

By Mr. SULLIVAN of New York: A bill (H. R. 16623) granting an increase of pension to George H. Hitchcock—to the Committee on Invalid Pensions.

By Mr. TOWNSEND: A bill (H. R. 16624) granting an increase of pension to Henry Good—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16625) granting a pension to Laura A. Baughey and her minor children—to the Committee on Invalid Pensions.

Also, a bill (H. R. 16626) granting a pension to Morris Osborne—to the Committee on Invalid Pensions.

By Mr. WILLIAMSON: A bill (H. R. 16627) granting an increase of pension to John Morrison—to the Committee on Pensions.

By Mr. WILSON of Arizona: A bill (H. R. 16628) granting an increase of pension to Charles E. Eberhart—to the Committee on Invalid Pensions.

By Mr. WOODYARD: A bill (H. R. 16629) granting an increase of pension to Nathan C. D. Bond—to the Committee on Invalid Pensions.

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. BATES: Petition of Grange of Cambridge Springs, Pa., against changing the provisions of the Grout bill—to the Committee on Agriculture.

Also, petition of Richmond Grange, Crawford County, Pa., against changing the so-called Grout bill—to the Committee on Agriculture.

Also, petition of citizens of McLane, Erie County, Pa., against changing the present oleomargarine law—to the Committee on Agriculture.

By Mr. BOWERS: Papers to accompany bill H. R. 16378, for the relief of the heirs of Lewis Cato—to the Committee on War Claims.

By Mr. BURLEIGH: Petition of Good Will Grange, No. 376, Hancock County, Me., favoring the establishment of a Bureau of Public Highways—to the Committee on Agriculture.

By Mr. CANDLER: Papers to accompany bill H. R. 16377, for relief of heirs of Dr. Thomas J. Babb—to the Committee on War Claims.

By Mr. COWHERD: Papers to accompany bill regulating the trusts—to the Committee on the Judiciary.

By Mr. DRESSER: Papers to accompany pension bill of William Larken—to the Committee on Invalid Pensions.

By Mr. FIELD: Papers to accompany bill H. R. 16375, for the relief of heirs of J. H. Peoples, deceased—to the Committee on War Claims.

By Mr. FLACK: Papers to accompany bill granting an increase of pension to Martha Peck—to the Committee on Invalid Pensions.

Also, papers to accompany bill correcting the military record of Louis Ploof—to the Committee on Military Affairs.

By Mr. HEARST: Petition of citizens of Murfreesboro, N. C., favoring enactment into law of bill H. R. 13778, known as the "Hearst bill"—to the Committee on Interstate and Foreign Commerce.

By Mr. HUMPHREYS of Mississippi: Papers to accompany bill (H. R. 16382) for relief of heirs of U. H. Buck—to the Committee on War Claims.

By Mr. JONES of Virginia: Papers to accompany bill for relief of Capt. David R. Mister—to the Committee on War Claims.

By Mr. LLOYD: Petition of John Ward and 36 other citizens of Knox County, Mo., for special pension act for relief of John Ward—to the Committee on Invalid Pensions.

By Mr. MARSH: Papers to accompany bill for the relief of Jesse M. Sanders, of Company G, Twenty-seventh Illinois Infantry Volunteers—to the Committee on Invalid Pensions.

By Mr. McLAIN: Papers to accompany bill H. R. 16383, for relief of heirs of Benjamin Whitehead—to the Committee on War Claims.

Also, papers to accompany claim for relief of heirs of Samuel P. Harvey (H. R. 16380)—to the Committee on War Claims.

By Mr. RICHARDSON of Alabama: Papers to accompany bill H. R. 1606, for relief of Sallie C. Smith—to the Committee on War Claims.

By Mr. RIDER: Petition of Interstate Commerce Law Convention held at St. Louis, Mo., October 28 and 29, 1904, favoring enlarging the powers of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, resolution of the Grand Camp of the Arctic Brotherhood of Alaska asking that Alaska have Delegate in Congress by election—to the Committee on the Territories.

By Mr. RIXEY: Affidavits to accompany bill H. R. 8816, for relief of St. James Episcopal Church, Culpeper County Va.—to the Committee on War Claims.

By Mr. ROBINSON of Indiana: Resolutions of the Ministerial Association of Kendallville, Ind., Rev. R. J. Wade, president, in favor of the Hepburn-Dolliver bill—to the Committee on the Judiciary.

By Mr. RYAN: Petition of Milton O. Hoffman and others, to accompany bill H. R. 16416, granting an increase of pension to John Lehn—to the Committee on Invalid Pensions.

By Mr. SHULL: Petition and affidavits accompanying bill granting a pension to Cornelia Schoonover, widow of William Schoonover, late second lieutenant, Eleventh Regiment United States Infantry, Mexican war—to the Committee on Pensions.

Also, affidavit and petition accompanying bill granting pension to Jacob Repscher, late of Company I, One hundred and forty-seventh Regiment Pennsylvania Volunteers—to the Committee on Invalid Pensions.

Also, petition and affidavit for relief of James Heiney, to correct his military record—to the Committee on Military Affairs.

By Mr. SNAPP: Papers to accompany bill for relief of George Meisner, granting him a pension—to the Committee on Invalid Pensions.

Also, papers to accompany bill granting a pension to Alonzo Ackerman, of Glen Ellyn, Ill.—to the Committee on Invalid Pensions.

By Mr. STERLING: Papers to accompany bill H. R. 15953, for the relief of William T. Gibbs—to the Committee on Invalid Pensions.

By Mr. SULLIVAN of New York: Petition of the Interstate Commerce Law Convention, in favor of enlarging the powers of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Manufacturers' Association of New York, in favor of enlarging the powers of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, resolution of the Grand Camp of the Arctic Brotherhood of Alaska, in favor of elective representation for Alaska in Congress—to the Committee on the Territories.

By Mr. WADE: Petition of the Congregational Christian Endeavor Society of Fayette, Iowa, for establishment of international congress—to Committee on Foreign Affairs.

By Mr. WILLIAMS of Mississippi: Papers to accompany bill H. R. 16381, for the relief of Rev. James K. Hamblen—to the Committee on War Claims.

Also, papers to accompany bill H. R. 16379, for the relief of J. B. Clark—to the Committee on War Claims.

By Mr. WOOD: Papers to accompany bill to correct the military record of Henry Luther, Company A, Fifth New Jersey—to the Committee on Military Affairs.

By Mr. ZENOR: Papers to accompany bill H. R. 2447, for the relief of Hiram G. McLemore—to the Committee on Invalid Pensions.

SENATE.

THURSDAY, December 15, 1904.

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

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

The PRESIDENT pro tempore. Without objection, the Journal will stand approved.

MINT AT DENVER, COLO.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Director of the Mint submitting, for conclusion in the urgent deficiency appropriation bill, estimates of deficiencies in appropriations for the mint of the United States at Denver, Colo., for the current fiscal year; which, with the accompanying paper, was referred to the Committee on Appropriations, and ordered to be printed.

SIVEWRIGHT, BACON & CO.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of State, transmitting a letter from the British ambassador, relative to the claim of Sive Wright, Bacon & Co., of Manchester, England, British steamship *Eastry*, in consequence of collisions in June, 1901, at Manila, etc.; which, with the accompanying papers, was referred to the Committee on Foreign Relations.

FINDINGS OF THE COURT OF CLAIMS.

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims,

transmitting a certified copy of the findings of fact filed by the court in the cause of the wardens and vestry of St. James Parish, Wilmington, N. C., *v. The United States*; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of the Atlantic Works *v. The United States*; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of the trustees of the Methodist Episcopal Church of Millcreek, W. Va., *v. The United States*; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Elizabeth Thomas *v. The United States*; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of trustees of the Baptist Church of Guyandotte, W. Va., *v. The United States*; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of the trustees of the Baptist Church of Charlestown, W. Va., *v. The United States*; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of the trustees of the Methodist Episcopal Church South, of Winfield, W. Va., *v. The United States*; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had agreed to the amendments of the Senate to the joint resolution (H. J. Res. 158) construing the act for the relief of Julius A. Kaiser as carrying an appropriation.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. 1954) to authorize the exploration and purchase of mines within the boundaries of private land claims;

A bill (H. R. 2510) for the construction of a steam revenue cutter adapted to service in the waters of Albermarle and Pamlico sounds, North Carolina;

A bill (H. R. 6487) to amend section 4952 of the Revised Statutes;

A bill (H. R. 11584) for the protection of wild animals and birds in the Wichita Forest Reserve;

A bill (H. R. 13679) amending the statutes relating to patents;

A bill (H. R. 15285) establishing a regular term of the United States circuit and district courts at Muncie, Ind.; and

A bill (H. R. 15590) to amend an act approved April 26, 1904, entitled "An act to enable the Secretary of War to permit the erection of a lock and dam in aid of navigation in the Tennessee River near Chattanooga, Tenn., and for other purposes.

PETITIONS AND MEMORIALS.

Mr. PLATT of New York presented the petition of E. D. Van Dyck, of Greenville, N. Y., and a petition of the congregation of the Westminster Presbyterian Church, of Syracuse, N. Y., praying for the enactment of legislation providing for the protection of Indians against the liquor traffic in new States to be formed; which were referred to the Committee on Territories.

He also presented petitions of the Woman's Club of New York City; the Woman's Association of Saratoga Springs; the Woman's Municipal League of Brooklyn; the Society of Political Study of New York City; of F. Norris, of New York City; of Dorothea C. Norris, of New York City; of the Congress of the Knights of Labor, American Federation of Labor, of Watervliet; of Madeline C. Curtis, of New York City; of the Woman's Municipal League of New York City, and of the Woman's Christian Temperance Union of Virgil, all in the State of New York,

praying for the passage of the so-called "pure-food bill;" which were ordered to lie on the table.

He also presented petitions of sundry citizens of Potsdam, Ogdensburg, Malone, North Bangor, Norwood, and New York City, all in the State of New York, praying for the adoption of an amendment to the Constitution to prohibit polygamy; which were referred to the Committee on the Judiciary.

He also presented petitions of the Kitching Woman's Relief Corps, Department of New York, of Yonkers; of the Mount Pleasant Woman's Christian Temperance Union, of Schenectady; of Greece Grange, No. 311, Patrons of Husbandry, of Bernard, and of the Woman's Christian Temperance Union of Sodus, all in the State of New York, praying for the adoption of a certain amendment to the suffrage clause in the statehood bill; which were referred to the Committee on Territories.

He also presented a petition of the Chamber of Commerce of Buffalo, N. Y., praying for the enactment of legislation providing for the installation of pneumatic tubes in the postal service in that city; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of the Chamber of Commerce of Buffalo, N. Y., praying for the ratification of international arbitration treaties; which was referred to the Committee on Foreign Relations.

Mr. FOSTER of Washington presented a petition of the Chamber of Commerce and Board of Trade of Tacoma, Wash., praying for the ratification of international arbitration treaties; which was referred to the Committee on Foreign Relations.

Mr. SMOOT presented a petition of the Ladies' Literary Club of Salt Lake City, Utah, and a petition of the Woman's National Relief Society of Mount Sterling, Utah, praying for the adoption of a certain amendment to the suffrage clause in the statehood bill; which were referred to the Committee on Territories.

Mr. DRYDEN presented the memorial of George Merck, of Llewellyn Park, West Orange, N. J., remonstrating against the passage of the so-called "pure-food bill;" which was ordered to lie on the table.

He also presented a petition of the Woman's Christian Temperance Union of Moorestown, N. J., and a petition of Local Grange No. 8, Patrons of Husbandry, of Moorestown, N. J., praying for the adoption of a certain amendment to the suffrage clause on the statehood bill; which were referred to the Committee on Territories.

Mr. BERRY. I present a petition from the Cherokee council, signed by the president of the Cherokee senate, the speaker of the Cherokee council, and the chief of the nation, praying that the nation may be allowed a Delegate in Congress. I will not ask to have the petition read, but I ask that it be printed in the RECORD. It comes from the council of the nation and is different from ordinary petitions or memorials.

There being no objection, the petition was referred to the Committee on Indian Affairs, and ordered to be printed in the RECORD, as follows:

Senate resolution No. 2.

A resolution asking Congress of the United States to make provision for the seating of a Delegate from the Cherokee Nation.

Whereas the treaty of March 1, 1836, in its seventh article provided: "The Cherokee Nation having already made great progress in civilization, and deeming it important that every proper and laudable inducement should be offered to their people to improve their condition, as well as to guard and secure in the most effectual manner the rights guaranteed to them in this treaty, and with a view to illustrate the liberal policy of the Government of the United States toward the Indians in their removal beyond the territorial limits of the States, it is stipulated that they shall be entitled to a Delegate in the House of Representatives of the United States whenever Congress shall make provision for the same;" and

Whereas by the treaty of 1866 between the United States and the Cherokee Nation the following appears in section 31 of said treaty: "All treaties heretofore ratified and in force and not inconsistent with the provisions of this treaty are hereby reaffirmed and declared to be in full force, and nothing herein shall be construed as an acknowledgment by the United States or as a relinquishment by the Cherokee Nation of any claim or demand under the guaranty of former treaties, except as herein expressly provided;" and

Whereas by agreement the tribal relations of the Cherokee Nation will cease on March 4, 1906; and

Whereas all of the affairs of the Cherokee Nation, both as to lands and money, are subject to and are ruled and governed by Congressional enactments; and

Whereas the interests of the Cherokee Nation amount to several millions of dollars, and believing that a people with such vast interests should be personally represented before the great Government of the United States in whose hands their entire interests rest; and

Whereas we believe the Government of the United States was sincere in entering this obligation, and all the unsettled business of the Cherokee Nation will be a matter for future Congressional legislation, and believing that a people so vitally interested should be heard on legislation pertaining to them; and

Whereas the Cherokee Nation, by constitutional provision, has made provisions whereby a representative of their government to represent them before Congress or any of the Departments thereof may be elected: Therefore, be it

Resolved by the national council of the Cherokee Nation, That it is the sense and desire of the Cherokee people that the Congress of the United States carry out the provisions of the treaty herein referred to, so that the Cherokee Nation may be represented on the floor of the House of Representatives of the United States, the same as other Territories, in accordance with the meaning and intention of the treaty mentioned and thus carry out the obligation expressed in said treaty and have the Cherokee Nation represented before Congress and give them an opportunity to be heard in the final settlement of their affairs; and we most earnestly petition the Congress of the United States that such steps be taken to enable the seating of such a delegate that may bear the proper credentials from the Cherokee Nation.

Passed the senate December 2, 1904.

ROBERT WEST,
President Senate pro tempore.
J. L. BAUGH,
Clerk of Senate.

Concurred in by council December 5, 1904.

ROSS DANIELS,
Speaker of Council pro tempore.
J. T. CUNNINGHAM,
Assistant Clerk of Council.

Approved December 10, 1904.

[SEAL.]

D. M. FAULKNER,
Assistant and Acting Principal Chief, Cherokee Nation.

Mr. GALLINGER presented a petition of the Woman's Board of Home Missions of the Presbyterian Church of New York City, N. Y., praying for the enactment of legislation providing for the protection of Indians against the liquor traffic in new States to be formed; which was referred to the Committee on Territories.

He also presented a petition of the Religious Liberty Bureau, of Washington, D. C., praying that they be granted a hearing before the Senate Committee on the District of Columbia relative to House bill 11819, requiring certain places of business in the District of Columbia to be closed on Sunday; which was referred to the Committee on the District of Columbia.

Mr. CRANE presented petitions of sundry Protestant churches of East Boston; of sundry citizens of Roxbury, Reading, Montague, Dorchester, Everett, Wakefield, Brockton, Manchester, Brookline, and Mattapan; of the congregation of the Bethany Baptist Church, of Dorchester; of the Woman's Home Missionary Society of Hanson; of the congregation of the First Baptist Church, of Somerville; of the congregation of the Berean Temple Baptist Church, of Boston; of the Boston East Baptist Association, of Malden; of the congregation of the Blaney Memorial Baptist Church, of Boston; of the congregation of the Baptist Church of Rockland; of the Woman's Missionary Society of Malden; of the Woman's Home Missionary Society of West Bridgewater, and of the congregation of the Baptist Church of Hyde Park, all in the State of Massachusetts, praying for the adoption of an amendment to the Constitution to prohibit polygamy; which were referred to the Committee on the Judiciary.

