SENATE.

TUESDAY, *April 19, 1910.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

NAMING A PRESIDING OFFICER.

Mr. GALLINGER called the Senate to order, and the Secretary read the following communication from the President pro tempore of the Senate:

WASHINGTON, D. C., *April 19, 1910.*

To the Senate:

Being temporarily absent from the Senate, I hereby appoint Senator J. H. GALLINGER, of New Hampshire, to perform the duties of the Chair.

WM. P. FRYE,
President pro tempore.

Mr. GALLINGER thereupon took the chair as presiding officer.

THE JOURNAL.

The Journal of yesterday's proceedings was read and approved.

COMPANIES B, C, AND D, TWENTY-FIFTH INFANTRY.

The PRESIDING OFFICER. The Chair lays before the Senate a communication from the Secretary of War, which will be read.

The Secretary read the communication, as follows:

WAR DEPARTMENT,
Washington, April 16, 1910.

The PRESIDENT OF THE SENATE.

SIR: In compliance with a resolution of the Senate, dated April 14, 1910, directing that the Secretary of War transmit to the Senate a copy of the findings and final report of the court of inquiry appointed under authority given by the act of Congress approved March 3, 1909, entitled "An act to correct the records and authorize the reenlistment of certain noncommissioned officers and enlisted men belonging to Companies B, C, and D, of the Twenty-fifth United States Infantry, who were discharged without honor under Special Orders, No. 266, War Department, November 9, 1906, and the restoration to them of all rights of which they have been deprived on account thereof," I have the honor to transmit herewith the record of the proceedings of the court in 19 volumes and the collateral papers and maps pertaining thereto, as shown on inclosed copy of the schedule preceding page 1 of volume 19 of the record. (General index and group index.)

Very respectfully,

J. M. DICKINSON,
Secretary of War.

Mr. WARREN. I ask that all the material may be sent to the Committee on Military Affairs, for the purpose of examination, to see how much of it has already been printed. The committee will probably recommend the printing of such parts of it as have not been printed before.

The PRESIDING OFFICER. Without objection, the communication and accompanying papers will be referred to the Committee on Military Affairs.

DAUGHTERS OF THE AMERICAN REVOLUTION.

The PRESIDING OFFICER laid before the Senate a communication from the Secretary of the Smithsonian Institution, transmitting, pursuant to law, the twelfth annual report of the National Society of the Daughters of the American Revolution for the year ended October 11, 1908, which, with the accompanying papers, was referred to the Committee on Printing.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by W. J. Browning, its Chief Clerk, announced that the House had passed the following bills and joint resolution:

S. 7242. An act to protect the seal fisheries of Alaska, and for other purposes;

S. 7304. An act to revive and extend the provisions of an act entitled "An act to authorize the South and Western Railroad Company to construct bridges across the Clinch River and the Holston River, in the States of Virginia and Tennessee;

S. 7499. An act to authorize the Sanford and Everglades Railroad Company to construct and maintain a bridge across the eastern end of Lake Jessup; and

S. J. Res. 80. Joint resolution providing for a special election in the Territory of Hawaii.

The message also announced that the House had passed the bill (S. 6131) for preventing the manufacture, sale, or transportation of adulterated or misbranded Paris greens, lead arsenates, and other insecticides, and also fungicides, and for regulating traffic therein, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 614) to amend an act entitled "An act for the relief of Dewitt Eastman," approved January 8, 1909.

The message also announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H. R. 2250. An act providing for publicity of contributions made for the purpose of influencing elections at which Representatives in Congress are elected;

H. R. 14541. An act to aid the Council City and Solomon River Railroad Company;

H. R. 21124. An act to provide for an investigation of the surveys by which the southern boundary line of the State of Alabama, between ranges 4 and 14 east of the St. Stephens meridian, in Escambia County, was fixed, and for a report thereon;

H. R. 22148. An act to change and fix the terms of the circuit and district courts of the United States in the district of Delaware;

H. R. 23254. An act to give legal status to a submarine cable crossing the Mississippi River between Cairo, Ill., and Bird Point, Mo.;

H. R. 23634. An act to authorize the Rockport and Aransas Pass Railway Company to construct a bridge;

H. R. 23695. An act to provide for sittings of the United States circuit and district courts of the northern district of Mississippi at the city of Clarksdale, in said district;

H. R. 23964. An act to extend the time for Clay County, Ark., to construct a bridge across Black River at or near Bennetts Ferry, in said county and State;

H. R. 24149. An act to create, establish, and enforce a miner's labor lien in the Territory of Alaska, and for other purposes; and

H. J. Res. 160. Joint resolution to enable the States of Missouri and Kansas to agree upon a boundary line and to determine the jurisdiction of crimes committed on the Missouri River and adjacent territory.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the Presiding Officer:

S. 4769. An act authorizing the Secretary of the Interior to ascertain the amount due Tay-cum-e-ge-shig, otherwise known as William G. Johnson, and pay the same to his heirs out of the fund known as "for the relief and civilization of the Chippewa Indians in the State of Minnesota (reimbursable)."

S. 5787. An act authorizing the Secretary of the Interior to make allotment to Frank H. Paquette; and

S. J. Res. 14. Joint resolution for the relief of the firm of Fearon, Daniel & Co., of New York and Shanghai.

PETITIONS AND MEMORIALS.

Mr. BURKETT presented a petition of the Ladies of the Maccabees of the World, of Syracuse, Nebr., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mails as second-class matter, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. BRISTOW presented a memorial of Reno Post, No. 83, Department of Kansas, Grand Army of the Republic, of Nickerson, Kans., remonstrating against the acceptance by the Government of the statue of Gen. R. E. Lee, to be placed in Statuary Hall, United States Capitol, which was referred to the Committee on the Library.

He also presented a petition of Frank E. Armstrong Camp, No. 3, United States Spanish War Veterans, Department of Kansas, praying for the enactment of legislation for the relief of volunteer officers and soldiers who served in the Philippine Islands beyond the period of their enlistment, which was referred to the Committee on Military Affairs.

He also presented a petition of the congregation of the Reformed Presbyterian Church of Sterling, Kans., praying for the adoption of an amendment to the Constitution of the United States recognizing the Deity, which was referred to the Committee on the Judiciary.

He also presented petitions of sundry citizens of Kansas, praying for the enactment of legislation prohibiting the interstate transportation of intoxicating liquors into prohibition districts, which were referred to the Committee on the Judiciary.

Mr. OLIVER peresented a memorial of Local Union No. 5, International Brotherhood of Electrical Workers, of Pittsburg, Pa., remonstrating against the enactment of legislation to revoke the rights of the city of San Francisco to the drainage basin of Tuolumne River, California, for the water supply for its homes and industries, which was referred to the Committee on the Geological Survey.

He also presented a petition of the Board of Trade of Easton, Pa., praying for the establishment of a bureau of mines in the Interior Department, which was ordered to lie on the table.

He also presented petitions of Pulaski Hive, No. 201, Ladies of the Maccabees, of Pulaski, Pa.; of Nebraska Hive, Ladies of the Maccabees, of Nebraska, Pa.; and of Local Council, No. 1538,

Royal Arcanum, of McKeesport, Pa., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which were referred to the Committee on Post-Offices and Post-Roads.

He also presented petitions of sundry citizens of Galeton, Pa., praying for the passage of the so-called boiler-inspection bill, which were referred to the Committee on Interstate Commerce.

He also presented a petition of the congregation of the Geneva Church of College Hill, Beaver Falls, Pa., praying for the adoption of an amendment to the Constitution recognizing the Deity, which was referred to the Committee on the Judiciary.

Mr. OWEN. I present a petition from sundry citizens of the State of Oklahoma, relative to the boiler-inspection bill. I ask that the body of the petition be printed in the RECORD, omitting the names, and that it be referred to the Committee on Interstate Commerce.

There being no objection, the petition was referred to the Committee on Interstate Commerce and the body of the petition was ordered to the printed in the RECORD, as follows:

CHICKASHA, OKLA.

To the Senators and Representatives of our State:

Whereas the boiler explosions in the United States of America, where there are no boiler-inspection laws, is approximately, per 100 boilers, twelve times as great as in England, where there are laws; and

Whereas we learn that the boiler explosions in the United States equal, if not exceed, the total boiler explosions of all other civilized countries, we, the undersigned citizens of your State and district, respectfully request your support in every way, shape, form, and manner for boiler-inspection bills H. R. 22066 and S. 6702, and ask that you favor each person with an early reply as to your position.

Mr. OWEN. I present petitions containing the names of 2,017 men and 3,395 women obtained in the District of Columbia, being a total of 5,412 signatures, and also petitions of 2,180 men and 2,286 women of Missouri, being a total of 4,466 signatures, praying for the adoption of an amendment to the Constitution of the United States which shall enable women to vote. I move that the petitions be referred to the Committee on Woman Suffrage.

The motion was agreed to.

Mr. BULKELEY presented a petition of Philip H. Sheridan Council, No. 1467, Royal Arcanum, of New Haven, Conn., praying for the enactment of legislation to provide for the admission of publications of fraternal societies to the mails as second-class matter, which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a memorial of the Connecticut Editorial Association, remonstrating against the enactment of legislation to prohibit the printing by the Government of certain matter on stamped envelopes, which was referred to the Committee on Post-Offices and Post-Roads.

Mr. BURROWS. I present a letter, in the nature of a memorial, remonstrating against the acceptance by the Government of the statue of Gen. Robert E. Lee now standing in the Statuary Hall of the National Capitol. I move that the memorial be referred to the Committee on the Library.

The motion was agreed to.

Mr. DEPEW presented petitions of members of the Ladies of the Maccabees, of Sodus Point, Lodi, and Albion, and of sundry local councils of the Royal Arcanum, of Brooklyn, Buffalo, Massapequa, and New York City, all in the State of New York, praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which were referred to the Committee on Post-Offices and Post-Roads.

He also presented memorials of Local Union No. 569, Journeymen Barbers' Union, of Port Jervis; of Marine Cooks and Stewards' Union of the Great Lakes, and Marine Firemen, Oilers and Water Tenders' Benevolent Association of the Great Lakes, all in the State of New York, remonstrating against the enactment of legislation to revoke the right of the city of San Francisco, Cal., to use the drainage basin of the Tuolumne River for a water supply for its homes and industries, which were referred to the Committee on the Geological Survey.

Mr. FLINT presented a petition of the congregation of the Reformed Presbyterian Church of Santa Ana, Cal., praying for the adoption of an amendment to the Constitution recognizing the Deity, which was referred to the Committee on the Judiciary.

He also presented a petition of the Woman's Christian Temperance Union of Berkeley, Cal., praying for the enactment of legislation to prohibit the so-called white-slave traffic, which was referred to the Committee on Immigration.

He also presented a petition of Henry W. Lawton Camp, No. 1, United Spanish War Veterans, Department of California, praying for the enactment of legislation granting medals to all soldiers who served in the Spanish war, the Philippine insurrection, and the campaign in China, which was referred to the Committee on Military Affairs.

He also presented a petition of Henry W. Lawton Camp, No. 1, United Spanish War Veterans, Department of California, praying for the enactment of legislation to provide for the removal of the wreck of the battle ship *Maine*, which was referred to the Committee on Naval Affairs.

He also presented a petition of the Board of Health of Napa, Cal., praying for the establishment of a department of health, which was referred to the Committee on Public Health and National Quarantine.

He also presented a petition of Argonaut Council, No. 597, Royal Arcanum, of San Francisco, Cal., praying for the enactment of legislation to provide for the admission of publications of fraternal societies to the mail as second-class matter, which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a memorial of the Labor Council of San Francisco, Cal., remonstrating against the enactment of legislation imposing additional taxes upon the fishing industry in Alaskan waters, which was referred to the Committee on Territories.

Mr. CLAPP. I present a petition containing the names of 108 men and 265 women of Minnesota, praying for the adoption of an amendment to the Constitution of the United States which shall enable women to vote. An additional petition of 20,227 names has been presented in the House of Representatives. I move that the petition be referred to the Committee on Woman Suffrage.

The motion was agreed to.

Mr. BURNHAM presented a petition of St. Martin Branch, No. 29, Canado-Americaine Association, of Somersworth, N. H., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mails as second-class matter; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. NELSON presented a petition of the Le Sueur Brotherhood, of Le Sueur, Minn., praying for the establishment of a bureau of health, which was referred to the Committee on Public Health and National Quarantine.

He also presented petitions of Phi Chapter, Xi Psi Phi Fraternity of the University of Minnesota; of the Twin City Alumni Chapter, Xi Psi Phi Fraternity of the University of Minnesota; of Gopher Council, No. 1764, Royal Arcanum, of Minneapolis, Minn.; of Moorhead Council, No. 1203, Royal Arcanum, of Moorhead, Minn., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which were referred to the Committee on Post-Offices and Post-Roads.

He also presented a memorial of the Stockholm Cooperative Creamery Association of Minnesota, remonstrating against the repeal of the present oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

REPORT OF COMMITTEE.

Mr. SHIVELY, from the Committee on Pensions, to whom was referred the bill (S. 7252) granting an annuity to John R. Kissinger, reported it without amendment and submitted a report (No. 574) thereon.

HEARINGS BEFORE THE COMMITTEE ON WOMAN SUFFRAGE.

Mr. KEAN, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred Senate resolution 219, submitted yesterday by Mr. CLAY, reported it without amendment, and it was considered by unanimous consent and agreed to as follows:

Senate resolution 219.

Resolved, That the Committee on Woman Suffrage be, and is hereby, authorized to employ a stenographer from time to time, as may be necessary, to report such hearings as may be had on bills or other matters pending before said committee during the Sixty-first Congress, and to have the same printed for its use, and that such stenographer be paid out of the contingent fund of the Senate.

BILLS INTRODUCED.

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

By Mr. BEVERIDGE:

A bill (S. 7805) granting a pension to Schuyler C. Pool; to the Committee on Pensions.

By Mr. FLETCHER:

A bill (S. 7806) granting an increase of pension to Daniel G. Graham; to the Committee on Pensions.

A bill (S. 7807) to provide for the erection of a public building at Palatka, Putnam County, Fla.; to the Committee on Public Buildings and Grounds.

By Mr. MARTIN:

A bill (S. 7808) to allow the recovery of interest against the United States from the date of the institution of proceedings; to the Committee on the Judiciary.

By Mr. CARTER:
A bill (S. 7809) granting a pension to Sarah H. E. Ryan; to the Committee on Pensions.
By Mr. SCOTT:
A bill (S. 7810) granting an increase of pension to Philip Simmons (with accompanying papers); to the Committee on Pensions.
By Mr. BURNHAM:
A bill (S. 7811) for the relief of Charles W. Brock and others (with an accompanying paper); to the Committee on Claims.
By Mr. NELSON:
A bill (S. 7812) granting an increase of pension to Joseph A. Pennock; to the Committee on Pensions.
By Mr. SUTHERLAND:
A bill (S. 7813) to remove the charge of desertion from the military record of Andrew J. Staley and to grant him an honorable discharge; to the Committee on Military Affairs.
By Mr. GAMBLE:
A bill (S. 7814) to authorize the Secretary of the Interior to sell a portion of the unallotted lands in the Cheyenne Indian Reservation, in South Dakota, to the Milwaukee Land Company for town-site purposes; to the Committee on Indian Affairs.
By Mr. BRISTOW:
A bill (S. 7815) granting an increase of pension to Abel Markwell; to the Committee on Pensions.
By Mr. WARNER:
A bill (S. 7816) to correct the military record of Dewitt C. Blanchard and to grant him an honorable discharge (with an accompanying paper); and
A bill (S. 7817) to correct the military record of John Allison and to grant him an honorable discharge (with an accompanying paper); to the Committee on Military Affairs.
A bill (S. 7818) granting an increase of pension to Isaac Woods (with an accompanying paper); and
A bill (S. 7819) granting an increase of pension to John Augsburger; to the Committee on Pensions.
By Mr. SMOOT:
A bill (S. 7820) granting an increase of pension to William C. Roberts (with accompanying papers); to the Committee on Pensions.
By Mr. ALDRICH:
A bill (S. 7821) granting an increase of pension to Emma F. Salisbury;
A bill (S. 7822) granting an increase of pension to Myra V. Barry (with an accompanying paper);
A bill (S. 7823) granting an increase of pension to David A. Yeaw (with accompanying papers);
A bill (S. 7824) granting an increase of pension to Sophfronia F. Cady (with an accompanying paper);
A bill (S. 7825) granting an increase of pension to Samuel C. Jencks (with an accompanying paper);
A bill (S. 7826) granting an increase of pension to Almira E. Johnson (with an accompanying paper);
A bill (S. 7827) granting an increase of pension to Angeline R. Pickering (with an accompanying paper);
A bill (S. 7828) granting an increase of pension to Elisha M. Lyon (with an accompanying paper);
A bill (S. 7829) granting an increase of pension to William H. H. Corp (with an accompanying paper);
A bill (S. 7830) granting an increase of pension to Daniel Pray (with an accompanying paper);
A bill (S. 7831) granting an increase of pension to Sullivan H. Dawley (with an accompanying paper);
A bill (S. 7832) granting an increase of pension to Hannah E. Bolan (with an accompanying paper);
A bill (S. 7833) granting an increase of pension to William P. Wells (with an accompanying paper);
A bill (S. 7834) granting an increase of pension to Esther Jenison (with an accompanying paper);
A bill (S. 7835) granting an increase of pension to Julia A. Burton (with an accompanying paper);
A bill (S. 7836) granting an increase of pension to Thomas Brennan (with an accompanying paper);
A bill (S. 7837) granting an increase of pension to Mary A. Sweet (with an accompanying paper);
A bill (S. 7838) granting an increase of pension to Lester A. Corp (with an accompanying paper);
A bill (S. 7839) granting an increase of pension to Charles H. Smith (with an accompanying paper);
A bill (S. 7840) granting an increase of pension to Bridget M. Fauls (with an accompanying paper);
A bill (S. 7841) granting an increase of pension to Catherina Knecht (with an accompanying paper);
A bill (S. 7842) granting an increase of pension to Emeline A. Swan (with an accompanying paper); and
A bill (S. 7843) granting an increase of pension to Albert Greene (with an accompanying paper); to the Committee on Pensions.

AMENDMENT TO NAVAL APPROPRIATION BILL.

Mr. PILES submitted an amendment proposing to appropriate, in the aggregate, $2,500,000 for the construction of five submarine torpedo boats, etc., intended to be proposed by him to the naval appropriation bill, which was referred to the Committee on Naval Affairs and ordered to be printed.

THE BETHLEHEM STEEL COMPANY.

Mr. OWEN submitted the following resolution (S. Res. 222), which was considered by unanimous consent, and agreed to:

Senate resolution 222.

Resolved, That the Bureau of Labor advise the Senate of the conditions leading up to the strike of employees of the Bethlehem Steel Company, Bethlehem, Pa., and the causes which led to that strike, and whether or not the employees of the machine shops of this company were required to work on Sunday, and whether the work of the mechanics and machinists was put upon the seven-day basis.

Mr. OWEN. I ask, in connection with the resolution, that certain papers be printed in the RECORD for the information of the Senate.

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

SOUTH BETHLEHEM, PA., *April 16, 1910.*

Hon. R. L. OWEN, *Washington, D. C.*

DEAR SIR: Through printed circulars, on two former occasions, we submitted to you the grievances of the employees of the Bethlehem Steel Company.

This company is enjoying special legislation in the form of a protective tariff through the kindness and paternalistic tendencies of the Members of Congress.

Aside from a "beneficent" tariff, which this company has enjoyed for these many long years, the Bethlehem Steel Company is also a favorite government contractor to the extent of several millions of dollars each year.

In addition, we also desire to advise you that when any trouble arises the whole power of Republican Pennsylvania is placed at the disposal of the company, and was used in the last two months to break up a peaceful strike by sending into the borough of Bethlehem a band of bloodthirsty, murderous thugs to browbeat and stampede innocent striking workmen back to work.

We failed to receive a reply from you in this matter, and we can not understand why you should hesitate to state your position.

We are now sending a body of 100 strikers to visit every congressional district to tell the story of the strike and to raise sufficient funds to carry on the campaign against Mr. Charles M. Schwab and, if need be, his friends and supporters in Congress.

The Associated Press has refused to print practically everything relating to the strike. Either Mr. Schwab or Mr. Melvin E. Stone can tell you the reason. It's safe to say labor didn't bribe the Associated Press.

The striking workmen desire to know your position relative to the Bethlehem Steel Company. Therefore, we are instructed to secure an answer to the following question:

Are you in favor of giving future government contracts to the Bethlehem Steel Company whilst this company continues to pay the lowest possible wages, long hours, and insists upon its workmen laboring upon the Sabbath day?

We are ready to prepare a circular, thousands of which are to be sent into the congressional districts, giving a history of this trouble, the relationship of this concern or perhaps alliance between it and the Government. The paternalistic features of the United States Government toward Mr. Schwab, the man who boasts of having the lowest-paid workmen in America, the beneficent protective-tariff system, and the beneficent protective features of Republican Pennsylvania, and many other important matters connected with this magnificent infant industry known as the Bethlehem Steal.

As soon as the news came over the wire that Congress had voted to build two battle ships by contract under the eight-hour law Mr. Schwab's agents at once ridiculed the law, by saying that it would make no difference to them, because they (the company) would compel their workmen to work as many hours as they pleased after working eight hours on government work, in case they secured the contract.

Should we fail to receive a reply from you within a reasonable time to this letter, we shall conclude, and so publish the fact, that you are with Mr. Schwab and against the workers; that you favor long hours, small wages, and the desecration of the Sabbath day.

I trust that you will favor us with a prompt reply.

DAVID WILLIAMS, *Chairman.*
J. P. MCGINLEY, *Secretary.*
Address Hotel Majestic, South Bethlehem, Pa.

Resolutions passed at a monster mass meeting of the business men, professional men, and citizens, held in the Palace Theater, repudiating the actions of certain business men of the Bethlehems, Pa., in advocating the cause of Mr. Charles M. Schwab—starvation wages, long hours, and Sunday labor—asking that the United States Government continue to furnish him work regardless of the unbearable conditions now existing.

RESOLUTIONS.

SOUTH BETHLEHEM, PA., *April 3, 1910.*

Whereas the Business Men's Association of South Bethlehem, Pa., has seen fit to come to the rescue of Mr. Charles M. Schwab, at his command, to assist the Bethlehem Steel Company in its unsuccessful and disastrous fight against the workingmen for better conditions and the abolition of Sunday labor; and

Whereas this business men's association has tried, and is now trying to deceive the Members of Congress and the foreign governments by making them believe that the Bethlehem Steel Company is able to complete its contracts and is able to contract for future business, knowing that its plant is in a most disorganized and chaotic state, almost bordering upon the point of dissolution, due to the fact that the company has been, and will be, unable to secure competent workmen; and

Whereas these small merchants, fearing the loss of trade, are easily induced by a big corporation to sign and swear to almost any document in order to secure trade, regardless of the consequences, even if such act would lead to the loss of life caused by the production of unsafe and poorly finished product, which the soldiers and sailors of our country are compelled to use, in either practice or actual warfare; and

Whereas these business men have only one object in view, and that is to continue the sale of their merchandise regardless of the consequences; and

Whereas they are trying to place the workingmen in a false light by leading the Congressmen and foreign governments to believe that this movement is a question of union labor, and that the movement is supported by irresponsible agitators, whereas the struggle was begun by the employees of the company themselves, because they could no longer endure the oppression of the Bethlehem Steel Company; therefore we, the citizens of South Bethlehem, Pa., in mass convention assembled this day, enter a most emphatic protest against the position taken by the business men, and we repudiate their position because it is wholly based on misrepresentation, and we desire to assure the world at large that as soon as the Bethlehem Steel Company agrees to pay living wages, and agrees to abolish overtime and Sunday labor, or agrees to pay additional compensation for extra time, and will reengage the services of its competent former employees, thereby assuring the United States Government and foreign governments that it is able to produce high-class product, which will not place the lives of innocent men in danger, either in using the appliances in target practice or in actual engagement: Therefore be it

Resolved, That the attention of Congress and the War Department be called to the fact that the statement of the business men is nothing more or less than a selfish statement, not in the interest of the country nor with any patriotic feeling or desire to protect the United States Government or the foreign governments who have favored this city with their contracts; further

Resolved, That a copy of these resolutions be forwarded to all Congressmen and United States Senators and foreign governments for the purpose of showing to them that the motive and cause which induced the business men to adopt these misleading resolutions were for no other purpose than to save themselves and assist the Bethlehem Steel Company in keeping its workmen in subjection.

Signatures: Thomas Murphy, John Kernan, jr., Steve Slavko, Joe Mellon, Jos. Kelly, S. A. Deehl, W. Fapgan, Harry McGlade, Ed. Enright, James Town, Dennis Hayes, John Gorman, J. W. Toner, Frank Miller, Patrick Mahoney, William Cuddy, W. Burke, T. E. Duhig, T. Kepfer, Adam Rheiner, G. Peru, Frank Bessemer, John Smuller, Jos. Yost, Hugh Ward, Jos. A. Smith, B. Skelly, Wm. Henry, Charles Rorodol, Arthur Laughlin, Harry McGittigan, Wm. Duffey, Thos. Quin, Ed. Aldinger, Wm. Kennedy, Jas. Love, Pat Duffey, Anthony Dugan, Ed. T. Kepfer, jr., Charles Whetheroth, R. Kelps, Aug. Dreifert, jr., John P. McBride, Jno. M. Merry, Jas. McIntyre, I. J. Benner, John Peterush, H. J. Gallagher, Thos. Jones, John Mittman, Jos. Sheenan, Jerry Mahoney, Thos. Mahoney, James Duncan, jr., Con. Houston, Mike Sztvoska, Thos. McIntyre, A. J. Ferguson, John Coulter, Wm. Griffin, Albert Haines, R. J. Bader, Dan Weaver, A. M. Neall, Fred Frankenfield, James Belloew, John J. Boyle, Clinton S. Moyer, Peter Tekepschak, J. W. Mauser, J. J. Mulligan, John Cronin, Alex. Morgan, M. Dungan, Geo. E. Gambler, W. H. King, James Steckel, Geo. C. Fisher, Thos. Burke, jr., F. P. McGinnis, Dan Daily, James Reilly, H. S. Metzger, J. K. Landis, Thos. Gray, Charles Fox, Hamilton Harris, Michael Cunningham, John Dundon, Thos. Duney, Pat Fitzpatrick, Jos. Kepher, John McCarty, Floyd Hagerman, Nicholas McGrath, Harry Stoltz, John Richter, J. D. Humbert, James Krammer, T. J. McCarty, Jas. Talbot, Ed. H. Redding, Thos. Flynn, Harvey Serfass, Wm. Detterman, Daniel Fagan, H. W. Zweigel, A. D. Beltis, Charles Smedler, Russel Harrison, John Harrison, August Schultz, Peter Leske, Patrick F. Sheehan, Robert Gardner, Michael Shinks, John Halshl, C. H. Chemberlin, Con. Reagon, F. Hess, John O. Horn, Albert Rice, Loyd Mimmich, Peter Reynolds, Andrew Magyar, J. McKee, Jas. T. Riely, Leo Dinan, Stewart Wachter, Patrick Kelly, John Skelly, John Norko, Stephen Gasda, Willie Bates, John McFadden, John Repsher, P. J. Dundon, Jos. Dailey, Leo Lynch, Stephen Benner, John Flynn, Simon Kelly, John Durming, O. J. Hildenberger, L. I. Thorp, Louis Vooz, John Lane, Ed. Rinker, Louis Garrity, P. Heckey, C. T. Sherry, F. Ward, Frank Seifert, Thos. Pribuld, Michael Morgan, J. E. Gallagher, T. G. Gillespie, Ed. Benz, Janey Kennedey, Mike Goulder, H. Rimble, T. M. Garerty, Jos. Beltch, John Simmons, Michael Dugan, Thos. Duyer, William McGee, Wen McFadden, C. B. McBride, T. E. Morgan, P. J. Kelleher, W. H. Clark, J. F. Lucas, Thos. Ford, Wm. Weiser, Jas. J. Lucas, James Tenny, Francis Cunningham, Thos. Eagon, jr., Neil Spillan, C. K. Glade, Henry Ortwein, Horace Rinker, M. Wm. Van Billard, John Herbert, W. Harrigan, Joe Cunningham, John McCarthy, Thos. J. Keefe, M. Morgan, Calvin Rice, John Ilbert, Henry Smith, Silas Chemberlin, G. S. Nicholas, John Rodgers, Harry Beck, Thos. Burns, John Malloy, John K. Trimble, C. E. Moore, J. J. Toner, Martin Hallo, Wm. Burns, J. McGinley, James Sculley, Jerry Willey, Martin Foley, Wm. J. Bender, Wm. F. Fehr, E. Ehrgott, John McGinnis, E. O. Fankbulk, M. Gill, T. J. Fox, Ed. Morrison, C. W. McCarthy, Henry Smith, John Collins, Floyd Behler, Claude Arnold, Peter Colin, A. J. Mroshinski, W. Kumgle, Robt. J. Smith, John Gray, John Dungan, Joe Rowig, Ed. Harkins, J. Rolland, Jas. Case, Wm. Case, Wm. Toner, N. Keefe, Frank Kelly, Mike Sinko, Peter O'Donnell, S. H. Keim, J. Walker, Jno. Stokes, Dan Maroney, Robert Price, J. J. Hartland, O. M. Strohl, G. C. Graver, Claud Wagner, Nick Becker, J. E. Harrington, A. Palmer, Harry Stein, Harry Dougherty, James P. Doran, Peter Toner, Barney McGee, Joseph Lawrence, Jos. Balshi, Mam Weide, Andrew Waitko, Jno. Bednarick, James Fisher, John Loughrey, Peter Coyle, John Harkins, H. A. Moyer, Hugh Kelly, Billy Graham, John Kelly, W. McCarthy, Wm. Gildon, William Schmidt, Robt. Binderwald, Eug. McCarthy, Richard Allen, Thos. Bender, Wm. Allen, Miles Emery, Chas. Warnke, Jos. Wood, Frank Smith, William Barnes, T. T. Reilly, P. C. Reilly, Chas. Deggeth, James Ryan, Harry Lester, Paul Warnke, Clinton May, James Doyle, Hugh Dungan, John O'Odennel, Thos. Doyle, Philip Trimble, James J. Harrington, Ed. J. Gallagher, F. P. Boyle, Michael A. Sculley, Robert Wilkent, William Rinker, Patrick Haley, John Noorson, Wendel Annant, Robt. Faher, Robt. Frey, Chas. Walp, D. Smith, Thos. Haley, John Flynn, Geo. Becker, A. T. Stahl, J. G. Linger, Ed. C. Collins, T. B. Meder, Jas. Kennedy, Dan Burnes, Pat Kelly, Max Fisher, L. Metzger, Wm. Hard, Dennis Reaggon, Dr. D. J. Boyle, John Willey, John Miller, Steve Ference, Ed. Anes, Ernest Brugger, C. Gillespie, John Weide, F. Quier, A. Dungan, J. F. Stahl, and Dennis Dugan.

The following is a brief submitted to President Taft by the strikers' representatives:

WASHINGTON, D. C., *April 7, 1910.*

SIR: We, the committee representing the striking workmen of South Bethlehem, Pa., employed by the Bethlehem Steel Company, present to you a statement of their grievances, which we believe will merit a thorough investigation. We believe that an enlightened Nation should take a deep interest in the welfare of men who labor upon government work, particularly when the employers are enjoying the benefits of a high protective tariff and are the recipients of valuable government contracts. On behalf of these workmen we charge—

That the strike, which has caused great delay upon government work, was wholly due to the arbitrary methods of the Bethlehem Steel Company in demanding that the men labor many hours in excess of the recognized workday, as well as compelling the workers to labor upon the Sabbath day and legal holidays.

That the company has discharged many men who failed or refused to work these excessive hours, or labor on Sundays and legal holidays.

That the rate of compensation paid to the workmen is extremely low, a rate entirely inadequate for decent, respectable workingmen in our country, and entirely too low for the class of work requiring the highest skill. Hundreds of men, receiving 12½ cents per hour, are compelled to labor regularly twelve hours per day seven days per week, while hundreds of men in skilled occupations receive from 14 cents to 22 cents per hour; those receiving in excess of 25 cents per hour are limited to a small number.

We charge that during night work and overtime defective work is surreptitiously and artificially treated, patched, and welded, thereby escaping the vigilance of inspectors, who are not required to work overtime by the Government.

The employees fear to furnish information to the government inspectors relative to defective work or faulty construction. To do so would be at their peril.

That the Bethlehem Steel Company enjoys the benefits of a high protective tariff and is the recipient of valuable government contracts amounting to millions of dollars annually, from which it obtains enormous profits. In spite of these advantages it exacts a maximum of toil for a wholly inadequate minimum wage and constantly strives to lower the standard of living to the barest point of existence.

We further call to your attention that the group of business men who called upon you April 6 were favorably disposed to the workers in their attempt to secure better compensation and the abolition of overtime, as well as Sunday labor, until Charles M. Schwab threatened to close down the works unless these same business men came to his defense. Mr. Schwab declared that it had cost him $1,000,000 to land the contract for the construction of battle ships for the Argentine Republic. He then appointed a committee of business men to go to Congress to offset the efforts of the laboring men who had urged Congress to withdraw further government contracts until labor received better and more humane treatment at the hands of the Bethlehem Steel Company.

We protest against the United States Government giving additional contracts to the Bethlehem Steel Company while the inhuman conditions herein referred to are maintained by the company, and we further protest against exposing the brave defenders of the Nation in the army and navy to the unnecessary dangers of defective armaments.

To further show how the general interests of society are endangered we quote from an address made to the strikers by Father Fretz, who is a lover of his kind and an honored spiritual leader in South Bethlehem. Father Fretz said:

"I have labored among my people in this community for nineteen years, and I know that the Bethlehem Steel Company is a human slaughterhouse."

Therefore, in the public interest, as well as direct representatives of citizens with serious grievances, we bring these charges to you as the Executive of the Nation, and in the name of the workers we represent we enter a most emphatic protest against the Government of the United States engaging in an unholy alliance with a group of predatory interests, whose chief aim is profits and who care not what effect their methods have upon the American workmen and the American home.

We urgently request that you give this important grievance your careful consideration and prompt action. We also request that you direct that the report of the Department of Commerce and Labor, which has recently made a partial investigation of conditions which obtain at South Bethlehem and of the Bethlehem Steel Company in its relations to the workers there, be immediately made public.

Respectfully submitted.

DAVID WILLIAMS,
JOHN LOUGHREY,
Committee.

Hon. WILLIAM H. TAFT,
President of the United States.

NOTE.—The Associated Press refused to transmit the above article over its wires.

Failing to secure competent men, due to long hours, low wages, and Sunday labor, as charged by the striking workmen, the Bethlehem Steel Company is now placing advertisements in hundreds of newspapers in an effort to fill the shops with child labor to work on government work and construct for the United States work requiring the highest skill.

Below are facsimiles of advertisements appearing in a number of newspapers.

COMMITTEE ON PUBLIC HEALTH AND NATIONAL QUARANTINE.

Mr. MARTIN submitted the following resolution (S. Res. 223), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Senate resolution 223.

Resolved, That the Committee on Public Health and National Quarantine be, and is hereby, authorized to employ a stenographer from time to time, as may be necessary, to report such hearings as may be had on bills or other matters pending before said committee during the Sixty-first Congress, and to have the same printed for its use, and that such stenographer be paid out of the contingent fund of the Senate.

AUTOMATIC TELEGRAPHY.

On motion of Mr. OWEN, it was

Ordered, That the illustrations accompanying Senate Document No. 373, Sixty-first Congress, second session, entitled "A study of the commercial aspects of machine telegraphy," by Romyn Hitchcock, be printed.

DEWITT EASTMAN.

Mr. BULKELEY submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 614) entitled "An act to amend an act entitled 'An act for the relief of Dewitt Eastman,' approved January 8, 1909," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House as to the body of the bill, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by said amendment insert the following:

"That in the administration of any laws conferring rights, privileges, or benefits upon honorably discharged soldiers Dewitt Eastman, who was a private of Battery I, Fourth Regiment United States Artillery, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said battery and regiment on the thirteenth day of June, eighteen hundred and sixty-five: *Provided*, That, other than as above set forth, no bounty, pay, pension, or other emoluments shall accrue prior to or by reason of the passage of this act."

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House as to the title of the bill and agree to the same.

M. G. BULKELEY,
N. B. SCOTT,
Managers on the part of the Senate.
JULIUS KAHN,
F. C. STEVENS,
JAMES L. SLAYDEN,
Managers on the part of the House.

The report was agreed to.

HOUSE BILLS REFERRED.

H. R. 2250. An act providing for publicity of contributions made for the purpose of influencing elections at which Representatives in Congress are elected; which was read twice by its title and referred to the Committee on Privileges and Elections.

H. R. 21124. An act to provide for an investigation of the surveys by which the southern boundary line of the State of Alabama, between ranges 4 and 14 east of the St. Stephens meridian, in Escambia County, was fixed, and for a report thereon; which was read twice by its title and referred to the Committee on Public Lands.

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

H. R. 23634. An act to authorize the Rockport and Aransas Pass Railway Company to construct a bridge; and

H. R. 23964. An act to extend the time for Clay County, Ark., to construct a bridge across Black River at or near Bennetts Ferry, in said county and State.

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

H. R. 14541. An act to aid the Council City and Solomon River Railroad Company; and

H. R. 24149. An act to create, establish, and enforce a miner's labor lien in the Territory of Alaska, and for other purposes.

The following bills and joint resolution were severally read twice by their titles and referred to the Committee on the Judiciary:

H. R. 22148. An act to change and fix the terms of the circuit and district courts of the United States in the district of Delaware;

H. R. 23695. An act to provide for sittings of the United States circuit and district courts of the northern district of Mississippi at the city of Clarksdale, in said district; and

H. J. Res. 160. Joint resolution to enable the States of Missouri and Kansas to agree upon a boundary line and to determine the jurisdiction of crimes committed on the Missouri River and adjacent territory.

MISSISSIPPI RIVER SUBMARINE CABLE.

The bill (H. R. 23254) to give a legal status to a submarine cable crossing the Mississippi River between Cairo, Ill., and Bird Point, Mo., was read the first time by its title.

Mr. STONE. Acting under direction of the Committee on Commerce, I recently reported favorably a similar bill to the Senate, which is now on the calendar. I ask for the present consideration of the bill just reported.

The PRESIDING OFFICER. The Senator from Missouri asks unanimous consent for the present consideration of the bill just reported, which will be read for the information of the Senate.

The bill was read the second time at length, and, by unanimous consent, 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.

Mr. STONE. I move that the bill (S. 7063) to give a legal status to a submarine cable crossing the Mississippi River between Cairo, Ill., and Bird Point, Mo., be indefinitely postponed.

The motion was agreed to.

ADULTERATED OR MISBRANDED INSECTICIDES, ETC.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 6131) for preventing the manufacture, sale, or transportation of adulterated or misbranded Paris greens, lead arsenates, and other insecticides, and also fungicides, and for regulating traffic therein, and for other purposes, which were, on page 2, line 19, to strike out "the" where it last occurs; on page 2, line 20, to strike "Territories" and insert "any Territory;" on page 4, line 6, to strike out "Bureau of Chemistry of the;" on page 4, line 7, to strike out all after "culture," down to and including "reau," line 8, page 4, and insert "by such existing bureau or bureaus as may be directed by the Secretary;" on page 5, line 14, to strike out "and all;" on page 7, line 20, to strike out all after "insecticides" down to and including "arsenates," line 21, page 7; on page 9, line 16, after "Territory," to insert "or;" on page 9, line 16, after "District," to strike out "or insular possession;" on page 9, lines 19 and 20, to strike out "the Territories or insular possession" and insert "any Territory;" on page 10, line 13, after "Territory," to insert "or;" on page 10, line 13, after "District," to strike out "or insular possession;" on page 12, line 6, after "include" to insert "the District of Alaska and;" on page 12, line 6, to strike out "possession" and insert "possessions;" to strike out all of section 13, and insert:

SEC. 13. That this act shall be known and referred to as "The insecticide act of 1910."

And to insert as a new section:

SEC. 14. That this act shall be in force and effect from and after the 1st day of January, 1911.

Mr. GUGGENHEIM. I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

THE FOURTEENTH AMENDMENT.

The PRESIDING OFFICER. The morning business is closed.

Mr. MONEY. Mr. President, I send to the desk the joint resolution which I now call up.

The PRESIDING OFFICER. The Secretary will read the title of the joint resolution.

The SECRETARY. A joint resolution (S. J. Res. 9) directing the Attorney-General to submit to the Supreme Court all information available bearing on the validity of the fourteenth amendment to the Constitution of the United States.

The PRESIDING OFFICER. Does the Senator from Mississippi desire to have the joint resolution read in full?

Mr. MONEY. It is hardly necessary. I should like to have it printed in the RECORD.

There being no objection, the joint resolution introduced by Mr. MONEY March 29, 1909, was ordered to be printed in the RECORD, as follows:

Senate joint resolution 9.

Whereas the ends of justice and obedience to law alike require that—

"When the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of the State, or the mem-

bers of the legislature thereof, is denied to any male inhabitants of such State, being 21 years of age and citizens of the United States, or in any way abridged, except for participation in the rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of male citizens shall bear to the whole number of male citizens 21 years of age in such State"

if the fourteenth amendment to the Constitution of the United States, containing the above provision, is valid and binding, and the privileges and immunities conferred by said amendment should cease if said amendment is not valid and binding; and

Whereas the official Journals of the Senate and House of Representatives of the United States of the Thirty-ninth and Fortieth Congresses show that there was neither a two-thirds vote of said two Houses, nor yet a three-fourths vote of the States in ratification of the congressional action, as defined and required by Article V of the Constitution; and

Whereas the questions as to the validity of said amendment can now only be determined by the Supreme Court of the United States, and have never heretofore been judicially considered or decided; and

Whereas it is highly important that any doubts on this subject should be removed in this manner to the end that future legislation on this subject may be guided by such decision: Therefore, it is hereby

Resolved, etc., That the Attorney-General of the United States be, and hereby is, directed to submit all information available on this subject to said Supreme Court, in an appropriate proceeding, so that said court may review the same and determine whether said amendment is valid and binding.

Mr. MONEY. Mr. President, it has never been my practice to write speeches, and I have found it very convenient that I did not do so since I have become unable to read them. In this instance, however, there is so much quoted from decisions of the courts and the text of law writers that it would be impossible for me to remember even any part and to relate with any sort of accuracy what has been said. As everything depends upon the accuracy of the quotations, I thought it best in this instance to put into writing what I have to say.

