of the United States, reported the same without amendment, accompanied by a report (No. 3528); which said bill and report were referred to the House Calendar.

Mr. COOPER of Wisconsin, from the Committee on Insular Affairs, to which was referred the bill of the House (H. R. 14623), with Senate amendments thereto, to amend an act approved July 1, 1902, entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," and to amend an act approved March 8, 1902, entitled "An act temporarily to provide revenue for the Philippine Islands, and for other purposes," and to amend an act approved March 2, 1903, entitled "An act to establish a standard of value and to provide for a coinage system in the Philippine Islands," and to provide for the more efficient administration of civil government in the Philippine Islands, and for other purposes, reported the same back to the House, accompanied by a report (No. 3529); which said bill and report were referred to the House Calendar.

Mr. ALLEN, from the Committee on the District of Columbia, to which was referred the bill of the House (H. R. 17109) to define the limits of square 1131 in the city of Washington, D. C., reported the same without amendment, accompanied by a report (No. 3530); which said bill and report were referred to the House Calendar.

Mr. BABCOCK, from the Committee on the District of Columbia, to which was referred the bill of the Senate (S. 5359) to amend "An act to regulate the practice of medicine and surgery, to license physicians and surgeons, and to punish persons violating the provisions thereof in the District of Columbia," approved June 3, 1896, reported the same without amendment, accompanied by a report (No. 3531); which said bill and report were referred to the House Calendar.

## REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. MAHON, from the Committee on War Claims, to which was referred the bill of the Senate (S. 4260) for the relief of Thomas C. Sweeney, reported the same with amendment, accompanied by a report (No. 3525); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14695) granting an increase of pension to Francis D. Lewis, reported the

same with amendment, accompanied by a report (No. 3526); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16132) granting an increase of pension to Mary A. Seele, reported the same with amendment, accompanied by a report (No. 3532); which said bill and report were referred to the Private Calendar.

Mr. CLAUDE KITCHIN, from the Committee on Claims, to which was referred the bill of the Senate (S. 2269) for the relief of Capt. Archibald W. Butt, quartermaster, United States Army, reported the same without amendment, accompanied by a report (No. 3533); which said bill and report were referred to the Private Calendar.

Mr. BEALL of Texas, from the Committee on Claims, to which was referred the bill of the House (H. R. 12595) for the relief of A. T. Mitchell and others, reported the same without amendment, accompanied by a report (No. 3534); which said bill and report were referred to the Private Calendar.

Mr. GRAFF, from the Committee on Claims, to which was referred the bill of the House (H. R. 16584) for the relief of the Monongahela Iron and Steel Company, of Pittsburg, Pa., reported the same without amendment, accompanied by a report (No. 3535); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 12881) for the relief of Ellen A. Dunn, reported the same without amendment, accompanied by a report (No. 3536); which said bill and report were referred to the Private Calendar.

## CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 2125) for the relief of the heirs at law of Capt. John Lewis—Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 6309) to reimburse A. J. Cauffman, Girard, Erie County, Pa., in the sum of \$300, together with interest thereon from October 16, 1862, for soldier furnished United States, being the amount paid by him to one Charles Morton as a substitute—Committee on Claims discharged, and referred to the Committee on War Claims.

## PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

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

By Mr. BROWNLOW: A bill (H. R. 17644) for the appointment of a United States district judge for the eastern district of Tennessee; to detach certain counties from the eastern district of Tennessee and to attach the same to the middle district of Tennessee; to provide for divisions in said middle district of Tennessee, and the time for holding the courts; to detach certain counties from the middle district of Tennessee and to attach the same to the eastern district of Tennessee, and to provide for the time of holding the courts, and for other purposes—to the Committee on the Judiciary.

By Mr. RICHARDSON of Tennessee: A bill (H. R. 17645) to incorporate the trustees of the Grand Encampment of Knights Templar of the United States of America—to the Committee on the District of Columbia.

By Mr. JENKINS: A bill (H. R. 17646) to extend certain provisions of the Revised Statutes of the United States to the Philippine Islands—to the Committee on the Judiciary.