Mr. SCOTT presented a petition of the Woman's Suffrage Association of Wheeling, W. Va., praying for the adoption of a certain amendment to the suffrage clause in the statehood bill; which was referred to the Committee on Territories.

Mr. FULTON presented a petition of the Chamber of Commerce of Coos Bay, Oreg., praying that an appropriation be made for the survey and improvement of the harbor of Coos Bay, in that State; which was referred to the Committee on Commerce.

Mr. HOPKINS presented petitions of sundry citizens of Chicago, Ill., praying for the passage of the so-called "pure-food bill;" which were ordered to lie on the table.

He also presented a petition of Fort Dearborn Division, No. 294, Brotherhood of Locomotive Engineers, of Chicago, Ill., praying for the enactment of legislation granting pensions to locomotive engineers who served in the war of the rebellion; which was referred to the Committee on Pensions.

He also presented a petition of the Christian Endeavor Society of Hillsboro Ill., and a petition of sundry citizens of Hillsboro, Ill., praying for the enactment of legislation providing for the protection of Indians against the liquor traffic in new States to be formed; which were referred to the Committee on Territories.

Mr. PENROSE presented a petition of Pomona Grange, No. 10, Patrons of Husbandry, of Warren, Pa., praying for the passage of the so-called "parcels-post bill;" which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a memorial of the Farmers' Institute of Ellwood City, Pa., remonstrating against the repeal of the oleomargarine law; which was referred to the Committee on Agriculture and Forestry.

Mr. QUARLES presented the petition of G. W. Dodge and sundry other citizens of Menasha, Wis., and the petition of E. J. O'Rourke and sundry other citizens of Virginia, Minn., praying for the enactment of legislation to prevent the reversion to Cuba of the Isle of Pines; which were referred to the Committee on Foreign Relations.

He also presented the petition of Charles T. Burnley and 10

other citizens of Hudson, Wis., praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which was referred to the Committee on Privileges and Elections.

He also presented a petition of the Woman's Board of Home Missions of the Presbyterian Church of New York City, N. Y., praying for the enactment of legislation providing for the protection of Indians against the liquor traffic in new States to be formed; which was referred to the Committee on Territories.

He also presented petitions of the Woman's Christian Temperance Union of Brooklyn, of the Woman's Christian Temperance Union of Omro, and of the Federated Trades Council of Madison, all in the State of Wisconsin, praying for the adoption of a certain amendment to the suffrage clause in the statehood bill; which were referred to the Committee on Territories.

Mr. CARMACK presented a petition of the Memphis Bar and Library Association, of Memphis, Tenn., praying for the ratification of international arbitration treaties; which was referred to the Committee on Foreign Relations.

Mr. FORAKER presented petitions of the congregations of the Union Methodist Episcopal Church, of Warren; of the Christian Church of Quaker City; of the Church of God, the Reformed Church, the Methodist Episcopal Church, the Church of Christ, the United Presbyterian Church, the First Presbyterian Church, the Lutheran Church, and the Baptist Church, of Wooster; of the First Methodist Episcopal Church of Salem; of the Sixth Avenue Methodist Episcopal Church, of Springfield; of the Grace Reformed Church, the First Methodist Episcopal Church, and the United Evangelical Church, of Lancaster; of the Methodist Episcopal Church of Lewis Center; of the Methodist Episcopal Church of Ravenna; of the Gilman Avenue Methodist Episcopal Church, of Marietta; of the English Presbyterian Church of Gomer; of the Church of Christ of Alliance; of the Presbyterian Church of Marysville; of the Presbyterian Church of Keene; of the Church of the Epiphany of Cleveland; of the Drummond Methodist Episcopal Church, of Cadiz; of the First Baptist Church of Prospect; of the Woman's Christian Temperance Unions at Marietta, Cleveland, Norwalk, and Columbus; of the pastor and session of the Westminster Church of Wooster; of the Woman's Auxiliary of Christ Church of Cincinnati; of the Christian Endeavor Society of Dayton; of the Woman's Home Missionary Society of the Methodist Episcopal Church of Cincinnati; of the Young People's Society of Christian Endeavor of Quaker City; of the Evangelical Alliance of Cincinnati; of the First Christian Church of Akron; of the Ministerial Association of Piqua; of the Home Mission Societies of Fremont and Sandusky; of the Home and Foreign Mission Societies of Chicago, Republic, McCutcheonville, Fostoria, Clyde, Norwalk, Olena, and Huron; of the Foreign Societies of Fremont and Sandusky, and of sundry citizens of Columbus, Groverhill, Tiffin, Wooster, Mansfield, Kingsville, Salem, Archbold, Lima, Dennison, Pataskala, Bethany, Ironton, Delaware, West Lafayette, Sugartree Ridge, Cincinnati, and Adams Township, Darke County, all in the State of Ohio, praying for an investigation of the charges made and filed against Hon. REED SMOOT, a Senator from the State of Utah; which were referred to the Committee on Privileges and Elections.

Mr. FRYE presented a petition of the Chamber of Commerce of San Francisco, Cal., and 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 were referred to the Committee on Interstate Commerce.

REPORTS OF COMMITTEES.

Mr. CLAPP, from the Committee on Indian Affairs, to whom was referred the bill (S. 5822) for the relief of certain purchasers of lands in the Umatilla Indian Reservation, and for other purposes, reported it with an amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 5888) to allow the Minneapolis, Red Lake and Manitoba Railway Company to acquire certain lands in the Red Lake Indian Reservation, Minn., reported it without amendment, and submitted a report thereon.

Mr. BERRY, from the Committee on Commerce, to whom was referred the bill (H. R. 15606) to authorize the county of Itawamba, in the State of Mississippi, to construct a bridge across the Tombigbee River near the town of Fulton, in the said county and State, reported it without amendment.

IMPEACHMENT OF JUDGE CHARLES SWAYNE.

Mr. PLATT of Connecticut. The special committee appointed to consider the message of the House relating to the impeachment of Charles Swayne submit the following report, and ask that the resolution or order may be adopted.

The order was read, considered by unanimous consent, and agreed to, as follows:

Whereas the House of Representatives, on the 14th day of December, 1904, by five of its Members (Mr. PALMER of Pennsylvania, Mr. JENKINS of Wisconsin, Mr. GILLET of California, Mr. CLAYTON of Alabama, and Mr. SMITH of Kentucky), at the bar of the Senate impeached Charles Swayne, judge of the district court of the United States for the northern district of Florida, of high crimes and misdemeanors in office, and informed the Senate that the House of Representatives will in due time exhibit particular articles of impeachment against him and make good the same; and likewise demanded that the Senate take order for the appearance of the said Charles Swayne to answer the said impeachment: Therefore,

Ordered, That the Senate will, according to its standing rule and orders in such cases provided, take proper order thereon (upon the presentation of the articles of impeachment), of which due notice shall be given to the House of Representatives.

Ordered, That the Secretary acquaint the House of Representatives herewith.

URGENT DEFICIENCY APPROPRIATIONS.

Mr. HALE. I am directed by the Committee on Appropriations, to whom was referred the bill (H. R. 16445) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1905, and for other purposes, to report it with amendments; and I ask for its present consideration.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The first amendment of the Committee on Appropriations was, on page 3, after line 7, to insert:

PUBLIC BUILDINGS.

For completing the acquisition of a site for and toward the construction of a fireproof building for committee rooms, folding rooms, and other offices for the United States Senate, and for necessary office rooms for Senators, to be erected on square No. 686, in Washington, D. C., authorized by the sundry civil act approved April 28, 1904, \$10,500.

The amendment was agreed to.

The next amendment was, on page 3, after line 17, to insert:

POST-OFFICE DEPARTMENT.

Office of the purchasing agent: For salary of the purchasing agent, \$4,000.

For salary of chief clerk, office of purchasing agent, at the rate of \$2,000 per annum, from January 1 to June 30, 1905, inclusive, \$1,000.

The amendment was agreed to.

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

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

MONONGAHELA RIVER BRIDGE.

Mr. BERRY. I am directed by the Committee on Commerce, to whom was referred the bill (H. R. 6498) to amend an act entitled "An act to authorize Washington and Westmoreland counties, in the State of Pennsylvania, to construct and maintain a bridge across the Monongahela River, in the State of Pennsylvania," approved February 21, 1903, to report it favorably, without amendment. It is very important that the bill should be passed at once, and I ask unanimous consent for its present consideration.

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

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

BILLS INTRODUCED.

Mr. TALIAFERRO introduced a bill (S. 6133) to authorize the location of a Branch Home for Disabled Volunteer Soldiers, Sailors, and Marines in the State of Florida; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. CRANE introduced a bill (S. 6134) granting a pension to Mary Elizabeth McClaren; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. PETTUS introduced a bill (S. 6135) for the relief of the estate of S. F. Poole, deceased; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6136) for the relief of the estate of John W. Gregory, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. OVERMAN introduced a bill (S. 6137) for the relief of St. John's Lodge, of Newbern, N. C.; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. McCREARY introduced a bill (S. 6138) granting an in-

crease of pension to Mary E. Dobyms; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. GALLINGER introduced a bill (S. 6139) to authorize the Union Trust and Storage Company of the District of Columbia to change its corporate name; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also introduced a bill (S. 6140) granting a pension to Elizabeth H. Du Hamel; which was read twice by its title, and referred to the Committee on Pensions.

Mr. HOPKINS introduced a bill (S. 6141) granting a pension to Mary A. Shaw; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 6142) granting an increase of pension to Charles W. Oleson; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PENROSE introduced a bill (S. 6143) for the relief of the owners of the steamship *Newchwang*; which was read twice by its title, and referred to the Committee on Claims.

He also introduced a bill (S. 6144) authorizing the loan of arms and accouterments to American veterans of foreign service; which was read twice by its title, and referred to the Committee on Military Affairs.

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

A bill (S. 6145) granting an increase of pension to George W. Wertz;

A bill (S. 6146) granting a pension to Samuel B. Gray;

A bill (S. 6147) granting a pension to James H. Kirkpatrick; and

A bill (S. 6148) granting a pension to T. J. Brooks.

Mr. PLATT of New York introduced a bill (S. 6149) to remove the record of dishonorable discharge from the military records of John Shamburger, Louis Smith, George Heppel, and Henry Metzger; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. FAIRBANKS introduced a bill (S. 6150) for the relief of Maj. E. W. Halford, paymaster, United States Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. SMOOT introduced a bill (S. 6151) granting an increase of pension to John W. Halley; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. FOSTER of Washington introduced a bill (S. 6152) granting an increase of pension to Annie E. Wilson; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. MALLORY introduced a bill (S. 6153) granting an increase of pension to James M. Bullard; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BERRY introduced a bill (S. 6154) granting an increase of pension to W. S. Thomas; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

He also introduced a bill (S. 6155) granting an increase of pension to Matthew F. Locke; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PERKINS introduced a bill (S. 6156) to provide for the purchase of a site and the erection of a public building thereon, or for the purchase of a suitable building with site, at Honolulu, Island of Oahu, Territory of Hawaii; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. BURROWS introduced a bill (S. 6157) for the relief of Maj. Seymour Howell, paymaster, United States Army; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

He also introduced a bill (S. 6158) granting an increase of pension to William M. Smith; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CLAPP introduced a bill (S. 6159) granting to Farwell, Ozmun, Kirk & Co. license to make excavations and place footings in the soil of certain land belonging to the United States at St. Paul, Minn.; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 6160) granting a pension to Baron Proctor; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CARMACK introduced a bill (S. 6161) to allow appeals in forma pauperis from an inferior to a superior court of the United States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. FRYE introduced a bill (S. 6162) granting an increase

of pension to Benjamin F. Foss; which was read twice by its title, and referred to the Committee on Pensions.

CIVIL GOVERNMENT OF THE PHILIPPINES.

Mr. McCUMBER submitted an amendment intended to be proposed by him to the bill (H. R. 14623) 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; which was ordered to lie on the table, and be printed.

AMENDMENT TO LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ANKENY submitted an amendment proposing to increase the salary of one assistant in the Nautical Almanac Office from \$1,600 to \$1,800, intended to be proposed by him to the legislative, executive, and judicial appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

AMENDMENT TO OMNIBUS CLAIMS BILL.

Mr. LODGE submitted an amendment intended to be proposed by him to the bill (H. R. 9548) for the allowance of certain claims for stores and supplies, reported by the Court of Claims under the provisions of the act approved March 3, 1883, and commonly known as the "Bowman Act;" which was referred to the Committee on Claims.

VENEZUELAN ARBITRATIONS OF 1903.

On motion of Mr. STEWART it was

Ordered, That there be printed for the use of the Senate Document Room 500 copies of Senate Document No. 316, Fifty-eighth Congress, second session, and 200 additional copies for the use of the compiler of said document.

RECORD OF IMPEACHMENT TRIALS.

Mr. PLATT of Connecticut. I ask for the adoption of the following order. When it is read I will explain it.

The resolution was read, as follows:

Resolved, That extracts from the Journals of the Senate containing the record of impeachment trials in the cases of William Blount, John Pickering, Samuel Chase, James H. Peck, West H. Humphreys, Andrew Johnson, and William W. Belknap be printed as a document for the use of the Senate.

Mr. PLATT of Connecticut. The record of the impeachment trials is now to be found only by consulting the Journals of the Senate, and that is difficult and laborious. I think, in view of the probable impeachment trial which we are to have in the Senate, there should be printed in one document extracts from the Journals of the Senate containing the record of all the impeachment trials up to the present time. It will form a volume of about this size [indicating], this volume being made up by taking extracts from the Journals and binding them together. I think every Senator will see the propriety and necessity of having such a document at hand.

Mr. CULLOM. I think the Senator will find that as to the trial of Andrew Johnson the proceedings in that trial were printed in book form.

Mr. PLATT of Connecticut. Yes; the testimony and everything. What I want is to have extracts from the Journals of the Senate printed containing simply the procedure.

Mr. CULLOM. But not the testimony?

Mr. PLATT of Connecticut. Oh, no; simply the procedure in each case.

Mr. CULLOM. I was going to say that if the testimony taken in one of these trials were printed it would make four or five books.

Mr. PLATT of Connecticut. Oh, no; this will be the size of it [exhibiting a volume].

The PRESIDENT pro tempore. What will be the expense?

Mr. PLATT of Connecticut. I imagine that it is not important to be able to state it. It will be less than \$500, but I do not understand that there is any limitation on the Senate in printing a document for its own use.

The PRESIDENT pro tempore. No; I do not think there is any limitation on that.

Mr. PLATT of Connecticut. What I have asked is that it may be printed as a document for the use of the Senate.

The PRESIDENT pro tempore. The Chair supposed that it was a request for both printing and binding, in cloth.

Mr. PLATT of Connecticut. Not at all.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. MITCHELL. I will ask the Senator from Connecticut what he thinks of the advisability of printing the opinions of Senators? Would it make the volume too large to put in it the opinions of Senators?

Mr. PLATT of Connecticut. I think so. I think what Senators will desire is to be able to refer in one volume to the Journal record of all the trials.

Mr. MITCHELL. The Senator thinks it would make it too voluminous?

Mr. PLATT of Connecticut. It would make it too voluminous to put in the testimony of witnesses, the opinions of Senators, the arguments, or anything of that sort.

Mr. MITCHELL. The Senator does not think of including the testimony?

Mr. PLATT of Connecticut. No.

Mr. MITCHELL. I thought perhaps the opinions of Senators might give some information.

Mr. PLATT of Connecticut. Having this book will give a reference to the Senate Journals, where everything of that sort may be found.

The resolution was agreed to.

BAY OF MONTEREY (CALIFORNIA) IMPROVEMENT.

Mr. BARD submitted the following concurrent resolution; which was considered by unanimous consent, and agreed to:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause an examination and survey to be made and an estimate submitted of the cost of improving the Bay of Monterey, California, to meet the demands of commerce.

IMPROVEMENT OF PORTLAND HARBOR, MAINE.