I wish to say prefatory that on the last day of the last term of Congress, March 3, 1909, I was unexpectedly, suddenly, called on, without any preparation, to make a speech which was intended to kill time. In that speech I was diverted from the main argument by a question put to me by a very distinguished gentleman, late a member of the Senate. In answering that interrogation I had proceeded at some length, when I was informed that the object of my rising and speaking was met by withdrawing the objectionable sections of the bill pending. I then quit the subject in medias res, with no intention of publishing the speech whatever, until some days after the adjournment, when it was published.

I immediately began to receive letters—I may say by hundreds, and very few of them from the South—asking me to finish the speech which I had stopped short in. In view of that general request and the desire on the part of the public mind to consider the matter that was discussed, I concluded to offer some remarks upon the validity of the fourteenth amendment to the Constitution of the United States.

I desire to say now that I brought to the subject a cool, deliberate inquiry, and I have related it as best I can in a perfectly dispassionate way. So there is not in the remarks which I will submit to-day anything of sectionalism, anything of politics, of partisan politics, at least, no sort of discussion of the race question, and no feeling of any kind. I have endeavored to take myself out of the argument as far as I could, and I have used my own language and my own argument for the purpose of presenting in a consecutive way the opinions of the courts and the opinions of great law writers upon the several points involved in the discussion. I hope there will be found no expression of a word that will irritate or offend anybody, however delicate his sensibilities.

I shall ask the Senate to indulge me by allowing the Senator from Oklahoma [Mr. OWEN], who has kindly consented, to read it for me, I not being able to do that for myself.

The PRESIDING OFFICER. Without objection, that procedure will be had.

Mr. OWEN read Mr. MONEY's speech, as follows:

Mr. Cooley, in his Constitutional Limitations, says:

A written constitution is in every instance a limitation upon the powers of government in the hands of agents, for there never was a written republican constitution which delegated to functionaries all the latent powers which lie dormant in every nation and are boundless in extent and incapable of definition.

Mr. Cooley also says, in his work on Principles of Constitutional Law:

But the judiciary is the final authority in the consideration of the Constitution and the laws, and its construction should be received and followed by the other departments. * * * The judiciary is the final judge of what the law is.

The Constitution of the United States, Article III, section 1, says:

The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish. * * *

SEC. 2. The judicial power shall extend to all cases in law and equity arising under this Constitution. * * *

In speaking to this resolution, the first subject of inquiry is whether or not the fourteenth amendment to the Constitution was adopted according to the requirements of the Constitution, and whether or not this is a judicial question. If it is not a judicial question, the case is ended.

The wise framers of the organic law of the Government of the United States foresaw that changes might be necessary in the course of events and provided two methods by which these amendments could be made. The provision is Article V, which reads as follows:

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution.

The alternate proposition, a convention of the States, has not yet been tried. Out of the thousands of amendments offered to the Constitution, many have been submitted to the States by joint resolution of the two Houses of Congress; of these, only 15 have been declared ratified. Ten of these amendments were proposed in the first session of the Congress and were ratified. Since that time only 5 have been adopted. This enormous disproportion of amendments ratified to amendments offered shows the extreme reluctance of the States to any changes or additions to the original instrument. Every process required for the proposition and ratification of an amendment is jealously guarded, and the legal maxim, de minimus non curat lex, does not apply to the constructions of constitutions as it does to the statutory law.

There has been no judicial decision as to whether the fourteenth amendment is validly a part of the Constitution of the United States. Questions arising under it in state constitutions and laws have been determined by the Supreme Court, who have spoken of the scope and purpose of the fourteenth and fifteenth amendments; but no direct issue has ever been determined or raised concerning their validity. It is abundantly settled, however, in the decisions of the supreme courts of the States, upon the validity of amendments to their respective constitutions, that it is purely a judicial question whether or not the legislature has followed the Constitution in proposing an amendment and the ratification has been made strictly in the manner prescribed.

The Supreme Court of the United States has decided in Third Dallas, in the case of Hollingsworth *v.* Virginia, that it is unnecessary that the President shall sign the joint resolution proposing an amendment to the Constitution. I do not understand how that point was ever made with any expectation that the court would decide it affirmatively, as the Constitution is silent as to the President's power in that instance when it is so clearly determined what the other factors were to do.

In State of New Jersey *v.* Wurts (45 L. R. A., 251) the court say:

The judicial department of the government has the right to consider whether the legislative department and its agencies have observed constitutional injunctions in attempting to amend the constitution, and to annul their acts in case they have not done so. * * * On the same principle the supreme court in State, Jersey City Police Commissioners *v.* Pritchard (36 N. J. L., 101), maintained its right to annul an act of the executive who, under an erroneous view of the law, had decided that a vacancy existed in certain offices which, in case of vacancy, he had the constitutional power to fill.

In other States of the Union the decisions on this special phase of the doctrine are numerous and substantially to the same purport. In Collier *v.* Frierson, 1854 (24 Ala., 100), a suit upon the bond of the state treasurer, where the question was whether the state constitution had been amended so as to enlarge the treasurer's official term, the court said (p. 109): "We entertain no doubt that to change the constitution in any other mode than by convention every requisition which is demanded by the instrument itself must be observed, and the omission of any one is fatal to the amendment. We scarcely deem any argument necessary to enforce this proposition. The constitution is the supreme and paramount law; the mode by which amendments are to be made under it is clearly defined. It is said that certain acts are to be done, certain requisitions are to be observed, before a change can be effected. But to what purpose are these acts required, if the legislature or any other department of the government can dispense with them? To do so would be to violate the instrument which they are sworn to support, and every principle of public law and sound constitutional policy requires the court to pronounce against every amendment which is not shown to have been made in accordance with the rules prescribed by the fundamental law." Likewise in University of North Carolina *v.* McIver, 1875 (72 N. C., 76), the court said: "If it can be shown that these amendments, or any of them, have not been made in accordance with the rules prescribed by the fundamental law, every principle of public law and sound policy requires the court to pronounce against them." In Westinghausen *v.* People, 1880 (44 Mich., 265), on indictment for violating a statute passed in 1879, the validity of which depended on an amendment to the constitution adopted in 1886, * * * the court considered and decided the question as a judicial one. In State, Hudd *v.* Timme, 1882 (54 Wis., 318), the court considered as a subject for judicial inquiry the question whether the legislature had exercised a legal discretion in determining what were distinct amendments for separate submission to the people.

In State *v.* Rogers (56 N. J. L.), Mr. Justice Beasley, in delivering the opinion of the court, said:

It will be observed that the contention of the applicants for the writ is that the Rogers senate has no legal existence, inasmuch as it was organized in a manner contrary to the fundamental law; and the proposition, therefore, would seem very evident that as now power is vested by the constitution in the majority of senators to construe such law in this respect, the power to expound and enforce it is lodged in the ordinary legal tribunals. Referring to this judicial prerogative, Mr.

Cooley, in his work on Constitutional Limitations, says: "The right and power of the courts to do this are so plain and the duty is so generally—we may almost say universally—conceded that we should not be justified in wearying the patience of the reader in quoting from the very numerous authorities on the subject." It was certainly, therefore, the unexpected that happened when learned counsel, in reply to the contention that the senatorial organization in question was inconsistent with constitutional prescriptions, assumed the position that this court could not entertain jurisdiction in the case, as the interpretation of the constitution was a matter, in the language of the brief before us, "of a purely legislative character." It is believed that no decision has been made for a century past that does not antagonize such a proposition.

In connection with the language of the court in this case as to this point, I refer again to the case of Collier *v.* Frierson (24 Ala., 100), which was referred to by the court in the preceding case I have cited, New Jersey *v.* Wurts.

The court, in State *v.* Rogers, continues:

This court does not claim the slightest legal faculty to supervise or interfere with such transactions. All that is asserted is that when the inquiry is whether the legislature or any other body or officer has violated the regulations of the constitution, it is entirely plain that the decision of that subject must rest exclusively with the judicial department of the government.

In the dissenting opinion, in the foregoing case, Justice Abbett admitted fully the fact that it was a judicial question in the following language:

The jurisdiction of the court to try this controversy is, in my judgment, clear. * * * That such an inquiry is a judicial one seems to be established on principle and authority. (Citing Prince *v.* Skillin, 71 Mo., 367; in re Gunn, 50 Kans., 155.)

In the case of Koehler & Lange *v.* Hill (60 Iowa, 543) we find the following language in the syllabus:

While it is not competent for courts to inquire into the validity of the constitution and form of government under which they themselves exist and from which they derive their powers, yet, where the existing constitution prescribes a method for its own amendment, an amendment thereto, to be valid, must be adopted in strict conformity to that method; and it is the duty of the courts, in a proper case, when an amendment does not relate to their own powers or functions, to inquire whether, in the adoption of the amendment, the provisions of the existing constitution have been observed; and if not, to declare the amendment invalid and of no effect.

Justice Seever, delivering the opinion of the court, says:

We are aware of the rule, which universally obtains, that a statute should not be declared unconstitutional unless it clearly appears to be so. It follows this rule should be applied to amendments of the Constitution. Mindful of this rule, and feeling its full force, it is possibly to be regretted that we have felt forced to declare that the amendment in question, which was ratified by so large a majority of the electors, has not been constitutionally adopted. But we can not ignore another rule, which also universally obtains, which is that it is not only the province, but the duty of the judiciary to fearlessly declare a statute or amendment to the constitution to be unconstitutional when such is clearly the case. We would be derelict to duty if we did not do so.

In State of Mississippi *v.* Powell (77 Miss., 543) Chief Justice Whitfield, delivering the opinion of the court, says:

Three questions are presented for solution:

First. Is the question whether the proposition submitted to the voters for adoption as part of the constitution be one amendment or more than one amendment a judicial question?

* * * * * * *

As to the first proposition, we are clear that both questions are judicial questions. This placed beyond cavil as the settled doctrine of this State by Green *v.* Weller (32 Miss.), and Sproule *v.* Frederick (69 Miss., 898). The same response is given by an overwhelming weight of authority from other States. In the sixth volume of American and English Encyclopedia of Law, at page 908, second edition, it is said: "The courts have full power to declare that an amendment to the constitution has not been properly adopted, even though it has been so declared by the political department of the State."

Whether an amendment has been validly submitted or validly adopted depends upon the fact of compliance or noncompliance with the constitutional directions as to how such amendments shall be submitted and adopted, and whether such compliance has, in fact, been had must, in the nature of the case, be a judicial question.

Our (Mississippi's) constitutional provisions create no special tribunal to determine whether amendments have been validly submitted or validly adopted. It is not said that "if it appear" to the legislature, upon which erroneous assumption is builded the argument counter to our view. Plainly and manifestly the language "if it appear" means simply if it should be made manifest or evident; if it should be the fact that, etc.; but whether it is a fact is a judicial question determinable by the courts.

* * * * * * *

It is the mandate of the constitution itself, the paramount and supreme law of the land, that such amendment can not become part of the constitution unless two facts exist: First, unless such amendment or amendments should be submitted in the mode pointed out; second, unless such amendment or amendments should be adopted by the majority prescribed. These two conditions are facts which must exist in truth and reality, and not simply be declared to exist by the legislature, whether they do exist or not. The legislature is not given the power as a special tribunal to count the votes, canvass the returns, declare the result, and make the amendment part of the constitution by proclamation. All that it does, all that it can do, is, in the first instance, to propose the amendment or amendments to the people for their vote in the way the constitution directs. It is for the people, and the people alone, to say by the majority prescribed in the constitution whether they adopt or reject the proposed amendment or amendments. Amendments which are adopted owe their vitality to the action of the people primarily * * * and that is absolutely all that that legislature has to do with the matter * * * The legislature in what it has to do acts ministerially as the agent of the people.

From the abundant opinions in harmony, which have been quoted above, it seems unnecessary to make any argument to show that the Supreme Court of the United States has jurisdiction of this question, and neither the executive nor legislative departments have any jurisdiction to determine. It will be impossible to express it more fully than has been done by the supreme courts of several of the States. There are many other cases that could be cited. Whether or not it is a judicial question can only be determined by the court itself. It alone can determine its jurisdiction in such matters, and it alone can determine the limit of an executive and legislative power.

The next inquiry is to the manner of proposing the amendment. The constitutional provision is "the Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution," and so forth.

Jameson in his work on Constitutional Conventions, speaking on this question, says:

In several of the States, however, questions have arisen whether all the steps by the constitution made requisite to give validity and effect to amendments proposed by the legislature have been taken—

And so forth.

The earliest case of the point is that of Collier *v.* Frierson (24 Ala., 100), arising in 1854 under the Alabama constitution of 1819. This instrument required, for the enactment of amendments in the legislative mode, a two-thirds vote in favor of them of two successive legislatures and an intervening majority vote of the people. Eight amendments were recommended by the first legislature, but by mistake one was not included among those adopted by the second, although all the other steps were regularly taken. The supreme court of the State held that the omitted amendment did not become a part of the constitution.

The checks proper to be applied to a legislature, acting in a conventional capacity, are not different from those applied where it assumes to call a convention. They consist of increased majorities, of repeated votes, and of publication and submission to the people. Jameson on this subject, in his Constitutional Amendments, says:

Of the constitutions which permit amendments in the legislative mode—that is, by combined legislative and popular action without a convention—a large proportion contain substantially the following provision, copied from the Michigan constitution of 1835:

"Any amendment or amendments to this constitution may be proposed in the senate and house of representatives, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature then next to be chosen, and shall be published for three months previous to the time of making such choice. And if in the legislature chosen as aforesaid such amendment or amendments shall be agreed to by two-thirds of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the legislature shall prescribe; and, if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the legislature voting thereon, such amendment or amendments shall become part of the constitution."

This provision contains nearly all the requirements and conditions to the exercise of the legislative mode of amending constitutions found in any of those instruments. There are some points of difference presented by the various constitutions in respect to their provisions for amendments in the legislative mode which relate to the majority of the legislature required to recommend a change. In certain constitutions a majority of three-fifths of all the members elected to each house of the general assembly is required, as in the constitutions of Florida, 1885; Kansas, 1858; Louisiana, 1845; Maryland, 1864 and 1867; Nebraska, 1875; North Carolina, 1835, 1868, and 1876; and Ohio, 1851. In some, a majority of all the members elected to each house only, as in Arkansas, 1868 and 1874; California, 1848; Connecticut, 1818; Iowa, 1846 and 1857; Louisiana, 1864; Michigan, 1835; Minnesota, 1857; Missouri, 1865 and 1875; New Jersey, 1844; New York, 1821 and 1846; Oregon, 1857; Pennsylvania, 1838 and 1873; Rhode Island, 1842; South Carolina, 1778; Tennessee, 1834 and 1870; Vermont, 1870; West Virginia, 1863; and Wisconsin, 1848. And all the remaining constitutions a majority of two-thirds of the members elected to each house, as in Alabama, 1819, 1865, 1867, and 1875; Arkansas, 1836 and 1864; California, 1879; Colorado, 1876; Delaware, 1792 and 1831; Florida, 1839 and 1868; Georgia, 1798, 1868, and 1877; Illinois, 1848 and 1870; Kansas, 1859; Louisiana, 1852 and 1868; Maine, 1820; Massachusetts, 1821 (of the house—a majority of the senate); Michigan, 1850; Mississippi, 1832 and 1868; South Carolina, 1790, 1865, and 1868; Texas, 1845, 1866, and 1868; Vermont, 1870 (of the senate—a majority of the house); and West Virginia, 1872.

The names of the States and the period of the constitutional changes are given so that the student of this question may, if he desires, study the conditions which made such changes necessary or expedient.

Jameson, continuing, says:

In most cases in which a simple majority is required, the constitutions prescribe a reference of the proposed amendments to the general assembly to be chosen at the next general election. The exceptions are the constitutions of Louisiana, 1864; Minnesota, 1857; Missouri, 1865 and 1875; Pennsylvania, 1838 and 1873; Rhode Island, 1842; and South Carolina, 1778.

On the popular vote to ratify the action of the legislature, a majority was required in all the cases but that of Rhode Island, 1842, which made a vote of three-fifths of the people necessary.

The next question to be considered is what constitutes a quorum. In the case of State *v.* Rogers (56 N. J. L., 657), the court, in speaking of this subject, says:

Prior to 1864 it was held by the Senate of the United States that a "quorum" could be formed only by the presence of a majority of all

the Senators possible from all the States. On June 30, 1862, Senator Sherman introduced the following resolution: "*Resolved*, That a majority of the Senators duly elected and entitled to seats in this body is a constitutional quorum," which met with such opposition that it was not until the 1st day of May, 1864, that it was finally adopted in the following form: "*Resolved*, That a quorum of the Senate consists of a majority of the Senators duly chosen." The rule adopted was modified in 1868 by adding the words "and sworn." This rule changing the basis of a quorum had its origin in the fear that the Senate of the United States, by reason of secession and other events, was in danger of being frequently without a quorum if a rule requiring a majority of all the Senators possible under the Constitution was adhered to. The necessity for the adoption of Mr. Sherman's resolution passed away, but the rule has been continued in its present shape since 1868.

It may be said with respect to this that the war closed in 1865, and it was determined that all the States were in the Union, and it seems to have been intended by the amendment of the resolution of 1868, by adding the words "elected and sworn," to obviate the necessity of considering the Senators from States which were in the Union and could not go out of it, but which, not having been admitted into what was called "practical federal relations," were not allowed representation in the Senate.

In connection with the opinion of the court in the case of State *v.* Rogers, referred to above, I desire to incorporate in my remarks some extracts from a paper submitted by the President pro tempore of the Senate, Mr. Foote, of Vermont, as embodying his views on the question of a quorum, which subject was then under consideration by the Senate in the second session of the Thirty-seventh Congress:

The expression "a majority of each House" renders it necessary to inquire whether the Constitution defines what "each House" shall consist of, and we find in section 2 of the first article that—

"The House of Representatives shall be composed of Members chosen every second year by the people of the several States," etc.

"Representatives and direct taxation shall be apportioned among the several States which may be included within the Union according to their respective numbers," etc.

"The number of Representatives shall not exceed one for every 30,000, but each State shall have at least one Representative, and until such enumeration (or census) shall be made," etc.

Here the Constitution goes on to prescribe how many Representatives each State by name shall be entitled to choose, making in all 65 Members. This "House" therefore would consist of 65 Members when the States enumerated should ratify the Constitution, and did at its first meeting adopt and act upon this principle by proceeding, as recorded in its own Journals, with "a quorum consisting of a majority of the whole number," that number "being present." The Constitution therefore is sufficiently plain and explicit as to the number of Members the House of Representatives shall be composed of, and declares that a majority thereof shall constitute a quorum to do business; and a deviation from this paramount law by the House itself in two or three instances only shows a violation of that law, which, in its general practice, is acknowledged by its own pervading declaration, as found upon its Journals, by proceeding to business with a quorum, consisting of a majority of the whole number of the Members of the House, "being present."

Mr. Foote, after speaking of the constitutional requirements for the election of Senators, then says:

These words could not have been made more plain to show how this House, the Senate of the United States, is constituted, or the number of Members of which it is "composed;" and no State in the Union can be deprived of its equal representation in this body whenever it chooses or is in a condition to fill the vacancies existing in that body.

After pointing out the evil results which would follow an attempt to constitutionally reduce the membership of this body, he says:

Fortunately, however, our noble and unparalleled Constitution solves this solemn and distracting question by giving ample powers to the Government which sustains it, and by which it is supported, to "suppress insurrection," however extensive, with all the power and means of the Whole Nation, and "the United States shall guarantee to every State in the Union a republican form of government," and which can alone be done within and by keeping them within the Union.

This constitutional course meditates a restoration of all the States to their former accustomed position, purged of treason and rebellion and standing on the platform of the Constitution, with all their rights guaranteed to them; and prominent among those rights will be that of a full representation upon the floor of the Senate by good and loyal men chosen by those States themselves.

He then cites a number of precedents decided by the Senate upon this question at different periods, from which I quote the following:

November 5, 1804. There being 17 States entitled to 34 Members, on that day the Vice-President and 13 Senators appeared; no quorum.

On the 6th of November, 17 Members attended, and although one of the Members had just resigned and his successor was not elected until the 13th of November, this number (17) was not considered a quorum, but on the 7th of November, 18 Members attended and were considered a quorum.

November 2, 1812. There being 18 States, entitled to 36 Members, of whom 18 attended on that day, but were not considered a quorum. In this case one of the Senators of Louisiana had resigned some time previous to the session, and his place was not supplied until the 1st of December, 1812. On the 3d of November 20 Members appeared and the business proceeded.

Several precedents along the same line are then given relative to the House of Representatives.

These facts prove conclusively that a majority of the whole number of Senators capable of sitting was required.

The constitutional requirement as to what is a quorum and what is necessary for a vote on an amendment to the Constitution is the same in both Houses. It is not necessary to go at length into details concerning the precedents of the House, for if the Senate did not give the required majority the joint resolution failed to pass.

I offer no excuse for presenting at such length the opinion of a Senator who was for a longer term than any other the President pro tempore of the Senate. It makes it unnecessary for me to make any argument as to the matter involved, and the full text of Senator Foote's paper makes it of great importance to the student of constitutional principles and history.

Chief Justice Taney in the case of Gordon *v.* United States (117 U. S., 705) says:

The Constitution of the United States delegates no judicial power to Congress. Its powers are confined to legislative duties, and restricted within certain prescribed limits. By the second section of Article VI the laws of Congress are made the supreme law of the land only when they are made in pursuance of the legislative power specified in the Constitution; and by the tenth amendment the powers not delegated to the United States nor prohibited by it to the States are reserved to the States respectively or to the people. The reservation to the States respectively can only mean the reservation of the rights of sovereignty which they respectively possessed before the adoption of the Constitution of the United States and which they had not parted from by that instrument. And any legislation by Congress beyond the limits of the power delegated would be trespassing upon the rights of the States or the people and would not be the supreme law of the land, but null and void; and it would be the duty of the courts to declare it so. For whether an act of Congress is within the limits of its delegated power or not is a judicial question to be decided by the courts, the Constitution having, in express terms, declared that the judicial power shall extend to all cases arising under the Constitution.

The Constitution itself is the only authority to determine what is a sufficient number of both Houses to propose an amendment to it. The rules of the two Houses can not contravene the Constitution, and whether such rules do contravene it or not can only be decided by the courts. Two-thirds of the Senators and Representatives from all the States in the Union were necessary for a valid proposition of an amendment to the Constitution, and it is no answer to say, in opposition of this plain constitutional meaning, that certain States by their own acts were excluded from representation in either body; for, even ignoring those States, it will be shown that two-thirds of the Senators representing the States that never seceded did not vote for the amendment. If two-thirds of a majority of the members sitting only were necessary, 27 being a majority of 52, two-thirds of that majority could propose an amendment, although it would be a minority of the Senators intended to vote within the meaning of the Constitution. We had the anomalous condition of Georgia, in the Fortieth Congress, whose Representatives were admitted to the House and whose Senators were denied seats in the Senate.

It can not be contended that these were not States in the Union and entitled to the representation in the House and to that in the Senate which the Constitution says they shall never be deprived of except by their own consent. It is true that a very distinguished Senator said in debate in the Senate that certain States of the South had committed suicide and were dead States, and were no longer to be considered as States in the Union; and a very powerful man in the House declared that those States were conquered provinces, and would be governed as such. These extreme utterances met with feeble echo, and notwithstanding that three-fourths of all the States, mentioning by name all the 37 States—Nebraska having come into the Union since the fourteenth amendment was proposed by Congress, but before its ratification by the States—counting all not admitted to practical federal relations, were considered necessary in the ratification of the proposed amendment, and notwithstanding these resolutions by which the Congress of the United States denied certain States representation to determine the proposition of an amendment to the Constitution, they were compelled to count every one of those States so denied representation when the ratification was to be determined.

On June 8, 1866, the Senate voted and passed upon the joint resolution proposing the fourteenth amendment, 36 States being in the Union. Leaving out the following Southern States, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, and Arkansas, there remained 26 States which, without any question, were entitled to representation, and making the total number of Senators admitted 52. The vote was 33 in the affirmative; the two-thirds required was 35; but there were only 44 present.

The Constitution of the United States declares, concerning amendments to itself—

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes, as part of this Constitution when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof—

And so forth.

In so important a matter as changing the organic law, it is the evident meaning of the Constitution that each one of the States should vote, and none should be deprived of this right without its consent. If it could be held that two-thirds of a mere quorum present should vote, then amendments to the Constitution can at any time be proposed by a minority of the Senate and of the House. A quorum of 52 is 27; two-thirds of 27 is 18. So that 18 Senators out of a sitting membership of 52 could propose an amendment to the Constitution, which is repugnant to a common-sense or any other kind of construction. The reasoning holds good as to the House, concerning which it is unnecessary to speak.

That the Constitution intends two-thirds of all the Members who may be entitled to seats can be shown by reference to other clauses of the Constitution making special provision for votes in other cases, such as the confirmation of officers appointed by the President and the ratification of treaties negotiated by him, where it says expressly "two-thirds of those present."

Article I, section 3, clause 7, says:

And no person shall be convicted without the concurrence of two-thirds of the Members present.

Article I, section 5, clause 1, says:

Each House shall be the judge of the elections, returns, and qualifications of its own Members, and a majority of each shall constitute a quorum to do business.

Article I, section 5, clause 2:

Each House may determine the rules of its proceedings, punish its Members for disorderly behavior, and, with the concurrence of two-thirds, expel a Member.

Article I, section 5, clause 3:

And the yeas and nays of the Members of either House on any question shall, at the desire of one-fifth of those present, be entered on the Journal.

Article I, section 7, clause 2:

If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law.

Article I, section 7, clause 3:

Or, being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Article II, section 2, clause 2:

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur.

Article V:

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, etc.

Article XII:

A quorum for this purpose shall consist of a Member or Members from two-thirds of the States, and a majority of all the States shall be necessary to a choice.

Article XII:

A quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary for a choice.

In this case it is especially provided that two-thirds of the States shall be represented, and the majority of the Senate shall elect the Vice-President, and a majority of the States, each State voting as one, shall elect the President.

Article XIV, section 3:

Congress may by a vote of two-thirds of each House remove such disability.

So in every case where less than two-thirds of the whole membership of the two Houses is meant, it is so specifically stated.

In the alternate plan for amending the Constitution, it is stated in the article quoted above that two-thirds of the States shall call a convention. It will not be contended by anyone that two-thirds of the States which choose to act can call a convention; some of the States may be silent and vote neither way, as California on the fourteenth amendment. But it is irresistible that two-thirds of all the States are necessary to call a convention, and, by the same reasoning, two-thirds of the Senators from all the States were to vote in the Senate.

We are living under a written Constitution, and its very letter, as well as spirit, is to be obeyed. Where the Constitution is not reduced to writing, it does not appear so necessary. In other constitutional governments which have no written constitution the number required for business of either general or special character is changeable. In the House of Lords in the English Parliament, for instance, the peers can do business through 3 of its members, and 40 is a quorum in the House of Commons.

Our general rules of construction and interpretation of laws are derived from Great Britain. A strong sidelight upon this question is shown in the formation last year of the governments of the South African Union; two English and two Dutch States comprise the Union. In their constitution, which was passed by both houses of Parliament without a dissenting vote, after much discussion, it is provided that no negro should be a member of Parliament, and that he should not have a vote except in the State of Good Hope, where, with certain restrictions of education and property, a small number are voting. But it is provided that whenever two-thirds of both houses, sitting as one, vote for a passage of the bill on its third reading to repeal this suffrage franchise granted to the negroes of the Cape of Good Hope, it shall be repealed; and it was argued that as there were 121 members in the lower house and 40 in the upper, that it would require two-thirds of this aggregate number, 161, to disfranchise the negro, and those who were most anxious for the Union pointed out the difficulty of securing 8 votes, the number necessary from the Cape of Good Hope delegation, for such amendment, and those who argued on the other side and who wished the Union adopted that it would be easy to get them; but no one contended that it only required two-thirds of those present of both houses, although they might constitute a majority.

In the statement made above that the United States Senate was comprised of 52 members, representing 26 States, it is not intended to consider the 10 States which were excluded from practical federal relations, which matter will be considered later.

Having considered the manner in which the fourteenth amendment was proposed and established, the fact that it was a judicial question, and that in the constitutional intent two-thirds had not proposed it, the question remaining to be examined is whether or not, conceding for argument that it was properly submitted, it was constitutionally ratified by three-fourths of the States in the Union.

Everybody concedes that there being 37 States, three-fourths of that number, or 28, were necessary for valid ratification. It was held by the Supreme Court, in Texas *v.* White, Seventh Wallace, 700 (1868) (and there is no serious opposition anywhere to that decision), that this was "an indestructible Union composed of indestructible States," and though these States had attempted to secede from the Federal Government, it was impossible for them to do so.

After the war and the establishment of peace everywhere, without any rioting or civil disturbance or any opposition to the lawful authority of the United States within the seceding States, Congress, on March 2, 1867, passed the reconstruction act, the supplemental reconstruction act of March 23 of the same year, and the supplementary acts of July, 1867, and March and July, 1868. The Constitution of the United States, in Article IV, section 4, provides that—

The United States shall guarantee to every State in this Union a republican form of government.

It could not be contended that the late seceding States at the date of the reconstruction act were not enjoying a republican form of government. What the States meant, when they ratified the Constitution of the United States, by "republican form of government" was that form which they themselves operated, practiced, and enjoyed. They were all of like form. A sovereignty within its sphere, with the authority given by the people to three coordinate branches of government—the legislative, executive, and judicial.

In the Southern States alluded to there is no denial anywhere that the States had that organization; that the legislatures were meeting, the executive was discharging the function of his office as directed by the constitution and the laws of the State; that the courts were administering law and justice and their processes ran without hindrance anywhere, and had a form of government that was as truly republican as was maintained in any sovereign State. Yet, instead of obeying the Constitution and guaranteeing a republican form of government to these States, Congress undertook to destroy the republican form of government in ten States and set up in lieu thereof a military organization, naturally opposed to a republican form of government and, by the provisions of the law itself, destroying civil authority.

The ten States were divided into five military departments. The State of Mississippi attempted to secure a writ of injunction against President Johnson, who had vetoed the reconstruction act as unconstitutional, but which was afterwards passed over his veto, from appointing a military officer for the fourth department, in which Mississippi was included. He did his duty as executive officer and made the appointment.

It has never been contended that by the Constitution or any of its amendments the Government of the United States had power to make a voter. It only attempted by its late amendments to inhibit the States from denying the right of suffrage

to any male adult citizen on account of race, color, or previous condition of servitude. Yet these reconstruction acts made the freedmen, who were not electors of the State, voters, and put into their hands the organization of the new government under the military commander. The law also forbade certain persons who were electors, qualified under the laws and constitutions of their respective States, from exercising their right to vote. *Chief* Justice Taney, in the case of Luther *v.* Borden (7 How., p. 1), delivering the opinion of the court, says:

And certainly it is no part of the judicial functions of any court of the United States to prescribe the qualification of voters in a State, giving the right to those to whom it is denied by the written and established constitution and laws of the State, or taking it away from those to whom it is given; nor has it the right to determine what political privileges the citizens of a State are entitled to, unless there is an established constitution or law to govern its decision.

The law also provided for the appointment by military commanders of extraordinary military commissions to try persons for certain offenses, and they could condemn the accused to death with the approval of the President. It provided that these trials should be speedy, with no unnecessary delay. They subverted the administration of justice, and they reduced the people of those ten States to this condition: They declared that they should never be admitted to practical federal relations, and thus relieve themselves of this military despotism, destructive of civil institutions and of right, unless they confirmed the congressional-given right to vote to the negro and ratified the fourteenth amendment.

Chief Justice Taney also says, in the case cited above, that—

Unquestionably a military government, established as the permanent government of the State, would not be a republican government, and it would be the duty of Congress to overthrow it. * * *

No one, we believe, has ever doubted the proposition that, according to the institutions of this country, the sovereignty in every State resides in the people of the State, and that they may alter and change their form of government at their own pleasure.

Except in the one particular case in which the Constitution specially provides that the United States shall guarantee a republican form of government.

Section 5 of the reconstruction act of March 2, 1867, reads as follows:

That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State 21 years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion, or for felony at common law, and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates, and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates, and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same, and when said State, by a vote of its legislature elected under said constitution, shall have adopted the amendment to the Constitution of the United States, proposed by the Thirty-ninth Congress, and known as Article XIV, and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oaths prescribed by law—

And so forth.

These ten States, by this reconstruction act and to escape from the destruction of their liberties by the military government over them, were compelled to ratify the fourteenth amendment and to promise to obey a proposed amendment which had not yet been made a part of the Constitution.

The military governor of the fourth department, comprising the States of Mississippi and Arkansas, signed his own commission to the United States Senate, although never before a citizen of Mississippi.

It was under this duress, rescinding former rejections under true republican forms of government, that they were compelled to rescind their rejections and to ratify the amendment. It was never supposed for a moment that any but the free assent to an amendment was contemplated by the makers of the Constitution in so vital a matter as the changing of the organic law, which established the relations between the States and the Federal Government, and organized two sovereignties, defining the powers of one and, in some measure, curtailing the inherent powers of the other, that any State should be compelled to give its assent to this change in the Constitution. It is a monstrous proposition, which seems to us now to be almost incredible but for the evidences still existing of its baneful effects. To contend for a moment that those ten States, of their own free will and accord, in the spirit contemplated by the Constitution, have ever ratified the fourteenth amendment is so absurd as to be grotesque. It is plain enough that the so-called ratifications of the States under the reconstruction act were not, in truth, the act of those States of their own free will and accord, but a ratification by the Congress of the United States, operating by the reconstruction act to force the assent of the States by the threat of what would befall.

The indestructible States of an indestructible Union were deprived of their republican form of government and, instead, they passed under the yoke of military despotism, and I use the word "despotism" not to signify any vicious purpose on the part of any military commander, but despotic because of the legislative intent to destroy the republican form of government and force upon the people a ruler and form and character of government not of their own choosing. If all that was necessary to be done constitutionally had been done in proposing the amendment, this enforced ratification would invalidate the amendment.

On the 20th of July, 1868, Mr. Seward, the Secretary of State, issued his proclamation of ratification of the fourteenth amendment, in which, after reciting the law of 1818 requiring him to publish the ratification of an amendment to the Constitution in the newspapers, he proceeds to say:

And whereas neither the act just quoted from nor any other law, expressly or by conclusive implication, authorizes the Secretary of State to determine and decide doubtful questions as to the authenticity of the organization of state legislatures or as to the power of any state legislature to recall a previous act or resolution or ratification of any amendment proposed to the Constitution;

And whereas it appears from official documents on file in this department that the amendment to the Constitution of the United States, proposed as aforesaid, has been ratified by the legislatures of the States of Connecticut, New Hampshire, Tennessee, New Jersey, Oregon, Vermont, New York, Ohio, Illinois, West Virginia, Kansas, Maine, Nevada, Missouri, Indiana, Minnesota, Rhode Island, Wisconsin, Pennsylvania, Michigan, Massachusetts, Nebraska, and Iowa;

And whereas it further appears from documents on file in this department that the amendment to the Constitution of the United States, proposed as aforesaid, has also been ratified by newly constituted and newly established bodies avowing themselves to be and acting as the legislatures, respectively, of the States of Arkansas, Florida, North Carolina, Louisiana, South Carolina, and Alabama; and

Whereas it further appears from official documents on file in this department that the legislatures of two of the States first above enumerated, to wit, Ohio and New Jersey, have since passed resolutions, respectively, withdrawing the consent of each of said States to the aforesaid amendment, and whereas it is deemed a matter of doubt and uncertainty whether such resolutions are not irregular, invalid, and therefore ineffectual for withdrawing the consent of the said two States or of either of them to the aforesaid amendment, etc.

This language shows very clearly that Mr. Seward had his doubts about the ratification of the amendment according to the constitutional requirement, and he takes pains to relieve himself of any responsibility by declaring that—

Neither the act just quoted from, nor any other law, expressly or by conclusive implication, authorizes the Secretary of State to determine and decide doubtful questions as to the authenticity of the organization of state legislatures or as to the power of any state legislature to recall a previous act or resolution of ratification of any amendment proposed to the Constitution—

And so forth.

On the next day, the 21st of July, a member of the Senate offered a joint resolution declaring that three-fourths and more of the States had ratified the proposed amendment, and therefore that it was a part of the Constitution. The resolution reads as follows:

Whereas the legislatures of the States of Connecticut, Tennessee, New Jersey, Oregon, Vermont, West Virginia, Kansas, Missouri, Indiana, Ohio, Illinois, Minnesota, New York, Wisconsin, Pennsylvania, Rhode Island, Michigan, Nevada, New Hampshire, Massachusetts, Nebraska, Maine, Iowa, Arkansas, Florida, North Carolina, Alabama, South Carolina, and Louisiana, being three-fourths and more of the several States of the Union, having ratified the fourteenth article of amendment to the Constitution of the United States, duly proposed by two-thirds of each House of the Thirty-ninth Congress: Therefore

Resolved by the Senate (the House of Representatives concurring), That said fourteenth article is hereby declared to be a part of the Constitution of the United States, and it shall be duly promulgated by the Secretary of State.

July 21. Passed the Senate without a count.

Same day. Passed the House: The resolution—yeas 126, nays 32; the preamble—yeas 127, nays 35.

Georgia has ratified it since, by a majority of 10 in the Senate and 24 in the House.

In this matter Congress proceeded ultra vires, the Senate and House each being functus officio as far as this amendment was concerned. They had done all that the Constitution authorized them to do to submit the proposed amendment. It was not left for the Congress to decide whether or not the States had done their duty under the Constitution. This, as has been shown in the many cases cited above, particularly Gordon *v.* United States and Luther *v.* Borden, was a strictly judicial question, with which Congress had nothing to do. However, it had this effect upon the Secretary of State, and on the 28th of July he issued a second proclamation as follows:

Final certificate of Mr. Secretary Seward respecting the ratification of the fourteenth amendment to the Constitution July 28, 1868.

By WILLIAM H. SEWARD,
Secretary of State of the United States.

To all to whom these presents may come, greeting:

Whereas by an act of Congress passed on the 20th of April, 1818, entitled "An act to provide for the publication of the laws of the United States, and for other purposes," it is declared, that whenever official notice shall have been received at the Department of State that

any amendment which heretofore has been and hereafter may be proposed to the Constitution of the United States has been adopted according to the provisions of the Constitution, it shall be the duty of the said Secretary of State forthwith to cause the said amendment to be published in the newspapers authorized to promulgate the laws, with his certificate, specifying the States by which the same may have been adopted, and that the same has become valid to all intents and purposes as a part of the Constitution of the United States; and

Whereas the Congress of the United States, on or about the 16th day of June, 1866, submitted to the legislatures of the several States a proposed amendment to the Constitution in the following words, to wit.

Then follows copy of the fourteenth amendment to the Constitution.

And whereas the Senate and House of Representatives of the Congress of the United States on the 21st day of July, 1868, adopted and transmitted to the Department of State a concurrent resolution, which concurrent resolution is in the words and figures following, to wit:

IN THE SENATE OF THE UNITED STATES,
July 21, 1868.

Whereas the legislatures of the States of Connecticut, Tennessee, New Jersey, Oregon, Vermont, West Virginia, Kansas, Missouri, Indiana, Ohio, Illinois, Minnesota, New York, Wisconsin, Pennsylvania, Rhode Island, Michigan, Nevada, New Hampshire, Massachusetts, Nebraska, Maine, Iowa, Arkansas, Florida, North Carolina, Alabama, South Carolina, and Louisiana, being three-fourths and more of the several States of the Union, have ratified the fourteenth article of amendment to the Constitution of the United States, duly proposed by two-thirds of each House of the Thirty-ninth Congress: Therefore

Resolved by the Senate (the House of Representatives concurring), That said fourteenth article is hereby declared to be a part of the Constitution of the United States, and it shall be duly promulgated as such by the Secretary of State.

Attest:
GEORGE C. GORHAM,
Secretary.

And whereas official notice has been received at the Department of State that the legislatures of the several States next hereinafter named have, at the times respectively herein mentioned, taken the proceedings hereinafter recited upon or in relation to the ratification of the said proposed amendment, called Article XIV, namely:

The legislature of Connecticut ratified the amendment June 30, 1866; the legislature of New Hampshire ratified it July 7, 1866; the legislature of Tennessee ratified it July 19, 1866; the legislature of New Jersey ratified it September 11, 1866, and the legislature of the same State passed a resolution in April, 1868, to withdraw the consent to it; the legislature of Oregon ratified it September 19, 1866; the legislature of Texas rejected it November 1, 1866; the legislature of Vermont ratified it on or previous to November 9, 1866; the legislature of Georgia rejected it November 13, 1866, and the legislature of the same State ratified it July 21, 1868; the legislature of North Carolina rejected it December 4, 1866, and the legislature of the same State ratified it July 4, 1868; the legislature of South Carolina rejected it December 20, 1866, and the legislature of the same State ratified it July 9, 1868; the legislature of Virginia rejected it January 9, 1867; the legislature of Kentucky rejected it January 10, 1867; the legislature of New York ratified it January 10, 1867; the legislature of Ohio ratified it January 11, 1867, and the legislature of the same State passed a resolution in January, 1868, to withdraw its consent to it; the legislature of Illinois ratified it January 15, 1867; the legislature of West Virginia ratified it January 16, 1867; the legislature of Kansas ratified it January 18, 1867; the legislature of Maine ratified it January 19, 1867; the legislature of Nevada ratified it January 22, 1867; the legislature of Missouri ratified it on or previous to January 26, 1867; the legislature of Indiana ratified it January 29, 1867; the legislature of Minnesota ratified it February 1, 1867; the legislature of Rhode Island ratified it February 7, 1867; the legislature of Wisconsin ratified it February 13, 1867; the legislature of Pennsylvania ratified it February 13, 1867; the legislature of Michigan ratified it February 15, 1867; the legislature of Massachusetts ratified it March 20, 1867; the legislature of Maryland rejected it March 23, 1867; the legislature of Nebraska ratified it June 15, 1867; the legislature of Iowa ratified it April 3, 1868; the legislature of Florida ratified it June 9, 1868; the legislature of Louisiana ratified it July 9, 1868; and the legislature of Alabama ratified it July 13, 1868.

Now, therefore, be it known that I, William H. Seward, Secretary of State of the United States, in execution of the aforesaid act, and of the aforesaid concurrent resolution of the 21st of July, 1868, and in conformance thereto, do hereby direct the said proposed amendment to the Constitution of the United States to be published in the newspapers authorized to promulgate the laws of the United States, and I do hereby certify that the said proposed amendment has been adopted in the manner hereinbefore mentioned by the States specified in the said concurrent resolution, namely, the States of Connecticut, New Hampshire, Tennessee, New Jersey, Oregon, Vermont, New York, Ohio, Illinois, West Virginia, Kansas, Maine, Nevada, Missouri, Indiana, Minnesota, Rhode Island, Wisconsin, Pennsylvania, Michigan, Massachusetts, Nebraska, Iowa, Arkansas, Florida, North Carolina, Louisiana, South Carolina, Alabama, and also by the legislature of the State of Georgia, the States thus specified being more than three-fourths of the States of the United States.