By Mr. WILEY of New Jersey: A bill (H. R. 17647) providing for expenses of participation by the Government in the exposition at Liege, Belgium—to the Select Committee on Industrial Arts and Expositions.

By Mr. DALZELL: A bill (H. R. 17648) to increase the limit of appropriation for a post-office building in McKeesport, Pa.—to the Committee on Public Buildings and Grounds.

By Mr. STEPHENS of Texas: A bill (H. R. 17649) to authorize the appointment of a United States commissioner for the southern judicial district of Indian Territory—to the Committee on the Judiciary.

By Mr. WILLIAMS of Mississippi: A bill (H. R. 17650) to empower the Interstate Commerce Commission to fix transportation rates in certain contingencies—to the Committee on Interstate and Foreign Commerce.

By Mr. KEHOE: A bill (H. R. 17651) to amend section 1, chapter 209, United States Statutes at Large—to the Committee on the Judiciary.

By Mr. McGUIRE: A bill (H. R. 17652) to authorize the construction of a wagon and foot bridge across the South or main Canadian River near the town of Norman, Cleveland County, in Oklahoma Territory—to the Committee on Interstate and Foreign Commerce.

By Mr. AIKEN: A bill (H. R. 17702) to erect a monument over the grave of Gen. Andrew Pickens, in Anderson County, S. C.—to the Committee on the Library.

By Mr. HARRISON: A joint resolution (H. J. Res. 195) providing for a survey of Acheson Creek, South Carolina—to the Committee on Rivers and Harbors.

By Mr. SHERMAN: A resolution (H. Res. 419) authorizing the Sergeant-at-Arms to appoint a special messenger—to the Committee on Accounts.

#### PRIVATE BILLS AND RESOLUTIONS.

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

By Mr. BRADLEY: A bill (H. R. 17653) granting an increase of pension to Hezekiah H. Sherman—to the Committee on Pensions.

By Mr. BRUNDIDGE: A bill (H. R. 17654) granting an increase of pension to Miles B. Davis—to the Committee on Pensions.

Also, a bill (H. R. 17655) granting a pension to John G. McClain—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17656) granting a pension to James M. Herndon—to the Committee on Invalid Pensions.

By Mr. BURGESS: A bill (H. R. 17657) for the relief of the heirs of John McDonald, deceased—to the Committee on War Claims.

By Mr. CASSEL: A bill (H. R. 17658) granting an increase of pension to Joseph S. Rice—to the Committee on Invalid Pensions.

By Mr. COOPER of Texas: A bill (H. R. 17659) granting a pension to James Saunders—to the Committee on Invalid Pensions.

By Mr. CROWLEY: A bill (H. R. 17660) granting an increase of pension to James H. Wasson—to the Committee on Invalid Pensions.

By Mr. CURRIER: A bill (H. R. 17661) granting an increase of pension to Darius H. Whitcomb—to the Committee on Invalid Pensions.

By Mr. CURTIS: A bill (H. R. 17662) granting a pension to John Gatchell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17663) granting an increase of pension to J. M. Whitehead—to the Committee on Invalid Pensions.

By Mr. DALZELL: A bill (H. R. 17664) granting an increase of pension to Abraham K. Van Tine—to the Committee on Invalid Pensions.

By Mr. DAYTON: A bill (H. R. 17665) granting an increase of pension to Hiram J. Rogers—to the Committee on Invalid Pensions.

By Mr. DRESSER: A bill (H. R. 17666) granting an increase of pension to Franklin G. Mattern—to the Committee on Invalid Pensions.

By Mr. DWIGHT: A bill (H. R. 17667) granting an increase of pension to Peter H. Pierson—to the Committee on Invalid Pensions.

By Mr. FULLER: A bill (H. R. 17668) granting an increase of pension to Rosina Tyler—to the Committee on Invalid Pensions.

By Mr. GIBSON: A bill (H. R. 17669) granting an increase of pension to William Hubbs—to the Committee on Invalid Pensions.

By Mr. GILLETT of Massachusetts: A bill (H. R. 17670) granting an increase of pension to Hugh Donnelly—to the Committee on Invalid Pensions.