Mr. FRYE submitted the following concurrent resolution; which was considered by unanimous consent, and agreed to:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, directed to cause a survey to be made of Portland Harbor, Maine, to include Fore River above Portland bridge and the entrance to Back Cove, with a view to widening and deepening the channels at those localities, and to submit estimates for such improvements.

PONCE AND GUAYAMA RAILROAD COMPANY.

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying papers, referred to the Committee on the Pacific Islands and Porto Rico, and ordered to be printed:

To the Senate and House of Representatives:

Referring to section 32 of the act approved April 12, 1900, entitled "An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes," I transmit herewith an ordinance enacted by the executive council of Porto Rico on April 2, 1904, authorizing the transfer to the Ponce and Guayama Railroad Company of the franchise, rights, and exemptions granted to the "Compania de los Ferrocarriles de Puerto Rico" for the construction and maintenance of a railway between Ponce and Guayama, and also the transfer and assignment of such franchise, rights, and exemptions from the American Railroad Company of Porto Rico Central Aguirre Operator to the said Ponce and Guayama Railroad Company.

This ordinance was approved by the President of the United States on May 2, 1904, subject to qualification.

Attention is invited to the accompanying report of the Secretary of State.

THEODORE ROOSEVELT.

WHITE HOUSE, December 14, 1904.

BRITISH STEAMSHIP LINDISFARNE.

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying papers, referred to the Committee on Foreign Relations, and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith, for the consideration of Congress, a report by the Secretary of State resubmitting a claim of the owners of the British steamship *Lindisfarne*, amounting to \$158.11, for demurrage to that vessel while undergoing repairs necessitated through a collision with the United States army transport *Crook* in New York Harbor on May 23, 1900.

THEODORE ROOSEVELT.

WHITE HOUSE, December 15, 1904.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles, and referred to the Committee on Commerce:

A bill (H. R. 2510) for the construction of a steam revenue cutter adapted to service in the waters of Albemarle and Pamlico sounds, North Carolina; and

A bill (H. R. 15590) to amend an act approved April 26, 1904, entitled "An act to enable the Secretary of War to permit the erection of a lock and dam in aid of navigation in the Tennessee River near Chattanooga, Tenn., and for other purposes."

The following bills were severally read twice by their titles, and referred to the Committee on Patents:

A bill (H. R. 6487) to amend section 4952 of the Revised Statutes; and

A bill (H. R. 13679) amending the statutes relating to patents.

The bill (H. R. 1954) to authorize the exploration and purchase of mines within the boundaries of private land claims was read twice by its title, and referred to the Committee on Private Land Claims.

The bill (H. R. 11584) for the protection of wild animals and birds in the Wichita Forest Reserve was read twice by its title, and referred to the Committee on Forest Reservations and the Protection of Game.

The bill (H. R. 15285) establishing a regular term of the United States circuit and district courts at Muncie, Ind., was read twice by its title, and referred to the Committee on the Judiciary.

NEW DUNGENESS LIGHT-HOUSE IMPROVEMENT.

Mr. FOSTER of Washington. I notice that during the session yesterday the bill (S. 3981) for the erection of an additional suitable building, cistern, oil house, and other necessary improvements at the New Dungeness light-house, in the State of Washington, was passed. That improvement having been already included in the last sundry civil appropriation bill, I ask that the votes by which the bill was ordered to a third reading and passed be reconsidered, and that it be indefinitely postponed. I make that motion.

The motion to reconsider was agreed to.

The PRESIDENT pro tempore. Without objection, the bill is indefinitely postponed.

AMENDMENT OF THE RULES.

Mr. SPOONER. It is my understanding that it is competent to amend the rules by unanimous consent.

The PRESIDENT pro tempore. The Chair so believes.

Mr. SPOONER. Subdivision 4 of Rule I of the Senate provides that—

In event of the death of the Vice-President the President pro tempore shall have the right to name, in writing, a Senator to perform the duties of the Chair during his absence, etc.

That limits the power given to the President pro tempore of the Senate to a vacancy caused by the death of the Vice-President. He should have that power however the vacancy is occasioned; and there is a vacancy now.

Mr. PLATT of Connecticut. Not by the death of the Vice-President, but by the death of the President.

Mr. SPOONER. By the death of the President. I ask the unanimous consent of the Senate to amend this subdivision of Rule I by striking out in the first line the words "the death of" and inserting in lieu thereof the words "a vacancy in the office of;" so that it will read:

In the event of a vacancy in the office of the Vice-President the President pro tempore shall have the right to name, etc.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Wisconsin? The Chair hears none, and the amendment is made.

CIVIL GOVERNMENT OF THE PHILIPPINE ISLANDS.

Mr. LODGE. If the morning business is concluded, I call up, pursuant to the notice which I gave yesterday, House bill 14623.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14623) 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.

Mr. LODGE. I call the bill up simply to give all the time possible in case Senators desire to discuss the bill to-day.

Mr. STEWART. Mr. President, I do not propose to discuss the provisions of the bill. There is one matter contained in it, however, of the utmost importance to the preparation of the people of those islands for self-government or any government in which they are to participate, and that is the building of railroads.

The building of railroads is the cheapest way to extend civilization into any savage or semicivilized country. The railroads built by the United States have done more to settle the Indian territory than everything else combined. I recollect

very well when it used to cost \$15,000,000 a year to take care of the Indians in Arizona alone; the War Department, the Interior Department, and all of them were operating there, and the freight charges were enormous. As soon as railroads were extended through the territory the matter was disposed of without much further expense. So all through our country wherever the railroads go they are civilizers. They give employment to the people and give them an opportunity to sell their products, if they produce anything. Above all, it is an object lesson to a savage to see a railroad in operation. Nothing changes his view so quickly as to the power of civilization as a railroad. I am glad the committee have made provision for railroads in the Philippines.

As to the mode of reaching that end, it is not so material. The policy heretofore has been to subsidize railroads and to secure their completion in that way. The United States has done considerable in that business, and where it has granted subsidies in money it has got the money back. It has never lost anything. Although there has been a great deal of talk about it, the money has been paid back, and undoubtedly it will be paid back in this case.

As to whether it is better to subsidize companies or to trust the building to the engineers of the Army and let the Government do it directly, I do not propose to discuss which is the best method of the two, because I think those are minor questions compared with the main question of civilizing the islands by means of railroads. If we build railroads and give them railroad facilities, it will be but a few years before they will be in a condition of self-government far beyond what generations will do without the railroads.

When the war commenced if we had begun building railroads instead of going with teams over those almost impassable swamps, rivers, mountains, and all that, I believe it would have been good policy. I believe about as cheap a way to prosecute a war with savages as can be found is to build railroads.

I simply want to congratulate the committee on having incorporated a provision for building railroads in the bill. I shall not discuss any of the details as to which is the best way to do it. That it should be done and done quickly there can be no doubt.

Mr. McCUMBER. Mr. President, I have just sent to the table an amendment to this bill, striking out entirely section 4, which relates to the building of railroads. I cover the entire section simply because of my opposition to a Government subsidy for railroads or any other instruments of internal commerce.

I believe the time has passed for a Government guaranty of the prosperity of private enterprise which is purely of an internal nature. I believe it is the duty of the Government to so legislate as to secure the greatest amount of prosperity to its people; and when it has done that it opens avenues of private enterprise, and to a certain extent it thereby assures the success of the private enterprises. I do not believe, however, that the Government should enter into any industrial competition with its own people, and it does enter into this industrial competition when it guarantees the prosperity or the success of any private enterprise that is purely internal in its affairs and in its effect.

There is in this country, Mr. President, held by the people, \$30,000,000 for investment. The holders of \$30,000,000 would like to invest it for anything that would bring 2 per cent. Government bonds readily sell at a premium which draw interest at the rate of only 2 per cent. These Government bonds are pretty scarce in the markets to-day. So here the people who own the \$30,000,000 can find an immediate field of investment for an assurance of 5 per cent upon their investment.

Now, what will the owners of the \$30,000,000 do under this bill? They will form a corporation for the construction of \$30,000,000 worth of railroad in the Philippine Islands. After it is organized, and after they have constructed their road, or during the time of construction, they will vote the necessary salaries to the promoters of this enterprise. The amount of the salaries will take up the entire amount of the income from the investment. So, in addition to receiving salaries as promoters, they will also receive 5 per cent upon the stock which they have taken, and that 5 per cent will be absolutely guaranteed. We may say that it is not guaranteed by this Government, but as long as the Philippine Islands are under the control and suzerainty of this country we are responsible for the bona fides of their contracts and that their contracts will be faithfully carried out. Therefore, if the Philippine government should fail in any way to answer this requirement of payment of 5 per cent upon those bonds or upon the stock, if we issue stock instead of the bonds, the Government of the United States as the guardian and controller of that country is morally bound to see

that the amount shall be paid; and thus we have secured a very pleasant and remunerative field for the employment of \$30,000,000 without sufficiently guarding the interests of either the United States or the Philippine Islands.

Now, it seems to me that that of itself is sufficient to strike out this section 4. It will be sufficient at least to justify me in voting against that provision.

Mr. HEYBURN. Mr. President, the discussion of the pending bill has been confined so largely to the provisions in regard to railroads that there is some danger the more important provisions of the bill as affecting the material interests of the Philippines may be overlooked. I desire to propose an amendment, which I will in due time send to the desk, affecting the provisions in regard to mining rights in the Philippines.

When the bill to which this is an amendment was enacted Congress saw fit to inaugurate a complete change in regard to the location of mining claims that was so utterly inconsistent with the policy which has been in force in regard to the mining lands of our own country that it seems to me the question must have passed without consideration.

Since the inauguration of the mining laws of this country it has been the policy of the Government, based upon the experience of American mining, to allow the locator and the owner of a mining claim to locate those things of value—that is, the ledge, the extent of surface ground has been considered merely an incident for the convenient use of the thing of value; but in the original bill, to which this amendment applies, Congress undertook to carve out a different estate and to provide that a claim shall consist of so many square feet, without regard to the thing to which the law is directed, and has abandoned the American policy for one that has obtained in Spanish countries, and for a time over the Canadian line.

Minerals are found in ledges cropping out on the surface of the earth, and, as a rule, do not develop practical or substantial value within the lines of the location.

This law as it stands and as it is proposed by this bill gives to the locator only the mineral that is found within the limits of the claim. The ledges, as a rule, dip into the earth; they crop out upon the sides of the mountain, as a rule; they are seldom found upon level ground. As they dip into the earth they naturally pass outside of the line of location at a very early stage.

In most mining countries, before even the preliminary expenses of development have been realized by the owners of the claim, where they pass outside of the line of the claim upon the surface, as a rule, they are beneath the surface of the earth at a point that it is utterly impracticable to reach without the surface lines, except through the claim having the outcrop. Now, you propose to adopt that system by this legislation. It was adopted by the bill to which this is an amendment. This is the time to correct it.

The law regulating the location and ownership of mining claims in this country has stood the test of more than forty years. It is the result of the experience and wisdom of those conversant with it for a lifetime. It has been interpreted by the courts, investments have been made under its provisions, and the great mineral wealth of the country has been developed under the American system of mining law. Why should we change it? Why should we adopt the Spanish system, a system that was perhaps adapted to a country where the fee of the mine was in the Crown, where the right to mine was a mere license, to be taken or given or modified at the will of the Crown? The American law was directed to the question of substantial title that would warrant the investment of money in the purchase and development of mines, that would insure to the discoverer the substantial value of the thing located and discovered.

This subject may or may not be familiar to Senators, and I will ask indulgence while I illustrate it a little. Taking a ledge that has a dip at an angle of 45°, which is not unusual—in fact, I might say it is the average condition—it crops upon the surface. In going down into the earth at an angle of 45°, if the claim was 300 feet on each side of the ledge, at 300 feet from the surface that ledge would be lost to the locator. Who takes it from that point down? Some stranger. How is he going to make another discovery upon that ledge, which, if it were upon level ground at that depth, would be at least 300 feet below the surface, but, as a matter of fact, where the ledges dip into the mountain it would be all the way from 600 to 1,000 feet below the surface. This is a practical question and affects the mineral wealth of the Philippine Islands so far as legislation can affect it.

The purpose of this bill, so far as this provision is concerned, is to give the opportunity to the prospector, the investor, and the mine developer to avail themselves of the mineral deposits

in the Philippine Islands. That is the object and purpose of this bill; in other words, to open up the mineral resources of that country. You can not do it under such a law as that we have now upon the statute books; and you can not do it under such a law as is proposed by the provisions of this bill. It will result either in the original locator violating the law and following the ledge on its dip after it has passed out of his side lines marked upon the ground without any lawful right, or it will result in locations being made upon the surface ahead of the dip of the vein as originally located without any discovery, which can be developed only by the aid of large capital through the means of digging shafts to tap the ledge on its dip. That is all. You render the mineral resources of the Philippine Islands unavailable to the very people Congress intends they shall be held for the benefit of—that is, the prospectors—you give an opportunity for some one with money enough to sink deep shafts to tap the ledge beyond the line of the original location, and you give the opportunity to such people to deprive the original locator of the benefit of his discovery.

Oftentimes when the surface of these ledges are merely slag, the great values are obtained from the depths of the mine. I speak from a somewhat extended experience in these matters. For more than twenty-five years I have lived among the mines, and I have seen every phase of the controversy presented. I have had an opportunity also to observe the working of statutes, such as have been enacted in this case, both in British Columbia and Mexico. I have seen men, through hardship and toil, prospecting in the mountains, find a valuable ledge, and after they had located it, find that they had a mere slag mine near the surface. The statute which governs in the United States instead of giving a tract of ground gives the locator so many feet along a ledge. That is the thing of value, and the only thing of value. The surface is a mere incident to it. It is the mineral-bearing ledge of rock, in place, which the prospector and miner is seeking for; it is that and that alone, which, being developed, produces the mineral wealth of the country.

Under the existing law in this country the prospector may locate not to exceed 1,500 feet along the course of the ledge. He locates his end lines parallel, and thus carves out a plane upon which he may follow that ledge indefinitely. More often than not he finds nothing to repay him for his labor until after he has passed out from under the surface ground of his location.

It was demonstrated between 1866, the time of the passage of the first mineral law by Congress, and 1872, when Congress again resumed the consideration of it, that the estate should consist of a given number of feet along the ledge, and allow the prospector or the owner of that estate the right to follow down between the planes drawn on his end lines, and the law requires that the end lines shall be parallel. Thus his estate is never diminished nor extended beyond 1,500 feet. What can be more reasonable than that?

Mr. President, it seems to me that at this time we have the opportunity to correct the mistake that was made in the enactment of the original law for the Philippines. I know it is claimed—for I have heard it said frequently—that if you will confine a man to his end lines you will avoid litigation. Some of the most extensive litigation has arisen over conflicting rights on questions that arose where claims conflict in following them in depth. That is true. Controversies will arise between men over things of value. We can only reduce them to the minimum. That is all.

I shall propose by an amendment to this bill to define what shall be the proper angle of intersection between the end lines of a claim and the strike of the ledge. If all the end lines intersecting the ledge are parallel, one with another, there can be no conflict, because they can not come together.

The evil of the existing law has arisen out of the fact that veins are somewhat tortuous in their course, although there is always a general strike uniform in course. One man will locate his end lines at one angle across the ledge and another at a different angle, and when the planes drawn upon those lines proceed down on the dip of the ledge some of them would come together, and the question would be, first, who was prior in point of right. If they were both substantially at right angles to the general course of the ledge the court would give the property to the party having the prior location.

But a more serious question has arisen as to what angle a locator might intersect the course of the vein with his end lines. It has been contended in some cases that if his end lines intersected the vein more along than across the course, then he might not follow them as the bounding plane of his extralateral rights.

On the other side it has been contended—and the question has not yet been determined by the court of last resort—that if the line intersected the ledge in its course at all it became

an end line and constituted a plane upon which the ledge might be followed downward. These are serious questions. They involve property rights amounting to hundreds of millions of dollars in the United States, and Congress should afford some remedy; but it should not afford a remedy at the expense of the prospector and the locator of the claim to the extent of depriving him of the benefit of the thing that he has been supposed to acquire by reason of his location.