And I do further certify that the said amendment has become valid to all intents and purposes as a part of the Constitution of the United States.

In testimony whereof I have hereunto set my hand and caused the seal of the Department of State to be affixed.

Done at the city of Washington the 28th day of July, in the year of our Lord 1868, and of the Independence of the United States of America the ninety-third.

[SEAL.]
WILLIAM H. SEWARD,
Secretary of State.

In this matter nothing has happened to change the mind or solve the doubts of the Secretary, but as an executive officer he was compelled to obey a joint resolution of Congress whatever his own opinion might be of the power of Congress to pass it, that being, as I have said above, a judicial question.

I do not know an instance where the court has ever held that a legislative assembly could decide as to whether a duty to be done by themselves or by the States was constitutionally done. The Secretary called attention to the fact that two States, New Jersey and Ohio, at first ratified and later rejected the amendment. The ratification of these two States were, New Jersey, September 11, 1866, and Ohio, January 11, 1867, and the vote rescinding this ratification by rejection was, New Jersey, in April, 1868, and Ohio, January, 1868, several months prior to the promulgation and to the affirmative vote of three-fourths of the States.

Now, there is no question in my mind but that the States were intended to give their free assent to the amendment, and that a State had a right to rescind a ratification or a rejection until such time as three-fourths had ratified. After that had occurred no State could then rescind with any effect, because it would enable a single State at any time subsequent to a promulgation to repeal, by a single vote perhaps, a part of the Constitution. It was insistently held that the six which had rejected—Arkansas, Florida, North Carolina, Louisiana, South Carolina, and Alabama—had the power to rescind the rejection and to ratify, which they did on the following dates: Arkansas, April 6, 1868; Florida, June 9, 1868; North Carolina, July 4, 1868; Louisiana, July 9, 1868; South Carolina, July 9, 1868; and Alabama, July 13, 1868.

I hold that New Jersey and Ohio, and all the other States, had a right to change their mind before three-fourths had voted affirmatively, and certainly if those that had rejected had a right to do so, with equal reason or for the same reason the other two could rescind their ratification, and whether or not Ohio and New Jersey had the right to change their vote before the three-fourths ratification was, fait accompli, a judicial and not a legislative question.

Taking the three States that voted "no," California remained silent, and Ohio and New Jersey which voted "no," and the six under the reconstruction act, which makes 12 States that could not be counted affirmatively, and the amendment failed of ratification.

It is evident that there was a doubt in the mind of the Secretary whether a State, acting under compulsion to escape an intolerable condition of military government, had spoken by their constitutional legislature.

Inquiry has been made, Why disturb this amendment which has been acquiesced in so long? A sufficient answer is that this is a part of the Constitution or it is not, and the people of the United States, acting through their respective States, should not be compelled to shape their constitutions and laws in obedience to a demand that has not been properly made upon them; not imposed by the methods required by the Constitution; and can therefore have no force of law; and the fact that there are now pending 28 propositions to amend the Constitution shows the necessity for having it judicially ascertained what is the Constitution and what amendments may be considered necessary and what is essential to a valid amendment under Article V of the Constitution.

The lapse of time is not an element in the consideration of the constitutionality of an amendment any more than of a law, and Chief Justice Taney rendered a decision in 1856 declaring the law of 1820, called the Missouri compromise act, under which great States were admitted to the Union, to be unconstitutional and void.

It is a high achievement of statesmanship to so frame laws that the people render a cheerful obedience. It is almost impossible to secure this obedience of laws whose validity is reasonably questioned, and still more difficult to secure it for laws which are not respected.

The difficulty of amending the Constitution is accentuated by the fact that the last proposition adopted by Congress, the proposition of the sixteenth amendment, does not appear now as likely to be ratified, and attempts have been made to act outside of the Constitution, assuming certain powers to belong to the one or the other branch of the Government and to hear a great deal about "twilight zones" and "mystery zones" and "unexplored regions of power," which exist mainly in the minds of those who use these phrases.

Some judges, perceiving the difficulty of a proper change of the Constitution, have declared that, on account of this difficulty, a duty has devolved upon the judge not to consider the Constitution as a "strait-jacket" upon the General Government to prevent its doing necessary or useful things, and, further, that the courts must so construe the Constitution as to make it meet the changed condition of things.

These sentiments are bad enough in an Executive who does not fully appreciate the limitations of constitutional power, but coming from a judge who is supposed to know the Constitution and who takes an oath to both obey and defend it it is simply monstrous and certifies more strongly than any expression from anyone else that judge's moral unfitness to sit on any bench, as it evidences his disregard of his oath of office.

Mr. MONEY. I ask that the joint resolution be referred to the Committee on the Judiciary.

The PRESIDING OFFICER. The joint resolution will be referred to the Committee on the Judiciary.

Mr. HEYBURN subsequently said: Mr. President, I rise to a parliamentary inquiry. I call the attention of the Senator from Mississippi [Mr. MONEY] to it. The joint resolution which was just announced as having been referred to the Committee on the Judiciary is not in order for such reference. It has not been read the second or the third time. The proceedings in the CONGRESSIONAL RECORD will show that to be the case. It is a question of parliamentary proceeding, and I think it is one that had better be taken notice of. I see the Senator from Mississippi in his place. I am just calling the attention of the Chair to the fact that the joint resolution could not be referred to the committee, it not having been read the second or third time.

Mr. MONEY. I would say, as far as that is concerned, that it was read twice and had a third reading this morning.

Mr. HEYBURN. The first, second, and third readings of a bill or joint resolution must be announced by the Chair. The RECORD shows that the joint resolution has been read only the first time.

Mr. MONEY. If the Senator does not want to have it referred and would like to have it lie on the table that he may make some remarks on it, I am perfectly willing. I have no desire to forestall any speech, or anything of that sort.

Mr. HEYBURN. I did not just catch the remark of the Senator.

Mr. MONEY. I say if the Senator does not want to have it referred to the Judiciary Committee I am willing that it should lie on the table for a reasonable time, that he may call it up for some remarks if he wishes to make any. I have no desire to cut off any discussion; in fact, I hope somebody will take part in a discussion of it.

Mr. HEYBURN. The CONGRESSIONAL RECORD of March 29, 1909, over a year ago, on page 471, will disclose the facts. The second and third readings were objected to, and the measure stands in that way. As a parliamentary proposition it could not be referred to the committee until it had been read the second and third times.

The PRESIDING OFFICER. The Chair will state that in accordance with the usual custom very likely it was the duty of the Chair to announce that the joint resolution would be considered as having been read the second time and that it would be referred to the committee. Possibly the Chair omitted to do that.

Mr. HEYBURN. It has not been read the second and third times.

The PRESIDING OFFICER. Not in full.

Mr. HEYBURN. No; and objection being made by me to the second reading, that question would have to be disposed of.

Mr. KEAN. I hope the Senator from Idaho will not insist on that objection, but let it be referred.

Mr. HEYBURN. Mr. President, I think it is better to be consistent in regard to these matters. I think that the objection to the second reading of the joint resolution is the parliamentary status of it.

The PRESIDING OFFICER. The Chair will suggest to the Senator that it was for that day under the rule and that the objection would not continue.

Mr. HEYBURN. But if it were proposed to-day to read it the second time, the objection then might be renewed.

The PRESIDING OFFICER. If the objection had been renewed, of course.

Mr. HEYBURN. It has not been moved that the joint resolution be read the second time.

The PRESIDING OFFICER. The Chair suggests that it was not necessary to make the motion.

Mr. HEYBURN. It has not been read.

Mr. MONEY. My recollection is that the objection was made by the Senator from Idaho to the bill being laid upon the table at all or being introduced, but he was too late with his objection, and it was so ruled. That is my recollection. Whether it is true or not, the RECORD will show.

Mr. HEYBURN. The RECORD shows the facts. I will read the RECORD. It is brief. The Senator from Mississippi [Mr. MONEY] introduced—I am making a statement now, rather than reading it—this joint resolution and asked that it be read and lie on the table until it should be called up, and also that it be printed in the RECORD. The Vice-President stated, "Is there objection to the request of the Senator from Mississippi? The Chair hears none." Then followed the first reading of the joint resolution, and it was to lie on the table.

Mr. MONEY. Mr. President, it is always the case, as I understand it, that a bill or joint resolution is considered to be read the first and second time before it is printed or anything else done with it. Nobody knew of a bill or joint resolution on its first two readings being read through, word by word, line by line, paragraph by paragraph, that I have ever heard of. It is always considered as having had a first and second reading.

Now, I want to ask a parliamentary question, if the Senator will allow me: What does the Chair consider the parliamentary condition of the joint resolution to be?

The PRESIDING OFFICER. The Chair considers that the joint resolution has been referred to the committee in accordance with the request of the Senator from Mississippi. Possibly the Chair omitted, when the request of the Senator was made, to say that the joint resolution would be considered as having been read the second time, and that it would be referred, which is the usual formula.

Now, the Chair will ask the Senator from Idaho what he desires to have done?

Mr. HEYBURN. I desire to call attention to the RECORD, which I was proceeding to do:

The VICE-PRESIDENT. Is there objection? The Chair hears none.

Mr. HEYBURN. I rise to object to the second reading of the joint resolution.

Mr. GALLINGER. It has not been read the second time.

Mr. HEYBURN. I want the objection to appear in the RECORD.

The VICE-PRESIDENT. The joint resolution was not read the second time. It was read at the request of the Senator from Mississippi, and ordered to be printed in the RECORD and to lie on the table.

Mr. HEYBURN. I object to its being printed in the RECORD—

And so forth.

There is a direct statement from the Chair that it has not been read the second time. There was no request this morning when it was taken from the table that it be read at all. It went to the table upon the first reading, and it is not in order to refer it to the committee under the rules of the Senate.

The PRESIDING OFFICER. The Chair will state that by unanimous consent the joint resolution was taken from the table and was considered, and upon motion of the Senator from Mississippi it was referred to the Judiciary Committee.

Mr. HEYBURN. But it was not read the second time.

The PRESIDING OFFICER. The joint resolution was read this morning before it was referred.

Mr. NELSON. Mr. President——

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. HEYBURN. Mr. President, having the recognition of the Chair, I desire that the question may be determined.

The PRESIDING OFFICER. What question of privilege or question of order does the Senator raise?

Mr. HEYBURN. The question that I raise is a parliamentary one. It is that the joint resolution can not go to the committee until after it has been read the second and third times, and that it has not been read the second or third time, either formally or informally. I am not raising the question as to the joint resolution having been read at length, but it has not been stated to have been read the second or third time, and it can not properly go to the Committee on the Judiciary.

The PRESIDING OFFICER. The Chair will suggest to the Senator that a third reading of a bill is never necessary before it is referred.

Mr. HEYBURN. It is, when a demand is made for it.

The PRESIDING OFFICER. Which demand was not made.

Mr. HEYBURN. Having objected to its passing the second reading, it is equivalent to objecting to the third reading.

The PRESIDING OFFICER. That objection ceased at the termination of that legislative day. The Chair overrules the point made by the Senator from Idaho.

WAGES AND PRICES OF COMMODITIES.

Mr. LODGE. Mr. President, I gave notice yesterday that I would call up to-day, immediately after the routine morning business, the resolution (S. Res. 212) proposing to make an appropriation for certain inquiries by the Select Committee on Wages and Prices of Commodities. I did not press the motion, as the Senator from Mississippi [Mr. MONEY] desired to go on with his speech this morning, and it is now so late that I shall not move that the Senate take up the resolution.

I give notice that I shall move to take up the resolution to-morrow immediately after the routine morning business, and I give way now so that the Senator from Minnesota [Mr. NELSON] can call up the river and harbor bill.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. NELSON. I move that the Senate proceed to the consideration of the bill (H. R. 20686) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The Secretary resumed the reading of the bill.

The next amendment of the Committee on Commerce was, on page 85, after line 21, to strike out:

Improving Missouri River at St. Joseph, Mo., in accordance with the report submitted in House Document No. 824, Sixtieth Congress, first session, $75,000: *Provided*, That no part of this amount shall be expended until the city of St. Joseph, or other agency, shall have deposited to the credit of the Secretary of War in some duly recognized United States depository to be designated by him the sum of $75,000, to be expended by said Secretary of War, together with the amount herein appropriated, in the execution of the plan of improvement recommended in the report herein referred to.

And in lieu thereof to insert:

Improving Missouri River near St. Joseph, Mo., to prevent the diversion of the waters of the Missouri River through Lake Contrary and other contiguous lakes, in accordance with the report submitted in House Document No. 750, Sixty-first Congress, second session, $150,000.

The amendment was agreed to.

The next amendment was, on page 87, line 7, after the word "dollars," to insert:

Provided, That if in the judgment of the Secretary of War the prices received in response to advertisement for bids for dredging are not reasonable, so much of the amount herein appropriated as shall be necessary may be expended for the purchase or construction of a suitable dredging plant.

So as to make the clause read:

Improving harbor at Oakland, Cal.: For maintenance, and continuing improvement under the existing project, or, in the discretion of the Secretary of War, in accordance with the new plan of improvement printed in House Document No. 647, Sixty-first Congress, second session, $250,000: *Provided*, That if in the judgment of the Secretary of War the prices received in response to advertisement for bids for dredging are not reasonable, so much of the amount herein appropriated as shall be necessary may be expended for the purchase or construction of a suitable dredging plant.

The amendment was agreed to.

The next amendment was, on page 89, after line 2, to insert:

Improving Los Angeles Harbor (formerly Wilmington Harbor), California, in accordance with report submitted in House Document No. 768, Sixty-first Congress, second session, $200,000: *Provided*, That if in the judgment of the Secretary of War the prices received in response to advertisement for bids for dredging are not reasonable, so much of the amount herein appropriated as shall be necessary may be expended for the purchase or construction of a suitable dredging plant.

The amendment was agreed to.

The next amendment was, on page 89, after line 16, to insert:

Improving Redwood Creek, California: Completing improvement by providing a channel depth of 5 feet, in accordance with the report submitted in House Document No. 307, Sixty-first Congress, second session, $12,000.

The amendment was agreed to.

The next amendment was, on page 89, line 24, before the word "dollars," to strike out "fifteen thousand" and insert "thirty thousand," so as to make the clause read:

Improving Sacramento and Feather rivers, California: Continuing improvement and for maintenance, $30,000.

The amendment was agreed to.

The next amendment was, at the top of page 91, to insert:

The Secretary of War is authorized, in his discretion, to sell the lands and other property acquired for the construction of the Yuba River settling basin, California, and to modify the project for improving Sacramento and Feather rivers accordingly.

The amendment was agreed to.

The next amendment was, on page 92, line 10, after the word "Oregon," to strike out "For maintenance, $500," and insert "Completing improvement and for maintenance in accordance with the report submitted in House Document No. 633, Sixty-first Congress, second session, $5,200," so as to make the clause read:

Improving Clatskanie River, Oregon: Completing improvement and for maintenance in accordance with the report submitted in House Document No. 633, Sixty-first Congress, second session, $5,200.

The amendment was agreed to.

The next amendment was, on page 92, line 18, after the word "improvement," to strike out "in accordance with the report submitted in House Document No. 396, Sixtieth Congress, first session, $27,840" and insert "and for maintenance in accordance with the report submitted in House Document No. 673, Sixty-first Congress, second session, $56,000," so as to make the clause read:

Improving Coquille River, Oregon: Completing improvement and for maintenance in accordance with the report submitted in House Document No. 673, Sixty-first Congress, second session, $56,000.

The amendment was agreed to.

The next amendment was, at the top of page 93, to insert:

Improving Siuslaw River, Oregon, at the mouth, in accordance with the project set forth in the report submitted in House Document No. 648, Sixty-first Congress, second session, $50,000: *Provided*, That the Secretary of War may enter into a contract or contracts for such material and work as may be necessary to complete said project and to maintain the same for one year during construction, to be paid for as appropriations may from time to time be made by law, not to exceed in the aggregate $381,000, exclusive of the amount herein appropriated: *Provided further*, That before beginning said work or making said contract or contracts the Secretary of War shall be satisfied by deposit or otherwise that the port of Siuslaw or other agency shall provide for the accomplishment of said project the sum of $215,500, to be expended by him in the prosecution of said work: *And provided further*, That the amount to be furnished by the port of Siuslaw or other agency may be reduced by such amounts as said port may have expended in such construction of the south jetty as can be utilized by the engineer officer in charge of the work in the execution of the plans adopted.

The amendment was agreed to.

The next amendment was, on page 93, after line 22, to insert:

Improving Willamette River, Oregon: For the purchase of the existing canal and locks around Willamette Falls at Oregon City, Oreg., or for the purchase of the necessary lands and the construction of a new canal and locks, in the discretion of the Secretary of War, $300,000: *Provided*, That no part of this appropriation shall be expended, except for the acquisition of the necessary lands and rights of way and for such antecedent surveys and preliminary work as may be necessary in this connection, until the State of Oregon shall appropriate for the aforesaid purpose a like amount; and the purchase of the existing canal and locks, or the actual construction of a new canal and locks, shall not be undertaken until the Secretary of War shall be satisfied that the State of Oregon will deposit the said amount in the Treasury of the United States in such sums and at such times as he may require: *Provided further*, That the Treasurer of the United States is hereby authorized to receive from the State of Oregon any and all sums of money that have been or may hereafter be appropriated by said State for the purpose herein set forth; and when so received the said sums are hereby appropriated for said purpose to be expended under the direction of the Secretary of War and the supervision of the Chief of Engineers.

The amendment was agreed to.

The reading of the bill was continued to line 23, on page 95.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The SECRETARY. A bill (S. 6737) to create a court of commerce and to amend the act entitled "An act to regulate commerce," approved February 4, 1887, as heretofore amended, and for other purposes.

Mr. ELKINS. I ask that the unfinished business be temporarily laid aside. I will state in this connection that it is my purpose to call up the bill as soon as the river and harbor appropriation bill is disposed of.

The PRESIDING OFFICER. The Senator from West Virginia asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none. The reading of the bill before the Senate will be proceeded with.

The Secretary resumed the reading of the bill at line 24, page 95.

The next amendment of the Committee on Commerce was, on page 95, line 16, before the word "dollars," to strike out "seven thousand five hundred" and insert "ten thousand," so as to make the clause read:

Improving Columbia River, Washington: For maintenance of improvement between the mouth of Willamette River and the city of Vancouver, Wash., $10,000.

The amendment was agreed to.

The next amendment was, on page 96, line 5, before the word "dollars," to strike out "between Riparia, Wash., and Pittsburg Landing, Oreg., seven thousand five hundred," and insert "up to Pittsburg Landing, Oreg., twenty-five thousand," so as to make the clause read:

Improving Snake River, Oregon, Washington, and Idaho: Continuing improvement and for maintenance up to Pittsburg Landing, Oreg., $25,000.

The amendment was agreed to.

The next amendment was, on page 96, after line 11, to insert:

Improving Grays Harbor and Bar Entrance, Washington: Continuing improvement by means of extension of north jetty in accordance with the report of the Board of Engineers transmitted to the Committee on Commerce under date of March 1, 1910, $75,000.

The amendment was agreed to.

The next amendment was, on page 96, line 24, before the word "dollars," to strike out "fifteen thousand" and insert "thirty-two thousand five hundred," so as to make the clause read:

Improving Grays Harbor and Chehalis River, Washington: For maintenance of improvement of inner portion of Grays Harbor and Chehalis River, and continuing improvement of Chehalis River up to Montesano, in accordance with the report submitted in House Document No. 1125, Sixtieth Congress, second session, $32,500.

The amendment was agreed to.

The next amendment was, on page 97, after line 13, to insert:

The Secretary of War is hereby authorized and directed to terminate the existing contract for work on the Puyallup waterway in Tacoma Harbor, Washington, and to suspend further work on the project for the improvement thereof, as recommended in the report of the Board of Engineers for Rivers and Harbors published in Senate Document No. 418, Sixty-first Congress, second session, until local interests shall divert the Puyallup River so it no longer empties into said waterway, or otherwise prevent excessive deposits therein from said river.

The amendment was agreed to.

The next amendment was, on page 98, line 5, before the word "in," to insert "Completing improvement;" in line 10, before the word "thousand," to strike out "fifty" and insert "one hundred;" and in the same line, after the word "dollars," to insert "*Provided*, That the State of Washington shall furnish

for the execution of the work the plant owned and employed by it on this section of the river," so as to make the clause read:

Improving Columbia River between Bridgeport and Kettle Falls, Wash.: Completing improvement in accordance with the report of the Board of Engineers for Rivers and Harbors dated March 31, 1908, and printed in Rivers and Harbors Committee Document No. 16, Sixtieth Congress, second session, $100,000: *Provided*, That the State of Washington shall furnish for the execution of the work the plant owned and employed by it on this section of the river.

The amendment was agreed to.

The next amendment was, on page 98, line 21, after the word "respectively," to strike out "$15,000" and insert "$34,100, $2,500 of which may be expended upon the Lewis River and the North Fork thereof," so as to make the clause read:

Improving Cowlitz and Lewis rivers, Washington: Continuing improvement and for maintenance, including North Fork of Lewis River, and continuing improvement of Cowlitz River up to Toledo in accordance with reports submitted in House Documents Nos. 1167, Sixtieth Congress, second session, and 404, Sixty-first Congress, second session, respectively, $34,100, $2,500 of which may be expended upon the Lewis River and the North Fork thereof.

The amendment was agreed to.

The next amendment was, on page 99, line 5, after the word "dollars," to insert "*Provided*, That so much of said sum as may be necessary shall be expended in the completion of the sill across Hatts Slough," so as to make the clause read:

Improving Puget Sound, Washington: Continuing improvement and for maintenance of Puget Sound and its tributary waters, $100,000: *Provided*, That so much of said sum as may be necessary shall be expended in the completion of the sill across Hatts Slough.

The amendment was agreed to.

The next amendment was in the item of appropriation for improving Puget Sound, Washington, on page 100, line 6, after the word "waterway," to strike out:

Provided further, That the development of water power in connection with the construction of the lock and dam herein authorized shall be limited to that needed by the United States, and no provision for the development of water power for sale shall be made unless hereafter authorized by Congress.

The amendment was agreed to.

The next amendment was, on page 101, line 7, before the word "thousand," to strike out "thirty," and insert "fifty," so as to make the clause read:

Improving Willapa River and Harbor, Washington: For maintenance, and continuing improvement in accordance with the report submitted in House Document No. 524, Sixty-first Congress, second session, and subject to the conditions relative to cooperation on the part of local interests as set forth in said document, $50,000.

The amendment was agreed to.

The next amendment was, on page 101, after line 11, to strike out:

Improving St. Michael Canal, Alaska: Continuing improvement, $100,000.

And to insert:

Improving St. Michael Canal, Alaska: Completing improvement in accordance with the report submitted in Senate Document No. 416, Sixty-first Congress, second session, $143,000.

The amendment was agreed to.

The next amendment was, on page 102, line 13, before the word "thousand," to strike out "fifty" and insert "thirty," so as to make the clause read:

For the necessary expenses of the proposed meeting in the United States of the Permanent International Association of Navigation Congresses, including the publication of the proceedings, the necessary expenses of the American delegates, and the cost of transporting foreign members of the Permanent International Association of Navigation Congresses and authorized foreign delegates in the investigation of American waterways, $30,000; and the Secretary of State is hereby requested to extend an official invitation to such association to visit the United States for such purpose.

The amendment was agreed to.

The next amendment was, on page 102, after line 16, to insert:

The sum of $1,875 be, and the same is hereby, appropriated to be paid to JOHN H. BANKHEAD, of Alabama, for his services on the Inland Waterways Commission from the 14th day of March to the 18th day of June, 1907.

The amendment was agreed to.

The next amendment was, on page 105, after line 3, to insert:

In the collection of statistics relating to traffic, the Corps of Engineers is directed to adopt a uniform system of classification for freight, and upon rivers or inland waterways to collate ton-mileage statistics as far as practicable.

The amendment was agreed to.

The next amendment was, on page 108, after line 24, to insert:

ALABAMA.

Conecuh River from Brewton to its mouth.

The amendment was agreed to.

The next amendment was, under the subhead "Arkansas," on page 109, after line 4, to insert:

White River, at and near De Valls Bluff, with a view to improvement for navigation and the revetment of the banks in cooperation with local interests.

The amendment was agreed to.

The next amendment was, under the subhead "California," on page 109, after line 12, to insert:

Los Angeles (San Pedro) Outer Harbor, with a view to obtaining an increased depth.

The amendment was agreed to.

The next amendment was, under the subhead "Connecticut," on page 109, after line 20, to insert:

Thames River, west channel, from Poquetanuck drawbridge to Kiteamaug, for 14-foot channel.

The amendment was agreed to.

The next amendment was, on page 109, after line 22, to insert:

New Haven Harbor, Connecticut, with a view to a channel by way of Oyster Point to the bridge of the New York, New Haven and Hartford Railroad Company, on West River.

The amendment was agreed to.

The next amendment was, on page 110, after line 2, to insert:

East Haven River.

The amendment was agreed to.

The next amendment was, under the subhead "Florida," on page 110, after line 21, to insert:

St. Joseph Bay, at entrance, with a view to ascertaining and securing increased depth.

The amendment was agreed to.

The next amendment was, on page 110, after line 23, to insert:

Charlotte Harbor, with a view to securing a channel of increased depth from the Gulf of Mexico to Punta Gorda.

The amendment was agreed to.

The next amendment was, at the top of page 111, to insert:

Key West Harbor, channels leading thereto.

The amendment was agreed to.

The next amendment was, on page 111, after line 1, to insert:

Jupiter Inlet and Gilberts Bar.

The amendment was agreed to.

The next amendment was, on page 111, after line 2, to insert:

Lake Crescent and Dunns Creek, Florida, from the St. Johns River to Crescent City.

The amendment was agreed to.

The next amendment was, on page 111, after line 4, to insert:

St. Augustine water front, with a view to rebuilding the sea wall in such manner as will adequately protect the city and government property therein from the sea; and Anastasia Island, with a view to the construction of such works as will protect the harbor of St. Augustine from damage by the sea.

The amendment was agreed to.

The next amendment was, on page 111, after line 10, to insert:

Lemon Bay to Gasparilla Sound.

The amendment was agreed to.

The next amendment was, under the subhead "Illinois," on page 112, after line 22, to insert:

West Branch, South Fork, Chicago River, from Robey street west to Forty-eighth avenue, with a view to securing a channel 21 feet deep and 175 feet wide, except through rock cutting it shall be 100 feet wide.

The amendment was agreed to.

The next amendment was, on page 113, after line 6, to insert:

KENTUCKY.

Green River, with a view to an extension of the present system of locks and dams.

The amendment was agreed to.

The next amendment was, under the subhead "Maine," on page 113, after line 19, to insert:

Boothbay Harbor.

The amendment was agreed to.

The next amendment was, on page 113, after line 22, to insert:

Kennebunk River.

The amendment was agreed to.

The next amendment was, on page 113, after line 23, to insert:

South Bristol Harbor, with a view to a channel 30 feet wide and 12 feet deep through the drawbridge.

The amendment was agreed to.

The next amendment was, on page 113, after line 25, to insert:

New Medows River.

The amendment was agreed to.

The next amendment was, on page 114, after line 2, to insert:

Corea Harbor, Gouldsboro.

The amendment was agreed to.

The next amendment was, on page 114, after line 5, to insert:

Medomac River.

The amendment was agreed to.

The next amendment was, on page 114, after line 6, to insert:

Northeast Harbor, Mount Desert.

The amendment was agreed to.

The next amendment was, under the subhead "Maryland," on page 114, line 9, after the words "Broad Creek," to insert "a waterway connecting Pocomoke Sound and Little Annamessex River," so as to make the clause read:

Broad Creek, a waterway connecting Pocomoke Sound and Little Annamessex River.

The amendment was agreed to.

The next amendment was, on page 114, after line 17, to insert:

Chesapeake Bay, with a view to removal of obstructions near the mouth of Sassafras River.

Mr. NELSON. I ask that the amendment be disagreed to. The work has been done.

The amendment was rejected.

The next amendment was, on page 114, after line 19, to insert:

Slaughter Creek, with a view to removing the bar at the mouth.

The amendment was agreed to.

The next amendment was, on page 114, after line 21, to insert:

Winchester Harbor.

The amendment was agreed to.

The next amendment was, on page 114, after line 22, to insert:

St. Martins River in Worcester County.

The amendment was agreed to.

Mr. NELSON. I offer an amendment on page 114. After line 23, under the heading "Maryland," I move to insert:

Synepuxent Bay, with a view to a channel 5 feet in depth from the mouth of St. Martins River south.

Twitch Cove and Big Thoroughfare River, connecting Tylers River with Tangier Sound, in Chesapeake Bay.

The amendment was agreed to.

The next amendment was, under the subhead "Massachusetts," on page 115, line 3, after the words "South Bay," to insert "Chelsea Creek between the Meridian Street Bridge and the old East Boston Bridge, and the south channel of Mystic River," so as to make the clause read:

Boston Harbor, with a view to securing increased depth in South Bay; Chelsea Creek between the Meridian Street Bridge and the old East Boston Bridge, and the south channel of Mystic River.

The amendment was agreed to.

The next amendment was, on page 115, after line 7, to insert:

Weymouth Fore River, below the Quincy Point Bridge, Massachusetts, with a view to straightening and improving the channel.

The amendment was agreed to.

The next amendment was, on page 115, after line 10, to insert:

Plymouth Harbor, with a view to accommodating the commerce which will pass through the Cape Cod Canal.

The amendment was agreed to.

The next amendment was, under the subhead "Michigan," on page 115, after line 18, to insert:

Manistee Harbor, with a view to securing a channel not less than 20 feet deep from Lake Michigan to Lake Manistee, and the enlargement of the outer harbor, including the construction of a new south pier.

The amendment was agreed to.

The next amendment was, on page 115, after line 22, to insert:

Detroit River, Wyandotte Channel, lying between Fighting Island and the city of Wyandotte, with a view to straightening the channel.

The amendment was agreed to.

The next amendment was, on page 116, after line 18, to insert:

MINNESOTA AND WISCONSIN.

St. Louis River, from the head of the present project near the north end of Spirit Lake up to New Duluth, and from thence up to the stone quarries near Fond du Lac.

The amendment was agreed to.

The next amendment was, on page 117, after line 7, to insert:

NEBRASKA.

Missouri River near Omaha, South Omaha, Florence, and Dundee, with a view to improvement for navigation and protection of the banks in cooperation with local interests.

The amendment was agreed to.

Mr. NELSON. I offer an amendment. After the amendment just agreed to I move to insert:

Missouri River, at some point or points between Omaha and the mouth of the Platte River, with a view to determining by trial the practicability of the cable and sand plan for the protection of the channel and banks of the river.

The amendment was agreed to.

The next amendment was, under the subhead "New Jersey," on page 118, after line 3, to insert:

Elizabeth River, with a view to providing a channel of sufficient depth from the Long Branch Railroad bridge to the channel in Staten Island Sound, $10,000.

Mr. NELSON. I offer an amendment to the amendment, which I send to the desk.

The PRESIDING OFFICER. The amendment proposed by the Senator from Minnesota to the committee amendment will be stated.

The SECRETARY. On page 118, line 5, in the committee amendment, it is proposed to strike out the words "Long Branch Railroad" and to insert in lieu thereof the words "Broad Street."

Mr. KEAN. How would the amendment read as proposed to be amended?

The SECRETARY. The amendment as proposed to be amended would read:

Elizabeth River, with a view to providing a channel of sufficient depth from the Broad Street Bridge to the channel in Staten Island Sound, $10,000.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Commerce was, on page 118, after line 6, to insert:

South River, with a view of deepening the channel between South River and Old Bridge to a depth of 6 feet at mean low water at Old Bridge.

The amendment was agreed to.

The next amendment was, on page 118, after line 9, to insert:

Tuckerton Creek, with a view to providing a channel of 6-foot depth at mean low water from West Tuckerton Landing to the milldam at Tuckerton.

The amendment was agreed to.

The next amendment was, on page 118, after line 12, to insert:

Absecon Inlet, with a view to improving and maintaining the channel.

The amendment was agreed to.

The next mendment was, on page 118, after line 14, to insert:

Pensauken Creek.

The amendment was agreed to.

The next amendment was, under the subhead "New York," on page 119, after line 14, to insert:

Milton Harbor and Mill Creek.

The amendment was agreed to.

The next amendment was, on page 119, after line 15, to insert:

Gowanus Bay, with a view to removing the shoal therein and to providing additional terminal and transfer facilities, and such other improvements as may be advisable to be made either by the United States alone or in cooperation with local interests.

The amendment was agreed to.

The next amendment was, on page 119, after line 24, to insert:

NEW YORK AND VERMONT.

Narrows of Lake Champlain.

The amendment was agreed to.

The next amendment was, under the subhead "North Carolina," on page 120, after line 1, to insert:

Survey for a harbor of refuge on the coast of North Carolina for the purpose of determining the most appropriate and desirable location for such a harbor designed to meet the needs of all classes of coastwise and deep-draft vessels. Such survey shall embrace the harbors of Cape Lookout, Cape Hatteras, and Southport or Cape Fear, and shall be sufficiently thorough and comprehensive to secure all data necessary to definitely decide upon the best location, and to prepare plans and estimates of the cost of construction: *Provided*, That the survey of Cape Lookout shall be made with a view to determining not only its value as a harbor of refuge, but also its availability and adaptability as a commercial harbor or a harbor and depot for supplies for vessels.

The amendment was agreed to.

The next amendment was, on page 120, after line 25, to insert:

Shallotte River.

The amendment was agreed to.

The next amendment was, under the subhead "Ohio," on page 121, after line 1, to strike out:

Cuyahoga River, from its mouth to a more southerly connection with the Ohio Canal, with a view to eliminating bends and securing a navigable depth of 21 feet, with suitable width; with a report on any proposition for cooperation by localities affected thereby.

And in lieu thereof to insert:

Cuyahoga River, including Cleveland Harbor, from its mouth to a more southerly connection with the Ohio Canal, with a view to eliminating bends and securing a navigable depth of 21 feet, with suitable width; and the survey shall include a report on any proposition for cooperation by localities affected thereby.

The amendment was agreed to.

The next amendment was, under the subhead "Oregon," on page 121, after line 23, to insert:

Umpqua River, from Scottsburg to Roseburg.

The amendment was agreed to.

The next amendment was, at the top of page 122, to insert:

Oregon Slough, branch of Columbia River, opposite Vancouver, Wash.

The amendment was agreed to.

The next amendment was, on page 122, after line 2, to insert:

Willamette River, between Portland and Oregon City.

The amendment was agreed to.

The next amendment was, on page 122, after line 3, to insert:

Tillamook Bay and bar, with a view to securing a channel with a depth of 15 feet and 20 feet, respectively; with a report on any proposition for cooperation by localities affected thereby.

The amendment was agreed to.

Mr. NELSON. I offer the amendment which I send to the desk, to come in after the amendment which has just been agreed to.

The PRESIDING OFFICER. The amendment proposed by the Senator from Minnesota will be stated.

The SECRETARY. After line 7, on page 122, it is proposed to insert:

North Fork of Coquille River for a distance of 17 miles upstream from the mouth.

East Fork of Coquille River for a distance of 8 miles upstream from the mouth.

The amendment was agreed to.

Mr. NELSON. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment proposed by the Senator from Minnesota will be stated.

The SECRETARY. On page 122, after line 12, in the items relative to Pennsylvania, it is proposed to insert:

PORTO RICO.

Palmas Altas Harbor.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Commerce was, on page 122, after the amendment just adopted, to insert:

RHODE ISLAND.

Inner Harbor, Great Salt Pond, Block Island, with a view to widening the present channel and providing increased anchorage area therein.

The amendment was agreed to.

The next amendment was, on page 122, after line 16, to insert:

Sakonnet Harbor.

The amendment was agreed to.

Mr. NELSON. I offer the amendment which I send to the desk, to come in after line 2 on page 123.

The PRESIDING OFFICER. The amendment proposed by the Senator from Minnesota will be stated.

The SECRETARY. On page 123, after line 2, it is proposed to insert:

Great Pedee River at Gibson dam, with a view of aiding navigation.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Commerce was, under the subhead "Texas," on page 123, after line 10, to insert:

Pilkington Bayou.

The amendment was agreed to.

The next amendment was, on page 123, after line 11, to insert:

Tres Palacios River.

The amendment was agreed to.

The next amendment was, under the subhead "Virginia," on page 124, after line 4, to insert:

Aquia Creek from Coals Landing to the mouth.

The amendment was agreed to.

The next amendment was, on page 124, after line 7, to insert:

Chincoteague Bay, with a view to a channel 15 feet deep over the bar at the entrance to the bay.

The amendment was agreed to.

The next amendment was, on page 124, after line 9, to insert:

Pagan River, with a view to securing a depth of 12 feet, and a turning basin at Smithfield.

The amendment was agreed to.

The next amendment was, under the subhead "Washington," on page 124, after line 13, to insert:

Sammammish River.

The amendment was agreed to.

The next amendment was, on page 124, after line 15, to insert:

Hoquiam River.

The amendment was agreed to.

The next amendment was, on page 124, after line 16, to insert:

Dabob Bay.

The amendment was agreed to.

The next amendment was, on page 124, after line 18, to insert:

East and west waterways in Seattle Harbor, with view to maintenance by United States Government.

The amendment was agreed to.

The next amendment was, on page 124, after line 21, to insert:

For a ship canal between Port Townsend Bay, Puget Sound, and Oak Harbor.

The amendment was agreed to.

The next amendment was, on page 124, after line 23, to insert:

Harbor of refuge at Neah Bay, or at such other point in the vicinity thereof as will best subserve the interests of commerce and navigation.

The amendment was agreed to.

The next amendment was, at the top of page 125, to insert:

WEST VIRGINIA.

Deckers Creek, West Virginia, with a view to securing for a distance of 2,500 feet up from its mouth a channel and harbor with the same depth of water as in the Monongahela River where said Deckers Creek empties into said river.

The amendment was agreed to.

The Secretary proceeded to read the next amendment of the Committee on Commerce, which was to strike out section 4 of the bill and to insert a substitute therefor.

Mr. NELSON. Mr. President, I have some amendments which I now desire to offer.

The PRESIDING OFFICER. Will the Senator allow the paragraph which has just been reached to be read?

Mr. NEWLANDS. Mr. President, before we proceed with the consideration of that paragraph, I should like to suggest the absence of a quorum.

Mr. KEAN. Let the paragraph be first read, Mr. President.

The PRESIDING OFFICER. The Senator from Nevada [Mr. NEWLANDS] suggests the absence of a quorum. The Secretary will call the roll.

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

Aldrich	Crawford	Heyburn	Perkins
Bacon	Cummins	Johnston	Piles
Beveridge	Curtis	Jones	Purcell
Borah	Depew	Kean	Rayner
Bourne	Dillingham	La Follette	Scott
Bradley	Dixon	Lodge	Shively
Briggs	Dolliver	Lorimer	Simmons
Bristow	du Pont	McEnery	Smith, Mich.
Brown	Elkins	Martin	Smoot
Bulkeley	Fletcher	Nelson	Sutherland
Burkett	Flint	Newlands	Taylor
Burnham	Foster	Nixon	Warner
Burton	Frazier	Oliver	Warren
Chamberlain	Gallinger	Overman	Wetmore
Clark, Wyo.	Gamble	Paynter	
Clay	Guggenheim	Percy	

The PRESIDING OFFICER. Sixty-two Senators have answered to their names. A quorum of the Senate is present.

Mr. NELSON. Mr. President, I offer an amendment as a separate paragraph relating to New Jersey, which I send to the desk.

The PRESIDING OFFICER. The amendment proposed by the Senator from Minnesota will be stated.

The SECRETARY. On page 19, after line 16, it is proposed to insert:

Improving Double Creek, New Jersey, in accordance with House Document No. 646, Sixty-first Congress, second session, $7,800: *Provided*, That no part of this appropriation shall be available for expenditure until the township of Ocean, Warren County, N. J., shall have accepted the authority of the State of New Jersey to maintain the said improvement and made provision for maintenance in such manner and form as shall be satisfactory to the Secretary of War.

The amendment was agreed to.

Mr. NELSON. I now offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment proposed by the Senator from Minnesota will be stated.

The SECRETARY. On page 31, line 2, after the word "canal," it is proposed to strike out all of the remainder of the paragraph and to insert in lieu thereof——

Mr. SIMMONS. Mr. President, I wish to suggest to the Senator from Minnesota [Mr. NELSON] that that amendment should come in on line 24, page 30, after the word "Congress." It is a proviso, and takes the place of another proviso in the bill.

The PRESIDING OFFICER. The amendment as proposed will be first stated.

The SECRETARY. On page 31, in the committee amendment, line 2, after the word "canal," it is proposed to strike out—

shall be recommended in the survey report to be submitted hereafter in compliance with the directions of Congress in the river and harbor act of March 3, 1909.

And in lieu thereof to insert:

After full hearing of all parties in interest shall be recommended in the survey report to be hereafter submitted, which report shall include estimates of the total cost of the completion of both of said canals, including also the purchase price of each, with the advantages of each for commerce, in compliance with the directions of Congress in the river and harbor act of March 3, 1909.

Mr. NELSON. I move to reconsider the vote by which the amendment of the committee was adopted, for the purpose of making it open to this amendment.

The PRESIDING OFFICER. The Chair will state that the committee amendment, which it is now proposed to amend, was passed over, so that it is not necessary to move to reconsider.

The question is on the amendment of the Senator from Minnesota to the amendment of the committee.

Mr. BURTON. Mr. President, if the amendment was originally adopted and is now reconsidered, it leaves out that portion on page 30, from line 13 to line 25, and part of the first two lines on page 31.

The PRESIDING OFFICER. The Chair will state to the Senator from Ohio that, upon examination of the record, it appears that the entire amendment was passed over; that it was not agreed to.

Mr. BURTON. The entire amendment was passed over. Then, strictly speaking, the motion should be that the paragraph as inserted here, with the addition of the words read after the word "canal," on page 31, be adopted.

The PRESIDING OFFICER. Yes; that will be the motion. The question is on the amendment of the Senator from Minnesota to the amendment reported by the committee.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. NELSON. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 32, line 16, in the amendment reported by the committee, after the word "dollars," it is proposed to strike out the remainder of the paragraph and in lieu thereof to insert:

Provided, That if in the judgment of the Secretary of War the prices received in response to advertisement for bids for dredging are not reasonable and less than those at which the Government can perform the same work, so much of the amount herein appropriated as shall be necessary may be expended for the purchase or construction of a suitable hydraulic dredging plant for use on the Cape Fear River.