By Mr. GOEBEL: A bill (H. R. 17671) to correct the military record of Nathan Loeb—to the Committee on Military Affairs.

By Mr. GRIGGS: A bill (H. R. 17672) granting an increase of pension to Oliver C. Cleveland—to the Committee on Pensions.

By Mr. HEDGE: A bill (H. R. 17673) granting an increase of pension to Lewis S. Horsey—to the Committee on Invalid Pensions.

By Mr. HINSHAW: A bill (H. R. 17674) granting an increase of pension to John Thompson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17675) to correct the military record of Thomas Whittaker—to the Committee on Military Affairs.

By Mr. HOGG: A bill (H. R. 17676) granting an increase of

pension to Thomas S. Butts—to the Committee on Invalid Pensions.

By Mr. HOUSTON: A bill (H. R. 17677) granting an increase of pension to James Hudson—to the Committee on Invalid Pensions.

By Mr. JACKSON of Ohio: A bill (H. R. 17678) granting an increase of pension to George W. Robinson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17679) granting an increase of pension to Joseph W. Myers—to the Committee on Invalid Pensions.

By Mr. LLOYD: A bill (H. R. 17680) granting an increase of pension to George Hayes—to the Committee on Invalid Pensions.

By Mr. MACON: A bill (H. R. 17681) granting a pension to Ella Whittington—to the Committee on Invalid Pensions.

By Mr. MAHON: A bill (H. R. 17682) granting an increase of pension to William Ross Hartshorne—to the Committee on Invalid Pensions.

By Mr. MORGAN: A bill (H. R. 17683) granting an increase of pension to Darius M. Smeltzer—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17684) granting a pension to Sarah A. Shaw—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17685) granting a pension to Sarah A. Smith—to the Committee on Invalid Pensions.

By Mr. PARKER: A bill (H. R. 17686) granting an increase of pension to Cate F. Galbraith—to the Committee on Invalid Pensions.

By Mr. PEARRE: A bill (H. R. 17687) granting an increase of pension to Samuel S. Thompson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17688) granting a pension to William M. Davis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17689) granting a pension to Priscilla Schroeder—to the Committee on Invalid Pensions.

By Mr. RIXEY: A bill (H. R. 17690) granting an increase of pension to Nathan C. Bradley—to the Committee on Invalid Pensions.

By Mr. RUCKER: A bill (H. R. 17691) granting an increase of pension to Andrew J. Brann—to the Committee on Pensions.

Also, a bill (H. R. 17692) granting an increase of pension to Horace H. Richardson—to the Committee on Pensions.

Also, a bill (H. R. 17693) granting an increase of pension to Samuel C. Davis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17694) granting an increase of pension to George W. Neece—to the Committee on Pensions.

Also, a bill (H. R. 17695) granting an increase of pension to Thomas D. Campbell—to the Committee on Invalid Pensions.

By Mr. TAWNEY: A bill (H. R. 17696) granting an increase of pension to Turner J. Preble—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17697) granting an increase of pension to Levi Gates—to the Committee on Invalid Pensions.

By Mr. WACHTER: A bill (H. R. 17698) granting an increase of pension to Charles N. Kuhn—to the Committee on Invalid Pensions.

By Mr. WILLIAMS of Illinois: A bill (H. R. 17699) granting an increase of pension to Sarah Bucks—to the Committee on Invalid Pensions.

By Mr. CHARLES B. LANDIS: A bill (H. R. 17700) granting a pension to Jennie Scott—to the Committee on Invalid Pensions.

By Mr. AIKEN: A bill (H. R. 17701) for the relief of W. F. Parker—to the Committee on War Claims.

#### PETITIONS, ETC.

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

By Mr. ADAMS of Pennsylvania: Petition of the Pennsylvania State Grange, indorsing bill H. R. 8678—to the Committee on Agriculture.

By Mr. ADAMS of Wisconsin: Petition of Pen Dixon Post, Grand Army of the Republic, Department of Wisconsin, favoring a service-pension bill—to the Committee on Pensions.