Let me illustrate. Taking this for the declination of the mountain [indicating], the ledge crops upon the mountain side. There the prospector makes his discovery and initiates his location by marking out the surface boundaries fifteen hundred feet in length running along the course of the ledge and 300 feet on either side of it—a convenient surface for working the ledge, which is the real object of his search. That ledge, dipping down into the earth, necessarily will depart from his surface lines, as I have said.

I doubt if there are three mines in the United States that have paid the expenses of location and development before the ledge dips outside of the surface lines of the claim. It has been only by reason of our existing law, which gave to the prospector or the miner the right to follow the ledge a given number of feet upon a segment of the vein 1,500 feet in length, and to follow it without regard to its passing outside of his side lines.

The law has worked most satisfactorily in this country. It is true that controversies have arisen; but, as I have said, they will arise over any question of property rights. They arise over the boundaries between city lots and between farms. We can not undertake to destroy or render valueless the mining interests of the Philippine Islands by adopting this new system because our existing law has in some instances resulted in controversy and expensive litigation.

You will not avoid expensive litigation, you will not avoid controversy, by confining the locator to the boundary lines of his claim, because a more important question, one that will involve more serious controversy, will arise, as it has arisen continually in British Columbia, and that will be as to who shall own the ledge after it dips out from the original location. Can it be located without first making the discovery of the ledge? The ledge does not crop there; it has already passed hundreds of feet, and it may be thousands of feet, into the earth. How are you going to have a location under a law that says no location shall be made until a discovery has been made of the mineral? How are you going to make another discovery of that ledge that has dipped down into the earth, where it can be reached only through the means of shafts hundreds or thousands of feet in depth? That is a question which arises and will arise every day under a law that confines the locator to the mineral that lies beneath the surface of the location. Why should you confine him to that? The surface of the ground, as I have said, is a matter of small importance. Unless you are to give a vast area of land, more than would be reasonable, you can not possibly give him enough of the ledge to warrant him in developing it, to warrant him in equipping the mine with the machinery incident and necessary to its development.

Under the existing laws in this country you give him so many feet upon the ledge, and he recoups himself for his labor and expense, if not within the boundaries of his claim, somewhere beyond. I know of great mines in this country that are mining from half a mile to a mile outside of their lines, and yet within the well-defined lines of the vein which they found upon the surface thousands of feet above in some instances. I know of mines in this country to-day that never paid a dollar of profit until they were from a quarter to half a mile outside of their line.

Who is entitled to the benefit resulting from the discovery of the mine? The prospector is entitled to it. If he is to be confined to his surface lines or what lies beneath them, he will reap no benefit from his discovery. If a man has a segment of so many feet along a vein, he can follow it so long as his industry will permit, until he is repaid for his labor.

Then, again, his mine will not command the price in the market to which he is entitled unless he has something more to offer than the portion of the vein that lies beneath the surface of the ground. He is entitled to the highest price represented by the value of the ledge which he discovers.

If our law, the law in force in this country that has been upon the statute book for more than a quarter of a century, is not a wise one, why not repeal it? If it is a wise law, and has been proven such by the experience of these years, why should we change it when we come to make laws for a newly acquired province of the United States? The mining in the Philippine Islands will not be done by natives; the ledges there will not be found by the Filipinos to any great extent. They will be prospected for and located by American

prospectors and miners—men familiar with the laws of this country, men who for a lifetime have been prospecting for and developing mines under our laws. Why should we present them with a problem different from that with which they have become acquainted? They know how to locate a mining claim under our laws; they will know little about it under Spanish laws.

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

The PRESIDING OFFICER (Mr. McCREARY in the chair). Does the Senator from Idaho yield to the Senator from Massachusetts?

Mr. HEYBURN. Certainly.

Mr. LODGE. I have no idea of discussing the merits of the mining laws. I am not an expert on those questions. I simply wish to say to the Senator, in order that he may know the position of the committee, that the committee were guided by but one idea, and that was not to disturb the system to which the people of those islands had always been accustomed. I do not think we ought to undertake to impose new mining laws on those people, thereby opening the door to endless litigation, any more than I think we ought to change their weights and measures or attempt to force on them a new religion. We are dealing for them, not for ourselves. I am not questioning the wisdom of our own mining laws; but I do not want to destroy what has been, with some modifications, the universal system there ever since they have had any mining laws.

Mr. HEYBURN. Mr. President, this proposed law bears no closer resemblance to that system than it does to our own. It is not the Spanish system, nor the system of mining laws in the Philippines at all, but is the adoption practically of the laws of British Columbia, which were taken from the laws of Mexico.

Mr. McCOMAS. I will ask the Senator from Idaho if he has heard any complaint from any person in the Philippines in respect of the mining laws; and if so, what was the complaint? Will he state that?

Mr. HEYBURN. Mr. President, I have heard universal complaint from American citizens who contemplate going to the Philippine Islands for the purpose of prospecting and developing that country.

Mr. McCOMAS. Then I understand the Senator to say that the complaint he has heard is from people who have never lived under the law, and that he has heard no complaint from those who have been subject to it for two years.

Mr. HEYBURN. I have heard complaint from every American who understood mining who ever undertook to live under mining laws in Mexico or British Columbia. We have hundreds and thousands of miners and people interested in mining in our country who are as familiar with the mining laws of Mexico and British Columbia as men might be, and without exception, so far as I know, among those people who have thought and are capable of judging in this matter they prefer the American mining laws, and they are not without experience. We are not obliged to go to the Philippine Islands for advice and counsel upon this question, because we have the same system as is proposed here in vogue on either side of us. That system may be adapted to those countries. I do not know that it is, and it is immaterial to inquire; but I do know that it is not American. I know that it does not meet and will not meet with the approval of the only people who will ever develop the mines of the Philippine Islands—that is, the American prospectors.

We are not opening up the Philippines alone for the natives. We propose to inject into those islands the spirit and enterprise of Americanism. We have a vast number of citizens in this country who will participate in the development of the resources of that country if they are given an opportunity to do so.

We do not know as yet the extent of the mineral wealth of the islands, and we never will know if we rely only upon the natives. They have been there for four centuries and have not developed the country. You can put a little band of American prospectors in there, and in twelve months they will know more about it than the Filipinos do at the end of four hundred years.

The mines of British Columbia have been developed by American prospectors, as have the mines of Alaska and the mines everywhere within the United States. The act is for the benefit of American citizens. It says that citizens of the United States or of these islands may locate mineral ledges and mining claims. The act is as much for the benefit of American citizens as it is for the natives of that country.

There is nothing that will tend more to civilize them than to inject this element of Americanism in there. I am not in favor of changing the language as it applies to the measure of values

or of distance in that country until our language, which is now being taught in their public schools, becomes more familiar to them. I would raise no particular objection to that feature of the bill, but I would insist that the value of those mining claims should be upheld to the standard of value that applies to our own. Give a man so many feet on a ledge, bound him by planes that are not flexible or movable, and allow him to follow that segment of the vein down as far as it goes. That is what I appeal for. I say you are making a mistake; you are detracting from the value of the mines of that country. Men in this country who know about mining will not invest in a mining claim that is bounded as to its right by the surface lines, because it does not carry with it title and value sufficient to attract their attention or command their capital; but give those mines the limit of value that we give to our own and American capital will go there and develop them. Miners will know that they are not to be limited to a little area of ground less than 20 acres. It cramps the possibility of enterprise; it limits it down too close to say that they shall have nothing more than that. I say again, Why should we abandon a tried and satisfactory system to adopt a foreign one, except, as the Senator from Massachusetts [Mr. LODGE] has said, that it may be more convenient to those people that their laws should not be varied?

But we are in the field to bring those people to our way of thinking. When the mining laws were first adopted California was as Spanish as some of the Philippine provinces. When our mining laws were first adopted all the Pacific coast had been accustomed to laws such as we are proposing to force upon the Philippine people. They are not the laws of the Philippine Islands, except as we have by the act of 1902 made them their laws. They were no more familiar with them before that time than we were. Our mistake has existed for two years. Let us stop it now and go no further. I shall propose to incorporate into this bill the provision of our own statute on this subject, throwing around it such safeguards, without involving the statute in obscurity or uncertainty, as will prevent these objectionable conflicts by reason of diverging or converging lines.

I think there is no provision in this bill which it is more important to stop right now and consider and correct, because upon our action will depend the value of those mines, and they will have no considerable value if you enact this statute, because no man who knows anything about mining will invest or will furnish the capital to develop them. But place them upon the American plane, enact laws such as we are accustomed to and have been proven to be wise and sufficient, and there is no end to the American enterprise and American capital that will go into the Philippines and teach those people something they do not know, rather than to go into the Philippines and sink ourselves to the level of their darkness.

Mr. MCCOMAS. Mr. President, the Senator from Idaho insists that we should legislate from our point of view for the 9,000,000 people in the Philippine Archipelago, who from the time of the aborigines, and historically for four hundred years of Spanish control, have lived according to their point of view. If we make laws according to our environment, our prejudices, customs, methods, aspirations, and beliefs, and not according to theirs, we will wipe out the splendid record thus far made in the American occupation of the archipelago.

In respect of the mining laws, the subject was in committee submitted to a subcommittee composed of Senator Rawlins, of Utah, who had great experience in mining laws and legislation, the Senator from Nebraska [Mr. DIETRICH], and myself. The Senator from Nebraska had been in the islands and the Senator from Utah had given this subject attention all the time. With such other information as could be had from those who knew the customs and the mining system that existed in that country, we united the best features of the Mexican and British Columbia mining laws, which many experts said was the modern and best system. This act was passed on the 1st of July, 1902.

I have heard complaint of legislation affecting the Philippines, and have used such opportunity as I have had, because I of course distrusted any knowledge I had on this subject, to learn what impression the mining law had made in that country, and I have been surprised to find from the only persons who did bring reports from the archipelago that the only complaint was as to terms. That was a simple oversight in legislation. They said that in the mining act the committee had been doing just what the Senator from Idaho now insists we shall do. We had used "dollars" instead of "pesos," and "acres" instead of "hectares," and "feet" instead of "meters."

We had inadvertently legislated from the American point of view. This bill corrects that defect, and the mining law is here to be reenacted with that change of terms only and with no other change.

Mr. HEYBURN. I should not like to go on record as having insisted upon retaining the dollar and cent enumeration.

Mr. MCCOMAS. No, I should think not.

Mr. HEYBURN. I say I am perfectly willing to yield that.

Mr. MCCOMAS. I should think so; and so are we.

Mr. President, this law has been found to suit those people. The Commission in the Philippines have accepted the law and only ask that these minor changes be made, using meters and kilometers and pesos and hectares instead of our own measures. They ask no other change. I am sure the Senator from Idaho is very familiar and expert in the mining laws of this country, but I think, and I submit it to his maturer judgment, that when the Commission asks no change except this, when the Secretary of War asks no change but this, when the Insular Bureau asks no change but this, that the law which has now been in force for about two years and a half, has been made of use, and to which the people have been accustomed, we ought not to make a great change now when they have not asked it.

I understand the Senator to admit that not a single complaint has been made, so far as he knows, about this law in the Philippines. He says that people as far off from the archipelago as we are here and perhaps people some of whom are as unskilled as I am in mining, say there should be a change. They have not been there to study and measure the effect and operation of this law. They have no information in respect of its defects. The only defects are those of nomenclature, and this bill makes a change of terms to suit that people. When that is done, I submit that all is done that should now be done at this short session of Congress.

The subcommittee and the full committee, the Insular Bureau, and the Commission and the Secretary of War have said that this Mexican law is satisfactory, modified in some respects by that of British Columbia, which is asserted by expert men to be a very essential and important modification.

I assert from full information that the main plan of this mining law, to grant by patent a rectangular surface of mineral land about 300 feet each way, with a right to go down vertically in the earth and claim only minerals within these surface lines, is the best advance of modern mining laws.

Mr. KEARNS. Mr. President, I wish to say a few words on this subject. As an American prospector and on behalf of the American prospector, I take issue with my friend the Senator from Idaho [Mr. HEYBURN] in regard to this matter. I trust that the provision will remain in this bill as it is. Not only that, but I sincerely wish that the American law was framed upon similar lines, that mineral rights were governed by the vertical surface, drawn on a plane down through the earth. Then every prospector would know what he had. To-day, if a prospector goes out on the mountain and there discovers precious metals and develops a mine and starts to shipping to the market, he does not know whether it is his or not. Extra lateral rights drawn through the earth on the wide-vein theory give our American laws too much elasticity.

The amendment in the pending Philippine bill measures the surface and gives to every locator all the mineral that is within that surface by metes and bounds on that surface. If his vein should dip in through and outside of that—if he is a miner he knows when he makes the discovery which way the vein is dipping—and he is at liberty to locate the ground around the outside. To-day, with our locations governed by extra lateral rights, the erosions of the canyon make it almost impossible to lay a location over it covering the outcrop of that vein by both of the end lines. You have all been in the mountains. You know how the canyons run down through them, how the rocks are eroded away, how the outcrop of the vein makes a circle.

As I understand the mining law at the present time, if you make a discovery on the surface, you stake your claim, and if the outcrop should cross the side lines at less than an angle of 45° your side lines become your end lines and you have 600 feet on the dip. If it passes through in one end here [indicating] and out the side line, the other side line is drawn in to where the outcrop intersects the end line, and you get that on the dip. But if two claims are placed on the ground to cover the outcrop, not on the same course, but at an angle as it passes down into the earth, one may pass the other. What has been the result? Untold litigation.

There has been, I venture to say, one-third as much spent in litigating and perfecting the titles to mines as there has been in discovering and developing them. Under the law as it will be established by this bill there will be given to every individual just what is on the surface. The simplest prospector will know what he has. Our coal law is on the same principle. It is easy to interpret; it is simple.

There is a growing sentiment among the mining men in this country to establish vertical surface. I venture to say that the great majority of practical men want it, and it will afford to the prospector the protection he should have.

As a miner and as a practical man, I only wish that we could amend the American law and adopt the system which is now carried on in both Mexico and Canada and is embodied in the Philippine bill. It has worked satisfactorily. Go into Mexico or into Canada to-day and secure a location, and you have no trouble. It is just the same as with town lots. You own everything that is on the surface and under the surface within the lines drawn vertically.

The Senator from Idaho [Mr. HEYBURN] made the remark that the rock is often discovered on the surface, and in many instances you follow it into the earth before you get values. But there are many cases where it never comes to the surface, where the underlying formation that carries the metal does not break up through the overlying formation and crop out on the surface. In that case this extra lateral right or apex law does not apply.

He says again that where this vein is claimed by two individuals, the prior location holds. If we maintain this law, the location itself will hold. Every man knows his own location and what he has. In some cases mineral occurs in contacts underlying a limestone, a quartzite, or whatever the formation may be, and never does outcrop. In that case the apex law is unable to reach it.

Then, again, take a vein that may be found in dolomite limestone. It may be 5,000 feet wide. The party who held the location that controlled the foot wall would claim it. Five thousand feet above a pocket of ore may be discovered, and it would be claimed by the man who owns the hanging wall. That is the wide-vein theory.

I have fought some of these mining suits. I started as a prospector. I know something about it from the practical end. In a heavy mining suit it is a matter of financial endurance, and the man who stays the longest generally gets the vein. I have long wished that the American Congress would establish vertical surface, and give us the same rights in precious-metal mining that exist in coal mining. It would stop a great deal of litigation and much fraud in that industry.

Mr. HEYBURN. I should like to ask the Senator a question. How would he get title under existing law after it passed under the side lines?

Mr. KEARNS. By locating the surface on that side that it passed out through.

Mr. HEYBURN. Without a discovery of mineral—guess that the mineral was under there?

Mr. KEARNS. If you see your vein passing out, you know which way it is going if you have ever located a claim.

Mr. HEYBURN. Mr. President, the situation is obvious and is one of serious importance. Of course a mining company or an individual sufficiently strong financially could locate a lot of fraudulent claims out in front of the dip of the ledge, locate claims upon the guess that the vein extended under them, and protect itself or himself; and I know a number of cases where they have done so.