The PRESIDING OFFICER. In the absence of objection, the amendment of the committee which has been heretofore agreed to will be considered open. The question is on the amendment submitted by the Senator from Minnesota to the committee amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. NELSON. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 86, after line 14, it is proposed to insert the following:

Improving Missouri River at Atchison, Kans., in accordance with the report submitted in House Document No. 700, Sixty-first Congress, second session, $90,000: *Provided*, That no part of this amount shall be expended until the city of Atchison or other agency shall have deposited to the credit of the Secretary of War, in some duly recognized United States depository, to be designated by him, the sum of $90,000, to be expended by said Secretary of War, together with the amount herein appropriated, in the execution of the plan of improvement recommended in the report herein referred to.

The amendment was agreed to.

Mr. NELSON. I offer an amendment relating to section 4. I call the attention of the Senator from Nevada to it.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 127, in the committee amendment, it is proposed to strike out all after the word "waterways," in line 6, down to and including the word "services," on page 128, line 10, and insert in lieu thereof the following:

And correlated subjects, including the work upon the same by the different bureaus and departments of the Government.

Mr. NEWLANDS. May I ask, Mr. President, where that comes in?

The PRESIDING OFFICER. The amendment will be again stated.

The SECRETARY. On page 127, in the amendment reported by the committee, it is proposed to strike out all after the word "waterways," in line 6, down to and including the word "services," in line 10, page 128, and in lieu thereof to insert:

And correlated subjects, including the work upon the same by the different bureaus and departments of the Government.

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

Mr. NEWLANDS. Mr. President, I have to say, in the first place, that I object to this abbreviated amendment to section 4 as agreed upon by the Committee on Commerce.

The PRESIDING OFFICER. Will the Senator from Nevada kindly suspend a moment that the committee amendment may be read? It has not yet been stated by the Secretary.

Mr. NEWLANDS. Certainly.

The SECRETARY. On page 125, after line 12, it is proposed to strike out:

SEC. 4. That the Committee on Commerce of the Senate and the Committee on Rivers and Harbors of the House of Representatives, or any subcommittee named by the chairman of either of said committees, are hereby authorized to visit any of the localities in the United States at which works on river and harbor improvements are now under way or proposed for the purpose of inspecting or investigating said improvements, and the necessary expenses connected with such inspections and investigations, including the expenses of necessary employees, shall be paid from the appropriation for examinations, surveys, and contingencies of rivers and harbors by the disbursing officer of the committee concerned, on vouchers certified by the chairman of such committee: *Provided*, That the accounts of the disbursing officers of the committees shall be prepared in conformity with existing law, and, together with the vouchers necessary to the correct and prompt settlement thereof, shall be sent by mail or otherwise to the office of the Chief of Engineers in Washington within ten days after the end of the month to which they relate, and, after examination there and within sixty days of their actual receipt, shall be transmitted to the proper accounting officer of the Treasury for settlement: *And provided further*, That such expenses shall not exceed $15,000, and that an itemized statement thereof shall be published in the Annual Report of the Chief of Engineers. In connection with the inspections or investigations in this section provided for, the Secretary of War shall, upon the request of the chairman of either of the said committees, furnish such data and detail such officials and employees as may be necessary to assist said committee or subcommittee, and to further facilitate the work of such committees or subcommittees the use of vessels under the charge of the Engineer Department at Large, under regulations to be issued by the Secretary of War, is hereby authorized.

And in lieu thereof to insert:

SEC. 4. That so much of section 7 of the rivers and harbors act approved March 3, 1909, as provides that the term of the National Waterways Commission shall expire on March 4, 1911, be, and the same is hereby, repealed; and the said commission shall be continued until March 4, 1913. In addition to the duties prescribed in said section 7, said commission is hereby authorized and directed to investigate questions pertaining to waterways in their relation to irrigation, forestry, swamp-land reclamation, clarification of streams, regulation of flow, control of floods, utilization of water power, and prevention of soil waste, with a view to formulating comprehensive plans for the development of the waterways and water resources of the country by cooperation between the United States and the several States, municipalities, communities, corporations, and individuals within the jurisdiction, powers, and rights of each, respectively, and with a view to assigning to the United States such portion of such development, promotion, regulation, and control as can be properly undertaken by the United States under its constitutional powers and by reason of its proprietary interest in the public domain, and to the States, municipalities, communities, corporations, and individuals such portion as properly belongs to their jurisdiction, rights, and interests, and with a view to properly apportioning costs and benefits, and with a view to so uniting the plans and works of the United States within its jurisdiction, and of the States and municipalities, respectively, within their jurisdictions, and of corporations, communities, and individuals within their respective powers and rights, as to secure the highest development and utilization of the waterways and water resources of the United States.

The said board shall also recommend plans to bring into coordination and cooperation the scientific and constructive services of the United States which relate to the study, development, and control of waterways, and to avoid duplication in the work assigned to the several bureaus or departments which have to do with such services.

The provision in the said section 7 of the act of March 3, 1909, to the effect that the several departments and bureaus of the Government shall detail from time to time such officials and employees and furnish such information as may be requested by said commission in its investigations, is hereby reenacted and made applicable to the additional duties created by this section, and the said commission shall file a report upon the subjects herein set forth not later than January 1, 1911.

Said commission is also authorized and directed to make an investigation and report upon the advisability and feasibility of the following artificial waterways:

First. From the Ohio River, at a point near Pittsburg to Lake Erie.

Second. From Lake Erie, by way of the Maumee River and Fort Wayne or other direct and feasible route, to the southerly end of Lake Michigan.

In case such canals are deemed advisable, said commission shall also report upon the most desirable depth and dimensions and such conditions relating to terminals, rights of way, and other subjects pertaining to the construction and operation of such canals, and whether the construction and operation thereof should be undertaken in whole or in part by private corporations, municipalities, or States, and if so, under what conditions. For the obtaining of the necessary engineering data the commission is authorized to call upon the Engineer Corps of the United States Army, and said corps shall furnish said data upon the request of the commission, and the expense of obtaining the same shall be paid from the appropriation contained in section 3 of this act.

The PRESIDING OFFICER. The question is on agreeing to the amendment submitted by the Senator from Minnesota [Mr. NELSON] to the committee amendment, which has been read.

Mr. NEWLANDS. Mr. President, I do not like to interfere with the convenience of Senators, but I have observed that thus far during the afternoon almost the only Senators present were the members of the committee. There is a very sparse attendance at present, and I think we are now coming to the most vital part of this bill, one relating to the entire organization of the constructive force that is to do this great work. I therefore suggest the absence of a quorum.

Mr. KEAN. Mr. President, the Senator suggested the absence of a quorum before this amendment was read.

The PRESIDING OFFICER. The Senator from Nevada suggests the absence of a quorum. The Secretary will call the roll.

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

Aldrich	Bristow	Chamberlain	Dixon
Bacon	Brown	Clay	Dolliver
Beveridge	Bulkeley	Crane	du Pont
Borah	Burkett	Crawford	Fletcher
Bourne	Burnham	Cummins	Flint
Brandegee	Burton	Depew	Foster
Briggs	Carter	Dillingham	Frazier

Gallinger	Lodge	Paynter	Smith, S. C.
Gamble	Lorimer	Percy	Smoot
Gore	McEnery	Perkins	Sutherland
Guggenheim	Martin	Piles	Taylor
Heyburn	Money	Purcell	Warner
Hughes	Nelson	Rayner	Warren
Johnston	Newlands	Scott	Wetmore
Jones	Nixon	Shively	
Kean	Oliver	Simmons	
La Follette	Overman	Smith, Mich.	

Mr. LORIMER. I desire to announce that my colleague [Mr. CULLOM] has been detained from the Chamber yesterday and to-day on account of illness.

The PRESIDING OFFICER. Sixty-five Senators have answered to their names. A quorum of the Senate is present.

Mr. NEWLANDS. I offer as a substitute for the amendment to the amendment proposed by the Senator from Minnesota——

Mr. NELSON. Before the Senator proceeds, I ask that the amendment proposed as a substitute be read. It is short.

The PRESIDING OFFICER. The Senator from Minnesota offers an amendment, which will be stated.

The SECRETARY. On page 127, in the proposed amendment of the committee, after the word "waterways," in line 6, strike out the remainder of the amendment down to and including the word "services," in line 10, page 128, and in lieu of the words stricken out insert:

And correlated subjects, including the work upon the same by the different bureaus and departments of the Government.

Mr. NEWLANDS. I offer as a substitute for the amendment proposed by the Senator from Minnesota what I send to the desk.

The PRESIDING OFFICER. As a substitute for the amendment proposed?

Mr. NELSON. That, I take it, is an amendment in the third degree. Mine is a substitute for an amendment in the bill.

The PRESIDING OFFICER. The Chair suggests to the Senator from Nevada that the Senator from Minnesota, representing the committee, has a right to have his amendment perfected. Then the Senator from Nevada can offer his substitute, after action has been taken upon the amendment of the Senator from Minnesota.

Mr. NEWLANDS. I then give notice that upon the defeat of the amendment proposed by the Senator from Minnesota I shall propose the following amendment, which I ask the Secretary to read.

The PRESIDING OFFICER. The Secretary will read for the information of the Senate the proposed amendment.

The SECRETARY. It is proposed to insert the following:

The President is authorized to bring into coordination and cooperation with the Corps of Engineers of the Army the other scientific or constructive services of the United States that relate to the study, development, and control of waterways and water resources and subjects related thereto, and to the development and regulation of interstate and foreign commerce, with a view to uniting such services through a board or boards in investigating questions relating to the development, improvement, regulation, and control of navigation as a part of interstate and foreign commerce, including therein the related questions of irrigation, forestry, swamp-land reclamation, clarification of streams, regulation of flow, control of floods, utilization of water power, prevention of soil waste, cooperation of railways and waterways, and promotion of transfer facilities and sites, and in forming comprehensive plans for the development of the waterways and water resources of the country for every useful purpose by cooperation between the United States and the several States, municipalities, communities, corporations, and individuals, within the jurisdiction, powers, and rights of each, respectively, and with a view to assigning to the United States such portion of such development, promotion, regulation, and control as can be properly undertaken by the United States by virtue of its power to regulate interstate and foreign commerce and by reason of its proprietary interest in the public domain, and to the States, municipalities, communities, corporations, and individuals such portion as properly belongs to their jurisdiction, rights, and interests, and with a view to properly apportioning costs and benefits, and with a view to so uniting the plans and works of the United States within its jurisdiction, and of the States and municipalities, respectively, within their jurisdictions, and of corporations, communities, and individuals within their respective powers and rights, as to secure the highest development and utilization of the waterways and water resources of the United States; and he is authorized to appoint as members of such board or boards such engineers, transportation experts, and constructors of eminence as he may deem advisable: *Provided, however*, That until further authorized by law, the total expenditure under this provision shall not exceed —— dollars.

Mr. NELSON. Under the rule, we are perfecting committee amendments, and they are to be disposed of first. I desire to perfect this amendment before the amendment, in the nature of a substitute, which the Senator from Nevada has offered, is considered. The question is on the first amendment I have sent up.

The PRESIDING OFFICER. That is the question.

Mr. NEWLANDS. I wish to speak upon that amendment.

Mr. NELSON. I have two other verbal amendments. I wish the Senator from Nevada would allow me to perfect the section, and then the Senate can take up his substitute.

Mr. NEWLANDS. But I object to the so-called perfection of this amendment.

Mr. BEVERIDGE. Oh, well, the Senator from Minnesota has a right to do that.

Mr. NEWLANDS. That is what I wish to oppose.

Mr. NELSON. Very well.

The PRESIDING OFFICER. The Senator from Nevada is recognized for debate.

Mr. BEVERIDGE. May I ask a question?

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Indiana?

Mr. NELSON. Certainly.

Mr. BEVERIDGE. I want to ask a question of the Chair. Do I correctly understand the Senator from Nevada to say that he proposes to offer his amendment as a substitute, after the amendment offered by the Senator from Minnesota has been acted upon?

Mr. NEWLANDS. Yes.

Mr. BEVERIDGE. I should like an elucidation from the Chair upon this point. At the last session the matter was thrashed out at great length, and it was decided that after a committee amendment had been acted upon it could not afterwards be amended in Committee of the Whole except upon reconsideration. I have no interest in it except as usual in our keeping precedents perfectly clear upon this subject. I think the Chair will probably remember the rulings that were made.

Mr. NELSON. Will the Senator from Nevada allow me to offer a couple of verbal amendments, coming later in the section, in which the Senator from Indiana is interested? They do not affect this provision of the amendment.

Mr. NEWLANDS. I have no objection to that.

The PRESIDING OFFICER. Answering the question of the Senator from Indiana, the present occupant of the chair would state that the Senator from Indiana is correct, except that by unanimous consent it may be done——

Mr. BEVERIDGE. Certainly.

The PRESIDING OFFICER. Or the substitute may be offered when the bill reaches the Senate, of course.

Mr. BEVERIDGE. Certainly.

The PRESIDING OFFICER. Does the Senator withhold for the present the amendment previously offered and offer another amendment?

Mr. NELSON. I offer two verbal amendments to the same section.

Mr. BEVERIDGE. The Senator from Nevada agrees to that course of procedure.

Mr. DU PONT. I should like to have read again the amendment offered by the Senator in charge of the bill.

The PRESIDING OFFICER. After acting upon the two verbal amendments which the Senator from Minnesota has sent up, the amendment will be again reported.

The SECRETARY. On page 128, line 22, in the committee amendment, strike out the words "an investigation," the first two words in the line, and insert the words "a preliminary examination and investigation."

The PRESIDING OFFICER. Is there objection to the amendment?

Mr. BURTON. Mr. President——

Mr. BEVERIDGE. There is a later amendment to come in there.

Mr. BURTON. As I understand, it now reads "an investigation and report;" and it has been modified to read "a preliminary examination and report," or "a preliminary examination, investigation, and report."

Mr. NELSON. It has been changed to read "a preliminary examination and investigation."

Mr. BEVERIDGE. "And report."

Mr. NELSON. "And report."

Mr. BURTON. "A preliminary examination and investigation."

Mr. BEVERIDGE. "And report."

Mr. BURTON. "And report?"

Mr. NELSON. And there is an amendment following, which has been sent to the desk, specifying the time in which the report shall be made.

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The next amendment will be stated.

The SECRETARY. On page 129, line 3, after the words "Lake Michigan," strike out the period and insert a colon and the following:

Provided, That said examination and investigation and report on said proposed waterways shall be made within nine months from the date of the approval of this act.

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The Senator from Delaware desires the amendment read as it stands.

Mr. DU PONT. I should like to have the whole amendment as it will appear when amended read, so that we may understand clearly what is proposed to be done.

The Secretary read as follows:

SEC. 4. That so much of section 7 of the rivers and harbors act approved March 3, 1909, as provides that the term of the National Waterways Commission shall expire on March 4, 1911, be, and the same is hereby, repealed; and the said commission shall be continued until March 4, 1913. In addition to the duties prescribed in said section 7, said commission is hereby authorized and directed to investigate questions pertaining to waterways and correlated subjects, including the work upon the same by the different bureaus and departments of the Government.

Mr. NEWLANDS. Mr. President, before this bill was reported to the Senate I offered an amendment, the amendment which has been read by the Secretary, providing that the President should be authorized to bring the various scientific services of the country that relate in any way to the development, use, or control of water into coordination with the Engineer Corps of the Army in planning our waterways for every useful purpose. The amendment provides also that steps be taken through a board or boards to be appointed by the President for cooperation with the various States, so that the Nation within its jurisdiction and the States within theirs, acting cooperatively, could plan on a large scale the development of our rivers for every civilized purpose and carry out those plans under a proper apportionment of costs and of benefits. And the amendment provided also that the President should have the power to appoint experts in transportation, in engineering and construction, who could act in cooperation with the Corps of Engineers of the Army in this important work.

It will be observed that in this amendment I sought to give the executive department of the Government the machinery with which to make plans—comprehensive plans—not simply for individual projects, but plans involving a policy of development of our waterways and the union of projects, with a view to the promotion of transportation.

When that came before the Commerce Committee it was amended by providing that the National Waterways Commission—a purely legislative commission, composed of Senators and Representatives—should enter upon the work which it was the purpose of my amendment to devolve upon the executive department of the Government, which was to frame the plans for team work and plans for cooperation with the States and to execute them after their approval by Congress.

Since then the committee has brought in an amendment to its amendment, in which the latter is materially abbreviated, by striking out the enumerated consideration of various subjects, such as the irrigation of arid lands, the reclamation of swamp lands, the clarification of streams, and the development of water power, and substituting therefor an authority to the commission simply to study under a general term the related uses of water. And it is to this amendment that I object, because it does not candidly state the purpose originally had in view, and I object to the original amendment because it substitutes a legislative commission for an executive commission in the planning of these great works.

Mr. President, I yesterday called attention to the fact that the party platforms had spoken in no uncertain terms upon this subject. The Republican platform contains the following words:

We indorse the movement inaugurated by the administration for the conservation of the natural resources * * *. In the line of this splendid undertaking is the future duty equally imperative to enter upon a systematic improvement upon a large and comprehensive plan just to all portions of the country of the waterways, harbors, and Great Lakes, whose natural adaptability to the increasing traffic of the land is one of the greatest gifts of benign Providence.

What was the movement thus claimed to be inaugurated by President Roosevelt for the conservation of the natural resources? Was it a movement for the appointment of a purely legislative commission to enter upon this great work of planning the waterways of the country, or was it a movement inaugurated by President Roosevelt for the appointment of an administrative commission of experts, not legislators, to be appointed by the President of the United States, who in cooperation with the Engineer Corps of the army should frame and, when approved by Congress, execute these plans?

What was President Roosevelt's action in this movement, which the Republican party says was inaugurated by him and which it indorses? His action was first the appointment of an inland waterway commission, under his constitutional power of recommendation, with a view to inquiring into this entire subject-matter and making a report of recommendation to him, which, if he should approve, he could transmit to Congress for legislative authority.

Such recommendation was made by that commission, composed, in the first instance, of two Senators and two Representatives, five chiefs or members of the scientific services of the country, the Chief of Engineers of the Army, the Chief of the Reclamation Service, the Chief of the Forest Service, the Chief of the Bureau of Corporations, the Chief of the Bureau of Soils. What was their recommendation to the President? What was the recommendation of this commission headed by Mr. BURTON, of Ohio, then the chairman of the River and Harbor Committee of the House of Representatives? It was a recommendation, which I shall ask leave to print in the RECORD without reading, urging the organization of a national waterways commission not composed of legislators, but a waterways commission composed of engineers, constructors, and transportation experts of eminence, acting in cooperation with the Corps of Engineers of the Army.

The matter referred to is as follows:

We recommend that the Congress be asked to authorize the coordination and proper development of existing public services connected with waterways; and we suggest that such enactment might provide that the President of the United States be authorized, with the advice and consent of the Senate, to appoint and organize a national waterways commission, to bring into coordination the Corps of Engineers of the Army, the Bureau of Soils, the Forest Service, the Bureau of Corporations, the Reclamation Service, and other branches of the public service in so far as their work relates to inland waterways; and that he be authorized to make such details and require such duties from those branches of the public service in connection with navigable and source streams as are not inconsistent with law; the said commission to continue the investigation of all questions relating to the development and improvement and utilization of the inland waterways of the country and the conservation of its natural resources related thereto, and to consider and coordinate therewith all matters of irrigation, swamp and overflowed land reclamation, clarification and purification of streams, prevention of soil waste, utilization of water power, preservation and extension of forests, regulation of flow and control of floods, transfer facilities and sites, and the regulation and control thereof, and the relations between waterways and railways; and that the commission be empowered to frame and recommend plans for developing the waterways and utilizing the waters, and, as authorized by Congress, to carry out the same through established agencies, when such are available, in cooperation with States, municipalities, communities, corporations, and individuals, in such manner as to secure an equitable distribution of costs and benefits.

That was the recommendation made by this commission, and that was the recommendation forwarded to the Congress of the United States by President Roosevelt.

What kind of a national commission was formed by Congress? Was it such a one as the Inland Waterways Commission and President Roosevelt recommended? No. Congress took the name which was recommended by the Inland Waterways Commission and took the name which was recommended by the President of the United States, but provided that only members of the Senate and Members of the House of Representatives should serve upon that commission, instead of organizing it as an administrative commission of experts.

The purpose of this amendment is to prolong the life of that commission a year longer, to keep all this planning, which ought to have been turned over long since to experts, in the hands of Congress itself, and this in face of that fact that the Republican platform indorsed the movement inaugurated by the administration for the conservation of the national resources and for a full and comprehensive plan for the development of our waterways.

Mr. President, the Republican party won the last campaign upon the policies of President Roosevelt. The Republican party will go to the wall in the next campaign unless its course in Congress indicates its loyalty to those policies, and upon this important matter, a matter which President Roosevelt had at heart above all others, the greatest constructive question that now faces the country, Congress, disregarding his policy which the Republican platform indorsed, proposes to still keep the waterways of the country in the spoils system, instead of turning them over, so far as the plans are concerned, and the execution of such plans, after the approval of Congress, to experts.

Mr. President, what did the Democratic party say upon this subject? The Democratic party in its platform was even more explicit than the Republican party. The Democratic party platform declared:

We repeat the demand for internal development and for the conservation of our natural resources contained in previous platforms, the enforcement of which Mr. Roosevelt has vainly sought from a reluctant party—

And which he still vainly seeks from a reluctant party—

and to that end we insist upon the preservation, protection, and replacement of needed forests, the preservation of the public domain of home seekers, the protection of the national resources in timber, coal, iron, and oil against monopolistic control, the development of our waterways for navigation and every other useful purpose, including the irrigation of arid lands, the reclamation of swamp lands, the clarification of streams, the development of water power, and the preservation of electric power generated by this natural force from the control of monopoly; and to such end we urge the exercise of all powers, national, state, and municipal, both separately and in cooperation.

Then, with reference to waterways, the Democratic platform says:

Water furnishes the cheaper means of transportation, and the National Government, having the control of navigable waters, should improve them to their fullest capacity. We earnestly favor the immediate adoption of a liberal and comprehensive plan for improving every water course in the Union which is justified by the needs of commerce; and to secure that end, we favor, when practicable, the connection of the Great Lakes with the navigable rivers and with the Gulf through the Mississippi River, and the navigable rivers with each other by artificial canals, with a view to perfecting a system of inland waterways to be navigated by vessels of standard draft.

We favor the coordination—

And let me call the attention of my Democratic friends to this—

We favor the coordination of the various services of the Government connected with waterways in one service, for the purpose of aiding in the completion of such a system of inland waterways; and we favor the creation of a fund ample for continuous work, which shall be conducted under the direction of a commission of experts to be authorized by law.

Not a legislative commission, such as the National Waterways Commission is, but a commission of experts to be authorized by law.

Thus wisely speaks the Democratic party to its loyal sons; and I appeal to every Democrat upon this side of the Chamber to stand by this pledge which explicitly requires that the planning and the execution of plans when approved by Congress shall be turned over to a commission of experts, and that the spoils system which has existed for so many years, under which unrelated projects are developed, under which work is ordered and authorized according to the self-interest or the influence or the power of this Representative or that Representative, shall end, and that this great work shall be conducted as would be the constructive work of a great corporation, in a businesslike manner and to a businesslike end.

Mr. President, this plan not only had the suggestion of President Roosevelt, it not only had the indorsement of the Republican convention in its platform, it not only had the favorable expression of the Democratic party, but it also met with the approval of Mr. Taft, who was then Secretary of War and as such had charge of the inland-waterway development of the country.

Whilst the Inland Waterways Commission was considering this question I introduced in the Sixtieth Congress Senate bill 500, which provided for coordination and cooperation and for the organization of a board or commission of experts who were to do the planning and execute the plans when approved. That bill, with all of its details, was referred to the Inland Waterways Commission for its suggestion, and it was referred also to the Secretary of War for his report.

The Inland Waterways Commission approved the bill, and I shall ask leave to insert the report of that commission, signed by Mr. BURTON as its chairman, upon that subject. The report is as follows:

UNITED STATES INLAND WATERWAYS COMMISSION,
Washington, D. C., April 20, 1908.

The bill providing for the appointment of an Inland Waterways Commission, and for other purposes (S. 500, 60th Cong., 1st sess.), referred to the commission on April 18, was taken under consideration at a session of the commission on that date, and conclusions were reached as follows:

1. Several of the leading provisions of the bill are in accord with the recommendations of the commission in a report submitted on February 3 last and transmitted to the Congress by the President on February 26. Among these are (*a*) the provision for coordination of navigation with related uses of the waters; (*b*) the provision for cooperation between the Federal Government, States, municipalities, communities, and individuals; (*c*) the provision for correlating existing agencies in the Departments of War, Interior, Agriculture, and Commerce and Labor in such manner as to secure effective administration; and (*d*) the provisions looking toward the control of running waters in such manner as to protect and promote navigation. In so far as these provisions are concerned, the bill has the unqualified approbation of the commission.

2. Another leading feature of the bill is the provision for a waterway fund. This is consistent with the recommendation of the commission "that the Congress be asked to make suitable provision for improving the waterways of the United States at a rate commensurate with the needs of the people as determined by competent authority;" yet at this time, as at the time of preparing and submitting the report, the commission is of opinion that the specific mode of providing means for improving and promoting navigation should be left to the wisdom of the Congress.

3. The general purpose of the bill is in harmony with the comprehensive plan for improving and developing the waterways of the country framed by the commission and approved by the President in his message of February 26 last.

Respectfully submitted.

THEODORE E. BURTON, *Chairman.*
W J MCGEE, *Secretary.*

COMMITTEE ON COMMERCE,
United States Senate.

The Secretary of War, Mr. Taft, also approved the bill, with certain amendments, and in his report dated April 18, 1908, also went into details regarding the bill, and showed the importance of its provisions in the improvement of the waterway system of the country. I shall not read at length the report; I shall simply quote from it. After approving of the principle of coordination, after approving of the provisions contained in the bill for bringing the scientific services relating in any way to the use and development or control of the waters into union with the Engineer Corps of the Army so that their information and experience could be used to the advantage of their common employer in this great work, after approving of the principle of cooperation in the full development of our rivers with the States in order that the Nation within its jurisdiction and the States within theirs could perfect these waterways for every civilized purpose, and whilst referring in terms of commendation of the Corps of Engineers of the Army, he referred to the necessity of a board of experts, and said:

The bill provides also for the initiation of projects by a board of experts. These provisions affect the work of the War Department and have had careful consideration. Suitable provisions for expert initiation and prompt execution are essential to the proper development of any system of river improvement. The chief defect in the methods hitherto pursued lies in the absence of executive authority for originating comprehensive plans covering the country or natural divisions thereof.

He was against this unrelated bill providing for unrelated projects. He was for broad and comprehensive plans which would cover the entire country or the natural subdivisions thereof. He adds:

The creation of an Inland Waterways Commission for the purpose of initiating plans for the improvement of waterways seems to me a more effective way of a general plan for the improvement of all the waterways in the country than under the present provisions of law. This would not dispense with the admirable machinery furnished by the War Department for the improvement of waterways when the plan has been determined upon and is to be executed. But it supplies what does not exist in the law now—a tribunal other than Congress charged with the duty of originating and developing a satisfactory plan.

Secretary Taft adds:

In its present form the bill might be construed to curtail indirectly certain functions of the War Department, which is now charged with large discretion in waterway affairs.

After reviewing the history of the Corps of Engineers of the Army he says, in carrying out this policy—

that the functions of the War Department pertaining to waterways have been more and more largely intrusted to the engineers of the army during the one hundred and ten years since the army and navy were separated in distinct departments. This policy has long been sustained by the Congress, although the military engineers have been prohibited from initiating projects or originating plans for meeting the growing needs of commerce.

He refers to the fact that Congress itself had absolutely prohibited by law the Engineer Corps from initiating or originating plans for meeting the growing needs of the country. The Corps of Engineers of the Army was not even to suggest an idea unless called upon by a direct question put by Congress itself. So Secretary Taft alludes to the fact that the Congress of the United States has put the only body of experts we have charged with this duty in a straight jacket, so far as the planning in any consecutive way of the waterways of the country was concerned.

The Secretary adds:

It is desirable to continue the policy of keeping the military engineers in training and at the same time rendering their skilled service available in work on waterways, although it is not necessary to vest them with the power of initiative, which they have not exercised in the past and which is, perhaps, inconsistent with their primary duty in connection with the military establishment of which they form a part. A provision that the Chief of Engineers of the Army shall be a member of the commission proposed to be created, and a further provision specifically covering the detail of military engineers to the service of the commission whenever such detail shall be consistent with their military duties, would remove any possible ambiguity and would be in accord with the custom and policy of the War Department.

Mr. President, in the amendment which I propose as a substitute for the one offered by the Senator from Minnesota on behalf of the committee the province of the Corps of Engineers of the Army as the central figure of this great work is maintained. It is not my purpose in any way to take away from them any of the functions which they now exercise. The only purpose is to take the Corps of Engineers out of the strait-jacket which Congress has imposed upon them, and to give them the aid in an advisory way of the various scientific services of the country that relate to water, and of engineers, transportation experts, and constructors of eminence whom the President may employ to aid them, thus fully carrying out the recommendation made by the now President, the then Secretary of War.

Mr. President, I wish to say that I have not a word to urge against the existence of the National Waterways Commission composed purely of legislators. That commission already has done useful work and its report is most instructive. It is a good method of bringing the House and Senate into cooperation in this great work, to bring the Rivers and Harbors Committee of the House and the Commerce Committee of the Senate into

team work upon this subject, composed, as the national commission is, of members of the Rivers and Harbors Committee and members of the Commerce Committee.

I do not object to the existence of that national commission. I would not end it; I would have it continue its good work of investigation, but I would also organize side by side with it in the executive department of the Government such an administrative board of experts as may be necessary to plan out this whole scheme in a comprehensive way.

Mr. President, I have referred to the recommendation of President Roosevelt, the recommendation of the Inland Waterways Commission, and the recommendation of Secretary Taft. All those recommendations were practically substantially taken up by the conference of governors held in Washington and these policies sustained in emphatic resolutions. As the result of this great and popular movement the two parties gave expression in their platform to the aspirations of the people—the demands of the people—those demands which Congress has thus far ignored and which, if it puts into this bill the amendment reported by the committee, it will continue to ignore.

Mr. President, I ask that I may be allowed to print in the RECORD the matter to which I have referred.

The PRESIDING OFFICER. Without objection, that order will be made.

The matter referred to is as follows:

RESOLUTION OF THE CONFERENCE OF GOVERNORS.

We declare our firm conviction that this conservation of our natural resources is a subject of transcendent importance, which should engage unremittingly the attention of the Nation, the States, and the people in earnest cooperation. These natural resources include the land on which we live and which yields our food; the living waters which fertilize the soil, supply power, and form great avenues of commerce; the forests which yield the materials for our homes, prevent erosion of the soil, and conserve the navigation and other uses of our streams; and the minerals which form the basis of our industrial life, and supply us with heat, light, and power.

We agree that the land should be so used that erosion and soil wash shall cease; that there should be reclamation of arid and semiarid regions by means of irrigation, and of swamp and overflowed regions by means of drainage; that the waters should be so conserved and used as to promote navigation, to enable the arid regions to be reclaimed by irrigation, and to develop power in the interest of the people; that the forests which regulate our rivers, support our industries, and promote the fertility and productiveness of the soil should be preserved and perpetuated, etc.

EXTRACT FROM MINORITY REPORT OF MR. NEWLANDS.

The main purpose of this minority report is not to object to the appropriations covered by the bill, but to insist that it is necessary to give the President the power to perfect the organization of the waterways service by authorizing him to add to the Engineer Corps of the Army the effective aid of a board or commission composed of eminent engineers and transportation experts, who, in coordination with the Corps of Army Engineers and the scientific services of the country, will initiate broad and comprehensive plans for the development of our waterways in cooperation with the States, so that the powers of the national and state sovereignties, each acting within its jurisdiction, can be united effectively for a common purpose.

Of the large expenditures, aggregating over $500,000,000, which have been made in river and harbor improvement, a large portion applied to the harbors of the Atlantic, Gulf, and Pacific coast States, as well as the Great Lakes, has been beneficial in promoting transportation; but it may well be doubted whether the portion applied to river improvement has been beneficial for this purpose. This is to be attributed to the fact that river transportation has not been studied as a science, comprehensive plans have not been formed, and the Nation has not worked with any definite purpose. No department has been charged with initiative in the matter, the Engineer Corps of the Army being expressly forbidden by law to make suggestions or recommendations other than upon specific questions submitted by Congress, and consequently, for the most part, the river improvements have involved unrelated works, largely the result of the spoils system, which made success in the adoption of a project the result of the industry and persuasion of an individual or of a delegation from a particular locality.

While large appropriations for waterway development are to be favored it is insisted that there should be such an expert and business organization as will insure comprehensive plans, wise selection of projects that will dovetail into each other as parts of a comprehensive whole, the union and coordination of the scientific services of the Government which relate to water in such a manner as to unite their experience in an effective way, an ample fund that will insure continuous work, and such cooperation of the Nation with the States, each acting within their respective jurisdictions, as will insure the full exercise of all their powers and the enforcement of all their respective rights in the development of our rivers and source streams, not only for navigation, but for every incidental and auxiliary use to which civilization can put them; such as the irrigation of arid lands, the drainage of swamp lands, the conservation of forests, the prevention of soil waste, and the development of water power.

Mr. OWEN. Mr. President, I wish to occupy the attention of the Senate for only a few moments.

On yesterday I called the attention of the Senate to a large number of unimportant, disconnected, uncorrelated projects in the bill, in which there was no matter of national importance, and which have no proper place in a broad policy of improvement of the national waterways, because they are strictly local and provincial.

I desire to place in the RECORD for the information of the Senate the amount of flow of water in the rivers listed in the bill with a maximum and minimum flow in second-feet. Out of the 80 pages of the bill there are only 15 streams whose improvement is contemplated in which the minimum flow of water reaches a thousand cubic feet per second.

Without objection, I offer this table. It will show that as to a large number of these streams they have no information in the Department of the Geological Survey of any flow of water in them. This does not relate to one or two, but to very many of them, and certainly a large majority of them.

The PRESIDING OFFICER. Without objection, the insertion will be made.

The matter referred to is as follows:

DEPARTMENT OF THE INTERIOR,
UNITED STATES GEOLOGICAL SURVEY,
Washington, February 28, 1910.

Hon. ROBERT L. OWEN,
United States Senate, Washington, D. C.

SIR: In reply to letter of your secretary, dated February 25, inclosing copy of H. R. 20686, with request for statement of volume of flow of rivers marked on said bill, I have the honor to inclose herewith tabular statement with page and line references to the bill, giving all information available in the Geological Survey.

I also return herewith the marked bill.

Very respectfully,

GEO. OTIS SMITH,
Director.

Flow of rivers listed in H. R. 20686.

Page.	Line.	River.	Maximum and minimum flow (second-feet).		Remarks.
			Maximum.	Minimum.	
5	1	Merrimac			Tidal.
5	3	Mystic			Do.
5	8	Taunton			Do.
5	10	Weymouth			Do.
5	19	Providence			Do.
5	24	do			Do.
8	1	Connecticut at Sunderland	88,000	1,400	Tidal at stretch indicated.
8	4	Eightmile			Tidal.
8	8	Housatonic at Gaylordsville	16,000	130	Tidal at stretch indicated.
8	10	Thames			Do.
12	14	Bronx			Tidal.
12	20	Browns Creek			No information.
12	22	East River			Tidal.
13	9	Harlem			Do.
13	11	Hudson			Tidal at stretch indicated.
13	14	Newtown Creek			No information.
13	16	Niagara	238,599	187,225	
13	20	Wappinger Creek at Wappinger Falls.	3,500	30	
13	22	Westchester Creek			Do.
14	14	Alloway Creek			Tidal.
14	16	Cooper Creek			Do.
14	18	Mantua Creek			Do.
14	21	Maurice River			Do.
15	1	Oldmans Creek			Do.
15	10	Raccoon Creek			Do.
15	13	Salem River			Do.
15	17	Toms River			Do.
15	21	Tuckerton Creek			Do.
15	23	Woodbridge Creek			Do.
16	1	Delaware River			Do.
16	10	do			Do.
16	13	Delaware River at Lambertville.	250,000	950	
17	13	Allegheny River at Kittanning.	232,000	850	
17	15	do			
17	19	Monongahela			No information.
17	22	Youghiogheny at Confluence.	57,800	36	
18	12	Broad Creek			Tidal.
18	14	Broadkill			Do.
18	16	St. Jones			Do.
19	3	Smyrna			No information.
19	22-24	Rockhall et al			Do.
20	6	Elk River			Do.
20	8	Northwest fork of Nanticoke.			Do.
20	14	Susquehanna at McCall Ferry.	700,000	3,000	Tidal at stretch indicated.
20	17	Wicomico			No information.
21	1	Anacostia			Tidal.
21	4	Potomac at Point of Rocks	400,000	900	Tidal at stretch indicated.
21	7	do			
21	11	do			
21	16	do			
22	12	Appomattox			No information.
22	18	Dymers Creek			Do.
22	22	James River at Cartersville	97,800	842	Tidal at stretch indicated.
23	1	Nansemond			No information.
23	3	Nomini Creek			Do.
23	5	Onancock Creek			Do.
23	9	Pagan Creek			Do.
23	14	Rappahannock at Fredericksburg.	21,200	285	
23	16	Upper Machodoc			Do.
23	22	Urbana			Do.
24	1	York et al			Do.

Flow of rivers listed in H. R. 20686—Continued.

Page.	Line.	River.	Maximum and minimum flow (second-feet). Maximum.	Minimum.	Remarks.
24	24	Bay River			No information.
25	3	Cape Fear	90,650	310	
25	11	do			Tidal at stretch indicated.
25	17	Contentnia Creek			No information.
25	19	Fishing Creek			Do.
25	21	Neuse	12,050	75	
25	24	Trent			Do.
26	3	New			Tidal.
26	12	Northeast			No information.
26	12	Black			Do.
26	16	Pamlico			Do.
26	16	Tar	12,970	87	
26	18	Roanoke at Randolph	75,100	590	
26	20	Scuppernong			Do.
26	22	South			Do.
27	1	Waterway from Pamlico Sound to Beaufort Inlet.	None.		
27	9	Waccamaw			Do.
27	24	Great Pedee (Yadkin) at Salisbury.	67,800	1,050	
28	1	Little Pedee			Do.
28	4	Mingo Creek			Do.
28	6	Santee			Do.
28	6	Wateree at Camden	29,640	930	
28	6	Congaree			Do.
29	11	Altamaha			Tidal.
29	11	Oconee at Dublin, Ga	34,900	560	
29	11	Ocmulgee at Macon, Ga	50,860	250	
29	18	Club Creek			No information.
29	18	Plantation Creek			Do.
29	21	Flint at Albany, Ga	38,970	1,380	
29	23	Savannah at Augusta	137,440	1,450	
30	1				
30	12	Savannah			Tidal at stretch indicated.
30	19	Chattahoochee at West Point, Ga.	88,630	800	Do.
31	4	Coosa at Rome, Ga	64,180	900	
31	12	do			
33	1	Apalachicola			Tidal.
33	9	Anclote			No information.
33	11	Apalachicola			Tidal.
33	16	Blackwater			No information.
33	19	Caloosahatchee			Do.
34	1	Crystal			Do.
34	3	Hillsboro			Do.
34	5	Holmes			Do.
34	8	Indian			Do.
34	11	Kissimmee			Do.
34	13	Oklawaha			Do.
34	22	Orange			Do.
34	24	St. Johns			Do.
35	8	Withlacoochee			Do.
35	16	Choctawhatchee			Do.
35	19	Escambia			Do.
35	19	Conecuh			Do.
35	21	Mobile Bar			Tidal.
36	11	Alabama at Selma	136,350	3,300	
36	19	Black Warrior at Tuscaloosa.	136,687	90	
36	19	Warrior			No information.
36	19	Tombigbee at Columbus, Miss.	50,420	220	
37	4	do			
37	9	Harbor at Biloxi			Tidal.
37	24	Horn Island Pass			Do.
38	1	East Pearl			No information.
38	5	Pascagoula			Do.
38	14	Pearl at Jackson, Miss	26,000	80	
38	20	Yazoo			Do.
38	23	do			
39	9	Bayous Bartholomew, etc			Do.
39	12	Calcasieu, etc			Do.
39	15	Bogue Falia, etc			Do.
39	18	Bayou Lafourche			Do.
39	20	Bayou Plaquemine			Do.
40	3	South Pass Channel			Do.
41	1	Mermentau			Do.
41	17	Red River			Do.
42	8	Galveston Channel			Do.
45	3	Brazos at Richmond, Tex	66,550	820	
45	6	do			
45	10	Trinity at Riverside Tex	38,500	160	
46	10	Waterway between Jefferson and Shreveport.			Do.
46	16	Sulphur			Do.
46	18	Ouachita at Malvern Ark	37,400	40	
47	3	Arkansas			No information on this stretch.
47	6	Black			No information.
47	6	Current			Do.
47	9	Cache			Do.
47	11	St. Francis			Do.
47	20	Saline			Do.
47	24	White River, Ark			Do.
48	1	Cumberland at Nashville	194,000	1,530	
48	6	do			
48	8	do			
48	24	Obion			Do.

Flow of rivers listed in H. R. 20686—Continued.

Page.	Line.	River.	Maximum and minimum flow (second-feet). Maximum.	Minimum.	Remarks.
48	24	Forked Deer			No information.
49	1	Clinch			Do.
49	1	Hiwassee at Murphy, N. C.	22,000	260	
49	8	French Broad at Asheville, N. C.	25,800	380	
49	11	Tennessee at Chattanooga	388,000	4,800	
49	18	Tennessee at Florence	527,000	6,500	
50	7	Big Sandy			Do.
50	13	Levisa Fork			Do.
50	16	Kentucky			Do.
51	7	Guyandot			Do.
51	14	Kanawha (New), at Radford, Va.	174,000	500	
51	20	Little Kanawha			Do.
53	23	Ohio at Cincinnati, Ohio	690,000	4,300	
57	19	Black (Port Huron, Mich.)			Do.
57	21	Clinton			Do.
57	23	Detroit			Do.
58	9	Rouge			Do.
58	18	Waterway across Keweenaw Point.			Do.
61	3	Fox River, Wis.; Rapide Croche Dam, Wis.	15,900		
61	11	St. Croix, St. Croix Falls, Wis.	29,600	200	
61	17	Minnesota, Mankato, Minn	14,400	1,070	
61	19	Red River of the North at Grand Forks, N. Dak.	32,900	870	
62	8	Calumet			Do.
63	8	Chicago			Do.
63	11	I. & M. Canal			Do.
63	18	Illinois at Peoria, Ill	57,700	6,170	
70	1	Gasconade at Arlington, Mo.	45,000	300	
70	3	Osage			Do.
72	9	Mokelumne at Electra, Cal	13,200	5	
72	11	Petaluma Creek			Do.
72	11	Napa			Do.
72	16	Sacramento			Do.
72	16	Feather at Oroville, Cal	129,000	1,200	
73	15	San Joaquin at Herndon, Cal.	59,800	69	
73	24	Suisun Channel			Do.
74	19	Clatskanie			Do.
74	21	Coos			Do.
74	23	Coquille			Do.
75	3	Willamette at Albany, Oreg	188,000	1,870	
75	3	Yamhill (South Fork) at Sheridan, Oreg.	18,100	38	
75	7	Columbia and lower Willamette.			Do.
75	13	Columbia at The Dalles, Oreg.	1,390,000	48,500	
76	9	Snake at Minidoka, Idaho	53,100	1,640	Abnormal minimum.
77	23	Cowlitz			No information.
77	23	Lewis			Do.
78	7	Grays			Do.
79	19	Skagit			Do.
79	24	Snohomish			Do.
80	5	Willapa			Do.