Also, petition of the Baptist, Presbyterian, and Methodist churches of Lodi, Wis., favoring passage of the Dolliver-Hepburn bill—to the Committee on Alcoholic Liquor Traffic.

By Mr. BARTLETT: Petition of the Atlanta Chamber of Commerce, indorsing the bill to enlarge powers of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

By Mr. BURGESS: Papers to accompany bill for relief of heirs of John McDonald—to the Committee on War Claims.

By Mr. CALDERHEAD: Petition of the Brotherhood of Loco-

motive Engineers, Border City Division, Arkansas City, Kans., favoring the Bates-Penrose employers' liability bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Textile World Record, relative to the use of the metric system in the Philippine Islands—to the Committee on Insular Affairs.

Also, petition of Colorado beet-sugar manufacturers, against a reduction of duties on beet sugar—to the Committee on Ways and Means.

Also, petition of the Carriage Builders' Association, favoring national regulation of commerce—to the Committee on Interstate and Foreign Commerce.

Also, petition of the executive committee of the Interstate Commerce Law conventions of St. Louis and Milwaukee—to the Committee on Interstate and Foreign Commerce.

By Mr. COOPER of Texas: Papers to accompany bill for relief of James Sanders—to the Committee on Invalid Pensions.

By Mr. CROWLEY: Papers to accompany bill for relief of James H. Wasson—to the Committee on Invalid Pensions.

By Mr. DALZELL: Papers to accompany bill for relief of Abraham K. Van Tine, of Oakmont, Pa.—to the Committee on Invalid Pensions.

By Mr. DEEMER: Petition of citizens of Porterbrook and Westfield, Pa., favoring bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

By Mr. DRAPER: Petition of the board of directors of the Receivers and Shippers' Association of Cincinnati, favoring the passage of the Quarles-Cooper bill—to the Committee on Interstate and Foreign Commerce.

By Mr. DRESSER: Papers to accompany bill for relief of Franklin G. Mattern—to the Committee on Invalid Pensions.

By Mr. FULLER: Petition of the Interstate Commerce Law Convention, St. Louis, Mo., concerning an amendment to the interstate-commerce law—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Sandwich Manufacturing Company, of Sandwich, Ill., favoring the Quarles-Cooper bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of William White & Co., of Moline, Ill., favoring enlargement of the powers of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, petition of Hibbard, Spencer, Bartlett & Co., of Chicago, Ill., favoring legislation protecting the shippers of the country by fixing freight rates—to the Committee on Interstate and Foreign Commerce.

Also, petition of cigar makers' local union, Ottawa, Ill., against lowering duties on Philippine tobacco—to the Committee on Ways and Means.

Also, petition of the Elmore Coal Company, of Rockford, Ill., favoring the Quarles-Cooper bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Rockford Fuel and Lumber Company, of Rockford, Ill., favoring bill H. R. 6273—to the Committee on Interstate and Foreign Commerce.

Also, petition of Richmond Pearson Hobson, favoring the Wiley bill (H. R. 6490)—to the Committee on Naval Affairs.

By Mr. GOEBEL: Petition to accompany bill for relief of Nathan Loeb—to the Committee on Military Affairs.

By Mr. HEARST: Petition of the Business Men's Association of Rockford, Ill., favoring the Hearst bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of C. H. Cohron & Son, of Stuarts Draft, Va., favoring bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

Also, petition of merchants and shippers of Marysville, Mich., favoring bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

Also, petition of W. H. Hirsch & Son, favoring bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

Also, petition of John S. Cissel, favoring bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

Also, petition of James F. Umpleby, of St. Louis, Mo., favoring bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

Also, petition of C. A. Foster, favoring bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

By Mr. HITT: Petition of the Woodlawn Farm Company, favoring enlarged powers for the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, petition of Robinson Division, No. 78, Order of Railway Conductors, favoring bills S. 4092 and H. R. 7041—to the Committee on the Judiciary.

By Mr. HOWELL of New Jersey: Petition of citizens of South Amboy, N. J., favoring bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

Also, petition of residents of Longbranch, N. J., favoring pensions for life service—to the Committee on Pensions.