I know where a big mining company has, without the making of any discovery of mineral, located sixty-five claims without a surface indication of mineral, in order to keep other prospectors off. The theory suggested by the Senator from Utah is equivalent to saying that you give the man one end of the rope and he may take all of it. You give him one location legally, and he may steal twenty pieces of land from the Government. That is what it amounts to. The law as it is now gives him a segment of the vein, and that is his. It does not matter whether it dips at an angle of 10° or at an angle of 89°. It is his. It is the vein they are after, not the surface ground. But if these aggregations of wealth are not content with that which they have bought, and seek to add to it, then fraudulent locations can be resorted to. Of course they do not want anybody to have extra lateral rights as against them. Extra lateral rights really mean that the locator of the segment of the vein may follow it on its dip between the planes of its end lines. They give him so many feet of a vein of mineral-bearing rock in place, not so many acres of surface ground, except as an incident for the convenience of working his claim.

I know where the influence comes from that is seeking to adopt the Mexican system or the system contained in this bill. It comes from those who want to acquire vast areas of surface ground and deprive the prospector of the right to prospect upon it, to shut him out, to patent him out. If I could present to you some of the maps of the mining camps of the United States you would understand the proposition. For instance, in one case that I have in mind, they numbered the claims from 1 up to

26. Making a discovery of a vein, they located all the law allowed them on each side of that vein and then commenced on locations without any discovery—1, 2, 3, 4, 5, 6, and so on—and patented them, because at that time there was no one alert on the ground to see to it that the law was not violated in this way. But preserve to the locator the right which the law gives him to his vein, and he will take care of the question of the surface rights of those under whom he may pass.

It does not detract from the rights of the surface owner that a man is following a vein upon a dip under him, because he is confined to the walls of his vein, and the man on the surface may have another parallel vein that he is following on a higher plane, and somebody else may be following under him on the dip. It can injure no one. Avoid this complication of conflicting planes and you have solved the question and removed every possible objection from it.

Geology does not differ in the Philippines from the known rules under which it exists elsewhere. Veins in these mountains will be found to dip as they do in Nevada or Utah or Idaho, and we may safely adopt the same rules that have been found sufficient in those States.

I can not agree with the suggestion of the Senator from Maryland that we should disregard the American feature of this question. I can not agree that we should look only to the welfare of the Filipinos in this matter. We should teach them something from our experience. Our laws have been interpreted by the courts; they are clearly defined, well understood, and well applied. Now why commence at this age to learn something new in mining law?

Mr. DIETRICH. Is it not true to-day that a large number of the largest mineral producing properties, especially gold bearing, are not veins at all, but are simply large bodies of ore that are not confined by any walls, and that you can not possibly follow the dip at all that extends beyond the side lines?

Mr. HEYBURN. I suppose, Mr. President, that the Senator refers to the Homestake mine in Dakota and to the Treadwell mine in Alaska.

Mr. DIETRICH. No; the mines in Colorado.

Mr. HEYBURN. The mines in Colorado were supposed at first to be mere deposits, but upon development they proved to be well-defined veins; and a glance at the geology at Leadville and other Colorado districts, as published by the Government as the result of the geological surveys, will show that the first impression as to the character of those veins was entirely wrong. They proved to be well-defined veins, with hanging and foot walls, which passed into the earth at an angle which the courts have said under our statutes might be followed upon their downward course.

In the Black Hills, in the Homestake mine, they found where these bodies of ore had been thrown out into a great mass, but when they get beyond that abnormal condition the vein takes up its course and goes down to the source from which it came, between walls. The same is true of the Treadwell mine in Alaska.

While they were vast aggregations of ore that looked merely like a mass of quartz that had been thrown out of the earth by some process, yet by development that ledge has picked up its character, and its boundaries are as well known to-day as are those of any other ledge which has been developed in the country. Abnormal conditions may exist anywhere. I speak for the general system of mining as it has been developed in all countries.

This bill applies to ledges. It does not apply to quarries. If there are deposits, they do not come within the provisions of this bill, you will have to have some other law for them. This law does not pretend to be applicable to anything but ledges of mineral-bearing rock in place.

Mr. KEARNS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Utah?

Mr. HEYBURN. Certainly.

Mr. KEARNS. In regard to the purpose of this law, to give great corporations the control of vertical surface, I take issue with my friend the Senator from Idaho. We have empires in the Rocky Mountains that are producing nothing, and a man who would patent the land and pay taxes on it would be a benefit to the State and a public benefactor. If those corporations locate the surroundings of the outcrop to take it away from the prospector, it is one of those cases where the prospector could never reach it. I call the Senator's attention—

Mr. HEYBURN. I presume the question which the Senator had in his mind to ask me when he rose—

Mr. KEARNS. I thought the Senator was through.

Mr. HEYBURN. No. The Senator confesses the evil to

which I directed the attention of the Senate. It is because of this change or proposed change in the law that the prospector can not reach it. He ought to be able to reach it. The prospector should under the law be able to reach that vein wherever it is not owned or has not been appropriated by some other prospector, and to say that the man who discovers the outcrop can stand there between the surface to the extent of his boundaries and the vein on its dip beyond forever or be permitted alone to avail himself of the ledge on its dip is the evil of which I complain.

Mr. KEARNS. It is to protect the prospector from a legal steal and to give him what is within his own vertical surface.

Mr. HEYBURN. Mr. President, upon some other occasion it may be necessary for us to take up with more detail and more extended consideration this question as applicable to our own laws. But I merely desire at this time to point out to the Senate the evil that will flow from this legislation. I know there are a number of men in this country who are in favor of what we call the "square claims" and in favor of limiting the rights of the miner to the surface boundaries of his claims and that which lies beneath it. But in ninety-nine cases out of a hundred they are men who are able to head off the prospector and shut him out by getting one valid location and locating twenty fraudulent claims in front of it. It is being done every day.

I think now that I have presented this question as fully as I desire to do at the present time.

Mr. McCOMAS. The Senator from Utah has so clearly and admirably stated the plan of this proposed law that I am content to leave that matter just where his statement left it. But the Senator from Idaho, I am sure, is mistaken in some respects when he says that under this law it will be easy for large corporations or holders to get a great quantity of land upon claims, real and fraudulent.

Mr. HEYBURN. May I interrupt the Senator from Maryland?

Mr. McCOMAS. Certainly.

Mr. HEYBURN. That is just what the Senator from Utah said. He said they could "locate," that they could get one good claim and locate these other claims for "protection," as he called it, without regard to the discovery of minerals.

Mr. McCOMAS. But if the Senator will read sections 29, 31, 36, 37, and 39 (and I can not take the time of the Senate to read them), it will be shown that after the discovery the location must be made; that the location must be 300 meters each way, measuring the discovered land perhaps 100 on one side or 200 on the other, or 150 on each side. The location must always be rectangular, and then the holding under the location goes vertically down through the earth, and it must be mineral land.

Mr. HEYBURN. I should like to ask the Senator—

Mr. McCOMAS. Let me finish my statement and then I will yield. Having done that, he must within a number of days set the posts. He must within a certain number of days apply to the secretary of mining registers. He must then take certain other procedure which gives him a preliminary claim which he has thus staked and marked by his poles. He must give publication of this fact, and then he must within each year work really for a certain time upon the claim. If he fails to do these things, he then fails to obtain the claim he endeavored to establish, and it becomes open to new location.

I am making a general statement. I know it is possible under any system of laws to preempt public lands in our country and to obtain mining locations. The Senator will see it throws around every safeguard that men of considerable wisdom in this committee could give, after having been put into system here.

Mr. HEYBURN rose.

Mr. McCOMAS. I will yield to the Senator from Idaho.

Mr. HEYBURN. I should like to inquire of the Senator how under this law you can obtain title to a ledge after it has passed the side line on its dip. The Senator says he must make discovery. How can you discover that ledge? At what point?

Mr. McCOMAS. I think the Senator from Utah, who has risen, can give a more expert answer.

Mr. HEYBURN. No; the Senator from Utah claims that he does not have to discover it; that he can make a location on the apex of the ledge.

Mr. KEARNS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Maryland yield to the Senator from Utah?

Mr. McCOMAS. Certainly, I yield to the Senator.

Mr. KEARNS. It is done by acquiring the surface vertically down into the earth.

Mr. HEYBURN. But how acquire it without making a discovery?

Mr. KEARNS. I will ask the Senator from Idaho if there are not many mines in his State to-day which are producers where they never discovered the mineral on the surface?

Mr. HEYBURN. They discovered it by sinking for it. After the ledge has dipped out from under a claim at an angle of, say, 50 or 60 degrees, how deep below the surface would that ledge be and how practicable would it be for any prospector to find it?

Mr. KEARNS. It might be from 1 to 1,000 feet.

Mr. HEYBURN. In that case would it be available to the prospector?

Mr. KEARNS. Then it should be developed by capital that could develop it, if the prospector who had no means was unable to reach it.

Mr. HEYBURN. Yet this is the result: If the man with capital came along and saw a prospector in possession of that rich surface outcrop that indicated a good mine, he would go over and get in front of the prospector's line and expend money enough to sink down and take away from the prospector the ledge which he had found.

Mr. KEARNS. If the Senator will permit me, he would own the vertical surface that he had located down through the earth, and the capitalist would come along and acquire title because his right to the vein was established. He would go across the mountain a mile away and get the outcrop, wherever it might be, and call in the aid of the court to establish that fact.

Mr. HEYBURN. I should like to ask the Senator: Suppose the prospector who had the surface did not want to sell and a capitalist went there in front of his line and sunk down and took the ledge away from him just where he began to get pay ore?

Mr. KEARNS. When he went down where the pay ore ended he would have to stop at the prospector's end of the line, because that had established the title to the vertical surface drawn through the earth, and the prospector knew when he got that title just what he owned.

Mr. HEYBURN. Then this act is a bid for men to go through mining countries and discover prospectors who have fair outcrops and good promises and to go over beyond their lines and sink down and head them off. It is a bid for that kind of a thing.

Mr. KEARNS. The prospector is a man who has knowledge of the value of the country, and he should, before capital comes along, acquire title at Government price and have his location made.

Mr. HEYBURN. Then, I understand the Senator from Utah believes that under this law a man may locate the outcrop and the same man may locate as many claims in front of it as he may see fit. Why, then, limit him to fifteen hundred feet? Why not give him 40 acres or 100 acres?

Mr. McCOMAS. I think the Senator from Utah has very well answered the matter in the mind of the Senator from Idaho. The location of a mining claim upon land can not be upon any kind of land, but it must be upon land containing specified minerals, and when it is made it is limited to the one location a thousand feet practically each way, in a rectangle, and that to one person alone. If he has it there, it is in his holding; he does not have it a thousand feet or a mile away; and the interlacing and entanglement of western lawsuits in respect of mining claims, which the Senator from Idaho knows much better than I do, can not occur. The very motive of this whole law was to prevent that sort of thing.

I can not conceive for the life of me—I mean as a lawyer and not as a mineral lawyer—how there is a chance here for large holdings of this land. We limit to one man what he can hold. If it is not mineral land he can not hold it.

There is another virtue in this matter. If a man locates upon mineral land there is a prior right of the Philippine government to take that land and reserve it from mineral holding. When the man loses at any time his claim he can not go and jump somebody else's. There can be a relocation under the method pointed out in the sections I have named, and he industriously follows it to a conclusion. He has no title that loses his claim.

I can say that we should not change a law that has had two years and a half satisfactory endurance by the people. I wish to remind the Senator from Idaho that while it is what is known as "the American system" here, Spain and Great Britain have been the countries dealing most with mines for centuries. The development of mining laws began with those two nations long before we accepted what seemed in the minds of many to be an unhappy mining system here in this country. This law embodies the ultimate of the British experience of centuries and the ultimate in Mexico of the Spanish experience of centuries, and makes as definite as can be the holdings of men claiming minerals in the body of the earth. I am quite convinced if it

had been a great mistake there would have been some complaint about it. The only complaint is made by the able Senator from Idaho, who, like myself, has not been there; who, like myself, has heard no complaint of this law, and I think perhaps he had better not now experimentally change, especially as the Senator is not prepared with a system, and the Senator from Utah I think quite convinced those who listened to his experience in mining that this is a system we have wisely followed and the best system applicable in any country. There is no better system to substitute for it, and we have done the best possible for the people of the archipelago and their mining interests.

Mr. HEYBURN. The Senator overlooks the fact that the adoption of this system by the Canadian-British Government is only three or four years old; that up to a few years ago the same system prevailed in British Columbia that we have, and they have adopted this as an experiment; and if you will take the sentiment of the people in British Columbia you would find that they are ready to go back to the other system. This is a system that will promote litigation and controversy. This is a system that will make lawyers rich if they can collect their fees. The other is a system that gives a man a definite estate, which no man can take away from him. Under this system every claim located in front of the location having the apex will be the subject of litigation, and every other one in front of that, and the only way a man can get the ledge after it passes outside of his line is to steal it. That is the right of it. That is the experience in British Columbia, where the square claim of law has been recently adopted. That is the experience in Mexico, where they have a different system of government to deal with the question.

The only way to get the value of the ledge is to steal it under the square-claim theory. It does not belong to anybody under this law. There is no limitation in this law as to the number of claims a man may locate. He may locate one because he has a ledge within it. He may locate twenty on the guess that there may or may not be a ledge there. He may do his work all in one tunnel or in one place and claim credit of application to all those claims. I think if the Senator could be upon the ground among the mining men he would soon see or learn that the sentiment in favor of the American system is so overwhelming they have never yet been able to change it.

Mr. McCOMAS. If they have had it as a new system four years in one place, longer in Mexico, and we have had it as a new system for two and a half years, let us not be premature after two and a half years, and let us see if they change it. The information the committee had was quite different from the impression of the Senator now. It was that they are pretty well pleased in the two countries with the system we have here applied.

Mr. HEYBURN. If I may make a suggestion, I think we have hardly had time to deal with the working of a system so far away in so short a time. In Mexico titles are mere concessions. With us a title is something recognized by law, maintainable under the law. That is the difference. They are mere concessions in Mexico and based upon the law adopted there, which is a mere rule adopted there before the formation of the Republic. No harm will be done the Philippines by any change we may make now. Does the Senator know whether any mining locations or titles have been obtained under existing law in the Philippine Islands?

Mr. McCOMAS. I do not know anything about it. I have inquired and I have been told that the law operates very satisfactorily. My inference, of course, is that it operates in respect to men who have located the claims.

Mr. HEYBURN. Does the Senator know of any American capital or enterprise having gone in there under this law—this departure from the other system?

Mr. McCOMAS. Of course I have had no opportunity for specific information. We have the recommendation coming here from the Insular Bureau of the War Department, from the Secretary of War, approving what has been done, and simply changing terms. That is more important than a single instance or a dozen instances. The best impression, from what I have heard, is that, so far as the law has had time to operate, it has operated very satisfactorily. I do not pretend to tell the Senator that I have personal knowledge of any letter or communication from anybody except the official indorsement of those I have named, who are in special charge of the Archipelago.

Mr. HEYBURN. The question arises, What opportunity have they of knowing about it?

Mr. McCOMAS. I can not tell as to what they know or the grounds for their information.

Mr. HEYBURN. I have no disposition to favor a change without some well-defined reason, and where we have a system that has been long in use, it should not be changed without a full knowledge of all the facts and circumstances.

Mr. NEWLANDS. I wish to offer two amendments to the bill now under discussion. I ask to have them printed and lie on the table.

Mr. McCOMAS. Let them be read.

Mr. NEWLANDS. Yes; they can be read.

The PRESIDENT pro tempore. The amendments will be read at the request of the Senator from Maryland.