Mr. OWEN. I call attention now—and without taking the time of the Senate to read it, I will ask that it be placed in the RECORD in my remarks on this matter—to a list of the streams mentioned in the bill, beginning with page 87 and down to the end of section 3, which will show nearly 100 different streams whose names are almost entirely unknown to the ordinary student of geography.

Mr. KEAN (in his seat). Then he must be very ignorant.

Mr. OWEN. Mr. President, the ordinary citizen of the United States ought, I suppose, to know with precision every one of the important streams in New Jersey. It is a large and important State. I wish to point out some of the important streams which are cared for in the State of New Jersey, the names of which will be readily recognized by every citizen of the United States who is intimately acquainted with New Jersey. Here is Sims Clip, a ledge known as Sims Clip, at or near the mouth of Neversink River. Any student of geography who is not familiar with that stream I will commend to the Senator from New Jersey.

The list referred to is as follows:

L'Anguille River; White River; Sulphur River; Cove Harbor; Darien River; Thames River; Poquetanuck drawbridge to Kiteamaug; East Haven River; St. George Sound; Chooctawatchee Bay; Chipola River; Withlacoochee River; Oklawaha River; St. Joseph Bay; Charlotte Harbor; Jupiter Inlet; Gilberts Bar; Lake Crescent; Dunns Creek; Lemon Bay; Biscayne Bay; Kissimmee River; Caloosahatchee River; Darien Harbor; Ogeechee River; Cow Head River; Lazaretto Creek to Tybee Creek; Frederica River; Altamaha River; Satilla River; Green River; Abita River; Abita Springs to Bogue Falia; Bayou Grossetete; Bayou Plaquemine; Amite River; Boothbay Harbor; Chandlers River; Kennebunk River; South Bristol Harbor; New Medows River; Ogunquit Har-

bor; Bass Harbor Bar; Deer Island Thoroughfare; Corea Harbor; Camden Harbor; Medomak River; North-East Harbor, Mount Desert; Broad Creek; Tilghman Island Harbor; Northeast River; Tred Avon River; Slaughter Creek; Winchester Harbor; St. Martins River; Malden River; Chelsea Creek; Salem Harbor; Weymouth Fore River; Keweenaw Waterway; Manistee Harbor; Harbor at Knife River; Rainy River; Mississippi River, between Winnibigoshish and Pokegama reservoirs; Leech Lake dam to the mouth of Leech River; Red River of the North at its headwaters in Minnesota and North Dakota, with a view to determining whether storage reservoirs are necessary in the interest of navigation; St. Louis River; Big Black River; Quiver River; Yalobusha River; Pascagoula River; Gasconade River; Newark Bay; Passaic and Hackensack rivers from Kill van Kull to the bridges of the Newark and New York Railroad; Woodbury Creek; Absecon Creek; Cooper Creek; Elizabeth River; South River; Tuckerton Creek; Absecon Inlet; Pensauken Creek; Great Sodus Bay; Harbor at Port Henry; Great Kills Harbor; Sag Harbor; Olcott Harbor; Bronx River; Lemon Creek; Little Neck Bay; Manhasset Harbor; Mount Sinai Harbor; Hudson River at Ossining; Milton Harbor and Mill Creek; Gowanus Bay; Larchmont Harbor; Core Creek; Scuppernong River; Edenton Bay; Harbor of Belhaven; Slades Creek; Taylors Creek; Carrot Island Slough; Elizabeth River; Fishing Creek; French Broad River; Shallotte River; Cuyahoga River; Sandusky River; Vermilion Harbor; Sandusky Harbor; Coos Bay; Umpqua River; Oregon Slough; Tillamook Bay; Frankford Creek; Ridley River; Chester River; Darby River; Inner Harbor, Great Salt Pond; Sakonnet Harbor; Edisto River; Ashley River; Salkehatchie River; South Fork Edisto River; Archers Creek; Pilkington Bayou; Tres Palacios River; Willis River; Archers Hope River; Aquia Creek; Newport News Creek; Chincoteague Bay; Pagan River; Skagit River; Sammamish River; Duwamish River; Hoquiam River; Dabob Bay; Stilaguamish River; Edmonds Harbor; Harbor of refuge at Neah Bay; Deckers Creek; Detroit Harbor; Two Rivers; and Waupaca River.

I do not care to emphasize this matter especially, except to point out that the bill ought not to be an aggregate of demands of individual States according to the activities of their members nor their powers of solicitation. It ought to be drawn upon a basis of national policy, by which the great streams of the country should be improved in an orderly, systematic way. I think this is a bad practice. I do not call attention to it for the hope or expectation of amending it, but only to enter my objection to it, and to say that when my State contributes $1,000,000 to the amount appropriated out of this bill by virtue of its population and by virtue of its payment of taxes into the National Treasury, I demand that the bill shall be guided by a national policy that will permit this money taken from my State to be expended judiciously and in a national way. I do not think it is right to put Squedunk Creek or Neversink River so prominently to the front nor make the progress and passage of this bill due to a large aggregation of unimportant creeks whose development would seem to be principally useful in gaining support for a badly devised bill.

Mr. BURTON. Mr. President, very briefly, answering the Senator from Oklahoma, I would say that I think there is a question whether these minor streams and creeks are proper objects for appropriations from the National Treasury. Nevertheless, that is the policy which has been pursued for many years, and the fact must be recognized that the expenditures on them have brought more salutary results, if we judge by tonnage and development of commerce and industry, than the appropriations upon a majority of the larger streams. For instance, Raccoon Creek and Cooper Creek, in the State of New Jersey, mentioned by the Senator from Oklahoma, have really a larger tonnage than the Missouri River. There is a class of streams insignificant in size near to our great cities from which building material, produce, and other articles are brought to the great centers near them. They are also the means of transportation for articles from the cities to the territory adjacent to those streams.

The danger of extravagance on our rivers does not lie in that direction. It is rather in the expensive systems of locks and dams on many streams of medium size and in expenditures upon the great rivers themselves where by reason of railway competition and the neglect of communities adjacent traffic has fallen off.

As regards statistics of the Geological Survey as to the water flow of the different streams, the same facts apply. It is not necessary that there be an enormous volume of water in a particular waterway in order to make it useful for the carrying of traffic.

I mentioned a few days ago the streams in the States of North Carolina, South Carolina, and Florida, and to an extent in Mississippi and Louisiana, which flow through a level country, where the removal of snags, sand bars, and minor improvements at a small cost are sufficient for the development of a considerable traffic.

I do not care to appear here as the apologist for those streams of small size, partly because I have always had some question whether they were national in their scope; but the fact must be recognized, paradoxical as it may seem, that in the development of commerce the expenditures there have been profitable, and I trust the Senate will not be diverted from the real source of extravagance by reference to that class of appropriations.

Answering the Senator from Nevada [Mr. NEWLANDS], I will say that while I have expressed here and elsewhere sympathy and, I may say, accord with many of his views, I do not think his proposition for a commission to be appointed by the President, to be known as an executive commission, would best meet the case. The question of the comparative usefulness of an executive and a legislative commission has been several times raised in Congress during the last few years. In the formation of the Monetary Commission it was decided that a legislative commission would do the work more effectively. The same decision was reached in regard to the National Waterways Commission, and, so far as the Senate is concerned, there was a like decision with reference to the Commission for the Adoption of Business Methods in the Departments.

A legislative commission is more in harmony with Congress. If you were to frame an executive commission, such as the Senator proposes, at the very outset we would be confronted by a lack of harmony between the different bureaus. I do not say that they would be jealous of each other; I do not say there would be a spirit of repulsion between them; but I do say there would be a cautious and intelligent regard by each for their own prerogatives and of the boundary lines between them. It seems to me a legislative commission can reach better and more useful conclusions.

It is to be noted that the National Waterways Commission has already taken up many branches of this work. Under the statute creating it, it is authorized to call for a detail from any department of the Government. It is also authorized to demand any information from any official in the executive departments. What would be done under this provision proposed as an amendment by the Senator from Minnesota [Mr. NELSON] would be this: The request would be made upon all these respective bureaus to state their opinions in regard to coordination in regard to cooperation between the Federal Government on the one hand and States and communities on the other. I submit that such a legislative commission can perform its work and reach better results than would be obtained by such a body as that which the Senator suggests.

Mr. JONES obtained the floor.

Mr. NEWLANDS. Will the Senator from Washington permit me for just a moment?

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

Mr. JONES. Certainly.

Mr. NEWLANDS. Mr. President, I want to call the attention of the Senator from Ohio [Mr. BURTON] to the fact that I am not urging in this amendment the appointment of an executive commission. All that this amendment does is to take the Engineer Corps of the Army out of the strait-jacket that Congress has put it in; it gives it the aid of the scientific services of the country that have relation to water and gives the aid of a transportation expert, an engineer of eminence, and a constructor of eminence in the formation and in the execution of their plans. All that it does is to make the executive department efficient in carrying on this work without changing the existing organization. It simply supplements it.

Mr. JONES. Mr. President, I am not in favor of the amendment proposed by the Senator from Minnesota [Mr. NELSON] to the amendment proposed in the bill. It seems to me that the proposition submitted by the committee at least should be adopted. That proposition evidently had the support of the Committee on Commerce, or it would not have been reported in this bill. No reason has been assigned for striking out practically all of the amendment and inserting what the Senator from Minnesota now proposes. So I hope that the proposition to strike out and insert will be voted down.

Mr. NELSON. Mr. President, the amendment offered by me is a committee amendment. I offered it on behalf of the committee. It is an amendment that the committee was unanimously in favor of.

Mr. JONES. I do not doubt that the Senator from Minnesota offered the amendment on behalf of the committee, but I do suggest that no reason has been given on behalf of the committee as to why it should so suddenly change its views with reference to this proposition.

Mr. NELSON. I desire to add to my statement. I said the committee were unanimous. I should have said that all but one were in favor of the amendment.

Mr. JONES. Yes; and I do not doubt that; but what I am trying to get at is why the committee so suddenly changed its mind with reference to the proposition. It at first reported this amendment along with this bill, which evidently was adopted

by the committee, possibly unanimously. Now, why the committee should so quickly decide to strike nearly all of it out I do not know.

Mr. NELSON. I will explain to the Senator briefly. Instead of a great, long enumeration of the work to be done, as proposed in the original amendment, we thought we could group it in a short paragraph, stating comprehensively, like a paragraph in the Constitution of the United States, that we would give the commission full authority to do all that the amendment in detail set out.

Mr. JONES. The Senator from Minnesota, then, believes that the amendment he now proposes will accomplish the same purpose as the amendment in the bill?

Mr. NELSON. Exactly. It gives the commission as ample power, and they can cover all of the subjects that the amendment in its original form contemplated.

Mr. JONES. Then, Mr. President, I do not see any reason whatever—that is, any substantial reason—for abandoning the proposition as reported by the committee. Of course the amendment as reported by the committee takes a little bit more paper to print it on, but that is about all. I want these matters considered. I want to see them reported on. So it seems to me that we had better adopt an amendment here directing the commission to investigate these particular propositions that are of very great importance, as suggested by the Senator from Nevada [Mr. NEWLANDS], and in the proper solution of which the people of the country are very much interested, rather than merely leave it by general language for the commission to decide whether it will take up this or take up that.

There is one especially important provision in this amendment which I should like to see this commission directed to investigate, and that is, the power of the Federal Government and the power of the respective States with reference to these various propositions, and especially with reference to power development. There is great agitation throughout the country to-day concerning the conservation of our power resources.

Mr. NELSON. Mr. President, will the Senator from Washington yield to me?

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Minnesota?

Mr. JONES. Certainly.

Mr. NELSON. Mr. President, I want to state to the Senator from Washington that a subcommittee of five members of the Committee on Commerce have been appointed to investigate that specific question.

Mr. JONES. Mr. President, I am certainly glad to know that, and I trust it will, at an early date, submit a full report; but I should like also to have this Inland Waterways Commission, that is dealing with these various propositions, submit a report with their recommendations and their opinion with reference to this matter, and submitting a clearly defined statement as to the respective powers of the States and the Federal Government.

I repeat, there is a great agitation throughout the country to-day with reference to the development of water power. Many people in the country think that the water powers of the country are likely to be placed in the hands of some great monopoly, and they are insisting upon the National Government going not only into navigable streams, but into nonnavigable streams throughout the States everywhere and taking charge of, controlling, regulating, and developing every water-power possibility that exists.

We are all in favor of conservation; we are all in favor of a proper development of water power and its proper control and regulation, and the prevention of monopoly; but the great difference arises over the methods to secure the desired result, and this comes largely from overlooking or disregarding the respective powers of the National Government and the States. There are those who seem to contend and seem to believe that the National Government has full power and control over this proposition; that the States have no power over it. I myself do not think so. I believe that there are certain powers that the National Government can exercise upon navigable streams and upon the public lands to assist in a proper development, but I do believe that real conservation and the effective conservation of the power resources of this country can be best brought about by the action of the States in the exercise of the power that, in my judgment, clearly belongs to them and them alone. If, however, we can get an authoritative opinion, after careful investigation by a commission consisting of the eminent members of which this Inland Waterways Commission is composed, eminent Members of the other House and of the Senate, and great lawyers as well, it will certainly have great weight with the country, and show it that there is a right way and a wrong way to deal with this subject.

If we can get the country directed along proper lines, we can get proper conservation of the power resources of the country; but if our legislation is framed along wrong lines, or along lines that can not be carried out in the exercise of legal power and authority, then, instead of making an advance, we take a step backward. The real friends of the conservation of water power are those who recognize the legal limitations upon the power of the national and state governments and who endeavor to coordinate the one with the other in securing the desired end. The hope of securing a report and opinion along these lines that will command the confidence of the country is one of the principal reasons why I should like to see the amendment as reported by the committee retained in this bill.

I want to say that I am heartily in favor of the substitute proposed by the Senator from Nevada [Mr. NEWLANDS]. I shall not only vote for this proposition in the bill but I will also vote for the substitute offered by the Senator from Nevada.

The Senator from Ohio [Mr. BURTON] has suggested that the matter of the legislative commission has been acted upon by Congress favorably, indicating that that is the policy Congress deems best and that we should accept this decision as shown by its action heretofore. It is true that Congress has provided for a National Waterways Commission composed of Members of the other House and of the Senate, yet the great chairman of that Waterways Commission indicates, at least, that he is going to vote against this bill because it is not framed in harmony with the recommendations of the Waterways Commission; in other words, the report of this legislative commission or National Waterways Commission does not appear to have very much weight with the Senate. It would appear by the results that this legislative commission is a failure. We have had a legislative commission known as the Monetary Commission; but what the outcome of that will be nobody knows. In my judgment, if we can have a commission or a board of men appointed by the President, men who are eminent in their professions, men selected by the President especially qualified to give an opinion along the lines of their work, along the lines of this conservation proposition, who will report to the President their conclusions after a careful study, and then the President send his recommendations to Congress, that will have more effect and will be likely to produce more results than any other course we can take. So I am going to vote for the proposition of the Senator from Nevada, as well as for the proposition of the bill as originally reported.

Mr. NELSON. Mr. President, I want to add just a word in explanation. The amendment which I have offered to the paragraph was an amendment suggested, prepared, and adopted by the Waterways Commission itself; and at the instance of that commission the Committee on Commerce, with the exception of one member, unanimously agreed to it.

The PRESIDING OFFICER. The question is on the amendment submitted by the Senator from Minnesota [Mr. NELSON] to the amendment originally reported by the committee.

Mr. NEWLANDS. I ask for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered.

Mr. SMOOT. Let us have the amendment to the amendment read.

The PRESIDING OFFICER. The amendment to the amendment will be again stated.

The SECRETARY. On page 127, in the proposed amendment of the Committee on Commerce, after the word "waterways," in line 6, it is proposed to strike out all of the amendment down to and including the word "services," in line 10, on page 128, and to insert the words "and correlated subjects, including the work upon the same by the different bureaus and departments of the Government."

Mr. KEAN. Does the Senator from Nevada desire the yeas and nays on the amendment of the Senator from Minnesota to the amendment of the committee or on the whole amendment?

Mr. NEWLANDS. The yeas and nays are ordered, as I understand, on that amendment; and I wish to state that, if that amendment is defeated, later on I shall offer an amendment giving the President the power to reenforce the Engineer Corps of the Army by the appointment of experts in engineering and in construction and in transportation, who can act with them in developing a great system of waterways; and also providing for the coordination of the various scientific services and for cooperation with the States under plans to be developed by the executive department and subsequently approved by Congress; so that all those who favor the suggestion with reference to reenforcing the Engineer Corps of the Army by this expert aid will vote "nay," as I understand, on the amendment proposed by the Senator from Minnesota [Mr. NELSON].

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. DILLINGHAM (when his name was called). I have a general pair with the senior Senator from South Carolina [Mr. TILLMAN], who is detained from the Senate by illness. If he were present, I should vote "yea," but I will withhold my vote in his absence.

Mr. FLINT (when his name was called). I am paired with the senior Senator from Texas [Mr. CULBERSON]. I transfer that pair to the senior Senator from Illinois [Mr. CULLOM] and vote. I vote "yea."

Mr. FOSTER (when his name was called). I have a general pair with the senior Senator from North Dakota [Mr. MCCUMBER]. As he is absent from the Senate on account of illness, I withhold my vote.

Mr. GALLINGER (when Mr. FRYE'S name was called). The Senator from Maine [Mr. FRYE] is detained by illness. He is paired with the Senator from Virginia [Mr. DANIEL].

Mr. DU PONT (when Mr. RICHARDSON'S name was called). My colleague [Mr. RICHARDSON] is necessarily absent. If he were present, he would vote "yea."

Mr. SCOTT (when his name was called). I have a general pair with the senior Senator from Florida [Mr. TALIAFERRO]. I will transfer that pair to the junior Senator from Wisconsin [Mr. STEPHENSON] and vote. I vote "yea."

Mr. STONE (when his name was called). I have a general pair with the senior Senator from Wyoming [Mr. CLARK]. I withhold my vote in his absence.

The roll call was concluded.

Mr. DILLINGHAM. I desire to announce that my colleague [Mr. PAGE] is necessarily absent from the Senate, having been called from the city on matters of importance. He is paired for the day with the Senator from Maryland [Mr. RAYNER].

Mr. CURTIS. I am requested to announce that the Senator from Connecticut [Mr. BRANDEGEE] is paired with the Senator from Maryland [Mr. SMITH].

The result was announced—yeas 44, nays 15, as follows:

YEAS—44.

Aldrich	Clapp	Gallinger	Piles
Bacon	Clay	Gamble	Purcell
Borah	Crane	Guggenheim	Scott
Bourne	Curtis	Kean	Simmons
Bradley	Depew	Lodge	Smith, Mich.
Briggs	Dolliver	Lorimer	Smith, S. C.
Bulkeley	du Pont	Martin	Smoot
Burkett	Elkins	Nelson	Sutherland
Burnham	Fletcher	Oliver	Taylor
Burton	Flint	Paynter	Warner
Carter	Frazier	Perkins	Wetmore

NAYS—15.

Bristow	Cummins	Jones	Overman
Brown	Gore	La Follette	Owen
Chamberlain	Heyburn	McEnery	Percy
Crawford	Johnston	Newlands	

NOT VOTING—33.

Bailey	Daniel	McCumber	Smith, Md.
Bankhead	Davis	Money	Stephenson
Beveridge	Dick	Nixon	Stone
Brandegee	Dillingham	Page	Taliaferro
Burrows	Dixon	Penrose	Tillman
Clark, Wyo.	Foster	Rayner	Warren
Clarke, Ark.	Frye	Richardson	
Culberson	Hale	Root	
Cullom	Hughes	Shively	

So the amendment of Mr. NELSON to the amendment of the committee was agreed to.

The PRESIDING OFFICER. The question is on the amendment as amended.

Mr. NELSON. I offer an amendment to section 4.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 129, after the word "Michigan," in line 3, and before the proviso already agreed to, it is proposed to insert:

Third. From a point on Lake Erie across the southern part of the State of Michigan to Lake Michigan; also from a point on Lake St. Clair across the central part of the State of Michigan to Lake Michigan; also from a point on Lake Huron or Saginaw Bay in a southwesterly direction across the State of Michigan to Lake Michigan, utilizing as far as possible well-known and suitable water courses deemed navigable by the Government.

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

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question is on the amendment as amended.

Mr. NEWLANDS. I offer the amendment which I send to the desk, to come in at the close of the committee amendment.

The PRESIDING OFFICER. The amendment has already been read. Does the Senator desire it to be read again?

Mr. NEWLANDS. I will simply state its substance. This is the amendment which has been already read. It provides that the President shall be authorized to bring into coordination and cooperation with the Corps of Engineers of the Army the various scientific services of the country that relate to the development or control of water. It also provides for plans involving the cooperation of the Nation with the States, each within their respective jurisdictions, in matters relating to the full development of waterways for transportation, irrigation of arid lands, reclamation of swamp lands, clarification of streams, and the development of water power. The amendment also gives the President the power to appoint experts in transportation, in engineering, and in construction to act in cooperation with the Engineering Corps of the Army in such duties as he may assign to them, and proposes to appropriate $50,000 for expenses.

The PRESIDING OFFICER. The question is on the amendment submitted by the Senator from Nevada.

Mr. NEWLANDS. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. NEWLANDS subsequently said: I ask that the amendment be inserted in the RECORD at the appropriate place before the vote. It was not read, and it should appear in the RECORD.

The PRESIDING OFFICER. It having been read previously, it will appear in the RECORD.

Mr. NEWLANDS. But not at the right place. I ask that it be inserted in the RECORD just before the vote.

The PRESIDING OFFICER. Without objection that will be done.

The amendment offered by Mr. NEWLANDS to the amendment of the committee is as follows:

At the end of the committee amendment on page 129 insert:

The President is authorized to bring into coordination and cooperation with the Corps of Engineers of the Army the other scientific or constructive services of the United States that relate to the study, development, and control of waterways and water resources and subjects related thereto, and to the development and regulation of interstate and foreign commerce, with a view to uniting such services through a board or boards in investigating questions relating to the development, improvement, regulation, and control of navigation as a part of interstate and foreign commerce, including therein the related questions of irrigation, forestry, swamp-land reclamation, clarification of streams, regulation of flow, control of floods, utilization of water power, prevention of soil waste, cooperation of railways and waterways, and promotion of transfer facilities and sites, and in forming comprehensive plans for the development of the waterways and water resources of the country for every useful purpose by cooperation between the United States and the several States, municipalities, communities, corporations, and individuals within the jurisdiction, powers, and rights of each, respectively, and with a view to assigning to the United States such portion of such development, promotion, regulation, and control as can be properly undertaken by the United States by virtue of its power to regulate interstate and foreign commerce and by reason of its proprietary interest in the public domain, and to the States, municipalities, communities, corporations, and individuals such portion as properly belongs to their jurisdiction, rights, and interests, and with a view to properly apportioning costs and benefits, and with a view to so uniting the plans and works of the United States within its jurisdiction, and of the States and municipalities, respectively, within their jurisdictions, and of corporations, communities, and individuals within their respective powers and rights, as to secure the highest development and utilization of the waterways and water resources of the United States; and he is authorized to appoint as members of such board or boards such engineers, transportation experts, and constructors of eminence as he may deem advisable: *Provided, however,* That until further authorized by law the total expenditure under this provision shall not exceed $50,000.

The PRESIDING OFFICER. The Secretary will call the roll on the amendment proposed by the Senator from Nevada [Mr. NEWLANDS] to the amendment of the committee.

The Secretary proceeded to call the roll.

Mr. DILLINGHAM (when his name was called). Again I announce my pair with the senior Senator from South Carolina [Mr. TILLMAN]. I transfer that pair to the junior Senator from Delaware [Mr. RICHARDSON] and vote. I vote "nay."

Mr. FLINT (when his name was called). I again announce the fact that I am paired with the senior Senator from Texas [Mr. CULBERSON]. I transfer that pair to the senior Senator from Illinois [Mr. CULLOM] and vote. I vote "nay."

Mr. SCOTT (when his name was called). I make the same announcement and the same transfer of my pair as on the previous vote, from the senior Senator from Florida [Mr. TALIAFERRO] to the junior Senator from Wisconsin [Mr. STEPHENSON]. I vote "nay." I will allow this announcement to stand for all future roll calls to-day.

Mr. STONE (when his name was called). I again announce my pair with the junior Senator from Wyoming [Mr. CLARK]. In his absence I withhold my vote.

Mr. WARREN (when his name was called). I ask if the senior Senator from Mississippi [Mr. MONEY] has voted?

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

Mr. WARREN. I have a standing pair with that Senator, and will therefore withhold my vote.

The roll call was concluded.

Mr. FOSTER. I have a general pair, as I have before stated, with the senior Senator from North Dakota [Mr. MCCUMBER], who is absent on account of illness. I transfer that pair to the junior Senator from Arkansas [Mr. DAVIS] and vote. I vote "nay."

The result was announced—yeas 20, nays 41, as follows:

YEAS—20.

Bristow	Crawford	Fletcher	Newlands
Brown	Cummins	Gore	Overman
Burkett	Depew	Johnston	Owen
Carter	Dixon	Jones	Percy
Chamberlain	Dolliver	La Follette	Shively

NAYS—41.

Aldrich	Crane	Lodge	Simmons
Bacon	Curtis	Lorimer	Smith, Mich.
Borah	Dillingham	McEnery	Smith, S. C.
Bourne	du Pont	Martin	Smoot
Bradley	Elkins	Nelson	Sutherland
Briggs	Flint	Oliver	Taylor
Bulkeley	Foster	Paynter	Warner
Burnham	Gallinger	Perkins	Wetmore
Burton	Guggenheim	Piles	
Clapp	Heyburn	Purcell	
Clay	Kean	Scott	

NOT VOTING—31.

Bailey	Cullom	Hughes	Root
Bankhead	Daniel	McCumber	Smith, Md.
Beveridge	Davis	Money	Stephenson
Brandegee	Dick	Nixon	Stone
Burrows	Frazier	Page	Taliaferro
Clark, Wyo.	Frye	Penrose	Tillman
Clarke, Ark.	Gamble	Rayner	Warren
Culberson	Hale	Richardson	

So Mr. NEWLAND'S amendment to the amendment of the committee was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment as amended.

The amendment as amended was agreed to.

The next amendment of the Committee on Commerce was, on page 130, after line 13, to insert:

SEC. 7. That on and after the passage of this act no person or corporation, municipal or otherwise, shall be required to open any of the drawbridges below the Cambridge Bridge across Charles River, or any of the drawbridges above the Summer Street Bridge across Fort Point Channel, in Boston, Mass., between the hours of 6 o'clock and 15 minutes and 9 o'clock and 10 minutes antemeridian, or 4 o'clock and 15 minutes and 7 o'clock and 40 minutes postmeridian, except in a case of emergency.

Mr. BURTON. I suppose this would be termed a local matter, but I really think it is a very dangerous precedent. The law of 1894 contained a provision to the effect that the Secretary of War should control the opening and closing of drawbridges. In all these cases there is so great an amount of detail to be considered that it is difficult for Congress to pass intelligently upon a proposition of this kind. Then again, there should be uniformity of regulation throughout the country. Still again, it means that in a matter which is peculiarly in the domain of the executive department, communities will rapidly be coming to Congress and asking legislation, for there are thousands and tens of thousands of those bridges, and I submit that the safe way is to leave the decision of such matters to the executive department.

I do not mean to say that there might not be so extreme a case as to justify action by legislation. I do not think, however, this is one.

Regulations have been framed by the War Department providing that these bridges shall be closed for nearly as long a time as is provided in this amendment, with the exception that in the three hours or thereabouts in which the draws are to be closed there must be one or two intervals of ten minutes in which the draws are to be opened.

To illustrate the danger of this kind of a proposition, Fort Point Channel, which is named in this bill, is a tidal channel. It is one where it is desirable that regulation should be made adapted to the change of tides, and if you fix a certain period in the morning and in the evening which is invariable, as here, there must be great inconvenience to ships.

Mr. LODGE. Mr. President, this amendment simply restores the arrangement in regard to drawbridges around the city of Boston to what it has been under the direction of the War Department for the last fifteen years. The engineer officer in charge recommended, last year, a change in the rules, so as to open these bridges during the hours at which they previously always had been closed; that is, the hours, roughly, from 6 to 9 in the morning and from 4 to 7 in the afternoon—the rush hours—when the heavy travel is coming in and going out of the city of Boston. This travel comes from all northern New England, from Maine, Vermont, New Hampshire, and northern Massachusetts, over the drawbridges of the Boston and Maine. At the Fort Point Channel it is all the southern travel coming from the southern part of the State. The only railroads not affected are the New York and New Haven and the Boston and Albany. All the rest of the railway travel is affected by these drawbridges.

In addition those drawbridges affect the travel over the elevated roads at both ends of the city.

Mr. President, no one can be more anxious than I to do everything that is proper for the navigation interests; but here are two public interests—the interests of navigation and the interests of the great traveling public and the freight that comes in from either direction into the city. It has always seemed fair that for six hours the draw should be closed. That gives to navigation the seven best hours of the day, when it is always light, even in the shortest days of winter—the hours from 9 to 4—and it gives them, of course, all the hours of the night. There has never been any trouble about this arrangement in the many years in which it has been in force.

After this new arrangement went in force on the 1st of January I brought the matter to the attention of the War Department. After very brief consideration they said they would stand on the report of the engineer officer. On further consideration they suspended their modification of the order and went back to the old arrangement.

But, Mr. President, I know as a matter of fact that if Congress does not protect this arrangement, which has always existed, it will be altered the minute Congress adjourns.

The Secretary of War has no inherent power over the navigation on navigable streams. What he has is granted to him by statute. He derives all his power from the statutes of Congress. I think a great injustice was done to thousands of people who are obliged to come over the railroads into the city of Boston.

It is of no consequence to the railroads. They have to open the draws, anyway. It does not add a cent to their expense. It disturbs their running schedules more than if they had these six hours closed. It leads to a great deal of abuse against them because passengers are delayed. I desire to show briefly what this new change did to the travel into Boston during the two months it was in operation.

On the Boston and Maine road during the former closed hours in January, 1910, there were 38 openings. Of those 38 openings 30 were for empty barges coming back and 5 were for empty dredges.

During that month of January on the Boston and Maine system alone they held up by those 38 openings 54,758 passengers on an average of from three minutes to nine minutes just at the time when there is the greatest rush and when people are coming through to take morning trains to the South and West.

In February over the same bridges there were again 38 openings, of which 24 were for empty barges, and the cargoes carried were oil and sand and gravel and coal, none of which is fast freight. In the month of January, of which I first spoke—I wish to give the figures exactly—there were 54,758 passengers, with an average delay per passenger of five minutes and thirty-seven seconds.

On the Fort Point Channel, which represent the southern roads, the average delay per passenger was four and ninety-four hundreths minutes, and there were 35,302 passengers. There were 41 openings in those bridges, 17 for empties.

In the street and elevated cars using the bridges in the busiest hours, over Charles River there were approximately 28,500 passengers, and over the Fort Point Channel there were 13,600. Over 50,000 passengers on the elevated road in the month of January were held up by the opening of draws in the closed hours from three to eleven minutes just at the time when they were all going to their business.

I may say at this point that I have had requests from boards of trade in great cities like Lawrence and Lowell, which are served by this railroad, protesting against this new plan of opening in these formerly closed hours. It seems to me, Mr. President, that those people from all over New England have the right to protection from Congress if they can not receive it at the hands of the engineer officers. I do not want to injure any interest, but where there are two public interests I think consideration should be extended to both. And that is all is asked and all that this proposes to do.

I utterly fail to see why Congress may not in its wisdom amend a law which it has passed. I do not agree with the proposition that because we confer a certain authority upon the head of a department therefore we are deprived forever of the right to amend or modify it if we see fit.

I ask that these figures from which I have quoted be printed at the end of my remarks.

The PRESIDING OFFICER. Without objection, that order will be made.

The papers referred to are as follows:

Fort Point Channel.

Date.	Number of passengers.	Passenger minutes.
February 1	1,615	5,675
February 2	4,265	22,338
February 3	989	3,368
February 4	335	1,776
February 5	215	860
February 7	4,989	45,603
February 8	500	2,336
February 9	2,284	13,288
February 10	318	1,107
February 11	1,441	5,368
February 12	364	1,875
February 14	901	2,901
February 15	3,910	11,027
February 16	148	434
February 17	2,787	5,548
February 18	241	723
February 19	2,911	7,102
February 21	1,461	9,702
February 22	326	1,345
February 23	1,272	3,944
February 24	1,759	6,985
February 25	1,009	3,017
February 26	814	4,236
February 27	224	938
February 28	474	3,113
Total	35,302	164,603
Average delay per passenger		4.94

Fort Point Channel roller lift drawbridge—Openings in January, 1910, during former closed hours.

Date.	Opened.	Closed.	Vessel.	Direction.
Jan. 3	5.20 p. m.	5.27 p. m.	Police boat Watchman and tug J. Wooley.	Down.
6	7.10 a. m.	7.14 a. m.	Tug F. C. Hersey	Up.
7	8.58 a. m.	9.02 a. m.	Tug Cormorant	Up.
9	7.40 a. m.	7.54 a. m.	Tugs I. F. Ross and H. A. Mathes.	Up.
9	8.33 a. m.	8.45 a. m.	Tugs I. F. Ross and H. A. Mathes. and schooner Elm City.	Down.
10	9.02 a. m.	9.10 a. m.	Tug F. C. Hersey and barge Coleraine.	Up.
10	9.25 a. m.	9.30 a. m.	Tug J. W. Ross and city scow	Up.
10	4.21 p. m.	4.28 p. m.	Tug Marie and schooner Domain.	Up.
10	7.25 p. m.	7.29 p. m.	Tug Marie	Down.
12	7.08 a. m.	7.13 a. m.	Tug Oriel and barge C. R. R. No. 11.	Down.
12	9.01 a. m.	9.08 a. m.	Tug F. C. Hersey and barge Manatawney.	Up.
13	9.24 a. m.	9.33 a. m.	Tug Pilsbury and barge Marion.	Up.
14	8.02 a. m.	8.07 a. m.	Tug F. C. Hersey	Up,
14	9.04 a. m.	9.10 a. m.	Tug F. C. Hersey and barge Manatawney.	Down.
16	9.18 a. m.	9.28 a. m.	Tug F. C. Hersey	Up.
18	5.21 p. m.	5.26 p. m.	Tug Dione	Down.
20	9.02 a. m.	9.07 a. m.	Tug E. L. Pilsbury	Up.
20	5.21 p. m.	5.31 p. m.	Tugs Gallagher and F. C. Hersey with barge J. B. King & Co.	Up.
20	6.22 p. m.	6.26 p. m.	Tugs Gallagher and F. C. Hersey.	Down.
21	9.01 a. m.	9.07 a. m.	Tugs Ariel and Dione, with barge Stafford.	Up.
21	9.20 a. m.	9.24 a. m.	Steamer Merchant	Up.
21	7.29 p. m.	7.44 p. m.	Tug I. M. Chase	Down.
22	7.10 a. m.	7.19 a. m.	Schooner W. H. Child	Up.
22	8.05 a. m.	8.08 a. m.	Tug S. Ross	Down.
22	9.05 a. m.	9.08 a. m.	Tug H. A. Mathes	Down.
22	9.22 a. m.	9.25 p. m.	Tug Jennie	Up.
22	5.21 p. m.	5.31 p. m.	Tugs Emily and Dione with barge C. R. R. No. 15.	Up.
22	6.20 p. m.	6.26 p. m.	Tugs Emily and Dione with barge Gibson.	Down.
23	6.55 a. m.	7.09 a. m.	Tug Ariel	Up.
23	7.49 a. m.	8.01 a. m.	Tug Ariel and barge Stafford	Down.
24	7.10 a. m.	7.15 p. m.	Tug Valora and schooner L. C. Hall.	Down.
24	8.05 a. m.	8.16 a. m.	Tugs Leader and Emelia	Up.
24	9.14 a. m.	9.18 a. m.	Tug Leader	Down.
25	8.03 a. m.	8.09 a. m.	Tug H. C. Splain and steamer Maple.	Down.
25	9.06 a. m.	9.10 a. m.	Tug William and coal steamer	Up.
25	9.28 a. m.	9.34 a. m.	Tug Gallagher and barge Passaic.	Up.
25	4.18 p. m.	4.24 p. m.	Tug Hersey and barge Newbury.	Down.
26	9.19 a. m.	9.22 a. m.	Tug Valora	Up.
27	9.20 a. m.	9.25 a. m.	E. L. Pilsbury and barge No. 11.	Up.
29	9.24 a. m.	9.30 a. m.	Tug Wooley with barge Manatawney.	Up.
30	8.48 a. m.	8.59 a. m.	Tug E. L. Pilsbury	Up.
31	5.21 p. m.	5.25 p. m.	Tug H. A. Mathes	Down.

Closed hours: From 6.30 to 9.30 a. m. and from 4 to 7.45 p. m. Our records do not show cargo.

Openings of Fort Point Channel roller lift drawbridge for the years stated.

Month.	1907.	1908.	1909.
January	181	152	164
February	151	155	157
March	186	163	191
April	229	207	207
May	292	276	230
June	226	242	236
July	270	221	245
August	261	203	248
September	197	211	228
October	218	250	253
November	212	196	238
December	214	218	203
Total	2,637	2,494	2,600

Openings in January, 1910, during former closed hours.

Date.	Draw. Opened.	Draw. Closed.	Vessel.	Cargo.[a]	Direction.
Jan. 1	5.41 p. m.	5.45 p. m.	Steam lighter Reliance.		Up.
1	7.21 p. m.	7.24 p. m.	do		Down.
4	7.13 a. m.	7.18 a. m.	Tug Scylla and two scows.	1,200 tons gravel.	Up.
4	4.14 p. m.	4.19 p. m.	Tug Ida M. Chase and lighter.		Up.
4	4.33 p. m.	4.39 p. m.	Tug Scylla		Down.
4	6.28 p. m.	6.32 p. m.	Tug Ida M. Chase		Down.
6	6.52 a. m.	6.56 a. m.	Tug H. A. Mathes		Up.
6	5.35 p. m.	5.39 p. m.	Tug Ida M. Chase and lighter.		Down.
			Tug H. A. Mathes		Down.
7	6.13 a. m.	6.22 a. m.	Tug Onward and oil barge.	100,000 gallons oil; 40,000 gallons naphtha.	Up.
7	7.15 p. m.	7.20 p. m.	do		Down.
8	4.39 p. m.	4.43 p. m.	Tug H. Chapel and lighter.		Up.
8	5.29 p. m.	5.30½ p. m.	do		Down.
8	7.02 p. m.	7.07½ p. m.	Tug Marie L		Down.
10	5.28 p. m.	5.31 p. m.	Tug Dresden		Down.
12	7.41 a. m.	7.52 a. m.	Tug Dresden and mud digger.		Down.
13	8.46 a. m.	8.53 a. m.	Tug H. A. Mathes		Down.
14	4.38 p. m.	4.44 p. m.	Tug Dresden and mud digger.		Up.
14	5.27 p. m.	5.31 p. m.	do		Down.
15	6.52 p. m.	6.56 p. m.	do		Up.
15	7.22 p. m.	7.27 p. m.	Tug Onward and oil barge.		Down.
18	8.42 a. m.	8.47½ a. m.	Tug H. Chapel		Up.
			Tug Neponset and barge Pocono.	920 tons coal	Up.
20	7.34 a. m.	7.38 a. m.	Steam lighter Reliance.	500 tons sand	Up.
21	8.25 a. m.	8.30 a. m.	Tug Onward and oil barge.	100,000 gallons oil; 40,000 gallons naphtha.	Up.
21	4.34 p. m.	4.38 p. m.	Steam lighter Reliance.	500 tons sand	Up.
21	5.34 p. m.	5.38 p. m.	Tug Onward and oil barge.		Down.
22	4.26 p. m.	4.31 p. m.	Tug Wm. H. Clark and barge Marion.		Down.
22	5.30 p. m.	5.38 p. m.	Tug Wm. G. William and schooner Mary A. Hall.		Down.
25	7.24 a. m.	7.29 a. m.	Tug Ida M. Chase and lighter.		Up.
25	8.13 a. m.	8.18 a. m.	Tug H. Chapel and scow.	1,500 gallons water.	Up.
			Steam lighter Reliance.	450 tons sand	Up.
25	5.40 p. m.	5.45 p. m.	Tug H. Chapel and mud dredge and three scows.		Up.
26	6.34 a. m.	6.39 a. m.	Tug Wm. H. Clark and barge Scranton.	950 tons coal	Up.
26	4.21 p. m.	4.24 p. m.	Tug Onward and oil barge.		Down.
26	5.40 p. m.	5.45 p. m.	Tug Marie and schooner Thos. Hicks.		Down.
27	5.00 p. m.	5.05 p. m.	Steam lighter Reliance.	500 tons sand	Up.
29	8.15 a. m.	8.18 a. m.	Tug Nellie		Down.
29	4.24 p. m.	4.30 p. m.	Tug Onward, tug Leader, and barge Beattie.		Down.
31	7.45 a. m.	7.50 a. m.	Steam lighter Hercules.	425 tons sand	Up.
31	8.24 a. m.	8.28 a. m.	Steam lighter Leviathan.	250 tons sand	Up.

[a] No cargo unless otherwise specified.

Openings at Draw No. 1.

	1907.	1908.	1909.
January	149	163	164
February	75	101	90
March	151	165	156
April	206	159	200
May	225	212	235
June	228	214	288
July	227	212	284
August	208	233	263
September	167	240	284
October	208	271	232
November	185	200	218
December	202	199	215
	2,231	2,369	2,629

Openings of No. 1 draw, Union Station, for the years 1895 to 1909, both inclusive:

1895	2,507
1896	2,460
1897	2,682
1898	2,540
1899	2,583
1900	2,476
1901	2,897
1902	2,206
1903	2,357
1904	2,009
1905	2,456
1906	2,466
1907	2,231
1908	2,369
1909	2,629
	36,867
Average	2,458

Closed hours previous to January 1, 1910: 6.15 a. m. to 9.10 a. m.; 4.15 p. m. to 7.40 p. m.