By Mr. HUNT: Petition of Receivers and Shippers' Association of Cincinnati, Ohio, for Government regulation of freight rates—to the Committee on Interstate and Foreign Commerce.

By Mr. JACKSON of Ohio: Papers to accompany bill for relief of James W. Myers, of Rising Sun, Ohio—to the Committee on Invalid Pensions.

By Mr. MORGAN: Papers to accompany bill for the relief of Darius M. Smeltzer—to the Committee on Invalid Pensions.

Also, petition of the Board of Trade of Portsmouth, Ohio, favoring bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

Also, papers to accompany bill for relief of Sarah W. Smith, of Manchester, Ohio—to the Committee on Invalid Pensions.

Also, papers to accompany bill for relief of Sarah A. Shaw, of Gallipolis, Ohio—to the Committee on Invalid Pensions.

By Mr. OVERSTREET: Papers to accompany bill H. R. 4172—to the Committee on the Judiciary.

By Mr. PATTERSON of Pennsylvania: Petition of the First Presbyterian Church of Shenandoah, Pa., favoring exclusion of intoxicating liquors from Indian Territory—to the Committee on the Territories.

Also, papers to accompany bill for relief of A. H. Glassmire—to the Committee on Invalid Pensions.

By Mr. PORTER: Petition of the Pennsylvania State Grange, favoring bill H. R. 8678—to the Committee on Agriculture.

Also, petition of the Pennsylvania department of forestry, for legislation to preserve the big trees in Calaveras grove, California—to the Committee on Agriculture.

By Mr. REID: Papers to accompany bill H. R. 17545, to remove charge of desertion against Oliver J. Owen—to the Committee on Military Affairs.

By Mr. RYAN: Petition of Receivers and Shippers' Association of Cincinnati, Ohio, for enlarging the powers of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

By Mr. SMITH of Michigan: Petition of Andrew Brooks et al., against the passage of bill H. R. 4859—to the Committee on the District of Columbia.

By Mr. SPERRY: Petition of New Haven Division, No. 77; Hartford Division, No. 205, and New London Division, No. 348, of Brotherhood of Locomotive Engineers, favoring bill H. R. 13354—to the Committee on Invalid Pensions.

Also, petition of Cigar Makers' Union No. 299, of Middletown, Conn., protesting against any reduction in the tariff duties on Philippine tobacco—to the Committee on Ways and Means.

By Mr. STEPHENS of Texas: Petition of citizens of Marietta, Ind. T., requesting passage of bill H. R. 17487—to the Committee on the Territories.

By Mr. THOMAS of Ohio: Petition of Central Christian Church, of Warren, Ohio, favoring the Senate bill known as the "Hamilton bill," against intoxicating liquors in Territories—to the Committee on Alcoholic Liquor Traffic.

Also, petition of Grace United Evangelical Church, of Warren, Ohio, favoring the Hamilton bill, against intoxicating liquors in Territories—to the Committee on Alcoholic Liquor Traffic.

Also, petition of Isaac C. Gibbons et al., favoring bill H. R. 15797—to the Committee on Invalid Pensions.

By Mr. WACHTER: Paper to accompany bill for the relief of Charles N. Kuhn—to the Committee on Invalid Pensions.

By Mr. WILLIAMS: Paper to accompany bill for relief of Mrs. Sarah Burke—to the Committee on Invalid Pensions.

## SENATE.

FRIDAY, January 13, 1905.

Prayer by the Chaplain, Rev. EDWARD E. HALE.  
The Journal of yesterday's proceedings was read and approved.

### TARIFF ON PHILIPPINE TOBACCO.

The PRESIDING OFFICER (Mr. PERKINS) laid before the Senate a communication from the Secretary of War, transmitting copies of two letters from the executive secretary of the Philippine Islands quoting a petition from the governor of the province of Cagayan on behalf of the inhabitants of that province, and one from the governor of the province of Isabela on behalf of the municipal presidentes and prominent tobacco growers in that province, praying for a tariff reduction on Philippine tobacco imported into the United States; which, with the accompanying paper, was referred to the Committee on the Philippines, and ordered to be printed.