The Secretary read as follows:

Strike out section 4 and substitute the following:

"That for the purpose of constructing, equipping, operating, and maintaining railroads using steam, electricity, or other power in the Philippine Islands the general government thereof is authorized from time to time to incur indebtedness, borrow money, and to issue and sell therefor (at not less than par value in gold coin of the United States) registered or coupon bonds of such denomination and payable at such time or times not later than forty years after the date of the approval of this act as may be determined by such government, with interest thereon not to exceed 2½ per cent per annum. The United States shall guarantee the payment of the principal and interest of such bonds, and such guaranty shall be attested by the Secretary of the Treasury. The general government of the Philippine Islands may either operate such roads when constructed or may lease the same upon such terms as it may deem advisable. Such general government shall set aside annually, either from the profits resulting from the operation of such roads or from the moneys paid for the lease of such roads, or from the general fund if necessary, \$1,500,000 per annum, from which shall be paid annually the interest upon such bonds, and the balance shall be annually applied to the redemption thereof until such bonds are entirely redeemed and paid: *Provided*, That the entire indebtedness of said government created by the authority conferred by this section shall not exceed at one time the sum of \$35,000,000: *And provided further*, That the law of said government creating the indebtedness and authorizing the issue of the bonds under this section shall be approved by the President of the United States."

Mr. NEWLANDS. There is another amendment which I propose to offer in case that amendment fails. I offer the amendment that is now to be read to come in at the end of section 4.

The PRESIDENT pro tempore. The amendment will be read.

The Secretary read as follows:

Add to section 4 the following:

"*Provided further*, That after the construction of any railroad under this section such railroad shall pay to the general government an annual tax of 1 per cent upon the gross receipts of such railroads for freights and fares for the period of five years, and thereafter such tax shall be increased at the rate of one-quarter of 1 per cent per annum until it reaches a total of 5 per cent; that such tax shall be in lieu of all taxes, general, provincial, or municipal, and shall be in lieu of all taxes upon either the railroad itself and the property connected therewith, or on the stock and bonds issued by the corporation owning such road. And the bonds and shares of stock issued for the construction of such railroad shall be exempt from taxation by the Government of the United States or by the government of the Philippine Islands, or of any political or municipal subdivision thereof, or by any State, or by any county, municipality, or other municipal subdivision of any State or Territory of the United States, or by the District of Columbia: *And provided further*, That in the law permitting the construction of such railroads the power shall be reserved to alter, amend, or repeal the same, and that no distribution of profits or dividends upon such railroad shall be paid to the stockholders in excess of 7 per cent per annum, and the said Philippine government shall have the power, in case the gross receipts exceed an amount sufficient to pay operating expenses, taxes, reasonable salaries, and dividends at the rate of 7 per cent per annum, to apply such excess to a reduction of rates of freight and fare."

Mr. McCOMAS. The first amendment, I understand, proposes the Government ownership of railroads.

Mr. NEWLANDS. Yes, sir.

Mr. McCOMAS. A form of experiment which, it seems, is adding a very extensive and bold experiment to the experiment we already are making in the archipelago.

Mr. NEWLANDS. I will simply state to the Senator that the proposition made by the committee involves one form of paternalism, and that is the aid of the government of the Philippine Islands to these roads in private ownership. The construction of the roads by the Philippine government simply involves another form of paternalism, and if one is objectionable the other is also; but if either is necessary, I prefer the construction and ownership by the Philippine government simply because I feel assured that it will save more to the Philippine people and will tend to the better government of the Philippine Islands.

Mr. McCOMAS. Mr. President, I think that section 4, as proposed by the committee, is much wiser than either amendment of the Senator from Nevada. If the experiment of state socialism is to be tried the American people had better meet it wholly on their own soil under their own Constitution.

Mr. NEWLANDS. I will state to the Senator, if he will permit me, that the United States Government has already started in this line. We have concluded to construct the Panama Canal. We could have, by a guaranty of income, secured the construction of that canal by private capital, as is contemplated here. We took the other step because, from a business standpoint, we thought it more advisable. In addition to that, we have secured on the Isthmus of Panama a railroad, and we are now engaged in its operation.

Mr. McCOMAS. The railroad is only the length of the width of the Isthmus, and that is the one canal of the whole round globe. There is not another isthmian interoceanic canal. But

if you have one railroad built by the state, you will have them all controlled by the state. It seems to me the Filipinos, for whose liberties and personal comfort the Senator from Nevada, I remember, talked a while ago so eloquently, ought not to have imposed upon them these advanced experiments.

In respect to the taxation, it seems to me there is something of a delusion about issuing a bond and making it liable to a heavy taxation, when, in fact, from human experience we know that as soon as these bonds are issued they are hidden away, bought from brokers and bankers, no longer traced, and nobody pays any taxes on them. It seems—

Mr. NEWLANDS. Will the Senator yield to me?

Mr. McCOMAS. Wait a moment. It seems that a modern and cheaper method is that the Government should be the tax collector upon every bond by issuing a bond at such a low rate of interest without tax that the Government becomes, from the issuing of the bonds, the collector of the tax that ought to be on it. It takes the tax out of the annual interest; there is no expense of collection; there are no books or returns. I think it is far better to let the Government now issue 2 per cent Government bonds, for instance, which are desirable for bank circulation, than it was in times of extremity to have issued a 6 per cent bond with a 2 or even a 4 per cent tax. In the Philippines, in respect to the six millions of money to pay for the friar lands, the Commission have been able to have those certificates, the equivalent of a bond, taken at an average of 1.7 per cent interest for the one half of that fund and 1.4 per cent interest for the other half of the fund. As these bonds are exempt, and at the lower rate of interest at which they will negotiate and to the limit of only a million and a half, they have this privilege, to extend it thirty years. Instead of paternalism by owning railroads by the Philippine government, a government now formative and developing, it is simply a subvention to that extent, limited in time, limited carefully to a small amount. If the railroads are built—and without the railroads there is no development there—it is an encouragement to that limited extent, year after year, for thirty years, to build partially the railroads. If the money is paid, it will be paid back to the Government. If the railroad fails, the Government misses each year that small amount of money. What was the question of the Senator?

Mr. NEWLANDS. I wish, before the Senator proceeds further in his argument, to correct the misapprehension which he has indulged regarding this amendment. He seems to assume that the amendment provides for the taxation of the bonds to be issued by the Philippine government. On the contrary, it expressly exempts them from taxation, not only in the Philippine Islands, but throughout the United States.

I quite agree with the Senator from Maryland that the true theory of taxation should involve simply one tax upon the railroad itself, whether it be in the shape of a property tax upon the railroad or in the shape of a tax upon the gross receipts, and that that tax upon the property of the railroad or its gross receipts should be in lieu of all taxes upon the bonds or stocks, so that the bonds and stocks could be issued without permitting any tax whatever to be imposed upon them either in the Philippine Islands or in this country. That very fact, it seems, would facilitate the financing of this railroad enterprise.

Mr. McCOMAS. To what tax does the Senator refer?

Mr. NEWLANDS. The tax provided for in my amendment is simply a tax upon the gross receipts of the railroad. I add there two amendments. The amendment which the Senator is considering is one which is to be added to the text of section 4, in case section 4 remains in the bill. It is intended simply to provide for a system of taxation of the railroad company itself by a tax of 1 per cent during the first five years on its gross receipts, and thereafter a gradual increase until the maximum of 5 per cent upon the gross receipts shall be attained, declaring that that tax shall be in lieu of all other taxes, and shall be the only tax imposed upon the railroad or its stockholders or its bondholders.

I quite agree with the Senator that it is a great mistake to tax the railroads and then tax their bonds and stocks. If you tax the railroads and then tax the bonds and stocks it is double taxation; it is taxing the whole in the hands of the corporation and the parts in the hands of the bondholders and stockholders who have simply interests in the property of the railroad corporations.

Mr. SPOONER. Is the Senator speaking to his amendment?

Mr. NEWLANDS. Yes.

Mr. SPOONER. Is it the first amendment?

Mr. NEWLANDS. No, the second amendment.

Mr. SPOONER. I did not hear that. Let the second amendment be read.

The PRESIDENT pro tempore. The Chair is informed that the amendment referred to has been sent to the Printer.

Mr. NEWLANDS. I have a copy of the amendment which can be read by the Secretary.

The PRESIDENT pro tempore. If the Senator will send his copy to the desk it will be read by the Secretary.

The SECRETARY. It is proposed to add to section 4 the following:

Provided further, That after the construction of any railroad under this section such railroad shall pay to the General Government an annual tax of 1 per cent upon the gross receipts of such railroads for freights and fares for the period of five years, and thereafter such tax shall be increased at the rate of one-quarter of 1 per cent per annum until it reaches a total of 5 per cent. That such tax shall be in lieu of all taxes—general, provincial, or municipal—and shall be in lieu of all taxes upon either the railroad itself and the property connected therewith, or on the stock and bonds issued by the corporation owning such road. And the bonds and shares of stock issued for the construction of such railroad shall be exempt from taxation by the Government of the United States, or by the government of the Philippine Islands, or of any political or municipal subdivision thereof, or by any State, or by any county, municipality, or other municipal subdivision of any State or Territory of the United States, or by the District of Columbia: *And provided further*, That in the law permitting the construction of such railroads the power shall be reserved to alter, amend, or repeal the same, and that no distribution of profits or dividends upon such railroads shall be paid to the stockholders in excess of 7 per cent per annum, and the said Philippine government shall have the power, in case the gross receipts exceed an amount sufficient to pay operating expenses, taxes, reasonable salaries, and dividends at the rate of 7 per cent per annum, to apply such excess to a reduction of rates of freight and fare.

Mr. McCOMAS. The senior Senator from Massachusetts [Mr. LODGE], the chairman of the Committee on the Philippines, in charge of this bill, has by a proviso greatly improved the amendment which I presented yesterday and had printed. As it is in much better and more satisfactory form as now modified, I desire to withdraw the amendment I then presented, and to offer this in lieu of it, as it has been changed and improved by the chairman of the committee.

The PRESIDENT pro tempore. The Senator has the right to withdraw the amendment. The amendment is withdrawn by the Senator from Maryland.

Mr. McCOMAS. In lieu of that I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. Does the Senator desire that the amendment shall be read?

Mr. McCOMAS. I think it had better be read.

The PRESIDENT pro tempore. The proposed amendment will be read.

The SECRETARY. It is proposed to strike out section 5, and in lieu thereof to insert the following:

Sec. 5. That the Philippine Commission, and any succeeding legislature of the Philippine Islands, subject to subsequent repeal or modification by Congress, shall have power, from time to time, to amend the act entitled "An act to revise and amend the tariff laws of the Philippine Archipelago:" *Provided, however*, That any amendment or modification of the existing tariff made hereunder shall not take effect until it shall be transmitted by the Commission, or any subsequent Philippine legislature, to the Secretary of War, who shall, after due advertisement, grant hearings to any person interested in respect to the proposed amendment or modification, and until it shall have been thereafter approved by the Secretary of War by authority of the President.

Mr. LODGE. To that amendment as amended I have no objection, Mr. President. I think it carries out the purposes of the War Department.

Mr. PLATT of Connecticut. Mr. President—

The PRESIDENT pro tempore. The Chair supposes the Senator from Massachusetts does not wish the amendment to be acted upon now.

Mr. LODGE. No; I do not expect any amendment to be acted upon until 3 o'clock to-morrow.

Mr. PLATT of Connecticut. I should like to ask a question for information. Can the Philippine legislature, even with the approval of the Secretary of War, be clothed with authority to make a tariff for a portion of the United States which shall not apply to other portions of the United States?

Mr. LODGE. This is a tariff which applies now only to the Philippine Islands.

Mr. PLATT of Connecticut. Well, Congress did that, did it not?

Mr. McCOMAS. Congress approved it.

Mr. LODGE. Yes; Congress approved it.

Mr. PLATT of Connecticut. Then it became the act of Congress. Now, is it proposed to clothe the legislature of the Philippine Islands, or the Commission until that legislature exists, with the power, subject to the approval of the Secretary of War, to make a tariff for one portion of the United States which shall be different from the tariff prescribed by Congress for the whole United States?

Mr. LODGE. Subject to repeal or modification by Congress. Mr. PLATT of Connecticut. It does not say so. It says "when approved by the Secretary of War."

Mr. LODGE. I beg pardon. It says, "subject to repeal or modification."

Mr. PLATT of Connecticut. Well, the question still remains unanswered.

Mr. LODGE. But this tariff has no relation whatever to the tariff of the United States.

Mr. PLATT of Connecticut. It is a tariff for a portion of the United States. What becomes of the provision of the Constitution that taxes shall be uniform throughout the United States?

Mr. LODGE. If that argument were carried out, would it not apply to the Dingley tariff?

Mr. SPOONER. It is a tariff relating to property belonging to the United States but not yet incorporated into the United States, according to the decision of the Supreme Court.

Mr. PLATT of Connecticut. I merely asked for information. I thought perhaps that was a question that ought to be considered if we were to make a tariff applicable to imports into the Philippine Islands without the action of Congress.

Mr. SPOONER. Mr. President—

Mr. McCOMAS. Mr. President, if the Senator from Wisconsin will allow me, as the Senator from Connecticut will find, the amendment reads:

That the Philippine Commission and any succeeding legislature of the Philippine Islands, subject to subsequent repeal or modification by Congress, shall have power from time to time to amend the act entitled "An act to revise and amend the tariff laws of the Philippine Archipelago."

That act was a tariff enacted by the Commission in the Philippine Islands, recommended by the Secretary of War and approved by the President, and the act of Congress says thereafter that it approves the act. This simply follows the same method. The chairman of the committee, the Senator from Massachusetts, has made it even more careful by adding a proviso as to what method the Secretary of War shall take before the President approves. It is the administrative features and not largely the rates which are needed to be changed in the Philippine tariff. This enables the Secretary of War and the President to approve such changes when made by the Commission or by the legislative assembly if it ever comes hereafter.

Mr. PLATT of Connecticut. Still, Mr. President, I think that the language of the amendment provides for the taking effect of such a tariff without the approval of Congress.

Mr. LODGE. Without the direct approval.

Mr. PLATT of Connecticut. Without the direct approval of Congress.

Mr. LODGE. That is the change that is made.

Mr. PLATT of Connecticut. It puts it in the power of Congress, of course, to repeal or modify the act; but the act takes effect without the approval of Congress.

Mr. McCOMAS. Until Congress shall change it. It is desired now to change something about the length of threads and the making of measurements they have on certain things, and they do not want to wait five years. They have waited three years already.

Mr. SPOONER. Mr. President, I ask the attention of the Senator from Connecticut [Mr. PLATT]. I suppose the question raised by the Senator from Connecticut is whether Congress can delegate the power to this Commission to make a tariff at all?

Mr. PLATT of Connecticut. Precisely.

Mr. SPOONER. Of course, it is certain that Congress can not disable itself from changing any tariff it has authorized. So the reservation amounts to nothing, as the Supreme Court has held. It is not necessary for Congress to reserve the right to abrogate an act of a Territorial legislature. That right could not be parted with. The Senator from Maryland [Mr. McCOMAS] does not meet the question suggested by the Senator from Connecticut [Mr. PLATT].

Mr. PLATT of Connecticut. Let me put it in another form. Suppose the Congress says that the Secretary of War shall make a tariff for the Philippine Islands, which will be good until repealed or modified by Congress. That will present the question in concrete form. It does not necessarily go through the Philippine Commission; it goes to the finding made by the Secretary of War. Now, suppose that we leave out the Philippine Commission, and say "the Secretary of War is hereby authorized to make a tariff for the Philippine Islands, which shall be enforced unless modified or repealed by Congress." Would we have the right to do it?

Mr. McCOMAS. Then what becomes of all the volume of law passed in accordance with the act of Congress under which the Philippine government is constituted and has been exercising power and dominion for all these years?

Mr. PLATT of Connecticut. I have not kept very close track of it, but I supposed that those laws had been approved by Congress.

Mr. McCOMAS. They were approved by Congress and went into effect under the war power. When the President and Secretary of War were enabled to constitute the Commission those laws were in practical operation; but the time came when Congress approved those laws. I understand the Supreme Court has in effect in the Porto Rico case upheld the right of preliminary legislation in those possessions and as to other property of the United States. If the Senator from Connecticut be right, then every statute or ordinance that was passed either last year or the year before is not a law until Congress approves it. If a law or ordinance is made in respect of the public health in Manila, it is not in effect, if I correctly understand the Senator from Connecticut. I think the Supreme Court has held what I have stated in the insular cases.

Mr. SPOONER. Mr. President, I am not at all certain how much there is in the proposition made, or rather in the doubt suggested, by the Senator from Connecticut.