Openings in February, 1910, during former closed hours, viz, 6.15 a. m. to 9.10 a. m.; 4.15 p. m. to 7.14 p. m.

Date.	Draw. Opened.	Draw. Closed.	Vessel.	Cargo.	Direction.
Feb. 2	5.42 p. m..	5.49 p. m..	Tug Scylla and scow.	600 tons gravel..	Up.
3	7.26 a. m..	7.30 a. m..	Tug Irving F. Ross and lighter Holbrook.	Empty.....	Up.
3	8.04 a. m..	8.07 a. m..	Tug Irving F. Ross.	.....do	Down.
3	5.44 p. m..	5.51 p. m..	Tug H. Chapel and scow.	.....do	Up.
3	7.18 p. m..	7.26 p. m..	.....do	.....do	Down.
5	7.34 a. m..	7.40 a. m..	Tug Scylla and 2 scows.	1,200 tons gravel.	Up.
7	8.15 a. m..	8.18 a. m..	Tug Wm. H. Clark.	Empty.....	Down.
8	5.37 p. m..	5.40 p. m..	Tug Onward.....	.....do	Down.
9	6.55 a. m..	7.01 a. m..	Steam lighter Hercules.	400 tons sand ...	Up.
9	...do	...do	Steam lighter Leviathan.	250 tons sand ...	Up.
9	7.26 a. m..	7.31 a. m..	Tug Wm. H. Clark and barge Barry.	1,445 tons coal ..	Up.
9	5.38 p. m..	5.46 p. m..	Tug H. C. Splane and schooner Mina German.	Empty.....	Down.
			Tug Irving F. Ross.	.....do	Down.
11	8.44 a. m..	8.48 a. m..	Steam lighter Leviathan.	250 tons sand ...	Up.
12	6.35 a. m..	6.40 a. m..	Tug Onward and oil barge.	100,000 gallons kerosene, 40,000 gallons naphtha.	Up.
12	8.43 a. m..	8.49 a. m.. 8.54 a. m..	Tug Wm. H. Clark and barge Hackensack.	Empty.....	Down.
12	6.30 p. m..	6.39 p. m..	Tug Onward and oil barge.	.....do	Down.
14	4.54 p. m..	5.00 p. m..	Lighter Holbrook..	.....do	Up.
16	7.32 a. m..	7.37 a. m..	Tug Wm. H. Clark and barge Albany.	1,108 tons coal..	Up.
16	8.16 a. m..	8.19 a. m..	Tug Leader.....	Empty.....	Down.
16	5.21 p. m..	5.26 p. m..	Tug E. L. Pilsbury and barge Bethazres.	1,451 tons coal..	Up.
16	5.38 p. m..	5.46 p. m..	Tug E. L. Pilsbury.	Empty.....	Down.
			Tug Scylla and scow.	.....do	Down.
17	7.58 a. m..	8.03 a. m..	Tug Wm. H. Clark and barge Flora.	1,509 tons coal..	Up.
18	8.23 a. m..	8.29 a. m..	Tug Wm. H. Clark and barge Albany.	Empty.....	Down.
18	4.17 p. m..	4.20 p. m..	Tug H. C. Splane...	.....do	Down.
19	7.08 a. m..	7.11 a. m..	Tug Wm. H. Clark.	.....do	Up.
19	8.33 a. m..	8.38 a. m..	Tug Onward and oil barge.	100,000 gallons kerosene, 40,000 gallons naphtha.	Up.
19	8.59 a. m..	9.05 a. m..	Schooner Annie and Reuben.	200 tons stone...	Up.

Openings in February, 1910, during former closed hours, etc.—Continued.

Date.	Draw. Opened.	Draw. Closed.	Vessel.	Cargo.	Direction.
19	4.27 p. m..	4.31 p. m..	Tug Onward and oil barge.	Empty.....	Down.
21	8.17 a. m..	8.20 a. m..	Tug Leader.....	.....do	Down.
24	7.22 a. m..	7.25 a. m..	Tug Wm. H. Clark.	.....do	Down.
24	8.29 a. m..	8.34 a. m..	Tug Henrietta and scow.	.....do	Up.
24	8.52 a. m..	8.56 a. m..	Tug Susie D. and lighter.	181 tons coal....	Up.
25	8.25 a. m..	8.28 a. m..	Tug Leader.....	Empty.....	Up.
28	6.18 a. m..	6.25 a. m..	Tug Wm. H. Clark and barge Dora.	1,500 tons coal ..	Up.
28	6.18 a. m..	6.25 a. m..	Tug Onward and oil barge.	100,000 gallons kerosene, 40,000 gallons naphtha.	Up.
28	7.22 a. m..	7.25 a. m..	Tug Leader.....	Empty.....	Down.
28	8.05 a. m..	8.08 a. m..	Tug Wm. H. Clark.	.....do	Down.
28	5.39 p. m..	5.44 p. m..	Tug Randolph and scow.	600 tons gravel..	Up.

Openings of and vessels passing through No. 1 draw, January and February, 1910.

	Openings.	Vessels.
January	162	309
February	131	234

Date.	Number of passengers.	Passenger minutes.
January 1	1,783	13,653
January 4	1,579	13,558
January 6	2,173	15,302
January 7	307	1,034
January 8	3,739	12,887
January 10	4,431	28,705
January 12	3,305	30,841
January 13	808	4,087
January 14	3,582	21,635
January 15	1,792	11,374
January 18	4,048	16,071
January 20	1,110	2,196
January 21	3,423	12,822
January 22	6,565	52,522
January 25	6,778	26,570
January 26	3,151	12,444
January 27	2,874	9,175
January 29	2,047	5,309
January 31	1,260	2,993
Total	54,758	294,178
Average delay per passenger		5.37

Passengers in street and elevated cars using bridges in busiest hours over Charles River, approximately 28,500. Over Fort Point channel, 13,600. Total, 42,100.

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

The amendment was agreed to.

The next amendment of the Committee on Commerce was, on page 130, after line 22, to insert:

SEC. 8. That the Secretary of War be, and is hereby, authorized and directed to keep the openings of bridges across the Willamette River within the corporate limits of the city of Portland, Oreg., closed during such time as the common council of said city may hereafter by ordinance prescribe, between the hours of 6 and 8 o'clock a. m. and 5 o'clock and 30 minutes and 6 o'clock and 30 minutes p. m.

The amendment was agreed to.

The reading of the bill was concluded.

Mr. OWEN. Mr. President, before the bill is finally disposed of I want to add a few words to my comment as to the distribution of the benefits of this bill. I confess my comparative ignorance of geography, because I see, upon a careful and critical examination of the bill, that there are a number of the most important and noble streams in New Jersey of which my knowledge is not as entirely clear as it should be. For example, the Arthur Kill, Keyport Harbor, Matawan Creek, Raritan Creek——

Mr. KEAN. That is a river; I will correct the Senator.

Mr. OWEN. Raritan Creek, otherwise known as Raritan River.

Mr. KEAN. It is probably larger than any river in Oklahoma.

Mr. OWEN. The Arkansas River, which passes through Oklahoma, is approximately a thousand miles long, about five times as long as the State of New Jersey. I only mention that

in passing. We do not call it a river and a creek alternatively. It is really a river.

Mr. BRIGGS. I should like to ask the Senator from Oklahoma how deep it is?

Mr. OWEN. The Arkansas River when at high tide is 40 or 50 feet deep.

Mr. KEAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from New Jersey?

Mr. OWEN. With pleasure.

Mr. KEAN. I should like to ask the Senator from Oklahoma what he means by high tide in the Arkansas River?

Mr. OWEN. When we speak of high tide on the Arkansas River we refer to it when the Arkansas is a mile and a half wide and 40 feet deep. It is not so deep at other times, but deep enough. I think it is probably deeper than Alloway Creek, New Jersey, or Mantua Creek, or Maurice Creek, or Oldmans Creek, or Raccoon Creek, which are a number of the magnificent streams in the State of New Jersey provided for in this bill. Something over a million and a half dollars is devoted to the development of the streams of New Jersey and nothing for Oklahoma. I only use that as an illustration, not with any invidious distinction or with any disposition to make light of New Jersey's important creeks or be frivolous in dealing with a great and glorious State of the Union, for which I have the highest respect in reality.

I only call attention to the fact that here is a single State, with Raccoon Creek and the other splendid and important streams of navigation, abundantly provided for in this bill; and not only that, but here is Woodbury Creek, in section 3, which is not provided for, but which must be provided for in the future and is provided for in section 3 of this bill, a foundation laid by which its future development will be carefully conserved.

And here is Kill van Kull, which is a very important navigable stream, known to everybody familiar with geography, and here is the Hackensack, which of course is a matter of general geographical importance, well known to every student. Here is Absecon Creek, and Cooper Creek, and South River, and Tuckerton Creek, and Absecon Inlet, and Pensauken Creek. I do not mean to be disrespectful to Pensauken Creek in calling its name in vain.

I only mean to point out that there are 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, or 11 of these inconsequential—I inadvertently said inconsequential—of these streams, laden with commerce and of the greatest national importance, being provided for, to be taken care of by future appropriation bills for rivers and harbors, and no mention is made of the Arkansas River in Oklahoma.

The Arkansas River is a half mile wide, and its ordinary average flow is as great as the Ohio at Pittsburg. It has a great coal field on it, as capable of production as the coal fields of Pennsylvania. It has the greatest oil field in the world on it. The output for this year is 50,000,000 barrels of oil, and the freight on it at 30 cents a barrel would make $15,000,000 of freight from the oil, and yet no appropriation is made in this bill to adequately care for the Arkansas River.

I am in favor of the development of the streams of this country, but I am in favor first of developing the Mississippi River from the Lakes to the Gulf. I am in favor of developing the Ohio from Pennsylvania to the Mississippi, and I am in favor of developing the Missouri River, where there is a great volume of water and where the vast volume of traffic of the great Mississippi Valley can find an outlet for the freight of the innumerable railways which penetrate that valley.

I am opposed to this kind of a bill, and I call attention again that the State of Oklahoma, with 2,000,000 people in it, is paying more than the average part of one of the States of the Union in the revenues of this country, and when you take this money and expend it you take over a million dollars paid by the people of the State of Oklahoma and dissipate it on Raccoon Creek and other local expenditures. I am opposed to Raccoon Creek and its allies taking charge of this bill and expropriating $52,000,000 from the Treasury without an adequate national policy which shall equitably apportion the benefits of the appropriation.

Mr. NEWLANDS. Will the Senator let me make a friendly suggestion to him?

Mr. OWEN. With pleasure.

Mr. NEWLANDS. I understand he is contending that Oklahoma is left out; that the Arkansas River has not been properly considered in this bill. Has it ever occurred to him that perhaps he might receive consideration if he would get on the Commerce Committee of the Senate? That is a very easy way.

Mr. OWEN. My first experience in the Senate of the United States was being reproached by the Senator from Maine for not having arrived sooner. The Senator from Oklahoma, however, arrived as soon as he could, but not soon enough to get on the Commerce Committee of the Senate. But, Mr. President, I do not wish to deal with this matter in a light way. I want to call attention to the importance of a fixed national policy in dealing with this subject. I want the funds which are expended for the improvement of our national waterways to be expended wisely and judiciously, and with a national policy and with equitable distribution of benefits.

I want the people who live in the West and who contribute a vast volume of the freight which ought to find an outlet on the streams of the Mississippi Valley to have a reasonable opportunity of return for the money which they contribute to the Treasury of the United States, and which is expended by this bill, and I do not feel content to take my place in this body and be silent when I see a bill appropriating $52,000,000 without any national policy or any equity in distributing the benefits of the appropriation. It is a bill obviously formulated by the personal solicitation of individuals who are Members of the lower House or who are members of the upper House. I do not think it is a proper or a decent way to conduct the Government, and against it without apology I enter my vigorous protest. I will not be content with this spoils method of government; and a party responsible to the people of the United States for the faithful, judicious, and economical administration of this Government ought not to be content with it; and having said so much I have said all that it is necessary for me to say.

I do not expect anything that I may say to modify this bill in the slightest particular, but I do expect that in future bills the party in power shall respect the rights of the people of the United States and make these expenditures of public money according to a wise and proper policy of government, and that the bills which pass through this body shall not be stigmatized by the popular epithet of "pork barrels."

Mr. BURTON. Mr. President, I sympathize with any carefully prepared criticism of this bill. No one probably has been quite so free to criticise it as myself, but I really think the comparisons made by the Senator from Oklahoma [Mr. OWEN] are not well directed. He first spoke with some degree of ridicule of Arthur Kill, as if it were an insignificant stream. The Arthur Kill, with the Kill van Kull, forms a waterway between Staten Island and New Jersey. Let us notice what its traffic was in the last year for which we have statistics—15,995,231 tons, valued at $231,000,000. The commerce of Raritan River amounts to 918,302 tons. He dwells with special emphasis upon a comparison of the Arkansas River with Raccoon Creek, in which latter stream he says he does not believe. Certain figures as to those streams will not be lacking in instructiveness, and will show that it is not on the small streams that we are wasting money, but on the large ones.

First, let us see what is the tonnage of the Arkansas River. The tonnage of the Arkansas River for the last year was 92,455 tons. What was the commerce of the Raccoon Creek? Ninety-two thousand two hundred and sixty-eight tons; almost exactly the same.

Mr. OWEN. Mr. President——

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

Mr. BURTON. Certainly.

Mr. KEAN. What were the appropriations for those two streams?

Mr. BURTON. I will give those figures in a moment.

Mr. OWEN. Mr. President——

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

Mr. BURTON. Certainly.

Mr. OWEN. I simply desire to point out, in answer to that statement, that those figures are merely illustrative of the long-continued neglect of an important stream in the West, and of a long-continued care for the streams on the coast of New Jersey. The streams adjacent to New York, of course, being contiguous to the Atlantic Ocean, have a very large tonnage, and it proves nothing at all to say that the Arkansas River has no tonnage. The destruction of the traffic on the Arkansas or the failure to develop any traffic on the Arkansas is due to the fact that it has not been made a navigable river by the expenditures put upon it. It could hardly be called a navigable river at all, in view of its condition and of its neglect.

Mr. BURTON. Mr. President, I can hardly agree with the Senator from Oklahoma in that regard. The Arkansas River has not been neglected. The original project for removing all obstruction in the Arkansas was commenced in the year 1832.

Now, what has been expended upon it? The total expenditures under all projects to June 30, 1909, were $2,476,880.77, approximating two million and a half dollars.

The New Jersey stream has not been under development that long. It seems that the first examination made of it was in the year 1900. As against the expenditure of nearly two and one-half million dollars on the Arkansas River, let us note what has been expended upon Raccoon Creek. The amount expended upon the improvement to June 30, 1909, is $26,271, about one-hundredth as much, though the tonnage appearing upon it is almost exactly the same.

There are great natural difficulties in the improvement of the Arkansas. It flows for long distances between alluvial banks, and it is hard to manage. It is subject to great oscillations in level. More than that, under our present railway system railways are carrying the freight. I expressly deny that it is because of the neglect of Congress that traffic has not been developed.

Mr. OWEN. Mr. President, the railways of the country have in the past been strongly opposed to any development of these streams. The establishment of a waterway has the immediate effect of lowering the freight rates on the railways. The consequence is that they have taken those steps known to the artifices of commerce by which to break down any line of steamboats that might be started upon a stream, and prevent any growth of freight-paying commerce thereon. The expenditure of money on the Arkansas in a disjointed way is about as wise and might be expected to result in as substantial development of a highway of commerce as if in the construction of railroads you should drill a tunnel through a hill and then skip a mile and throw up an embankment, and then dig another tunnel a mile away and have the railway tracks disconnected. The Arkansas River never has been improved in such a way as to make a continuous navigable stream. It never has had an opportunity to develop as a highway of commerce.

I assert, and it is supported by the report of the engineers which I submitted in the RECORD yesterday, that there is an abundance of water to make a good navigable stream. There are a multitude of railroads crossing the stream at a point where it is navigable, where it could be made available for all the western country—not for Oklahoma alone, but for the traffic of northern Texas, and Kansas, Colorado, Utah, and the Western States, which might easily find an outlet there, and which might be affected by lower freight rates because of this transportation by water.

And what the Senator from Ohio says has, after all, no substantial bearing upon my objection to this bill. The Kill van Kull, being an arm of the sea, has, of course, a large traffic over it, most of which might easily go on the other side of Staten Island; but this does not adequately explain the expenditure of $1,500,000 in New Jersey and the expenditure of nothing in Oklahoma, nor the neglect of the great river running through central Oklahoma.

I am pointing out that the bill has within it no national policy for the systematic and proper development of the streams of the United States which are navigable. That is the point to which I wish to call the attention of the Senate, and to call the attention of the country, not in the hope of amending the bill, but in the hope that in the next bill that is brought in a fixed national policy shall prevail. That is the sole purpose of my present discussion. I trust that in future the demand of the country may be for a national policy and that Congress will respect this demand, and not be content with ravishing the Treasury by a confederacy of local projects.

Mr. NEWLANDS. Mr. President, I wish to say one word regarding the Arkansas River. It traverses many States. It has its source mainly in the State of Colorado. The scientific treatment of the river would involve a study not only of the navigable part but of the unnavigable part, even to its remotest source. No such study has been given to it by the United States Government in the development of a national policy.

The Arkansas River in Colorado is used for purposes of irrigation, and there numerous reservoir sites exist, some of which have been availed of for irrigation purposes, and perhaps for the development of water power. Doubtless all along the line of that river in its upper reaches were the Government to undertake a scientific study of the river for every useful purpose, other reservoir sites could be found in which the flood waters could be stored and held until the period of drought, when the bars appear and when navigation is obstructed by the sand and the bars.

Now, such study never has been given to it. Of course, if the Government simply occupies itself in spending a couple of million dollars in dredging out bars as they may appear, without the proper treatment of the banks themselves, which require revetment in order to prevent bank caving, we will have only year after year a repetition of the bars coming from the same source—the caving of the banks—and coming from the flood waters of the mountain. If we are only permitted to treat this matter scientifically, with the aid of the great scientific services of the country which are now engaged in unrelated work without consultation with the Engineer Corps of the Army; if we are only permitted to make a study in that way so that the Hydrographer of the Geological Survey, the Chief of the Reclamation Service, the Chief of the Forest Service, and the other services that relate in any way to the use of water, with their great knowledge of the topography of the country and the resources of the country can be brought to the aid of a scientific plan, we would find that at very much less cost the Arkansas River could be made an efficient instrument of commerce, and that in treating that river we would develop the national assets in land reclaimed by proper drainage and by proper levee protection, in land reclaimed by irrigation and in the development of water power, and that if these related uses are developed to their full extent they may in the end be largely compensatory of the cost of the improvement of the river itself for navigation.

I ask what private employer, having all these services in his employ, would neglect bringing these services into cooperation? Yet Congress has not yet done it, and has refused to-day to give the President of the United States the power to bring them into relation. Under the Tawney amendment he might be charged with violation of law were he to bring those services together as a board and ask them to unite their information and their experience in aid of this great work.

In the face of a statute that apparently by its terms forbids him to coordinate these services, to-day the Senate has refused to give the President of the United States, the President of the dominant party, the right to take steps to bring these scientific services into cooperation in this great work, and it has practically decreed that the old and wasteful system of river development shall prevail, a spasmodic and fitful development, accompanied by the expenditure of large sums of money, so unmethodically appropriated and so illogically applied as to result in waste and inefficiency.

Mr. President, I hope that this very debate between the Senator from Oklahoma and the Senator from Ohio will furnish to the Senate an illustration of the injurious effects of present policies, of the spoils system in waterways, as opposed to a great national policy which will involve scientific planning by experts and execution by experts under plans approved by Congress, such work as is going on at the Panama Canal to-day, where Congress, in desperation as between two opposing plans, Nicaragua and Panama, in the contention of forces threw up its hands, abandoned the spoils system, and turned over that great work to the direction of experts appointed by the President of the United States, gave him an ample fund, and charged him with the direct responsibility for the faithful execution of that work.

If this involves an abdication of the functions of Congress, then Congress abdicated its functions when it directed the construction of the Panama Canal and gave the President of the Unitel States $50,000,000 in one sum, and gave him a free hand in the organization of the engineering and scientific forces that were to take charge of that great work. If such a policy involves an abandonment of legislative functions, the country will prosper from such abandonment. But I claim that, on the contrary, in the Panama Canal the Government of the United States exercised in the best way its high functions; that it is not the function of Congress to attempt to absorb a control of all the details of the constructive work of the country, but it is the highest exercise of legislative discretion to so organize the executive and the constructive forces that they can proceed with vigor, energy, and economy.

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.

EXECUTIVE SESSION.

Mr. KEAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After fifteen minutes spent in executive session the doors were reopened, and (at 5 o'clock and 12 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, April 20, 1910, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate April 19, 1910.

APPRAISER OF MERCHANDISE.

William V. Downer, of New York, to be appraiser of merchandise in the district of Buffalo Creek, in the State of New York, in place of William J. Beyer, resigned.

PROMOTIONS IN THE ARMY.

MEDICAL CORPS.

Maj. Frank R. Keefer, Medical Corps, to be lieutenant-colonel from April 14, 1910, vice Lieut. Col. Edward Champe Carter, who died on that date.

Capt. Robert B. Grubbs, Medical Corps, to be major from April 14, 1910, vice Maj. Frank R. Keefer, promoted.

CORPS OF ENGINEERS.

Second Lieut. Charles K. Rockwell, Corps of Engineers, to be first lieutenant from April 14, 1910, vice First Lieut. Carlos J. Stolbrand, dismissed on that date.

POSTMASTERS.

ALABAMA.

William T. Hutchens to be postmaster at Huntsville, Ala., in place of William T. Hutchens. Incumbent's commission expired January 29, 1910.

ARKANSAS.

Job A. McLeod to be postmaster at Bearden, Ark. Office became presidential April 1, 1910.

Julius E. Wells to be postmaster at Devall Bluff, Ark., in place of Joel M. McClintock, resigned.

CALIFORNIA.

George L. Frerichs to be postmaster at Tracy, Cal., in place of James C. Allen, resigned.

George B. Hayden to be postmaster at Upland, Cal., in place of George B. Hayden. Incumbent's commission expires April 23, 1910.

Thomas W. Henry to be postmaster at Paso Robles, Cal., in place of Thomas W. Henry. Incumbent's commission expires May 4, 1910.

COLORADO.

M. K. Sullivan to be postmaster at Central City, Colo., in place of Robert Wilkinson. Incumbent's commission expires April 23, 1910.

CONNECTICUT.

Isaac L. Trowbridge to be postmaster at Naugatuck, Conn., in place of Isaac L. Trowbridge. Incumbent's commission expires May 4, 1910.

GEORGIA.

William H. Marston to be postmaster at Fitzgerald, Ga., in place of William H. Marston. Incumbent's commission expired February 14, 1909.

ILLINOIS.

John Clark to be postmaster at Moweaqua, Ill., in place of John Clark. Incumbent's commission expires May 31, 1910.

Samuel W. Holloway to be postmaster at Sheldon, Ill., in place of Jessie Ranton. Incumbent's commission expired March 28, 1910.

George A. Lyman to be postmaster at Amboy, Ill., in place of George A. Lyman. Incumbent's commission expired April 16, 1910.

Abraham L. Williams to be postmaster at Edinburg, Ill., in place of Abraham L. Williams. Incumbent's commission expired December 16, 1909.

INDIANA.

William A. Fordyce to be postmaster at Shelburn, Ind., in place of William A. Fordyce. Incumbent's commission expired April 3, 1910.

Trouggott P. Mills to be postmaster at Zionsville, Ind. Office became presidential January 1, 1910.

Clarence W. Neal to be postmaster at Gosport, Ind., in place of David P. Burton. Incumbent's commission expired February 28, 1910.

William C. Nichols to be postmaster at Lowell, Ind., in place of William C. Nichols. Incumbent's commission expires May 4, 1910.

IOWA.

J. S. Alexander to be postmaster at Marion, Iowa, in place of Don W. Rathbun. Incumbent's commission expired March 21, 1910.

Zella Biglow to be postmaster at Wyoming, Iowa, in place of Aaron M. Loomis, deceased.

Denton Camery to be postmaster at Toledo, Iowa, in place of Denton Camery. Incumbent's commission expired March 21, 1910.

J. D. Morrison to be postmaster at Reinbeck, Iowa, in place of Charles J. Adams. Incumbent's commission expired March 28, 1910.

W. E. Morrison to be postmaster at Grundy Center, Iowa, in place of Edward H. Allison. Incumbent's commission expired March 21, 1910.

William F. Stahl to be postmaster at Lisbon, Iowa, in place of William F. Stahl. Incumbent's commission expired January 10, 1910.

Charles W. Wood to be postmaster at Conrad, Iowa. Office became presidential January 1, 1910.

KANSAS.

D. B. Dyer to be postmaster at Smith Center, Kans., in place of William H. Nelson. Incumbent's commission expires June 8, 1910.

William C. Markham to be postmaster at Baldwin, Kans., in place of William C. Markham. Incumbent's commission expires June 5, 1910.

James Sutherland to be postmaster at Lewis, Kans. Office became presidential October 1, 1909.

MAINE.

William O. Fuller to be postmaster at Rockland, Me., in place of William O. Fuller. Incumbent's commission expires April 23, 1910.

MICHIGAN.

James Buckley to be postmaster at Petoskey, Mich., in place of James Buckley. Incumbent's commission expired April 19, 1910.

Lewis S. Platt to be postmaster at Hart, Mich., in place of Charles H. Boody. Incumbent's commission expires April 23, 1910.

James A. Trotter to be postmaster at Vassar, Mich., in place of James A. Trotter. Incumbent's commission expired April 12, 1910.

MINNESOTA.

John P. Mattson to be postmaster at Warren, Minn., in place of John P. Mattson. Incumbent's commission expired March 7, 1910.

NEBRASKA.

James Peters to be postmaster at Stanton, Nebr., in place of Alonson F. Enos. Incumbent's commission expires April 25, 1910.

NEW HAMPSHIRE.

Fred H. Ackerman to be postmaster at Bristol, N. H., in place of Fred H. Ackerman. Incumbent's commission expires May 4, 1910.

NEW JERSEY.

William B. R. Mason to be postmaster at Boundbrook, N. J., in place of William B. R. Mason. Incumbent's commission expires May 29, 1910.

William S. Slater to be postmaster at Andover, N. J. Office became presidential October 1, 1909.

NEW MEXICO.

Joseph McQuillan to be postmaster at San Marcial, N. Mex., in place of Dora W. Howard. Incumbent's commission expires May 9, 1910.

NEW YORK.

Edward T. Cole to be postmaster at Garrison, N. Y., in place of Edward T. Cole. Incumbent's commission expires May 9, 1910.

William C. Froehley to be postmaster at Hamburg, N. Y., in place of William C. Froehley. Incumbent's commission expired March 28, 1910.

NORTH CAROLINA.

John O. Burton to be postmaster at Weldon, N. C., in place of John O. Burton. Incumbent's commission expires May 9, 1910.

William J. Souther to be postmaster at Old Fort, N. C. Office became presidential January 1, 1908.

OHIO.

John W. Blackman to be postmaster at Gibsonburg, Ohio, in place of Atwell E. Ferguson, removed.

Albert E. Gale to be postmaster at Lima, Ohio, in place of William A. Campbell. Incumbent's commission expired March 8, 1908.

Harry W. Krumm to be postmaster at Columbus, Ohio, in place of Harry W. Krumm. Incumbent's commission expired April 12, 1910.

William S. Parlett to be postmaster at Dillonvale, Ohio, in place of William S. Parlett. Incumbent's commission expired January 16, 1910.

OKLAHOMA.

Guerney W. Shultz to be postmaster at Arnett, Okla. Office became presidential January 1, 1910.

PENNSYLVANIA.

Isaac N. Bachman to be postmaster at Strasburg, Pa. Office became presidential October 1, 1908.

Henry Myron Dickson to be postmaster at Meadville, Pa., in place of Ernest A. Hempstead. Incumbent's commission expired March 29, 1910.

Frank G. Kurtz to be postmaster at Fullerton, Pa. Office became presidential April 1, 1910.

Jesse N. Watson to be postmaster at Hatboro, Pa., in place of Jesse N. Watson. Incumbent's commission expires May 14, 1910.

TENNESSEE.

James F. Fowlkes to be postmaster at Waverly, Tenn., in place of William H. Hollinger. Incumbent's commission expired December 14, 1908.

TEXAS.

Barney W. Fields to be postmaster at Greenville, Tex., in place of T. W. Fields, deceased.

VERMONT.

Minnie A. Benton to be postmaster at Saxtons River, Vt., in place of Minnie A. Benton. Incumbent's commission expires May 7, 1910.

VIRGINIA.

John M. Griffin to be postmaster at Fredericksburg, Va., in place of John M. Griffin. Incumbent's commission expired February 5, 1910.

Charles P. Nair to be postmaster at Clifton Forge, Va., in place of Charles P. Nair. Incumbent's commission expires April 27, 1910.

Harvey F. Peery to be postmaster at North Tazewell, Va. Office became presidential January 1, 1910.

CONFIRMATIONS.

Executive nominations confirmed by the Senate April 19, 1910.

PROMOTIONS IN THE ARMY.

Col. William W. Robinson, jr., to be placed on the retired list of the army with the rank of brigadier-general.

CAVALRY ARM.

First Lieut. Edward Davis to be captain.
Second Lieut. Orlando G. Palmer to be first lieutenant.

CHAPLAIN.

Chaplain Barton W. Perry to be chaplain with the rank of major.

MEDICAL CORPS.

Capt. Robert M. Thornburgh to be major.

INFANTRY ARM.

Capt. Herman Hall to be major.
Capt. Marcus D. Cronin to be major.
First Lieut. Milosh R. Hilgard to be captain.
First Lieut. Linwood E. Hanson to be captain.
First Lieut. Lindsey P. Rucker to be captain.
Second Lieut. Jesse Gaston to be first lieutenant.
Second Lieut. William F. Harrell to be first lieutenant.
Second Lieut. Jesse D. Elliott to be first lieutenant.
Second Lieut. Edward H. Tarbutton to be first lieutenant.

MEDICAL RESERVE CORPS.

Reynold Webb Wilcox to be first lieutenant.

POSTMASTERS.

ALASKA.

E. H. Boyer, at Fairbanks, Alaska.

ARKANSAS.

Ransel S. Coffman, at Searcy, Ark.
William C. Roberts, at Rogers, Ark.

KENTUCKY.

M. B. Dixon, at Scottsville, Ky.
Frederick A. Van Rensselaer, at Owensboro, Ky.
John G. White, at Winchester, Ky.

NEW MEXICO.

Joseph McQuillan, at San Marcial, N. Mex.

NEW YORK.

George E. Call, at Northport, N. Y.
Margaret D. Cochrane, at Bedford, N. Y.
Burt Graves, at Middleport, N. Y.
Frederick Gorlich, at Hastings upon Hudson, N. Y.
George M. Gregory, at Oriskany, N. Y.
Max J. Lehr, at Fillmore, N. Y.
George M. Mathews, at Brocton, N. Y.
Charles G. Wallace, at Lisbon, N. Y.

OKLAHOMA.

James D. Faulkner, at Checotah, Okla.
Margaret J. Ryan, at Guymon, Okla.

PENNSYLVANIA.

John McCurdy, at Verona, Pa.
Benjamin F. Magnin, at Darby, Pa.
Joseph Wagoner, at New Florence, Pa.

WEST VIRGINIA.

Ed. C. Hinshaw, at Martinsburg, W. Va.

WITHDRAWALS.

Executive nominations withdrawn from the Senate April 19, 1910.

APPOINTMENTS IN THE ARMY.

COAST ARTILLERY CORPS.

To be second lieutenants, with rank from March 27, 1910.

Belton O'Neall Kennedy, of Pennsylvania.
Cary Robinson Wilson, of Virginia.
John Herman Hood, of the District of Columbia.
Richard Stearns Dodson, of Virginia.
Carl Uno North, of Michigan.
Philip Milnor Ljungstedt, of Maryland.
Joseph Frederick Cottrell, of Pennsylvania.
Edward Lathrop Dyer, of Massachusetts.
Wallace Loring Clay, of New York.
Walter Lucas Clark, of Vermont.
Frederick Eustis Kingman, of Georgia.
Simon Willard Sperry, of California.
Daniel Nanny Swan, jr., of Utah.
Charles M. Steese, of Pennsylvania.
Harry Wylie Stovall, of Georgia.
Richard Ferguson Cox, of California.
Rex Chandler, of Indiana.
John Piersol McCaskey, jr., at large.
Edward Stuart Harrison, of Virginia.

POSTMASTER.

William A. Campbell to be postmaster at Lima, in the State of Ohio.

HOUSE OF REPRESENTATIVES.

TUESDAY, *April 19, 1910.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. Henry N. Couden, D. D.

The Journal of the proceedings of yesterday was read and approved.

CHANGE OF REFERENCE.

Mr. DALZELL. Mr. Speaker, House resolution 582 is before the Committee on Rules, and properly so. The reference to that committee was properly made, but the matter will finally depend upon the action of the Committee on Expenditures in the Treasury Department, and I ask a change of reference from the Committee on Rules to the Committee on Expenditures in the Treasury Department.

The SPEAKER. The gentleman from Pennsylvania asks a change of reference of resolution No. 582 from the Committee on Rules to the Committee on Expenditures in the Treasury Department. The Clerk will report the title.

The Clerk read as follows:

H. Res. 582, providing for an investigation of the offices of surveyor of customs and assistant United States treasurer at St. Louis, Mo.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

PATRICK H. HANDLEY.

Mr. FERRIS. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. FERRIS. I wish to ask for a reprint of the bill H. R. 18761, to conform with the report.

The SPEAKER. The gentleman from Oklahoma asks unanimous consent for a reprint of the bill indicated so as to make it

conform to the report and the action of the committee. The Clerk will report the title.

The Clerk read as follows:

H. R. 18761, granting relief to the estate of Patrick H. Handley.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

CORRECTION.

Mr. ADAMSON. Mr. Speaker, on page 4943 of the RECORD of yesterday I am reported as yielding to the gentleman from New York [Mr. GOULDEN] ten minutes, and to the gentleman from Wisconsin [Mr. LENROOT] fifty minutes. I did not make any limit as to time, and I wish the RECORD corrected.

The SPEAKER. Without objection, the correction will be made.

There was no objection.

DEWITT EASTMAN.

Mr. KAHN. Mr. Speaker, I desire to call up the conference report on the bill S. 614 and ask that the statement be read in lieu of the report.

The SPEAKER. The Clerk will report the title.

The Clerk read as follows:

S. 614. An act to amend an act entitled "An act for the relief of Dewitt Eastman," approved January 8, 1909.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The Clerk will read the statement.

Following are conference report and statement:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 614) entitled "An act to amend an act entitled 'An act for the relief of Dewitt Eastman,' approved January 8, 1909," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House as to the body of the bill, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by said amendment insert the following:

"That in the administration of any laws conferring rights, privileges, or benefits upon honorably discharged soldiers, Dewitt Eastman, who was a private of Battery I, Fourth Regiment United States Artillery, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said battery and regiment on the 13th day of June, 1865: *Provided*, That, other than as above set forth, no bounty, pay, pension, or other emolument shall accrue prior to or by reason of the passage of this act."

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House as to the title of the bill, and agree to the same.

JULIUS KAHN,
F. C. STEVENS,
JAMES L. SLAYDEN,
Managers on the part of the House.
M. G. BULKELEY,
N. B. SCOTT,
Managers on the part of the Senate.

STATEMENT.

The managers on the part of the House on the conference on the disagreeing vote of the two Houses on Senate bill No. 614 make the following statement to accompany the conference report thereon:

As the bill was originally amended by the House, the soldier was given the privileges of the pension laws, and the laws governing the National Home for Disabled Volunteer Soldiers, or any branch thereof, from the 13th day of June, 1865.

Under the amendment as agreed upon by the conferees, the soldier will receive the benefit of any laws conferring rights, privileges, or benefits upon honorably discharged soldiers, including homestead rights, with a proviso, however, that other than as above set forth, no bounty, pay, pension, or other emolument shall accrue prior to or by reason of the passage of this act.

JULIUS KAHN,
F. C. STEVENS,
JAMES L. SLAYDEN,
Conferees on the part of the House.

Mr. MANN. Mr. Speaker, the Committee on Military Affairs in reporting in bills of this kind has recently adopted a form. Now, of course, I suppose it is desirable to follow some form in all of these cases. Does the gentleman think that hereafter this same change will be made by the committee in reporting bills so as to follow the form that has been agreed upon?

Mr. KAHN. I am under the impression that hereafter in reporting bills of this character this form will be adhered to. I move the adoption of the report.

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

On motion of Mr. KAHN, a motion to reconsider the vote by which the report was agreed to was laid on the table.

MISSISSIPPI CHOCTAW INDIANS.

Mr. STEPHENS of Texas. Mr. Speaker, I offer the following privileged report, which I send to the Clerk's desk.

The SPEAKER. The gentleman from Texas [Mr. STEPHENS] offers a privileged report (No. 740), which the Clerk will read.

The Clerk read as follows:

House resolution 396.

Resolved, That the Secretary of the Interior be requested to furnish the House of Representatives the following information, namely:

First. The names of the Mississippi Choctaw Indians who, according to the records in the possession of the Interior Department, received patents for lands under the fourteenth article of the treaty of 1830, or scrip in lieu thereof under the provisions of any subsequent treaties between the United States and said Mississippi Choctaw Indians.

Second. The number of cases that were pending before the department for consideration on February 1, 1907, involving the right to citizenship in any of the Five Civilized Tribes.

Third. Whether the said cases were considered with the same deliberation and with the average expenditure of time thereon as had been the practice of the department for several years prior thereto; and if not, why not.

Also the following committee amendments:

Strike out all of the second section after the word "citizenship," in line 13, and add in lieu thereof the following: "of the Mississippi Choctaw Indians."

Also amend section 3 as follows: Strike out all of said section after the word "considered," in line 1, and add the following in lieu thereof: "and if so, to what extent."

Mr. PAYNE. Mr. Speaker, I make the point of order against the resolution on the ground that it is not privileged. There are two questions, namely, "if not, why not," that call for the opinion of the Secretary of the Interior.

Mr. STEPHENS of Texas. I ask for certain information, Mr. Speaker.

Mr. MANN. I make the further point of order, Mr. Speaker, which I may withdraw, that this bill was reported back into the House by dropping it into the basket, and not by reporting it from the floor of the House. Thereby it loses its privilege. Now, I do not know that I want to press that point of order at this time, but we have gotten into the habit lately of having privileged matters reported from the floor of the House, where all rights may be reserved, and some being dropped into the basket by the chairman of the committee, where nobody knows that they are reported, and where no rights can be reserved.

Mr. STEPHENS of Texas. I do not see why there should be any objection to this resolution. It simply asks for some information that is necessary for the Indians Committee.

The SPEAKER. The Chair will state on the point of order made by the gentleman from New York [Mr. PAYNE]——

Mr. STEPHENS of Texas. I did not quite understand his point of order.

The SPEAKER. The gentleman from New York [Mr. PAYNE] makes the point of order on the first specification, page 2, namely:

Whether the same cases were considered with the same deliberation and with the average expenditure of time thereon as has been the practice of the department for several years prior thereto; and if not, why not.

Mr. STEPHENS of Texas. There is an amendment which covers that defect, as I understand, Mr. Speaker.

The SPEAKER. After all, must not the resolution retain its privilege or lose its privilege on its text rather than on the propositions of the committee? In other words, this is what the committee disposes. The House referred this resolution to the committee. Was it privileged when it was referred? The Chair will hear the gentleman from Texas [Mr. STEPHENS].

Mr. STEPHENS of Texas. It strikes me that I have a perfect right to ask for this information, but not for an opinion upon it.

Mr. BURKE of South Dakota. If I understand, this resolution is reported from the Committee on Indian Affairs.

The SPEAKER. It is reported with an amendment, March 11, 1910, referred to the House Calendar, and ordered to be printed.

Mr. BURKE of South Dakota. I would like to have the report read at the Clerk's desk.

Mr. STEPHENS of Texas. I ask to have the report read.

The SPEAKER. After all, of what good would it be to have the reading of the report? How can the report shed any light on the point of order?

Mr. BURKE of South Dakota. I asked to have it read as if the point of order had been decided.

Mr. STEPHENS of Texas. Mr. Speaker, would it be in order to strike out the last five words?

Mr. MANN. It will have to be before the House first.

Mr. HUGHES of New Jersey. Mr. Speaker, on the point of order, it strikes me that this resolution does not necessarily call for an opinion. It is only in the last line that any such suggestion can arise. There may be purely physical reasons why this thing was not done. The papers may have been destroyed or lost, or there may have been an insufficient clerical force. All these are facts which the Secretary will have the right to set out as part of the information demanded by this resolution.

Mr. STEPHENS of Texas. In addition to what the gentleman has stated, I will state this as a further fact: That these rolls were to be closed on the 4th of March, 1907. There was a report made on February 29 that left only a few days for investigation. There were several hundred cases for investigation, but these Indians were deprived of the rights of citizenship because the department did not have the proper time. And I ask the question if these were not considered with the same deliberation as the other cases, and if not, why not?

Mr. HUGHES of New Jersey. That is a question of fact.

The SPEAKER. Will the gentleman from Illinois again state his point of order?

Mr. MANN. My point of order was: If this was a privileged resolution, it must be reported from the floor of the House, and not by dropping it in the basket. I do not care to press the point of order, if there is any reason for having this passed upon. I take it if the resolution is privileged, that the report must be submitted from the floor of the House to retain its privilege.

Mr. FITZGERALD. If the gentleman's construction were to be adopted, it could prevent action on a resolution or anything which is certainly privileged in the House by simply dropping the report in the basket. If I understand the rule, not only is the resolution privileged for consideration, but if the committee does not report it within a week, a motion to discharge the committee is privileged also. Suppose the resolution were reported and the question of consideration raised against it; that would shut the House out from considering it at some other time as a matter of privilege.

Mr. MANN. The gentleman from Texas, however, has called up the bill as a reported bill. Suppose, on the other hand, that it be held that the committee can report the bill by dropping the report in the basket, and the committee reports the resolution. If it does so adversely, without notifying the person who introduced it, then the gentleman or any other gentleman, on the action on the part of the committee, is shut out from having it considered in the House.

Mr. FITZGERALD. If it is reported adversely and dropped in the basket, under the rule, within three days it can be called up by giving notice, and it shall be placed on the calendar; then it can be called up as privileged, although adversely reported.

Mr. MANN. I dare say nine-tenths of the bills that may be reported adversely, the person who introduced it would not learn of it within three days, unless he read the RECORD.

Mr. FITZGERALD. He could find it by reading that most valuable and interesting publication, the RECORD.

Mr. MANN. I am sure the gentleman does not read all the RECORD as to the bills that are adversely reported.

The SPEAKER. The Chair is ready to rule. Under the rule, this being a privileged report, the report should be made by the committee from the floor of the House, and not by dropping it in the basket. The Chair has a precedent:

Although a privileged report may lose its privilege by the informal manner of making the report, the injury may be repaired by a new report.

The Chair will not read the matter. It was a ruling by Mr. Speaker Reed on March 26, 1890. The report was at once made from the floor, as the gentleman might do now if the point of order is insisted upon. Does the gentleman from New York insist upon the point of order?

Mr. PAYNE. I insist upon it.

The SPEAKER. The Chair sustains the point of order.

Mr. STEPHENS of Texas. I move to discharge the committee.

The SPEAKER. Now, the Committee on Indian Affairs giving the gentleman authority to make the report, and it having been made not upon the floor of the House, under the precedent, which the Chair does not think it necessary to read, the gentleman may make the report from the floor now.

Mr. STEPHENS of Texas. I make the report.

The SPEAKER. The gentleman from Texas, from the Committee on Indian Affairs, makes the report on the resolution which he claims to be privileged. The resolution having been once read, without objection it will not be read again. As to the point of order made by the gentleman from New York [Mr. PAYNE] to the following language:

Third, whether the said cases were considered with the same deliberation and with the average expenditure of time thereon as had been the practice of the department for several years prior thereto; and if not, why not—

It seems to the Chair that this does not call for an expression of an opinion, but for a statement of fact; therefore the Chair overrules the point of order.

Mr. STEPHENS of Texas. Mr. Speaker, I ask that the report of the committee be read.

The SPEAKER. The Clerk will read the report in the gentleman's time.

The Clerk read the report (by Mr. STEPHENS of Texas), as follows:

The Committee on Indian Affairs, to whom was referred the following resolution (H. Res. No. 396):

"*Resolved*, That the Secretary of the Interior be requested to furnish the House of Representatives the following information, namely:

"First. The names of the Mississippi Choctaw Indians who, according to the records in the possession of the Interior Department, received patents for lands under the fourteenth article of the treaty of 1830, or scrip in lieu thereof under the provisions of any subsequent treaties between the United States and said Mississippi Choctaw Indians.

"Second. The number of cases that were pending before the department for consideration on February 1, 1907, involving the right to citizenship in any of the Five Civilized Tribes.

"Third. Whether the said cases were considered with the same deliberation and with the average expenditure of time thereon as had been the practice of the department for several years prior thereto; and if not, why not?"

The committee finds that the information requested in this resolution is necessary to determine the merits of H. R. 21479, now pending before this committee. Said bill is as follows:

"A bill to permit the enrollment of certain Mississippi Choctaw Indians in Oklahoma.

"*Be it enacted, etc.*, That all Mississippi Choctaws who removed to the Indian Territory, now Oklahoma, and made application for citizenship prior to February 1, 1907, where it appears of record that the applicant or ancestor through whom claim is made received patent of land under the fourteenth article of the treaty of 1830, or scrip in lieu thereof, shall have their cases considered by the Secretary of the Interior upon the merits, and if found entitled to enrollment, such applicants shall be placed on the rolls and given lands and funds, the same as any other Choctaw Indians in Oklahoma."

In view of the above bill and the information requested by this resolution, your committee is of the opinion that the resolution should pass with the following amendments:

Strike out all of the second section after the word "citizenship," in line 13, and add in lieu thereof the following: "of the Mississippi Choctaw Indians."

Also amend section 3 as follows:

Strike out all of said section after the word "considered," in line 1, and add the following in lieu thereof: "and if so, to what extent."

The resolution as amended will read as follows:

"*Resolved*, That the Secretary of the Interior be requested to furnish the House of Representatives the following information, namely:

"First. The names of the Mississippi Choctaw Indians who, according to the records in the possession of the Interior Department, received patents for lands under the fourteenth article of the treaty of 1830, or scrip in lieu thereof under the provisions of any subsequent treaties between the United States and said Mississippi Choctaw Indians.

"Second. The number of cases that were pending before the department for consideration on February 1, 1907, involving the right to citizenship of the Mississippi Choctaw Indians.

"Third. Whether the said cases were considered by the department; and if so, to what extent?"

Mr. STEPHENS of Texas. Mr. Speaker, the object of this resolution is to secure information in regard to that class of Mississippi Choctaw Indians that applied for enrollment under the fourteenth article of the treaty of 1830 with these Indians, and if such application was made before February 1, 1907, and if such applicants' ancestors had been granted land or scrip in lieu thereof from the United States, such applicants should have their case reopened and examined on its merits by the Secretary of the Interior, and if found entitled to enrollment, should be enrolled, and so forth. Mr. Speaker, the Washington Post, a leading newspaper published in this city, shows in its issue of February 15, 1910, the attitude of the Secretary of the Interior in regard to the enrollment of these Indians. The statement is as follows:

[From the Washington Post, February 15, 1910.]

DEPARTMENT OPPOSES REOPENING OF ROLLS—SECRETARY ANSWERS INQUIRY OF SENATE REGARDING MATTER—ADVISES SPECIAL PROVISION BE MADE FOR ORPHANS, INCOMPETENTS, AND INCARCERATED CITIZENS.

In connection with the closing up of the affairs of the Five Civilized Tribes a final and hard effort is being made to reopen the rolls for the admission of all direct descendants of the tribal members, some 14,000 in number. The House and Senate Committees on Indian Affairs are

both wrestling with the bills on the subject. The Senate committee has addressed a letter to the Secretary of the Interior asking for the department's views on the proposed reopening of the rolls.

In reply the Secretary of the Interior to-day addressed a letter to Senator CLAPP, chairman of the committee, stating the attitude of the department in the matter of opening the rolls of citizenship of the Five Civilized Tribes. After giving a short history of this work the Secretary says that he is opposed to any action which will be in the nature of a general reopening of these rolls. He states, for the information of the committee, various propositions submitted to the department in the interests of certain classes of persons who claim to be entitled to enrollment, the adoption of which, it is asserted by these parties, would not affect a general reopening and revision of the work, and suggests that authority be given to place upon the rolls the names of those whose applications were approved by the Commissioner to the Five Civilized Tribes, but did not reach the department until after March 4, 1907, the date fixed by law for closing the rolls; and also that authority be given to examine the cases of minor orphan children, incompetents, and Indians in incarceration whose claims were not presented in due time for adjudication. The latter suggestion is made upon the theory that these parties were incapable of asserting their claims and no one took the responsibility of presenting them.

Mr. Speaker, it will be observed that the class of Mississippi Choctaws I have alluded to is not covered by the Secretary's suggestion for relief of these Indians, and I presume that he will not recommend any relief for them; hence the necessity of this resolution. The information called for is very desirable from the standpoint of simple justice, so that relief may be granted this class of Indians.

Mr. Speaker, these Indian tribes, the Choctaws and Chickasaws, have been permitted by the Government to pay exorbitant attorney fees to lawyers employed by the tribes, not to enroll all members of the tribes, but to prevent the enrollment of every Indian that they could in any way—fair or foul—keep off the rolls. The following is a partial roll of such attorneys and the fees paid them as I am informed and believe. The Chickasaw Nation have now in their employ Rogers and Clapp, at a fee of $6,000 per annum, while the Choctaws have the following attorneys, viz:

	Per annum.
McCurtain & Hill, fee of	$5,000
McHarg, fee of	12,000
Doctor Wright, fee of	6,000
Peter Hudson, fee of	5,000
Making the total annual attorneys' fees paid by this tribe of Indians	28,000
A total paid by the two tribes of	34,000

The Dawes Commission was created in 1892, and these tribes have been employing attorneys since that time by the year. The aggregate amount paid attorneys is a very large sum. These figures do not include the enormous fee of $750,000 paid Mansfield, McMurray & Cornish a few years ago by these two Indian tribes. This firm received in addition to said outrageous fee the sum of $300,000 as expenses from said tribes. These great sums of money were paid out of the Indians' funds—in other words, they were a part of the funds of the vast Indian estate the Government was administering upon; and they belonged to all of the Indian members of said tribes in common. But these common funds have been used by the organized tribal part of said tribes to prevent the individual minority members of the tribes from being enrolled as tribal members, thus preventing them from receiving any part of the tribal estate; thus using their own money as attorney fees and costs to despoil them of their tribal inheritance. What an injustice!

There is an ancient fable of an eagle when after being shot by an archer, and while dying, observing that it had been slain by an arrow made from a quill cast from its own wing, said:

It is hard to die at best, but much harder to die when you furnish the means of your own destruction.

Like this eagle, the members of these tribes have been despoiled by furnishing the means for their own destruction. Mr. Speaker, I have long protested in vain against these gross outrages on these defenseless people. I can not and will not sit idly by and see a few defenseless members of a race of people despoiled of their inheritance, and I now warn the country that the despoiler is still on the trail of these helpless victims, as is shown by the following letter addressed to me by the Indian Rights Association of Philadelphia. The members of this association are well known all over the country as men of the highest character, honor, and integrity. The letter is as follows, viz:

Certain bills (S. 7157, H. R. 22484, H. R. 24411) are now pending in Congress by which it is proposed to make final disposition of the affairs of the Five Civilized Tribes of Indians in Oklahoma.

We urge your careful consideration of the need of affording protection to these Indians against any contracts which they may have entered into by which the funds which may be realized from the sale of their lands or other property will be charged with the payment of any commissions or attorney fees for the pretended service of securing the same and causing the moneys due to be paid over to the individual members entitled thereto.

Your special attention is called to a form of contract which one J. F. McMurray is said to have induced many members of the Choctaw and Chickasaw tribes to execute in his favor whereby they agree to pay to McMurray a commission of 10 per cent of all moneys which are found to be due from the Government and payable to the contracting Indians. Among other stipulations of the alleged form of contract it is provided that the said attorney is:

"To represent such members of the Choctaw and Chickasaw nations as their representative and attorney in the sale of all their undivided property of whatsoever character. Said J. F. McMurray is to receive as his compensation therefor 10 per cent of all funds derived by us from the amounts collected from the United States Government in settlement of the various claims due by the United States to the Choctaw and Chickasaw people, and also 10 per cent of the amount received by said Choctaw and Chickasaw people for all property of whatsoever kind, held in common by them, when said property shall be sold; and said J. F. McMurray is hereby authorized to draw the compensation above provided for out of the Treasury of the United States when any claims of Choctaws and Chickasaws against the United States have been adjusted and the proceeds placed in the Treasury of the United States to the credit of the tribes, and when any money hereafter realized from the sale of the tribal property has been placed in the Treasury of the United States."

We agree that in cases in which claims are made against the United States by Indians alleging unfulfilled treaty or other obligations which are being denied and payment thereof resisted by the Government, the employment of counsel to prosecute such claims may be altogether legitimate and desirable. The alleged pending contracts between the Indians and J. F. McMurray, however, provide for a commission of 10 per cent of all moneys paid by the Government to them, which includes all funds realized from liquidated obligations, among which are the millions of acres of unallotted lands together with almost one-half million acres of segregated coal land, of a probable aggregate value of $20,000,000. It is in the province of Congress to determine when this vast estate shall be converted into cash and pro rata payment made to the Indian beneficiaries, and no commission or fees should be allowed to any person for alleged services in the matter.

It may be claimed that the contracts in question are invalid, and if not void that they can not be rendered so by legislation. It is not believed that Congress is denied the right under the Constitution of declaring such obligations void.

The Secretary of the Interior on April 23, 1909, refused to approve the contract, and notified Attorney McMurray accordingly. Hon. Green McCurtain, principal chief of the Choctaw Nation, has called the attention of the Choctaw people to the terms of the contract and urgently advised them against entering into agreements of this nature.

These Indians should be protected against claims of this class by prohibitive statute. We therefore urge that a paragraph be incorporated in any legislation relating to the disposition of affairs of the Five Civilized Tribes which shall provide:

"That no contracts made or hereafter to be made by the tribal governments of the Choctaw or Chickasaw tribes or nations of Indians, or by any individual member or members of said tribes, according to the terms of which commissions or charges for the sale of the mineral rights or the surface rights in any of said lands, or for the sale of the unalloted lands or other common property of the members of said tribes, are to be paid, shall be valid, and no portion of the money which shall be derived from the sale of such surface or mineral rights of such lands, or from the sale of the unallotted lands or other common property of the members of said tribes shall ever be used for the payment of any charges, commissions, or attorney fees for services or purported services claimed to have been rendered to said tribes in the disposition of the properties of said tribes, and all contracts providing for such charges, commissions, or attorney fees shall be absolutely void."

Soliciting your influence in protecting the Indians in the matter, I am,

Very respectfully, yours,

C. E. GRAMMER,
President Indian Rights Association.

Mr. Speaker, this letter speaks for itself, and I fully concur in its conclusions and indorse its recommendation, because they are not the conclusions of dreamers, but the sober statements of unvarnished facts that can not be denied. I have introduced a joint resolution, which is now pending in the House Committee on Indian Affairs, embodying the recommendation made in the latter part of this letter. I hope that Congress will pass this resolution, and thus forever close one door or way of despoiling our helpless Indian wards by paying outrageous attorneys' fees to favored attorneys.

Mr. Speaker, I also now present to this House a resolution of the Choctaw Indian council, protesting against the recognition of J. F. McMurray as an attorney claiming to represent the Choctaw and Chickasaw Indians under certain contracts procured by him and his agents. It is as follows, viz:

RESOLUTION PROTESTING AGAINST RECOGNITION OF J. F. M'MURRAY.

Whereas J. F. McMurray, of McAlester, Okla., has procured contracts from a number of Choctaw and Chickasaw Indians employing or purporting to employ him as an attorney and agent of said citizens to represent them in the final settlement and division of the property of the Choctaw and Chickasaw tribes, and agreeing to give the said McMurray a fee of 10 per cent of said property, which is of the value of millions of dollars; and

Whereas said property of the Choctaw and Chickasaw tribes of Indians is the common property of all the members of said tribes, and is not subject to the control by the individual members, or any of them, by contract or otherwise; and

Whereas the Government of the United States has the exclusive authority and control of the common or undivided property of the Indians, and with it the duty of protecting the same against manipulation for private gain, and against injustice and imposition of every character; and

Whereas our property will be divided by the United States Government, anyway, we see no use in employing McMurray or anyone else and giving him or them a part of our property for that purpose; and

Whereas it is not right or proper that McMurray should be allowed to represent, or pretend to represent, the Choctaw and Chickasaw Indians, or any of them, before the Congress of the United States or the committees thereof, or before the Department of the Interior, the Indian Office, or any authority of the Government under said void, unjust, and

unreasonable contracts, or under contract or contracts which have not been approved by the proper authority of the United States Government, and thereby lay a basis for a claim against the Indians on account of said void, unjust, unreasonable contracts.

Therefore be it resolved by the general council of the Choctaw Nation assembled:

SECTION 1. That the President, the Congress of the United States, and the Secretary of the Interior be, and they are hereby, respectfully memorialized and requested to protect the property of the Choctaw and Chickasaw tribes against the operation of any and all contracts entered into with J. F. McMurray by the members of the Choctaw and Chickasaw tribes, or any of them, affecting or designed to affect the undivided property of said tribes.

SEC. 2. To avoid any claim being made against the Choctaw and Chickasaw tribes on account of said contracts procured by J. F. McMurray, or any alleged services thereunder, the President, the Congress of the United States, and the Secretary of the Interior are hereby respectfully memorialized and requested not to recognize J. F. McMurray, or anyone else, to represent the Choctaw and Chickasaw Indians, or any of them, except upon lawful appointment, or under contracts duly authorized by law and approved by the proper authorities of the United States.

SEC. 3. That this resolution take effect upon its passage and approval.

Read, interpreted, passed the House, and referred to the Senate, this the 11th day of October, 1909.

W. A. DURANT,
Speaker of the House.

Read, interpreted, passed the Senate, and referred to the principal chief, this the 11th day of October, 1909.

G. W. CHOATE,
President of the Senate.

Approved this the 11th day of October, 1909.

GREEN MCCURTAIN,
Principal Chief, Choctaw Nation.

The following is a general letter of Principal Chief McCurtain, of the Choctaws, to his people, warning them against J. F. McMurray and his agents, and contains some correspondence between Secretary Ballinger and Chief McCurtain relating to certain contracts procured by J. F. McMurray and his agents from Choctaw and Chickasaw Indians:

EXECUTIVE OFFICE, CHOCTAW NATION,
GREEN MCCURTAIN, PRINCIPAL CHIEF,
Kinta, Okla.

MY DEAR SIR: Some time ago it came to my knowledge that J. F. McMurray, of McAlester, Okla., has a number of agents and representatives going about over the country procuring contracts for him from Choctaw citizens, purporting to employ McMurray as the attorney and representative of such Choctaws in the final settlement of the Choctaw and Chickasaw affairs by the Government, at a compensation of 10 per cent of their undivided property.

On the 20th of April last I addressed the following letter to the Secretary of the Interior in relation to the McMurray contracts:

KINTA, OKLA., *April 20, 1909.*

THE SECRETARY OF THE INTERIOR:

I desire to call attention to the fact that a man by the name of J. F. McMurray, of McAlester, Okla., is taking contracts from a great number of individual Choctaws and Chickasaws purporting to make him their agent and representative in the final disposition of the undivided property of the Choctaw and Chickasaw tribes at a fee of 10 per cent of the value of all such undivided property; and on behalf of the Choctaw tribe of Indians and in the interest of common justice I protest against any recognition being given to McMurray and his unlawful contracts.

In the first place, it is the duty of the United States Government, by virtue of the relationship it sustains to the Indian tribes, that of guardian to ward, to protect the Indians and their property against extortion and speculation of any character whatsoever. The Government has the duty of administering Indian affairs, which includes the final disposition of all tribal property, and it is inconceivable that the Government would allow McMurray, or anyone else, to speculate in the interests of the Indians or in the disposition of their property now in the hands of the Government for final settlement.

McMurray has no connection whatever with the legally constituted authorities of the tribes, neither is he in the employment of the Government of the United States in any way, and he is not, therefore, in a position to render legal services, or service of any kind, to the tribes. His is simply the position of an outsider endeavoring to get a fee out of the disposition of Indian property by the Government.

It is my information that McMurray has a number of agents throughout the Choctaw and Chickasaw nations procuring contracts from individual Indians employing or purporting to employ him as their agent and representative in the final disposition of the undivided tribal property by the Government. Some of these agents, I am informed, he pays a regular compensation for getting the contracts for him, and others are interested with him, by private arrangements, in the contracts. In all events the action of the Indians in making contracts with McMurray is by no means spontaneous on the part of the Indians, but is induced by interested parties.

McMurray, I understand, will claim that his contracts are with individual Indians, and that they are perfectly competent to make such contracts.

We deny that the members of the Choctaw and Chickasaw tribes have a right to make individual contracts affecting the undivided tribal property. The title to the undivided tribal property is in the tribes, and not in the individual members of said tribes, and is not, therefore, subject to control by individual members of said tribes, for that is a function of government.

The Supreme Court of the United States, speaking to this question, says: "Whatever title the Indians have is in the tribes and not in the individuals, although held by the tribe for the common use and equal benefit of all the members. The control and development of the tribal property still remains subject to the administrative control of the Government, even though the members of the tribe have been invested with the status of citizenship under recent legislation." (Cherokee Nation *v.* Hitchcock, 187 U. S., 183.)

The fact of the removal of restrictions upon the alienation of lands of allottees, or any of them, can not be construed to have the effect to enable such allottees to make contracts with respect to the interest of such allottees in the undivided tribal property; for in all such cases the removal of restrictions, as authorized by law, is with respect to allotted lands and has no reference to the undivided tribal property.

The Assistant Attorney-General of the United States for the Interior Department, in an opinion rendered by him June 8, 1904, held that the restrictions attached to the lands of the allottees. It follows, therefore, that when the restrictions are removed they are removed from the allotted lands of the allottees and not from the unallotted lands of the tribes.

View the McMurray contracts in any light, and they are bad; they are bad as a matter of policy, and bad in law.

I therefore record a protest on behalf of the Choctaws against recognition of any kind being given McMurray under his claims to represent the Choctaw Indians, or any of them, in the final settlement of their affairs by the Government of the United States.

Very respectfully,

GREEN MCCURTAIN,
Principal Chief Choctaw Nation.

In reply to the foregoing I received the following letter from the Secretary of the Interior, under date of April 22, 1909:

DEPARTMENT OF THE INTERIOR,
Washington, April 22, 1909.

GREEN MCCURTAIN,
Principal Chief Choctaw Nation, Kinta, Okla.

DEAR SIR: I herewith acknowledge receipt of your letter of the 20th instant in reference to proposed contracts with Chickasaw Indians sought to be entered into by J. F. McMurray. I have handed your letter to the Assistant Attorney-General for the Interior Department, and directed that the matter should be given full and careful consideration with the view of protecting the Indians of your nation against any improper or burdensome contracts.

Very truly, yours,

R. A. BALLINGER, *Secretary.*

I received another letter from the Secretary of the Interior, under date of May 28, 1909, inclosing copies of two letters he had addressed to McMurray, in which the Secretary refused to approve McMurray's contracts.

Said letter of the Secretary to me and his letters to McMurray are as follows:

WASHINGTON, *May 28, 1909.*

Hon. GREEN MCCURTAIN,
Principal Chief Choctaw Nation, Kinta, Okla.

MY DEAR SIR: I inclose herewith copies of two letters addressed to an attorney by the name of J. F. McMurray, under date of April 23. I understand that it has been stated that a copy of your letter of April 20 was given by me to Mr. McMurray. There is no truth in this statement, as no copy was furnished to him by me, and your letters and correspondence with the department are properly protected.

Very truly, yours,

R. A. BALLINGER, *Secretary.*

WASHINGTON, *April 23, 1909.*

J. F. MCMURRAY,
O. L. Attorney at Law, McAlester, Okla.

SIR: With reference to contract submitted between yourself and certain individual members of the Choctaw and Chickasaw nations providing for the prosecution by yourself, as attorney, before the courts or elsewhere, of all unsettled claims of the Choctaw and Chickasaw people against the United States, and in procuring the sale of all the undivided property of said people, I have to state that, in my opinion, said contract relates to interests which are tribal in character and as to which it is not appropriate for the individual members of said tribes to negotiate or contract.

Very respectfully,

R. A. BALLINGER, *Secretary.*

WASHINGTON, *April 23, 1909.*

J. F. MCMURRAY, Esq.,
O. L. Attorney at Law, McAlester, Okla.

SIR: Referring to contract and memoranda submitted by you concerning assessment and taxation by the Oklahoma authorities of lands and property of the Choctaw and Chickasaw Indians who are included within the terms of the act of Congress approved May 27, 1908 (35 Stat. L., 312), removing restrictions against taxation and alienation as to certain Indians of the Choctaw and Chickasaw nations, I have to state the contract is one of which, in my opinion, this office should not take official cognizance by either approving or disapproving the same.

Very respectfully,

R. A. BALLINGER, *Secretary.*

I want the Choctaw people to know that I do not indorse McMurray's contracts, neither do I indorse the actions of McMurray's agents in procuring such contracts for him from the Choctaw people.

I am opposed to McMurray's contracts for many reasons. It is not right nor is it necessary for our people to contract away a part of their property and the property of their children to get what is already their own now in the hands of the Government of the United States for final division among the members of the Choctaw and Chickasaw tribes.

All that remains to be done by the Government is the plain and simple duty of dividing our property so that each Choctaw and Chickasaw will get an equal share thereof; it is not a matter or question of getting something for us—the property is already our own, and it is a mere matter of dividing it; and surely the Government of the United States will not do anything that will require or cause us to pay some one a big fee to have our property divided. Moreover, I do not believe the Government will even permit such a thing.

Of course the Government can not prevent the making of contracts, but I very much fear that if such contracts are made in any great numbers the effect will be to delay the final settlement of our affairs, for the Government authorities will never consent to divide our property or the proceeds thereof, while there are any void and unjust contracts outstanding against it.

We have a regular delegate and special delegate at Washington to represent us in the final settlement of our affairs, and there is no necessity, reason, or excuse for bargaining away a part of our lands and moneys and other interests to some one to do, or try to do, what our delegates are already commissioned and paid to do.

What we should do and continue to do is to aid and encourage our delegates and attorneys in their efforts to get a final settlement of our affairs. But whatever we do, let's not contract away our birthrights

and the birthrights of our children, and thereby bring reproach and everlasting shame upon our names and do injustice to our children.

McMurray can not do anything in Washington for the Choctaw people anyway. The Secretary of the Interior has positively and expressly refused to approve his contracts or to recommend their approval. If McMurray is not able to get his contracts approved at Washington, then he is not able to do anything there for the Choctaw people under such contracts. That proposition proves itself and is so plain that it will not admit of argument to the contrary.

In addition to the fact that McMurray can not do anything under his contracts that would be of the slightest benefit to the Choctaw people or by which he could possibly earn any part of the enormous fee which the contracts agree to give him, the contracts themselves are subject to the further serious objection that they do not bind McMurray to do any specific thing. All that McMurray is required to do under the contracts is to represent the citizens signing said contracts:

"In the prosecution before the courts or elsewhere of all unsettled claims of the Choctaw and Chickasaw people against the United States and for compensation therefor; to prosecute said claims before the courts of the United States or before Congress of the United States as in his judgment may be necessary; to represent such members of the Choctaw and Chickasaw nations as their representative and attorney in the sale of all their undivided property of whatsoever character."

Mark you, McMurray nowhere in the contract binds himself to accomplish anything for the people who sign the contracts with him. Remember that. But the people who sign the contracts with McMurray are bound to pay him 10 per cent of their property whenever it is sold, whether McMurray has anything to do with the sale of it or not.

Observe the following language of the contract, wherein it provides for McMurray's compensation:

"Said J. F. McMurray to receive as his compensation therefor 10 per cent of all funds derived by us from the United States Government in settlement of the various claims due by the United States to the Choctaw and Chickasaw people, and also 10 per cent of the amount received by the said Choctaw and Chickasaw people for all property of whatsoever kind held in common by them when said property shall be sold."

So far as relates to the "payment of unsettled claims," there is a mere contingency, for if nothing is collected McMurray would get nothing. But not so far as to the 10 per cent "of all the property of whatsoever kind when sold." That includes the coal and asphalt lands and deposits and the unallotted lands and town-site funds, and those will be sold and distributed anyway, regardless of McMurray; so it will be seen that McMurray need not turn a hand—as probably he would not be permitted to do—in the sale of the coal and asphalt lands and deposits and the unallotted lands, yet he would get 10 per cent of such property under his contracts. Inasmuch as the United States Government and not McMurray will sell the coal and asphalt lands and deposits, as well as the unallotted lands, and will sell them without McMurray having anything to do with it, I see no reason or excuse for making McMurray and his agents a present of 10 per cent, or any other amount of our property, when it is sold by the Government.

About the contracts McMurray and his agent are procuring from the Choctaw people, employing McMurray to represent the Choctaws in the tax matters, will say that it is not necessary to employ McMurray or to pay him any money on account of that, as it is my purpose to have the Choctaw Nation bring that suit for the Choctaw people. Already I have that matter up with the Interior Department and expect to have the suit instituted in a short while.

In conclusion I will say that while it is reasonably certain that McMurray will not be able to render a particle of service to the Choctaw people since his contracts have been turned down by the Secretary of the Interior; yet if the people go on making contracts with him and his agents, such contracts will not only complicate and delay the final settlement of our affairs, but will form a basis for a suit against the Choctaws in the future on account of such contracts.

Trusting that I may have the able and hearty cooperation of yourself and all other citizens of the Choctaw Nation in defeating the schemes of McMurray and his agents to make a lot of money out of our people, I am writing this letter to our citizens wherever I can reach them. It will be difficult for me to communicate with each and every citizen by letter, and I am going to ask you to advise our citizens wherever you come in contact with them not to enter into contracts with McMurray or any of his agents.

Feeling my responsibility as principal chief of the Choctaws, I will not fail to oppose this or any other scheme to rob our people, and I want you and all other good citizens of our tribe behind me.

Yours, very truly,

GREEN MCCURTAIN,
Principal Chief, Choctaw Nation.

Mr. Speaker, I learn that Mr. McMurray, the attorney mentioned in the above protests, was a member of the firm of Mansfield, McMurray & Cornish, the men who received the million and one hundred thousand dollars as fees and expenses from these Indians a few years ago, and I most respectfully call the attention of the country and the President to the great scandal resulting from the payment of this fee and its allowance by the citizenship court after its rejection by Mr. Hitchcock, then Secretary of the Interior, and to the further fact that this firm of attorneys were indicted by a federal grand jury in Oklahoma for despoiling these Indians while acting as their attorneys, and that they escaped a prosecution without a trial by bringing to bear in their behalf powerful political influence with the then President of the United States, who peremptorily ordered the case against them dismissed.

Mr. Speaker, if this McMurray contract is ratified by the President of the United States and becomes a valid, subsisting contract, it will involve a larger fee than his firm has already secured from these Indians. Under its terms, as pointed out by the above protests, he would get 10 per cent of the amount that the segregated coal and asphalt property and unallotted lands may bring when sold, whether sold by him or not. Now, it is the duty of Congress, by appropriate legislation, to dispose of this vast and valuable Indian property, and I am at a loss to see why McMurray or anyone else should have a commission out of the sale of property sold by and under a law of Congress. Such a request or even a desire seems to me to be an evidence of greed run mad.

Mr. Speaker, I have introduced a bill to dispose of this property without paying toll to anybody. It is as follows, viz:

A bill (H. R. 24411) providing for the segregation and disposition of the segregated coal, oil, gas, and asphalt lands in the Choctaw and Chickasaw nations, Oklahoma.

Be it enacted, etc., That the deposits of coal, oil, gas, and asphalt in all of the unallotted lands belonging to the Five Civilized Tribes of Indians in Oklahoma and in the segregated coal and asphalt lands heretofore set apart in the Choctaw and Chickasaw nations are hereby segregated from said lands and shall hereafter be held in trust by the United States for the use and benefit of the said Indian tribes.

SEC. 2. That the said deposits of coal, oil, gas, and asphalt shall be leased by the Secretary of the Interior on such terms and royalties as he may from time to time designate and in quantities not to exceed 640 acres to one person or corporation, and any leases of said deposit shall be subject to the approval of the President of the United States before the same shall become valid, and said leases shall become void and of no effect whenever any lessee shall unlawfully combine with any common carrier, directly or indirectly, to control the prices of any coal, oil, gas, or asphalt mined from said leased deposit, and no common carrier or railroad company shall be permitted to buy, lease, or operate, directly or indirectly, any mine on said segregated coal, oil, gas, or asphalt land or to deal in any way with the outputs of said mines save as they may lawfully do as common carriers only.

SEC. 3. That the Secretary of the Interior shall, under such rules and regulations as he may prescribe, sell, in lots of not to exceed 160 acres to one purchaser, all of the surface lands in said segregated coal, oil, gas, and asphalt district. Said sales may be made either at public auction or under sealed bids, as he may direct, to the highest bidder therefor, and the proceeds arising from said sales and leases shall be paid into the Treasury of the United States for the use and benefit of said Indian tribes: *Provided*, That said sale shall not prevent any lessee for mining purposes under this act from exercising the right of ingress and egress to said lands for all mining purposes, under such rules and regulations as the Secretary of the Interior may prescribe: *Provided*, That all deferred payments shall bear interest at the rate of 4 per cent per annum for the benefit of the Indians concerned, and all of such lands and leases shall become subject to taxation under the laws of Oklahoma from and after the date of the sale and leasing thereof: *And provided further*, That no such lease shall be assigned or otherwise disposed of except by the express permission of the Secretary of the Interior; and all such leases shall be reported to Congress at the beginning of the first session following the granting of such leases.

Mr. Speaker, I hope that this bill will pass this House and the Senate and become a law.

The committee amendments were agreed to.

The resolution as amended was agreed to.

ASSIGNMENT OF ROOMS IN OFFICE BUILDING.

Mr. MANN. Mr. Speaker, I ask unanimous consent for the present consideration of the following resolution.

The Clerk read the resolution, as follows:

House resolution 592.

Resolved, That the following assignment of rooms be, and hereby is, made, to wit: To the Committee on the Public Lands, as an additional room, room 349 in the House Office Building.

Mr. MANN. Mr. Speaker, that is a vacant room next to the Committee on the Public Lands. The Committee on the Public Lands have only two rooms, and the most of the committees of that size have three rooms. This room is very necessary for the committee's business, and it interferes with no one else.

The resolution was agreed to.

RAILROAD BILL.

Mr. MANN. Mr. Speaker, I move that the House now resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the railroad bill (H. R. 17536).

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. BENNET of New York in the chair.

Mr. ADAMSON. Mr. Chairman, I now yield to the gentleman from Massachusetts [Mr. PETERS] such time as he may see proper to consume.

Mr. PETERS. Mr. Chairman, the relations between the public and the railroads affect so directly the prosperity of all our people that legislation on this subject should receive the keenest scrutiny. The bill before the House presents features so novel in many particulars that one may well pause before accepting them, and other features of the bill seek to extend, into the fields heretofore exclusively controlled by the State, systems of supervision of which the wisdom is open to grave doubt. Parts of the bill, in the limited time since it has been introduced, have necessarily not received the public consideration their importance merits.

The Democratic platform of 1908, the railroad plank of which I have printed at the close of my remarks, suggests most intelligent legislation on this subject, and from that source the au-

thor of this measure may well have secured the inspiration for every one of its provisions which lend to the bill any claim to public approval. Were these features presented by themselves in a measure, I willingly would lend my aid in urging on the House the passage of such bill. Connected unfortunately with these features in this measure are other important provisions, provisions which involve essential powers of our Government, and which are so pernicious in their nature that I believe they far outweigh in effect and in importance the merits of the bill, and that, rather than enact such provisions, it is better for the country that we should have no legislation.

PROTEST AGAINST DRAWING OF MEASURES BY THE PRESIDENT.

The bill itself comes before this House with a peculiar and unusual history. In the creation of our Government the legislative, judicial, and executive functions were clearly defined and separated. To the protection of the rights of these various departments the greatest care was given, and provision was made for a method of communication between the executive and legislative bodies. It is the duty of the President of the United States to make to Congress from time to time such recommendations for legislation as he may deem the country's needs require. These recommendations, however, uniformly take the shape of general recommendations, not of specific bills. As recently as 1905, the distinguished predecessor of our present President, who has not been generally regarded as failing to exert the rights of the Executive, said, in his message to the Fifty-ninth Congress:

> It is not within my province to indicate the exact terms of the law which should be enacted, but I call the attention of Congress to certain existing conditions with which it is desirable to deal.

With a more extended view of the province of the Executive, the present bill, under the direction of the President, was constructed by the learned gentleman who holds the office of Attorney-General, and forthwith introduced into both branches of Congress. In criticising this method of introducing bills I wish in no way to reflect on the personal intentions or the high public service of the distinguished member of the Cabinet who drew the bill introduced. No better illustration than the faults of the present bill, however, could show the disadvantages of this system.

UNFORTUNATE POSITION OF CHAIRMAN.

The chairman of the committee which reports this bill, with his accustomed fertility of thought, had drawn and introduced a bill on this precise subject. When the choice came before the committee all the majority party felt bound to lend their support to the bill which bore the stamp of the administration, and so great is the party pressure brought that we find the chairman, despite his well-known hardihood and independence, to-day advocating a bill which contains provisions differing materially from his own views expressed as recently as in the bill which he introduced in the present Congress. To no one more than to the distinguished gentleman from Illinois does the country owe a debt of gratitude for unselfish and energetic service in this body. These very qualifications which have most properly earned him the position of chairman of the Committee on Interstate and Foreign Commerce alike qualify him to prepare a bill of this importance. A bill from such a source would omit, I am certain, several of the most objectionable provisions found in the measure before us and present to this body a measure to which general support would come much more readily than to the bill we now consider.

Much may be said of the advantages of a plan of government under which bills are drawn and introduced by a responsible ministry. Our Government is founded on a different theory. I object to a plan by which bills are drawn by the President and Cabinet, introduced and labeled "Administration bills," and the support of such bills demanded as party loyalty. Such a method destroys in members and in chairmen the sense of responsibility. The person who draws them is not a member of the committee by which they are considered, does not appear on the floor to defend them, and, as in all foreign countries where this system is in use, there is no responsible ministry to suffer by their defeat. The present innovation is an attempt to bind Members to support by party ties, without the proper assumption of party responsibility for the failure of a measure which does not secure legislative sanction.

CHANGES ALREADY MADE AND THOSE TO COME.

The bill we have before us is most extensive in its scope and far-reaching in its effect. The Interstate and Foreign Commerce Committee of your House, to which the bill was referred, spurred by the indefatigable energy and spirit of its chairman, has worked long and hard in its preparation. In the bill as originally introduced your committee has stricken out 1,893 words in 96 changes and has inserted 5,678 words in 119 changes, a total change of 7,571 words in 215 changes, which results in lengthening the bill by about one-quarter. The fact that, as the bill stands now, it is incomplete, even with its many changes, shows that its preparation was too great and complex a task for the limited time before any committee.

Differing in many particulars from the bill which is now before the upper branch, and still with many changes to be made in it, this bill will never become a law in the shape in which it is likely to pass this body. This bill will have to be thrown into conference, and that conference committee will arrange, not a few and simple details, but most important and radical changes in the bill, and the final measure will be determined on, not as a final measure reported by a committee to the House, not as a measure reported and discussed on the floor of this House, but as a measure agreed on by a small committee of conference and in the privacy of such situation. The recent tariff bill illustrates the unfortunate results of such procedure.

EARLY RAILROAD CONDITIONS—THE CULLOM ACT.

A glance at the conditions which created the demand for this legislation is necessary for us to comprehend how that demand has been met, what are the evils such legislation sought to cure the theory on which the cure proceeded, and what new legislation is required. In early railroad construction in this country the principal problem was to obtain transportation, and the welcome of the communities to the railroads was without restriction. The great question was how to get railroads, not how to control them. Lax laws encouraged the carriers and their officers to charge what the traffic would bear, and discriminations between rival shippers and preferences in competing localities marked the situation over all the newer portion of our country. Not alone was favoritism given to shippers, but railroad officials became directly interested in enterprises along the lines of their roads, and these enterprises were given preferential rates and service as compared with less favored competitors. The bankruptcy of many of the roads in the early eighties and the growing prevalence of favoritism to shippers brought a demand for some system of federal regulation. As a result of such demand, in 1885 a committee was appointed by Congress, which made a study of the conditions and pointed out suggestions for legislation based on its observations in this country and the handling of similar conditions abroad.

As a result of the report of this committee, called the Cullom committee, the interstate-commerce act was passed in February, 1887, and was the first step in federal regulation. Its principal requirements were publicity of rates and rules affecting railroads, and it prohibited unreasonable charges and discriminations between shippers or localities. A commission was created to enforce these regulations, and jurisdiction was given the federal courts to enforce its orders.

THE DEVELOPMENT OF RAILROAD LEGISLATION.

The Cullom Act was incomplete and, as applied to the situation, soon developed defects. The principal of these was that the commission was given no power to fix a rate for the future, and no authority was vested in the courts to prevent discriminations or to require equal facilities among shippers. Connecting lines were still under no requirement to form a through route, shippers were allowed to receive rebates, and no attempt was made to regulate the acquirement by officers of railroads of commercial interests affecting their interest toward the public.

In 1889 the first amendment to the Cullom Act made penal the obtaining of lower rates by means of false billing and provided for punishment by imprisonment of officers or carriers guilty of discrimination. It further required the publication of joint tariffs. Previous to that act the only tariffs required to be published and filed were those over the lines of individual carriers. The provisions of section 12, relating to testimony before the commission, were extended in 1891.

In 1893 the Supreme Court, in Counselman *v.* Hitchcock (148 U. S., 547), declared that the provisions relating to testimony before the commission did not sufficiently protect a witness, and these constitutional defects were thereupon cured by Congress. The expediting act was passed in 1903, which provided that appeals from the circuit court of certain cases should lie direct to the Supreme Court and should be given precedence over other causes, and in 1905 an amendment of the act relative to mileage tickets was added.

The Elkins Act, in 1903, further developed the interstate-commerce act. It abolished imprisonment as a punishment for violating the act; made the carrier, as well as its officers,

criminally responsible, and shippers criminally liable for receiving rebates.

THE HEPBURN ACT.

The Hepburn Act of 1906 brought the legislation to its present shape. This act gave the commission power to absolutely fix rates and provided a penalty for failure to follow. By it connecting lines were required to form through routes, with joint rates, and statutory duties of carriers to furnish transportation were specified. The transportation of commodities produced by carriers, or in which they had an interest, was prohibited. The imprisonment clause, removed by the Elkins Act, was reinserted, switch connections were required, the issue of passes was forbidden, the time of notice of rates was fixed at thirty days, express and sleeping-car companies and pipe lines were placed under the provisions of the act, and the members and salary of the commission increased. The courts were given additional powers to issue mandamus, carriers were made liable for losses occurring beyond their lines, and the limitation of liability was forbidden. Provisions regarding certain reports and accounts were to be furnished by the carriers to the commission, and the regulation of certain suits and orders for the payment of money was provided for.

THE NECESSITY FOT FURTHER DEVELOPMENT.

The interstate-commerce act, even since the Hepburn amendment, is shown to still contain certain defects, and must be supplemented in some particulars. To strengthen the Interstate-Commerce Act and assist it in its purposes, and to render its present provisions more effective, the evidence before your committee shows that certain changes should be made. The commission should be given the power to prevent carriers from putting in force a proposed rate until such rate has been investigated by the Commission, as the Commission at present probably has not the power to pass upon the reasonableness of such a rate until it has gone into effect. (21 Ann. Rept. Interstate Commerce Commission, p. 9.) Power should be given to the Commission to regulate the interchange of cars between connecting lines, as under a decision of the Interstate Commerce Commission there would seem to be doubt of its power to compel a road to furnish a connecting line with cars in compensation for those cars which the establishment of a through route may have taken from the connecting line. (American Live Stock Assn. *v.* Texas and Pacific Ry., 12 I. C. C. Rep., 32.)

The Democratic platform's plank dealing with railroad regulation takes up the question in some detail and specifically suggests the lines of legislation desirable and necessary for the solution of the present problems. The Republican platform, on the other hand, is so busy approving and commending the course of the party that only the last few lines can be devoted to constructive suggestion, and that is vague and obviously was not of the slightest inspiration to the author of this bill.

THE PROPOSED COURT OF COMMERCE.