Mr. PLATT of Connecticut. I did not express any opinion.

Mr. SPOONER. I changed that and said "the doubt suggested by the Senator from Connecticut." But there is a clear line of demarcation between the great body of legislation as to the Philippines and the question raised by the Senator from Connecticut [Mr. PLATT]. The Constitution provides:

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

The general rule is that Congress may not delegate to subordinate tribunals—

Mr. PLATT of Connecticut. Legislative power.

Mr. SPOONER. Legislative power. But one exception to that rule, and one that has existed from the foundation of the Government and has been maintained up to to-day, and of necessity so, is the delegation of administrative or ordinary governmental power in the Territories.

This clause of the Constitution confers upon Congress the power to make rules and regulations for the government of the Territories; but to say that Congress may not delegate local powers would practically render it impossible for Congress to govern the Territories. If every rule, every regulation, for the government of the Territories must be made by Congress itself, and every modification of such rules and regulations likewise made by Congress, it would be simply destructive of the power. So, from the beginning of the Government Congress has delegated power. It may govern, as it did Louisiana, by a council. It conferred all legislative power upon that council—which was very queerly constituted, too. It may govern a Territory by a Commission and may give ordinary legislative power of local government to commissioners. In the Territorial legislatures Congress authorizes them to exercise, delegates to them, the local legislative power. The same rule as to the delegation of power holds good as to the State legislatures. The State legislatures delegate powers, governmental and local, to municipalities—the power to make ordinances, and all that. From the beginning it has been confessed that an exception to this general rule that delegated power can not be delegated is found in the case of local government.

But when you come to the question of taxation there is another clause in the Constitution which confers upon Congress the power to levy imposts, taxes, duties, etc., and provides that they shall be uniform throughout the United States. The Senator will recollect that in *Loughborough v. Blake* that provision of the Constitution was held to extend to the Territories; it was held to extend to the District of Columbia; and the court did not in the island cases abandon the doctrine of *Loughborough v. Blake*. So the two questions are here now.

Not long ago the question was raised as to the constitutionality of certain taxation in Alaska. The point was based upon the fact that the moneys collected were drawn into the Treasury of the United States. In delivering its opinion the court said that if the money was collected solely for the government of Alaska Congress was acting within its power; but very clearly the court seemed to be of the opinion that it was not in the power of Congress to levy, for the benefit of the United States, taxes that are not uniform in Alaska in common with other Territories and with the States.

I am not able to say how much point there is—

Mr. PLATT of Connecticut. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from Connecticut?

Mr. SPOONER. Certainly.

Mr. PLATT of Connecticut. Putting aside for the moment the question of uniformity—I do not want to dwell on that particu-

larly—if we can authorize a commission in the Philippine Islands to make a special tariff for the goods imported into the Philippine Islands, differing from the present tariff law of the United States, and put it in force, if approved by the Secretary of War, why can not we do it for Alaska? Why can not we do it for the Hawaiian Islands? Why can not we do it for Porto Rico? Is there any distinction with regard to our right to the possession of those different territorial acquisitions of ours? They are not States, and in that sense have not become a part of the United States. I ask the Senator from Wisconsin, Is there any difference as respects the situation of Porto Rico and the Philippine Islands? We have organized a quasi-legislature in Porto Rico. We have no legislature in Alaska, and the people of Alaska can not make a law; but if we can authorize the Commission in the Philippine Islands to make a tariff law applicable to the Philippine Islands, why can not we authorize the judges in Alaska to make a tariff law applicable to Alaska?

Mr. SPOONER. I think the court has held that Alaska has been incorporated.

Mr. PLATT of Connecticut. I did not know that it had.

Mr. SPOONER. I think it has. The Senator may be able to tell me, and probably he will—

Mr. PLATT of Connecticut. I am asking a question.

Mr. SPOONER. What is necessary to distinguish between territory belonging to the United States and territory incorporated? In other words, what constitutes an incorporation of territory as contradistinguished from ownership of a territory? I will not ask the Senator to answer that now, but next winter, after he shall have had time to reflect upon it.

Mr. PLATT of Connecticut. I am unable, Mr. President, to answer it now. I believe—I think I may say “I believe”—that the Philippines are in no wise different from Porto Rico so far as their relation to the United States is concerned.

Mr. LODGE. Mr. President, there are two propositions, it seems to me, involved in this matter. One is the delegation of power; the other is the application of the clause of the Constitution in regard to uniformity of the tariff. The clause of the Constitution in regard to uniformity is not at all involved in this amendment. It is involved in the original legislation. There was a tariff made for the Philippine Islands by the Philippine Commission submitted to Congress, and by Congress approved. We did the same thing in Porto Rico, where, I think, there were three tariffs—first the war tariff, then a modification after the war had concluded, and finally the application of the Dingley Act.

In the Philippine Islands we have existing simply the tariff which we delegated power to the Commission to make. All this amendment proposes is that any modification or amendment of the Philippine tariff shall not require the direct action of Congress.

It is, of course, practically impossible under present conditions to regard the Philippine tariff as a part of the tariff laws of the United States. It is a totally different tariff. It falls equally upon the goods of the United States as upon the goods of other countries. If the tariff laws of the United States and the Philippines have got to be uniform, we have nothing to do except to extend the Dingley tariff to the islands. We have delegated such lawmaking power to the Commission, and, among other things, we have, as a matter of fact, delegated the right to make a tariff. They made a tariff and we approved it. By this amendment it is proposed to permit them to modify or amend the Philippine tariff, subject to revision by the War Department, and, of course, subject to modification or repeal by Congress.

I had supposed that under the decisions and the action already taken we had the right to delegate that power, but if the clause of the Constitution in regard to uniformity is applicable, of course no Philippine tariff can stand. We could have nothing there then except the tariff law of the United States.

The present tariff was framed, not for those islands alone, but it was framed with a view to what is known as the “open-door policy,” and with a view to maintaining our particular obligations to Spain in the Philippine Islands. I think this amendment would endanger practically nothing. It would, I believe, facilitate some changes which must be made. I do not think it involves the question of uniformity any more than does the existing tariff. I see there are doubts that may be raised as to that question, but I do not think they apply to this amendment any more than to the Philippine tariff law which already exists.

Mr. PLATT of Connecticut. Mr. President, I do not insist very much upon the suggestion that it interferes with the uniformity clause, but I do think the other doubt which lies in my question is a pretty serious one. I know that the distinction between a delegation of power and the appointment of an agent

or agencies to exercise the power of Congress is a pretty narrow one. It is possible that this would not be a delegation of power. It is possible that if the bill provides that what the Commission does is to be approved by Congress it would be merely an authorization of a certain agency to execute the power of Congress, but I do not think we can delegate the legislative power of Congress. If we do not incorporate the provision that their action is to be approved by Congress I should have some trouble about it. I do not think there is any practical difficulty in incorporating such a provision in this amendment. They have a tariff there. They want to change it. It is in operation, and there can not be any such immediate necessity for changing it as that they can not wait to get the approval of Congress, as it seems to me. But at any rate if any approval is necessary I think Congress had better retain that power of approval itself rather than to delegate the power of approval to the Secretary of War. If we delegate first the power to change the tariff—and if it is a delegation of power—and then we delegate our power of approving it to the Secretary of War, I do not think we had better have a double delegation of power, if it is a delegation of power.

Mr. SPOONER. Mr. President, I agree entirely with the Senator from Connecticut as to the last proposition, but I have not the slightest doubt of the power of Congress, under the Territorial clause of the Constitution, to delegate to local legislatures the legislative power of local government; and not simply local legislatures, but local tribunals authorized to enact legislation. There are thousands of laws in force enacted by Territorial legislatures under a provision that they shall continue in force until overruled by Congress. The approval of Congress is not a condition precedent to their going into effect at all. If Congress can not delegate such power, that would be the end of it. We would have no authority in the first place to delegate such power to local assemblages to make the law, subject to our approval. The fact that we reserve the right to approve it would not make it any less a delegation of power.

I have not any doubt about the last proposition—that Congress can not delegate to the Secretary of War or the President or anyone else this power which it possesses under the Constitution to ultimately pass upon the question whether a law enacted under the delegated power shall be approved or not. I will not support any such provision.

Mr. CULBERSON. I offer an amendment to the pending bill, which I ask to have read, printed, and lie on the table.

The PRESIDENT pro tempore. The Senator from Texas offers an amendment, which will be read.

The SECRETARY. It is proposed to amend the bill by striking out section 4 and inserting the following:

That for the purpose of aiding in the construction, equipment, operation and maintenance of railroads in the Philippine Islands, the general government thereof is authorized to grant to any railroad company hereafter created and organized in said islands, under the laws thereof, not exceeding 8,000 hectares of land out of the unappropriated public land in the Philippine Islands for each mile of railroad constructed, completed, and put in running order. The general government of the Philippine Islands shall provide by general law for carrying this section into effect, but no land shall be granted to any company until it shall have constructed, completed, and put in running order a section of 25 miles or more of its road, and not until the same shall have been inspected by some skillful engineer, appointed under the authority of the Philippine government, and reported by him to be completed and in running order.

The general government of the Philippine Islands shall also provide by general law for the selection, survey, and location of land granted under this section, but the lands granted shall be selected, surveyed, and located substantially in the following manner: Certificates shall be issued entitling the railroad company to 1,600 hectares of land each, equal to 8,000 hectares per mile of road completed and put in running order, whereupon said company may apply to the proper authority to survey any quantity of vacant land subject to location under such certificate not to exceed twice the quantity of certificates so issued, which surveys when made shall be numbered consecutively, and patents to said company shall be issued for the odd sections of such surveys of 1,600 hectares, and the even sections shall be set apart as a permanent school fund for the inhabitants of the Philippine Islands. And one-half of the entire unappropriated public domain in the Philippine Islands is hereby set apart as a permanent school fund for the inhabitants of said islands, and no part of said land shall at any time be granted, sold, or in any other manner disposed of unless at the same time an equal quantity shall be set apart and segregated in a manner to be prescribed by general law by the Philippine government as a permanent school fund for the inhabitants of said islands.

The PRESIDENT pro tempore. The amendment will be printed and lie on the table.

Mr. BAILEY. I desire to offer an amendment, which I ask to have printed and lie on the table. I will say that I think this is the law without the amendment, but in order to make it doubly sure I offer the amendment.

The PRESIDING OFFICER (Mr. MARTIN in the chair). Does the Senator from Texas desire that the amendment be read?

Mr. GORMAN. I ask that it be read.

Mr. BAILEY. Let it be read.

The SECRETARY. It is proposed to add, after the word "years," in line 10, page 5, the following:

Provided further, That before any guaranty of interest or income as herein authorized shall be made the railroad company desiring to avail itself of such guaranty shall include in its charter or articles of incorporation an express agreement that the general government of the Philippine Islands shall always possess and exercise the right of regulating charges for freight and passenger service.

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

Mr. CULBERSON. I am not certain that I will offer this amendment, but in order to be on the safe side, I ask that it be read and printed, so that I can offer it if I see proper.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 5, after the word "years," in line 10, it is proposed to insert:

And provided further, That on railroads in the Philippines upon which an income is guaranteed under the provisions of this section mails of the United States and the Philippines, and the postal servants thereof, shall be carried free, and troops and military stores of the United States and the Philippines shall be carried at rates 15 per cent less than the usual rates in force on such roads, for the full term of the guaranty period.

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

Mr. SPOONER. Mr. President, I hardly think, if the government is to guarantee the interest on the bonds or the dividends on the stock not earned by a railroad company that it ought to diminish the earnings of the company by gross-earning taxes, or by requiring the company to charge less to the government for services than it would to citizens there for similar service.

Mr. CULBERSON rose.

Mr. SPOONER. But I did not rise to discuss that amendment.

Mr. CULBERSON. Mr. President—

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

Mr. SPOONER. Certainly.

Mr. CULBERSON. I stated to the Senate that I was not certain that I would offer the amendment, but in view of the unanimous-consent agreement I thought it best to present it now, so that I could offer it if at the time I thought proper.

I call attention to the fact, however, that in India, under the policy of guaranteeing 5 per cent income, the railroads are required to carry the mails and the postal servants of the government free, and the troops and military stores at a reduced rate. I offer the amendment for the consideration of the Senate, with a view, if I see proper at the time, to present it.

Mr. SPOONER. I had more in mind the gross-earnings tax.

Mr. NEWLANDS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Nevada?

Mr. SPOONER. Certainly.

Mr. NEWLANDS. I wish to say to the Senator from Wisconsin that the gross-earnings tax covered by the amendment which I offered, instead of imposing a burden upon the railroad companies will relieve them, I believe, of what may be a very oppressive burden, and that is a tax upon the value of their property, to be ascertained in the method now provided in the Philippine Islands. The percentage tax which my amendment proposes is in lieu of all other taxes, not only upon the property of the road, but upon its stock and bonds. It is made very low at first, 1 per cent of the gross receipts for five years, then gradually increasing at the rate of one-quarter of 1 per cent per annum until it reaches a total of 5 per cent. I assume when that total is reached the tax on the property will not be any larger than that which would be laid by the corporation if it submitted to a tax upon valuation.

Mr. SPOONER. Whether the property shall be taxed or not is a matter yet to be determined. This guaranty is to run for thirty-five years, and it has occurred to me that if the railroad company is unable to earn income sufficient to pay operating expenses and interest on its bonds and other fixed charges while the guaranty is outstanding the Philippine government would not probably diminish the earnings by levying a gross-earnings tax or any other tax.

Mr. NEWLANDS. I understood from the Senator from Massachusetts [Mr. LODGE] that as soon as this railroad is constructed it will come under the operation of the existing law there regarding taxation. There is no power in the Philippine government to relieve it from general taxation. That is the reason why Congress should provide some tax in lieu of the general property tax.

Mr. SPOONER. We will have to deal ourselves with that matter.

Mr. CLAY. Under the provisions of this bill, suppose the

roads should earn more than enough to pay fixed charges, and there should be a surplus that could be applied to interest. Is there any provision in this bill which would compel the directors to apply it to the interest, so as to save the Philippine government part of the interest?

Mr. SPOONER. I am not at all satisfied with the manner in which the section is guarded, but the liability is contingent; it is treated as a contingent liability.

Mr. CLAY. Does the Senator think that under the bill as it stands the company could use the earnings, if they amount to more than enough to pay the fixed charges, for other purposes than to pay the interest, and leave the Philippine government to pay the interest, regardless of the fact that the road earned more than enough to pay the fixed charges?

Mr. SPOONER. I doubt it, but an amendment has been prepared or will be prepared which will make that perfectly clear.

I wish to recur for one moment to section 3, to which I called attention yesterday afternoon. I do not like the section. I called the attention of the Senate yesterday afternoon to the fact that really the principal change from the existing law is the elimination of Congress. Under the law as it stands the municipalities are authorized to issue bonds under such limitations, terms, and conditions as the Philippine government may prescribe, with the consent and approval of the President and the Congress of the United States. This bill is almost in the same language, but it strikes out the words "and the Congress." If the law is to be enlarged in that respect, I think its provisions ought to be diminished in some other respects.

We are trustees for that people, and if there is any one thing of which we ought to be solicitous and careful above another in dealing with people so constituted and in such an environment it is the debt-making power—the power to mortgage the future. They have had no experience there in municipal indebtedness. They have not learned the lesson, as some communities in our country had not learned the lesson, that it is much easier to incur an indebtedness than it is to pay it. I think there are a class of improvements in some of the municipalities, perhaps many of them, which they might provide for by current taxation. It might take a year or two years or three years to raise the money. I think it is important to that people that they should, so far as it can be done in harmony with the promotion of public health and reasonable development there, learn what it means to pay taxes before they go at large into this rather alluring and easy municipal function, if the authority be broad enough, of incurring bonded indebtedness spread through many years.

I can see, as the Senator from Massachusetts said yesterday, and it is obvious, that it would not do to permit no reasonable improvement to be made or indebtedness for that purpose to be incurred by municipalities in the Philippines without first securing the sanction of Congress in each case. We are not accessible part of the time. It takes time to secure the passage of measures, and it would be putting a restriction upon development there which I think would be an unreasonable one.

At the same time, I dislike, for one, to turn the whole power over to the Commission in the Philippines, to authorize, in the broad language of this section, the bonding of all municipalities, of which there are about 900, with no limit except the 5 per cent limit upon the taxable values. In our own country, with such a limit, assessments have been increased by assessors and municipal officers in order thereby to raise the limit of municipal bonded debt. How it would be over there, with a competition in large expenditures, I do not know. But I think it does not require overcaution to lead one to fear that pretty careful supervision is required here of this subject in the interest of the inhabitants of the islands.

I want to cut down by an amendment of this section the language as to improvements and make it specific. It now reads:

That for the purpose of providing funds to construct sewers, to furnish adequate sewer and drainage facilities, to secure a sufficient supply of water, and to provide all kinds of municipal betterments and improvements.

People who never have had much, situated as they are, can wisely move slowly to luxury as contradistinguished from the necessity. And so I shall move to insert after the word "construct," in the ninth line, the word "necessary;" to strike out the final "s" in the word "sewers;" to strike out the words "to furnish adequate sewer" in line 9; to strike out the words, beginning in line 10, "to provide all kinds of municipal betterments and improvements," and insert in lieu thereof the words "necessary buildings for primary public schools;" after the word "islands," in line 12, insert the words "may where current taxation is inadequate for the purpose;" strike out the word "may" before the word "authorize," in line 15, and insert at the end of the section the words "and that no such municipi-

pality shall exercise the power to issue bonds under the provisions hereof without the approval of the President." The section would then read thus:

That for the purpose of providing funds to construct necessary sewer and drainage facilities, to secure a sufficient supply of water and necessary buildings for primary public schools in municipalities, the government of the Philippine Islands may, where current taxation is inadequate for the purpose, under such limitations, terms, and conditions as it may prescribe, with the consent and approval of the President of the United States, authorize and enable, by appropriate legislation, any municipality of said islands to incur indebtedness, borrow money, and to issue and sell (at not less than par value in gold coin of the United States) registered or coupon bonds, in such amount and payable at such time as may be determined by the government of said islands, with interest thereon not to exceed 5 per centum per annum: *Provided*, That no such municipality shall exercise the power to issue bonds under the provisions hereof without the approval of the President.

We have adopted in some of the State constitutions, among them my own, a requirement that before incurring any such indebtedness provision shall be made for raising by taxation the money necessary to pay the interest from time to time which will accrue upon the bonds, and to pay into a sinking fund a sum sufficient to discharge the indebtedness when it matures. Whether that is practicable over there or not I do not know, but it would bring to the municipalities, if it be practicable, very distinctly the notion in limine that they are incurring an obligation which in the end must be paid, principal and interest, and that they are providing for its payment by the levy of a continuing, an annual tax, for interest and sinking fund. I do not move to insert such provision, for I am not sufficiently familiar with the situation over there to know whether it would be practicable, but I think the amendment which I have proposed will minimize at least what may turn out to be, without some restrictions and safeguards of the kind, the granting of a power which never ought to have been granted in terms so broad.

The PRESIDING OFFICER. The Chair supposes that the Senator from Wisconsin desires to have the amendment printed and lie on the table.

Mr. SPOONER. Certainly. It is not in order to offer it. I only called attention to it that it might be taken down.

Mr. CULBERSON. Mr. President, it seems that there are about 120 miles of railroad now in the Philippines in operation. In the report of the Chief of the Bureau of Insular Affairs to the Secretary of War for this year I find the following at page 8:

It has been authoritatively reported that a New York financial concern has acquired in the last few months the control from English owners of the Manila-Dagupan Railroad, which should form part of the proposed railway system in the islands.

I have examined section 4 hastily to see if under its provisions an income can be guaranteed under the present railroad mileage in the Philippines, and it seems to me that it may be.

Mr. LODGE. Does not the Senator think that the amendment, which was adopted yesterday by unanimous consent, in line 3 prevents that?

Mr. CULBERSON. I had not noticed the amendment in line 3.

Mr. LODGE. It reads now:

That for the purpose of aiding in the construction, equipment, operation, and maintenance of such railroads as the Philippine government may specifically authorize to be constructed.

Mr. CULBERSON. I am inclined to think that that provision would cover it, though I had not noticed it at the time I rose to call attention to the section. I will, however, offer this amendment, which I am sure will reach the point. I move to amend by inserting after the word "railroads," in line 2, page 4, the words "hereafter constructed."

I offer this amendment and ask that it be printed and lie on the table to meet this phase of the case.

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

Mr. LODGE. I think if the Senator were to insert after the word "may," in line 3, if he has the reprint of to-day before him—

Mr. CULBERSON. Yes; I have it.

Mr. LODGE. If he were to insert "such railroads as the Philippine government may hereafter specifically authorize to be constructed" it would answer the same purpose as his own amendment.

Mr. CULBERSON. Does the Senator, for the committee, accept the amendment?

Mr. LODGE. I can not accept it now, but I will accept it when we come to take up the amendments.

Mr. ALLISON. I offer an amendment for consideration at some time when in order. At the end of section 4, on page 5,

after line 10, I propose to insert the following additional proviso:

Provided further, That section 74 of an act entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," is hereby made applicable to the provisions of this section.

Mr. BAILEY. I should like to have section 74 of that act printed with the amendment. I am inclined to think that section 74 will reach the very point which I sought to reach by an amendment a few moments ago, and I should like to have that section of the act before me.

Mr. ALLISON. I offer this amendment because it is possible that there may be doubt about the section applying to this bill, although I think the provisions of the organic act now apply to the bill. I ask that the Secretary may read it.

Mr. BAILEY. Then I will reach my object by just asking that section 74 be printed right along with it.

Mr. LODGE. There is no need of reading it.

Mr. ALLISON. No.

Mr. LODGE. Then let section 74 be printed in the RECORD with the amendment offered by the Senator from Iowa.

The PRESIDING OFFICER. Without objection, section 74 of the act will be ordered printed in the RECORD.

The section referred to is as follows:

Sec. 74. That the government of the Philippine Islands may grant franchises, privileges, and concessions, including the authority to exercise the right of eminent domain, for the construction and operation of works of public utility and service, and may authorize said works to be constructed and maintained over and across the public property of the United States, including streets, highways, squares, and reservations, and over similar property of the government of said islands, and may adopt rules and regulations under which the provincial and municipal governments of the islands may grant the right to use and occupy such public property belonging to said provinces or municipalities: *Provided*, That no private property shall be taken for any purpose under this section without just compensation paid or tendered therefor, and that such authority to take and occupy land shall not authorize the taking, use, or occupation of any land except such as is required for the actual necessary purposes for which the franchise is granted, and that no franchise, privilege, or concession shall be granted to any corporation except under the conditions that it shall be subject to amendment, alteration, or repeal by the Congress of the United States, and that lands or rights of use and occupation of lands thus granted shall revert to the governments by which they were respectively granted upon the termination of the franchises and concessions under which they were granted or upon their revocation or repeal. That all franchises, privileges, or concessions granted under this act shall forbid the issue of stock or bonds except in exchange for actual cash, or for property at a fair valuation, equal to the par value of the stock or bonds so issued; shall forbid the declaring of stock or bond dividends, and, in the case of public-service corporations, shall provide for the effective regulation of the charges thereof, for the official inspection and regulation of the books and accounts of such corporations, and for the payment of a reasonable percentage of gross earnings into the treasury of the Philippine Islands or of the province or municipality within which such franchises are granted and exercised: *Provided further*, That it shall be unlawful for any corporation organized under this act, or for any person, company, or corporation receiving any grant, franchise, or concession from the government of said islands, to use, employ, or contract for the labor of persons claimed or alleged to be held in involuntary servitude; and any person, company, or corporation so violating the provisions of this act shall forfeit all charters, grants, franchises, and concessions for doing business in said islands, and in addition shall be deemed guilty of an offense, and shall be punished by a fine of not less than \$10,000. (Approved July 1, 1902.)

Mr. GORMAN. I offer an amendment, and ask that it be printed.

Mr. MALLORY. Let it be read.

Mr. GORMAN. Yes; let it be read.

The SECRETARY. At the end of section 4, on page 5, at the end of line 10, add the following additional proviso:

And provided further, That in each and every case where any railroad company shall issue either preferred or common stock, the same shall be sold for not less than the par value in gold coin of the United States or its equivalent.

Mr. LODGE. That, I will say to the Senator from Maryland, is covered by section 74 of the act of 1902, which the Senator from Iowa proposes to specifically put in.

Mr. ALLISON. That is a part of section 74 of the act.

Mr. LODGE. If there are no further amendments to be offered or no further debate to-day, I will move that the Senate proceed to the consideration of executive business. I make that motion.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After thirty-five minutes spent in executive session the doors were reopened, and (at 4 o'clock p. m.) the Senate adjourned until to-morrow, Friday, December 16, 1904, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate December 15, 1904.

PROMOTIONS IN THE NAVY.

Lieut. (Junior Grade) Claude C. Bloch to be a lieutenant in the Navy from the 8th day of November, 1904, vice Lieut. George R. Evans, promoted.

Capt. Royal B. Bradford to be a rear-admiral in the Navy from the 23d day of November, 1904, vice Rear-Admiral Theodore F. Jewell, retired.

Commander William H. Beehler to be a captain in the Navy from the 23d day of November, 1904, vice Capt. Royal B. Bradford, promoted.

Gunner Charles E. Jaffee to be a chief gunner in the Navy from the 11th day of July, 1904, upon the completion of six years' service in accordance with an act of Congress approved April 27, 1904.

Gunner Herbert Campbell to be a chief gunner in the Navy from the 27th day of April, 1904, after having completed six years' service in accordance with the provisions of an act of Congress approved April 27, 1904.

Gunner Patrick Hill to be a chief gunner in the Navy from the 28th day of October, 1904, upon the completion of six years' service in accordance with the provisions of an act of Congress approved April 27, 1904.

Asst. Surg. Paul E. McDonnold to be a passed assistant surgeon in the Navy from the 2d day of July, 1904, upon the completion of three years' service.

PROMOTION IN THE MARINE CORPS.

Lieut. Col. Paul St. C. Murphy to be a colonel in the Marine Corps from the 9th day of December, 1904, vice Col. Francis H. Harrington, retired.

POSTMASTER.

NEW YORK.

John Smythe to be postmaster at Cold Spring, in the county of Putnam and State of New York, in place of Ellis H. Timm. Incumbent's commission expired December 10, 1904.

CONFIRMATIONS.

Executive nominations confirmed by the Senate December 15, 1904.

CONSULS.

John B. Terres, of New York, to be consul of the United States at Port au Prince, Haiti.

Jerome B. Peterson, of New York, to be consul of the United States at Puerto Cabello, Venezuela.

Paul Nash, of New York, lately secretary of the legation and consul-general at Bangkok, Siam, to be consul of the United States at Venice, Italy.

George H. Moulton, of Colorado, lately consul at Demerara, Guiana, to be consul of the United States at Georgetown, Demerara, Guiana.

COMMISSIONER OF IMMIGRATION AT SAN JUAN, P. R.

Graham L. Rice, of Wisconsin, who was appointed November 28, 1904, during the recess of the Senate, to be commissioner of immigration at the port of San Juan, P. R., in the Department of Commerce and Labor.

REGISTER OF LAND OFFICE.

Robert N. Dunn, of Wallace, Idaho, who was appointed May 20, 1904, during the recess of the Senate, to be register of the land office at Coeur d'Alene, Idaho.

APPOINTMENTS IN THE ARMY.

Artillery Corps.

Capt. Thomas F. Dwyer, Twenty-first Infantry, from the Infantry Arm to the Artillery Corps, with rank from October 29, 1901.

Infantry Arm.

Capt. Carroll F. Armistead, Artillery Corps, from the Artillery Corps to the Infantry Arm, with rank from October 29, 1901.

Second Lieut. Samuel S. Bryant, Porto Rico Provisional Regiment of Infantry, to be first lieutenant, November 30, 1904, vice Moreno, appointed second lieutenant of infantry, United States Army.

PROMOTIONS IN THE ARMY.

Medical Department.

Capt. George D. Deshon, assistant surgeon, to be surgeon with the rank of major, December 5, 1904.

Cavalry Arm.

Second Lieut. James P. Barney, Fourth Cavalry, to be first lieutenant, October 22, 1904.

APPOINTMENT IN PORTO RICO PROVISIONAL REGIMENT OF INFANTRY.

To be assistant surgeon with the rank of captain, from July 1, 1904.

José Lugo-Viña, of Porto Rico, late captain and assistant surgeon, Porto Rico Provisional Regiment of Infantry.

POSTMASTERS.

ALABAMA.

James A. Chambliss to be postmaster at Enterprise, in the county of Coffee and State of Alabama.

Hugh R. Duggan to be postmaster at Florala, in the county of Covington and State of Alabama.

May T. Fowler to be postmaster at Uniontown, in the county of Perry and State of Alabama.

George W. Russell to be postmaster at Eufaula, in the county of Barbour and State of Alabama.

Sylvanus L. Sherrill to be postmaster at Hartsells, in the county of Morgan and State of Alabama.

Thomas H. Stephens to be postmaster at Gadsden, in the county of Etowah and State of Alabama.

John Sutterer to be postmaster at Cullman, in the county of Cullman and State of Alabama.

John X. Thomas to be postmaster at Pratt City, in the county of Jefferson and State of Alabama.

Byron Trammell to be postmaster at Dothan, in the county of Houston and State of Alabama.

COLORADO.

Henry W. Lance to be postmaster at Rocky Ford, in the county of Otero and State of Colorado.

Robert S. Lewis to be postmaster at Canon City, in the county of Fremont and State of Colorado.

Eva T. Wheeler to be postmaster at Crested Butte, in the county of Gunnison and State of Colorado.

FLORIDA.

Enoch E. Skipper to be postmaster at Bartow, in the county of Polk and State of Florida.

George A. W. Wendell to be postmaster at Quincy, in the county of Gadsden and State of Florida.

Louis Wiselogel to be postmaster at Marianna, in the county of Jackson and State of Florida.

NEW YORK.

John Smythe to be postmaster at Cold Spring, in the State of New York.

Nathan P. Wild to be postmaster at Valatie, in the county of Columbia and State of New York.

PENNSYLVANIA.

Thomas D. Alexander to be postmaster at Oxford, in the county of Chester and State of Pennsylvania.

Andrew C. Allison to be postmaster at Mifflintown, in the county of Juniata and State of Pennsylvania.

Abraham F. Berkey to be postmaster at Windber, in the county of Somerset and State of Pennsylvania.

Charles Clawson to be postmaster at Mercer, in the county of Mercer and State of Pennsylvania.

William A. Feist to be postmaster at White Haven, in the county of Luzerne and State of Pennsylvania.

Henry O. Garber to be postmaster at Berwyn, in the county of Chester and State of Pennsylvania.

Hugh W. Gilbert to be postmaster at Quarryville, in the county of Lancaster and State of Pennsylvania.

William S. Gleason to be postmaster at Johnsonburg, in the county of Elk and State of Pennsylvania.

William Krause to be postmaster at Richland Center, in the county of Bucks and State of Pennsylvania.

James C. McGregor to be postmaster at Indiana, in the county of Indiana and State of Pennsylvania.

John W. Miller to be postmaster at South Sharon, in the county of Mercer and State of Pennsylvania.

Lyman L. Shattuck to be postmaster at Pleasantville, in the county of Venango and State of Pennsylvania.

Albert H. Swing to be postmaster at Coatsville, in the county of Chester and State of Pennsylvania.

EXTRADITION WITH HAITI.

The injunction of secrecy was removed December 15, 1904, from a treaty between the United States and the Republic of Haiti for the mutual extradition of criminals, signed at Washington on August 9, 1904.

CUBAN EXTRADITION TREATY.

The injunction of secrecy was removed December 15, 1904, from a protocol signed at Washington on December 6, 1904, by the representatives of the United States and Cuba, by which the United States accepts certain amendments made by the Cuban Senate in the Spanish text of the extradition treaty between the two countries, signed on April 6, 1904, and approved by the Senate of the United States on April 26, 1904.