The history of the act shows a gradual strengthening and development of the powers of the commission to the present date. Not content with the development on the lines under which present legislation was grown, this act presents new and startling departures.

The first, and in many ways the most important provision of the bill, in its creation of a new court, a court of commerce. This court is to consist of five judges, to be designated by the Chief Justice of the United States from among the circuit judges of the United States, the judges to serve terms of five years each, and no judge to be subject to reappointment until one year after the expiration of his service. The court so constituted is to have the jurisdiction now enjoyed by superior courts of the United States over all cases of the following kinds:

First. All cases for the enforcement, otherwise than by adjudication and collection of a forfeiture or penalty or by infliction of criminal punishment, of any order of the Interstate Commerce Commission other than for the payment of money.

Second. Cases brought to enjoin, set aside, annul, or suspend in whole or in part any order of the Interstate Commerce Commission.

Third. Such cases as by section 3 of the act to further regulate commerce with foreign nations and among the States, approved February 19, 1903, are authorized to be maintained in a circuit court of the United States.

Fourth. All such mandamus proceedings as under the provisions of section 20 or section 23 of the act to regulate commerce, approved February 4, 1887, as amended, are authorized to be maintained in a circuit court of the United States.

ITS CREATION UNDESIRABLE.

To the creation of this court I stand strongly opposed. The ever-increasing tendency to centralize in Washington powers of government heretofore distributed throughout the United States I believe merits general opposition. It places further from the people the knowledge and control of their own affairs, and more and more tends to lessen the feeling of responsibility and personal oversight which is so essential to the sound basis of a democracy.

This court which it is so proposed to create is to be known as a commerce court, and is to have jurisdiction simply of cases involving disputes between the public at large, either as shippers or passengers, and the railroads. It is not necessary for me to call the attention of the House to the far-reaching importance of these questions, and that from these questions involving popular demands it is impossible to entirely remove the political aspect. The relations between the people and the rates and regulation of the railroads can not be wholly shorn of its political considerations.

CONTRARY TO PRECEDENT.

The creation of a special court is against the whole idea of our judicial system. To have a court of which the judges try only one class of cases and are surrounded, perhaps, by lawyers who themselves devote their time to presenting one form of case alone is utterly against the traditions under which our judiciary has developed. These cases involve no great principles of law differing with those with which judges and lawyers are brought in contact in their general practice. Consolidated in one court we have now the former separate courts of law and equity. Patent cases involve subjects far more distinctive, and in the case of which a far greater argument might be made for a separate court than can be made for the subjects to be treated in the proposed commerce court. Yet patent cases are to-day heard in our circuit courts. Maritime cases, which involve separate law as to liability from the liability laws ashore and which involve a technical knowledge of marine matters and regulations, are considered with ordinary cases in our courts. We have torts, contract cases, and many other classes of cases, all heard by courts which, should we wish to differentiate them, present more marked characteristics for classification in separate courts than the cases for which this new court is sought to be established.

AND NOT SHOWN TO BE NECESSARY.

To warrant the establishment of this court it should be shown that a strong need exists for its creation, and it should at least be indicated that the people were being inadequately served by the present judicial system. Far from this, the facts all support the theory that the present circuit courts are meeting satisfactorily the demands upon them. That there are circuit courts in the country which may be overloaded is possible, but the remedy for such conditions, if they exist, consists in the appointment of additional circuit judges, and would in no way be appreciably aided by the creation of this court.

The placing of these cases in a court far distant, in most cases, from where the facts arise and in a court which considers only cases involving railroads would inevitably subject the decisions of such a judiciary to a great deal of popular criticism. The integrity, high principles, and the conscientious service of our judges and courts I do not for a moment question. I do believe, however, that when cases are taken from a locality where there is popular feeling to a place far distant from their inception that, should the decision of such court be adverse to popular demand, there is sure to result in some cases most unfortunate criticism. We hear now that the railroads and the large interests seek to bring their influence to bear in judicial matters. Will not the creation of this court tend to lend strength to such criticism? The court itself will be continually subject to hearing the argument of the railroads again and again repeated, and, no matter how conscientious it may be, such continued reiteration would tend to develop one attitude toward matters brought before it, and its environment in Washington would surround it with an atmosphere which would not tend to develop a broad view of the subject.

The amendment to the Interstate-Commerce Act upon which the foundation for most litigation has been laid is the Hepburn Act, which went into effect on June 30, 1906. This proposed Court of Commerce has only the jurisdiction now held by the circuit court on appeals from the decisions of the Interstate Commerce Commission. The report to your committee showed that had this court been in existence since 1906 but 29 cases in all would have come before it for adjudication.

NARROW JURISDICTION OF COURT.

The Supreme Court of the United States, in the case of Interstate Commerce Commission, appellant, *v.* Illinois Central Railroad Company, decided on January 10, 1910, limited the jurisdiction of the courts over the orders of the commission to the consideration of two questions:

Beyond controversy, in determining whether an order of the commission shall be suspended or set aside, we must consider, (a) all relevant

questions of constitutional power or right; (b) all pertinent questions as to whether the administrative order is within the scope of the delegated authority under which it purports to have been made; and, (c) a proposition which we state independently, although in its essence it may be contained in the previous one, viz, whether, even although the order be in form within the delegated power, nevertheless it must be treated as not embraced therein, because the exertion of authority which is questioned has been manifested in such an unreasonable manner as to cause it, in truth, to be within the elementary rule that the substance and not the shadow determines the validity of the exercise of the power. (Postal Telegraph Co. v. Adams, 155 U. S., 688, 698.) Plain as it is that the powers just stated are of the essence of judicial authority, and which, therefore, may not be curtailed, and whose discharge may not be by us in a proper case avoided, it is equally plain that such perennial powers lend no support whatever to the proposition that we may, under the guise of exerting judicial power, usurp merely administrative functions by setting aside a lawful administrative order upon our conception as to whether the administrative power has been wisely exercised.

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

Mr. PETERS. I will yield to the gentleman.

Mr. HAMMOND. I understand the gentleman to state that under the rule of the Supreme Court but two questions may be considered on an appeal from the decision of the Interstate Commerce Commission; and, first, the question whether or not the commission followed the procedure. Now, is that just the statement the gentleman from Massachusetts desires to make? Is it not rather a question as to whether or not the Interstate Commerce Commission had jurisdiction to consider the matter upon which it rendered the decision?

Mr. PETERS. In reply to the gentleman's question: I used the words "procedure required by law," and I used them advisedly. I mean not only has the Interstate Commerce Commission acted within its jurisdiction, but, in addition, whether or not in doing so has it followed the method prescribed by statute for the exercise of its powers.

The practical questions are: Has the commission followed the procedure required by law? Do the proceedings on their face show that the enforcement of the order of the commission would violate constitutional rights of property? This rule of law will govern the jurisdiction of the court on all future cases, and by its application would reduce the appeals from the Interstate Commerce Commission to 23 or 24 since the passage of the Hepburn Act in 1906. Restricted in the matters which can be taken up on appeal, the litigation arising from the decisions of the Interstate Commerce Commission may well be regarded in the future as likely to diminish rather than to increase.

In addition, many of the cases come to this court simply to be heard on demurrer, and in other cases the delay commonly occurs, not before the circuit court, but either in the taking of the evidence in the first place before the Interstate Commerce Commission or in the final hearing of the case before the Supreme Court. To say that this court would promote unanimity of decision can hardly be an argument, as all these cases are of such importance that they would go to the Supreme Court for adjudication, and the unanimity of decision will be derived, not from the circuit courts, but from the words of the decisions of our highest tribunal.

Had the decision I refer to been rendered before the administration had committed itself to the establishment of a commerce court, such court would never have been urged, and, with the lack of its need clearly shown, it is now kept in the bill, not to serve a public use, but to save the face of the administration, which has told the people that a commerce court is the *sine qua non* of effective railroad legislation in the present situation, and has promised the country such a tribunal.

The platforms of both national parties deal with railroad legislation, yet in neither can be found a suggestion for this new court, and no party urging its adoption has dared subject the matter to the discussion of a political campaign.

PROSECUTING AUTHORITY IN APPEALS.

The creation of this court is followed, in section 5 of the bill, by provisions which take from the control of the Interstate Commerce Commission the conducting of the cases appealed from their orders before the court and vest in the Attorney-General the direction of such cases. A case arises by complaint from a shipper before the Interstate Commerce Commission. The Interstate Commerce Commission hears the case, collects the evidence, and makes an order. Should this order fail to meet the demands of the shippers no appeal rests, because the courts can not affirmatively construct a new order. The railroads, should they object to this regulation, have then to appeal from the decision of the case to the circuit court, or, as will be the case should this bill pass, to the new court of commerce. The Interstate Commerce Commission at present conducts these cases taken up on appeal either through the attorneys of its own department or through special attorneys. In some cases the very attorneys who appear for the shippers are employed and in other cases the commission often confers with them.

DISADVANTAGES OF PROPOSED CHANGE.

The fixing of a rate is a legislative and not a judicial act, and as done by the Interstate Commerce Commission is a legislative function delegated to it by Congress. For the carrying out and enforcement of this act it now has the responsibility, and that responsibility should not be taken from it. Placing in the hands of the Attorney-General's department the handling of the appeals in these cases means that it places in the head of that department the power either to prosecute or to drop such a case, if he deems the ruling of the commission wrong. Should such a ruling be dropped, there is no appeal for the commission from the Attorney-General's action. Should such an appeal be prosecuted, the prosecution by the Attorney-General's office takes the case away from men familiar with it from its beginning, places the responsibility for its successful handling on another man and in another office, an office which has no responsibility for the making or the drawing of the original order, and which may look at the question from an aspect entirely contrary to that of the Interstate Commerce Commission. Particular questions of public policy may be involved in the making of these decisions of the Interstate Commerce Commission, and by placing the carrying out of them in the Attorney-General's office we put in his hands both the determination of such public questions and the judicial duty of determining on the carrying out of a legislative action.

I mean no reflection on the present Attorney-General, for whose character and standing and capabilities I have the highest respect. I do say, however, that placing in that department the handling of cases involving questions of so great public importance, questions which are certain at times to involve political situations, is an unwise procedure and one we should hesitate to adopt. That the present method of conducting the litigation of the commission is satisfactory no one questions, and as regards any confusion arising through multitude of counsel the court is able always to rely on the willing cooperation of counsel to meet such a situation. Only recently, in the corporation-tax cases, before the highest court of the country, we have seen multitudes of lawyers, representing interests from all over the United States, meeting, and there has been no criticism of their ability to arrange their time or necessity for any additional power to supervise their appearances or conduct of the litigation.

REPEAL OF PROVISION PROTECTING STATES.

Section 6 of the new bill, as amending section 1 of the interstate-commerce act, seeks to repeal the provisions as follows:

Provided, however, That the provisions of this act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property wholly within one State and not shipped to or from a foreign country from or to any State or Territory as aforesaid.

These words have been in the act since 1887, with the change of two commas only in 1906.

Into the field of state regulation the increase of the federal powers tend more and more to enter. The retention or omission of this provision in the interstate-commerce act may or may not affect the power of the Commission over the States, but the striking out of this provision from the act where it has so long stood indicates the general tendency toward development of larger fields into which the Interstate Commerce Commission is directed by such laws as this to turn its energies. A system of state supervision has in recent years been developed, which is serving its purpose well, and it is as a protest against the invasion of these supervisory rights by the Federal Government that I wish most emphatically to speak. The various States of our Union present diverse conditions of population and industry, and under these different conditions the development of the railroads has widely differed, and the demands of the public for their supervision have necessarily been along the lines suggested by local needs. The decisions of our Supreme Court have tended to give a wide interpretation to the powers over interstate commerce, and while I would be the last to raise my voice against the supervision of such commerce for the general public welfare, yet in behalf of the rights of the States I must emphatically protest against the encroachment of the Federal Government, and regulation of the more strictly local conditions of transportation, where such regulation is to-day being intelligently carried on by the States, and where such extension is not clearly shown to be for the public good.

This provision has been in the law since its origin. We are not here to codify the laws on interstate commerce. The affirmative must be proved by those who have removed this provision. Why has it been stricken out?

FEDERAL ENCROACHMENT DISCOURAGES LOCAL SOLUTION.

The conflict between the United States and state laws as to the control and regulation of the railroads is already becoming apparent, and the tendency of federal legislation in this matter is to bring out one uniform standard of regulations. While it may improve conditions in certain of the States, the tendency is to lower them in the more progressive and enlightened communities, and by taking the powers away from the people such a course will bring a supervision less appreciative of local needs and conditions, and of less intelligent application.

LOCAL SOLUTION SUCCESSFUL.

Take, for instance, my own State, Massachusetts. There we have a railroad commission, which has been in existence forty years, constantly developed and enlarged in power. Powers have been intrusted to it more and more as it has shown to a greater degree its capability of dealing with conditions. The questions affecting the relation of the railroads to the public have been covered by legislation adapted to the needs of our State. A railroad commission, in which the public has the greatest confidence, enforces this legislation. There can be no doubt whatsoever that further interference by the Federal Government with the functions of our state railroad commission will result not only in confusion, but will compel Massachusetts litigants to carry local questions before a national tribunal already overworked, which can not, by its nature, be so constituted as to deal with conditions within the State as competently as our own railroad commission, which is not acting under broad national laws, and can meet distinctively local transportation problems with local and specific solutions, and which has the confidence and trust of all our people.

A glance at the decisions will show to what extent the powers of the Interstate Commerce Commission have been extended.

Mr. O'CONNELL. Will the gentleman yield?

Mr. PETERS. Certainly.

Mr. O'CONNELL. Can it not be fairly said that there is absolutely no call in Massachusetts for the appointment of a commerce court, because the people are so well satisfied with the railroad commission?

Mr. PETERS. Certainly the present railroad commission in Massachusetts has the confidence of the people, and there is no call in Massachusetts for any further federal interference in relation to the matters between the people and the railroads of that community.

Mr. O'CONNELL. As a matter of fact, will it not hurt the State of Massachusetts to change the situation?

Mr. PETERS. To change the situation by legislation which will interfere with the control of our railroad commissioners will injure the interests of the people of our State or any other State, and must in that way injure the exercise of intelligent supervision by the State of the relations between the railroads and the people.

The Interstate Commerce Commission, in Leonard *v.* Kansas City Railway Company et al. (13 I. C. C. Rep., 573), held that even though its operations are confined wholly within a particular State the carrier becomes subject to the regulating power of Congress the moment it engages in the slightest degree in the transportation of passengers or property destined from or to points without the State, and that since the Hepburn Act a carrier is liable to federal regulation, although the carriage is not done in a particular case under any common control, management, or arrangement for a continuous carriage.

The street railways of Massachusetts, for example, cross in only about 15 points the state boundaries. It would seem that federal jurisdiction would attach only in those 15 instances. Such, however, is not the case. Most of these street railways engage to a slight extent in the carriage of merchandise. The average receipts from this source, however, are shown to be only 1 per cent of their total receipts.

Under this decision, however, if a package is shipped from a point without Massachusetts over a steam railroad or street railway, destined for delivery to a consignee upon the line of a local steam or street railway no part of which may be within 20 miles of the state boundary, that local company is engaged in interstate commerce, and, under the rulings of the commission, comes under its jurisdiction. However this interpretation of the law may surprise those unfamiliar with it, it would seem, by the decisions, to be correct.

In The Daniel Ball (10 Wall., 557) the Supreme Court said:

> The fact that several different and independent agencies are employed in transporting the commodity, some acting entirely in one State, and some acting through two or more States, does in no respect affect the character of the transaction.

And further, in United States *v.* Colorado Northwestern Railroad Company (157 Fed. Rep., 342), in holding that a narrow-gauge railroad was subject to the act, although it operated only a short line wholly within the State of Colorado, the court held:

> The railroad company did not receive, issue a bill of lading for, handle, or deliver the package, except as it received it in its car and carried it for the express company in conformity to the practice which has been described. * * * The transportation by a common carrier by railroad of articles of interstate commerce for an independent express company is engaging in interstate commerce by railroad as effectually as their carriage by it for the venders or consignors.

The extension of the Interstate Commerce Commission into the local fields seems, under these decisions, to be almost unlimited, and should the responsibilities for consolidations, issues of securities, and other matters be placed on its shoulders, conflicts with the policy of local States are certain to arise which will add situations of intolerable confusion, and result in great injury to the public.

Mr. O'CONNELL. I wish to ask the gentleman a question with reference to the effect of the bill. Could the Boston Elevated Railroad, that now operates in and around the city of Boston, be brought within the scope of the Interstate Commerce Commission, if this bill becomes a law, by reason of the fact that a single car comes from Fall River?

Mr. PETERS. No; but if the car came from without the State under the bill as originally introduced it probably would. An amendment has been placed in the bill as it has come before us which makes that question at least a doubtful one; but it would undoubtedly come under certain provisions of the Interstate-Commerce Act, as to certain reports of accidents, and other reports required by the Hepburn Act.

THE LONG-AND-SHORT-HAUL CLAUSE.

Section 6b of the bill as reported by the committee amends section 4 of the Hepburn Act by striking out from the long-and-short-haul clause the words "under substantially similar circumstances and conditions." This clause will then make it unlawful "for any common carrier, subject to the provisions of the act, to charge or receive any greater compensation for the transportation of passengers or of like kind of property, for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance."

It is presumed by those who have made this change that the interior trade centers of the United States will be benefited by getting the lower rates which are now given to the seaport communities where water competition fixes the rate. These freights and fares, at competitive points, must be made in order to obtain the business. Now, if the carriers of the company are not permitted to meet these competitive conditions without reducing all of their intermediate rates, they will go out of business at the competitive points, and to meet the resulting loss of revenue they will necessarily have to raise their rates to interior points. No greater blow could be given the business of our interior points than the omission of this provision.

Mr. HARRISON. Is it not true that the business of the country has grown up for many years past under the former system, and that it will be completely deranged by the change which the gentleman refers to?

Mr. PETERS. Most certainly. I will come to that. Gentlemen who are citing the Spokane case, where the rate is made by adding to the Seattle competitive rate the local charge back to Spokane, seem to think that the Spokane rate will be reduced to the level of the Seattle rate. The fact is that the railroad companies will cease to carry to Seattle in competition with the existing or possible water transportation, and will raise the rate to Spokane in order to get sufficient revenue.

Mr. HUGHES of New Jersey. Will the gentleman yield for a question? I will not interrupt the gentleman unless he wishes me to.

Mr. PETERS. I shall be very glad to answer a question.

Mr. HUGHES of New Jersey. I asked the chairman of the committee the question which I now want to propound to you. It is concerning a situation that I am familiar with, in regard to the long and short haul, or perhaps more properly with regard to that language of the bill which prohibits the through rate being greater than the total of the intermediate rates, and it is something like this: A friend of mine in my home town, who is a lumber dealer and buys a great deal of lumber originating in the South—North Carolina, South Carolina, and in all those Southern States—has his goods shipped to him through the town of Newark, N. J., which is a highly competitive water point.

The rate that the railroads make him to the city of Paterson is much in excess of the rate to Newark plus the local rate from Newark to Paterson. In order to obviate that, he had the lumber, originating in the South, shipped to his representative at

Newark and then reshipped from Newark to the city of Paterson. When the car got to the city of Paterson, he found that there had been added a charge, technically known as a back charge, just sufficient to cover what he had saved by trying to take advantage of the difference between the through rate and the sum of the two other rates. Now, it seems to me that this language of the bill would meet that case perfectly. Do I understand the gentleman to say that there is any way in which the railroad could evade letting this man have his lumber delivered at Paterson for the rate to Newark plus the rate to Paterson? They must meet that water competition at Newark. Newark is a big and growing town, and the river in that section is just lined with lumber yards. The railroads do not make that rate to Newark out of the goodness of their hearts or for the health of the individuals engaged in the lumber business, but because they must make it. Would not this legislation compel them to let my friend have his lumber at that rate plus the local rate to Paterson?

Mr. PETERS. I should think the legislation which is at the present time on the statute books, without this amendment, would let the case which you have stated go before the Interstate Commerce Commission, and under their present powers the commission could make an order that would meet the additional rate which you refer to.

Mr. HUGHES of New Jersey. I will not make a positive statement on a matter that I am not entirely clear about; but my recollection is that we had that question up, and because of the language which is stricken out on this bill it was regarded as at least extremely doubtful whether we could secure the relief that we wanted. There is no doubt in my mind, and I do not think there is any in the gentleman's mind, that the relief will be secured if this new language is kept in the bill.

Mr. PETERS. Mr. Chairman, I will also inform the gentleman that if this language is stricken out of the bill, the rates on lumber from the southern points which come under this long-and-short-haul clause are likely to be changed, and the railroad companies which will now make a low through competitive rate on lumber, if they are obliged to make the rate the same as rates from noncompetitive points, will more probably put on a tariff which will prevent the shipment of that lumber from the South to New Jersey at all, and the gentleman's constituent will be compelled to get his lumber only by water from other parts of the country in more restricted markets.

Mr. KENNEDY of Ohio. Will the gentleman yield for a question?

Mr. PETERS. Certainly.

Mr. KENNEDY of Ohio. Does not the gentleman think that before any legislation was passed with reference to railroad rates, there was an obligation of common law resting upon the railroads to serve all shippers alike?

Mr. PETERS. Yes, I think so, Mr. Chairman; but the common-law duty of equal service, which is really what the legislation seeks to bring about, was, in a test in the courts, found not to be sufficient, and is really, as I stated before, the basis upon which our whole railroad legislation is founded.

Mr. KENNEDY of Ohio. One other question: Is the gentleman aware of any rate that the commission have ever been able, upon hearing, to hold was unreasonable and discriminatory, when that question was presented alone? When a rate has been challenged it has been said to me that it is impossible for the Commission—and I think by members of the Commission—to determine that any single rate standing alone can be held to be unfair, too high or too low.

Mr. PETERS. No; I do not so understand it, and there are numbers of decisions of the Interstate Commerce Commission which are directly contrary to that contention.

The report of the committee further amends section 4 of the Hepburn bill by adding to section 4 the following:

> That it shall be unlawful for any common carrier, subject to the provisions of this act * * * to charge any greater compensation as a through route than the aggregate of the local rates.

This is open to the same objections which I have mentioned regarding the long-and-short-haul clause, but also to the added objection that under its provisions state railroad commissions may absolutely fix an interstate-commerce rate. To-day if a railroad charges more for a through route than the sum of the local charges, it is prima facie unreasonable, and the company is required to explain to the Interstate Commerce Commission why it does so. Under the proposed amendment it would be unlawful in any circumstance for a carrier to charge more for a through route than the sum of the locals. Therefore, where the state railroad commissions have the power to fix the local rate, as soon as such local rate is reduced the through rate must come down accordingly, and we will then have as many rate-making powers as the number of States through which the railroad runs, plus the Interstate Commerce Commission.

EXPERIENCE OF KENTUCKY.

It may be said that the long-and-short-haul clause is, under this act, still subject to such exceptions as the Interstate Commerce Commission may see fit to make after investigation. The State of Kentucky, which has a long-and-short-haul clause in its constitution, had an experience of this kind, with the result that there were so many applications which the Kentucky state commission thought should be granted for relief from the provisions of the long and short haul that in despair it made a general order exempting all railroads and shippers from the effect of the long-and-short-haul clause, a positive provision in the constitution notwithstanding. The number of applications which would be made to the Interstate Commerce Commission for relief from the operation of the long-and-short-haul clause would be such that it would be impossible for that body, or any other body, however competent, to investigate and decide the same during the natural life of the present incumbents.

CONDITIONS IN MASSACHUSETTS.

The State of Massachusetts, which I represent, has built up an enviable trade in manufactured products. It has no raw materials, neither ore, nor cotton, nor wool, nor coal. It is dependent upon its climate and the natural inventive genius and efficiency of its people. Its markets are established throughout this country in places where competition is keenest. It has been able to reach these markets because of the competitive conditions due to water transportation. If its products are to be upon a ton-mileage basis, if we are to have a distance tariff, irrespective of competitive conditions, my State and all of the States east of the Great Lakes will have to seek some other market than the West, and, conversely, the Western States, which have so long enjoyed the home market of the East for their agricultural products, will have to seek some other market where their products can be water borne in order to overcome the increased rates due to a distance tariff. I prefer to see my State retain its own markets under our flag rather than go outside our country to seek new ones.

The omission of this clause will seriously lessen the railroad competition of this country.

DECISIONS UNDER LONG-AND-SHORT-HAUL CLAUSE.

The system of rates of our whole country is affected by the long-and-short-haul clause, and the necessity of such adjustment of rates is recognized by all authorities on the subject and approved specifically by cases before our courts. In regard to this subject I wish to read from The Interstate Commerce Act (Drinker, vol. 1, par. 143):

> It is a familiar fact, in reference to railroad rates, that rates for long hauls to highly competitive points do not contribute their proportionate share toward the net income of the road. The return from such traffic, although greater than the cost of service of transportation apart from the payment of fixed charges, is such that if all charges were put on this basis the road would eventually be forced into insolvency. But with a road already built and organized for local and noncompetitive business the small margin of profit over operating expenses on competitive traffic helps to meet interest on fixed charges, even though not contributing its full proportionate share toward them, and so benefits the stockholders of the road, as well as giving the public generally the benefit of the low competitive rate to the distant point. The individual shipper who receives a special rate pockets the whole profit himself, and small competitors and the public reap no benefit therefrom. In the case of low rates to competitive points, however, such rates ultimately inure to the advantage of the entire surrounding country. Merchants at outlying points need never pay more than a reasonable local charge in addition to the low competitive rate, while if the latter were not in force the total rate charged the noncompetitive point might be considerably higher.

In Interstate Commerce Commission *v.* Alabama Midland Railway Company (168 U. S., 144) it was held that the railroad was justified in charging a less rate for a greater distance, although the only difference in circumstances and conditions lay in the fact that at the more distant point there was competition with other carriers which made it necessary for the defendant to allow the lower rate or lose the traffic. For this decision and the views suggested by it I refer the Members to the Interstate Commerce Commission's Eleventh Annual Report, pages 37–46. The authority of this case is beyond question, and in White *v.* United States (167 U. S., 412) and in Interstate Commerce Commission *v.* Detroit, Grand Haven and Milwaukee Railway Company (167 U. S., 633) the same matter is discussed.

Mr. FINLEY. Mr. Chairman, will the gentleman yield for a question?

Mr. PETERS. Certainly.

Mr. FINLEY. Would it not be true in that case that a railroad which was unjustly treated by the state railroad commis-

sion would have its redress in the courts if the rate was unreasonably low?

Mr. PETERS. No; not necessarily.

Mr. FINLEY. Why not?

Mr. PETERS. It would not have an effective remedy in the courts, because of the impossibility, which has been stated in several cases before our courts, of picking out any one rate and saying that that rate amounts in itself to such a confiscation of property as to render it unconstitutional, and to invoke the protection of the Constitution.

Mr. FINLEY. But I understood the gentleman to object that a state railroad commission might reduce a rate, and by making it too low that that would amount to a change in rates on interstate commerce, such as would be unfair. I ask the gentleman this question: In any case where a state railroad commission does that, has not the railroad its redress in the courts to have that rate set aside as being confiscatory?

Mr. PETERS. Possibly. It has a right to go into court if it can show that the rate is confiscatory, but it has been shown to be utterly impossible to prove that any one rate amounts in itself to a confiscation of property. There is no reason why a through rate should be subject to these vicissitudes.

Mr. FINLEY. Take the rate from Newark, N. J., to Paterson, N. J. If the state railroad commission of New Jersey, if they have one, and I assume from what has been said that they have not much of a one——

Mr. HUGHES of New Jersey. They have not much of a one.

Mr. FINLEY. Take a case like that. If the railroad commission of the State of New Jersey should enforce a rate between those two points that was improper because it was entirely too low to adequately compensate the railroads for the service performed, in that event the railroad could go into the courts and have that rate set aside as fixed by the state railroad commission. In the event that the commission would fix a rate which would be lower, as the gentleman states, than the one, say, at the present time, and to that extent would be able to change interstate rates, if the railroad could not go into court and could not secure a decree setting aside that rate, would it not be true that the rate fixed by the railroad commission of the State of New Jersey would be a proper rate and one that would be fair both to the shipper and to the railroad?

Mr. PETERS. It might very likely be so. If you limit the through rate to the sum of the local rates, why you have in each local rate-making commission the power to affect the whole through rate, and the provisions of this bill simply allow such a through rate to be passed on by the Interstate Commerce Commission, which is created for the purpose of deciding on through rates. Your local rate can not be interfered with by the Interstate Commerce Commission, and if it is a reasonable rate it will not be touched by the court; but if the through carrier wants to get the business and can make a rate, his rate for through business should not be subject to the fluctuation of the local rates.

Mr. FINLEY. Just there, would not the gentleman's argument lead to this, then, that any railroad doing an interstate business could—should not have, I will not say could, its local rate fixed by a state railroad commission or state power, but should be left in any case, in every case, to the Interstate Commerce Commission? Would it not lead to that?

Mr. PETERS. Certainly not.

Mr. FINLEY. Then, why does the gentleman argue that the sum of the local rates should not exceed the total rate?

Mr. PETERS. For several reasons. The entire transportation system of our country is based on such a situation. You would eliminate one-half the railroad competition of the country without it.

Mr. FINLEY. Let me ask one more question right there. Is it not true in every state law where there is a railroad commission it has a provision similar to the one here?

Mr. PETERS. No; that is not true.

Mr. FINLEY. I beg the gentleman's pardon. I have had some little experience with legislation of that character in my State, and I think the gentleman is mistaken.

Mr. PETERS. I beg to differ with the gentleman. My own State, Massachusetts, with which I am somewhat familiar, is very specifically different from that. It provides a recommendatory power to the railroad commissioner, but does not provide for the specific fixing of the rate.

Mr. FINLEY. I did not state in every State.

Mr. PETERS. I again differ.

Mr. FINLEY. I ask in a great majority of the States whether there is not a similar power of restriction as the one which the gentleman is now discussing?

Mr. PETERS. It is so in many States.

Mr. FINLEY. In a majority of them?

Mr. PETERS. I could not tell offhand. If the gentleman has looked up the railroad law of every State——

Mr. FINLEY. I did at one time.

Mr. PETERS. I am very glad to learn it.

Mr. BARTLETT of Georgia. May I interrupt the gentleman?

Mr. PETERS. Certainly.

Mr. BARTLETT of Georgia. This long-and-short-haul provision applies mainly to freight from outside a State to inside a State and, while it may be true that the state railroad commission fixes the local rate, the objections to the decisions of the court which have been urged to these words stricken out, allowing the railroad by reason of certain circumstances to charge more for the short than the long haul, do not generally apply to local traffic.

Now, just upon that proposition, is it not the gentleman's opinion, and is not it the fact, that while they have stricken out these words, "under similar circumstances and conditions," that they still leave in this bill power in the Interstate Commerce Commission to absolutely permit railroads to do the very thing which the Supreme Court has decided they could do under the existing law, which contains the words "under similar circumstances and conditions?" For this bill provides, "and the commission may from time to time prescribe the extent to which such designated common carriers may be relieved from the operations of this section," so that while it is keeping the promise to the ear it is utterly breaking it to the hope. I ask the gentleman if that is not his construction of this section?

Mr. PETERS. I think the section is certainly open to that construction.

Mr. HARRISON. Has the gentleman from Massachusetts heard it suggested that the mainspring of this action in striking out the words referred to in the long-and-short-haul clause is the demand of the Colorado fruit growers, that they shall be given by law profits which geography, common sense, and railroad competition have heretofore denied to them?

Mr. PETERS. I have indeed heard that this originated in the selfish interests of one or two sections of this country, which seek to upset the entire industry of many of the parts of our country for their own benefit.

Mr. MANN. The gentleman does not mean to say that the proposition in this bill originated in such a way?

Mr. PETERS. I do not. I mean to say the demand for this proposition has been started by selfish interests. How it got into this bill, as this bill was not drawn in this body, I do not know.

Mr. MANN. The gentleman does not mean to say that that provision was drawn in any other body, does he? The gentleman intimates that the section was drawn in some other body. Where was it drawn? How did it get in the bill?

Mr. PETERS. The bill as a whole was drawn in the way which I have just stated—drawn by the Attorney-General, and after conference with the President.

Mr. MANN. Well, the gentleman, of course, does not wish to mislead the House, and does not intend to be in any intentional error, but the gentleman knows that the long-and-short-haul provision was not in the administration bill. It was in a bill which I introduced and was inserted in this bill on my motion in the committee. It was not in the administration bill at all. The gentleman is perfectly familiar with those facts.

Mr. PETERS. I do not mean to question the motives of the chairman, who has given such unselfish and energetic service to the study of this bill, but I do mean to say and to repeat, and will go on repeating, that the primary incentive for the large part of the demand for the cutting out of the long-and-short-haul clause is a selfish one on the part of certain communities which seek for their benefit to very seriously hamper the industries of our country. And the plausibility on which they can make their argument would receive no stronger indorsement than that they should impose on so intelligent and so public-spirited a Member as our chairman.

Mr. MANN. If the gentleman will permit——

Mr. PETERS. Certainly.

Mr. MANN. I prepared that section of the bill which is covered in the bill which I introduced. For thirteen years in this House I have had occasion to give special consideration to the subject of railroad regulation, and from the beginning of my study of the subject I have been convinced that there was reason for forbidding railroads, as a practice, to charge a lesser rate for a long haul than they did for a short haul over the same line. Absolutely, so far as that is concerned, without a

suggestion from anybody on this subject, and purely upon its merits, I inserted that provision in the bill which I introduced, and it is inserted in this bill on its merits, not from suggestions coming from Colorado or any other place as far as this particular item is concerned. There have been complaints for years in reference to taking out the essence of the long-and-short-haul clause, and this suggestion now, whatever may be its merits or demerits, is here on its merits, not here because of the solicitation of some person or persons, communities, or States, who may think they might be especially interested. If there ever came a proposition into a legislative body purely on its merits, without being lobbied for—and it may seem impossible for the gentleman to believe that such a proposition can come in that way before Congress—it is the long-and-short-haul section of this bill. [Applause.]

Mr. PETERS. I think that I have as specifically as I am able conveyed my appreciation of the motives of the chairman of this committee, and I do not think I could add anything by repeating them. The chairman knows perfectly I have no such poor idea of the motives of this body as he suggests. I do think, however, and I am just as much entitled to express my opinion as the chairman, and certainly intend to take advantage of my right, that the demand for the taking out of the long-and-short-haul clause is essentially a selfish demand of certain interests which seek to upset the business and markets of our country in order that they may profit by it. If they can impose on the chairman or any other Member, is great testimonial of their powers for presenting arguments.

POOLING.

In the section of the bill which amends the provisions of section 5 of the present act, which prohibit pooling, changes occur of a most important nature. Agreements for the pooling of freights were prohibited by the original interstate commerce act, passed in 1887. The Sherman antitrust act, passed July 2, 1890, was much broader in its application than section 5 of the interstate-commerce act, and besides covering every case to which the interstate-commerce act was applicable it forbade many combinations not covered by the act. Since that time section 5 of the act has been practically unimportant, and all the proceedings to prevent pools have been brought under the Sherman antitrust act. (United States *v.* Trans-Missouri Freight Assn., 166 U. S., 290.)

In this bill, however, it is provided that agreements between railroads shall not be unlawful "if a copy of such agreement is filed with the Interstate Commerce Commission within twenty days after it is made." Whatever may be the opinion of the Interstate Commerce Commission on the effect of such an agreement on the public, its control is limited to the rates and classifications included. Should this provision be complied with, the railroads are not only taken out of the provisions against agreements from the interstate-commerce act, but from the Sherman antitrust act as well, and the agreement and rates are valid without any previous consent or approval of the Interstate Commerce Commission.

It is most remarkable that a provision requiring the approval of an agreement by the commision prior to its taking effect is omitted from the bill.

Both national platforms, indorsing such agreements, advise the approval of the Interstate Commerce Commission.

The Democratic platform says:

> We further declare that all agreements of traffic or other associations of railway agents affecting interstate rates, service, or classification shall be unlawful unless filed with and *approved by* the Interstate Commerce Commission.

The Republican platform says:

> We believe, however, that the interstate-commerce law should be further amended so as to give railroads the right to make and publish traffic agreements *subject to the approval of the commission*, but maintaining always the principle of competition between naturally competing lines and avoiding the common control of such lines by any means whatsoever.

The section, however, makes one improvement. Re Transportation of Immigrants (10 I. C. C. Rep., 13) held that a division of passengers was not forbidden under this section; and the word "traffic" has been substituted by this bill for the word "freight."

CONSOLIDATION OF NON-COMPETITIVE ROADS.

The provisions of section 12 deal with the broadest subjects of the railroad control of our country. It seeks to allow railroads to consolidate where the same "are not directly and substantially competitive with each other."

The limitations provided by the words "directly and substantially competitive" no one can now define, it is admitted by all. What railroads, under what conditions, are directly and substantially competitive, it is conceded, opens for discussion the widest field.

The subject of the consolidation of the railroads it is proposed to treat by making a rule of law the results of which must be followed with the very greatest uncertainty. The importance of this section we can not overestimate, and its effect, as depending on the interpretation of these four words, it is impossible to anticipate.

The court in Northern Securities Company *v.* United States (193 U. S., 197), established rules limiting the acquirement of competitive railroads, which are taken to-day as establishing what lines may be held in common ownership. Whether the language of this bill establishes a broader or a narrower rule, its terms fail to indicate.

Should it not be intended to permit consolidations formally forbidden under the ruling of the Northern Securities case, the provision that nothing in the act should affect existing suits seems unnecessary. Should that provision be necessary, it must be admitted that the act itself, then, must broaden the rules of consolidation which that case laid down, and if such is the case we have a right to know to what extent this will take place and where this provision will lead us.

STATE CONTROL OF SECURITIES ADEQUATE WHERE EXERCISED.

The provisions relative to the federal supervision of the issuing of securities present questions not only upon which there may be grave constitutional doubt, but which, through their importance, affect to such an extent the construction of our railroads that I may say without hesitation that the subject should not have been attempted in this measure. Should it have been deemed wise to take up the limitation of the issuing of securities, and for the Federal Government to press into fields heretofore controlled exclusively by the States, the subject is of such magnitude that it should have been taken up in a measure by itself, given the consideration which a proper understanding of it demands, and not brought in, as this is, as a part of a law which deals with other and totally different considerations. The subjects involved in the issuing of stocks and bonds and the purchase and sale of railroads should have been taken up and given much more thorough discussion and presented in a much more extensive way than has been possible in the limited time before your committee.

As I have intimated, many of our States have already in existence successful commissions for regulating the issuing of securities by public-service corporations. These commissions, and the laws under which they operate, take into consideration the communities in which they exist, the wealth of those communities, the business situation, density of population and need for additional service, and the desirability of encouraging in such communities the construction of new railroads or street railways. So important are local conditions that the State of New York, in its recent public-service legislation, has considered that the State itself is too large a unit, and has divided the State into two districts for the purpose of administering its public-service laws. This legislation, unconsidered by the country at large, seeks to pass one rule to be applicable to all the States of the Union.

REASON FOR EXTENSION YET TO BE SHOWN.

It has been urged before the committee that the provisions now in this act would absolutely prevent the construction of new railways in certain undeveloped portions of our community, and there can be no doubt that they would very seriously curtail the investment of capital. The existing railroads, which have well-known and established credit, can obtain money for their improvements, whereas the new railroads, under the limitations of these powers, might well be totally at a loss to present sufficient inducement to new capital for such a venturesome undertaking as the construction of a line in undeveloped country. Abuses in the issue of securities undoubtedly arise. That their issue is to-day successfully controlled in many of our States must also be admitted. Whether the conditions as a whole are such in the United States that we should have some federal supervision may be open to argument, but I urge that the affirmative has certainly not yet been shown to your committee. Before the United States should go into this untried field it should be clearly demonstrated that a need for such extension exists and that the various sections of the country which are to be affected by it understand and have had an opportunity to present their views on this subject.

A MODEST COLLOQUY.

When this matter was taken up by the committee in its hearing, the chairman of the committee, in referring to this provision, said (p. 1172 of the Hearings):

> The CHAIRMAN. What I do not know about the subject of issuing stocks and bonds would fill many libraries, and what I do know could be put in the space of a very small book.

The chairman of the Interstate Commerce Commission, the duty of which commission under the proposed law is to pass on the issuing of such securities, thereupon replied:

Mr. KNAPP. I would not be vain enough to claim superiority over your chairman in any respect, but if there is any, it is in my great ignorance of this subject. [Laughter.]

The humor was not entirely exhausted by that remark, however. We see further on in the evidence, in referring to these same provisions:

Mr. KNAPP. * * * With the pressure of work which we felt could not be altogether delayed, it has been quite out of the question for us to examine, with the needful care and scrutiny, the somewhat elaborate scheme for the regulation of railroad securities. * * * We are not yet prepared to become responsible, so to speak, for the particular features of this scheme. * * *

Then, I think I might add to that that the experience of the commission has not qualified it expressly for expressing a judgment upon a subject of this kind, which is foreign to all questions we have heretofore dealt with. * * *

ITS EFFECT ON THE COMMITTEE.

Inspired with this confident expression of familiarity with the subject by its chairman, the committee thereupon proceeded to recommend a law governing the issuing of securities by all the interstate railroads of the United States, and, encouraged by the modesty of its distinguished chairman, placed the Interstate Commerce Commission in charge of the supervision of the securities of the entire railway financing of the United States.

The magnitude of this undertaking may be seen, as follows:

The total capitalization of the railroads of the United States, according to the latest returns of 1907, stocks and bonds, amounted to	$14,570,421,478
The issuing of securities from 1900 to 1906 presents	3,394,577,760

It is proposed by this bill to draft a law regulating the supervision of these enormous issues, a subject itself which has had but little consideration before the committee. This law proposes to place the regulation of these issues under a commission, which, by its own admission, knows little of the subject and which already bears on its shoulders more responsibility and greater work than it is possible for it to properly handle. The questions presented by the proposed issuing of stocks and bonds will all serve to add enormously to the burden of the Interstate Commerce Commission, and their solution must interefere with or greatly delay all railroad financing. Little appreciation seems to have been given by the committee to these considerations.

Mr. O'CONNELL. Mr. Chairman, right here I would like to know, if the gentleman can tell me, what effect the passage of this law will have upon the Boston Holding Company, which was brought about for the purpose of enabling the New Haven road to get around the violation of the laws of Massachusetts and also the Sherman antitrust law, in order to operate its merger in Massachusetts?

Mr. PETERS. The Boston Holding Company would not come under the provisions of the Interstate Commerce Commission. There might be a conflict relative to issuing securities by the Boston and Maine Railroad, the stock of which that company holds, and so far indirectly might affect it greatly, and might not unlikely affect the provisions of the Massachusetts laws, which have been enacted to meet this situation.

Mr. O'CONNELL. So that, as a matter of fact, hereafter Massachusetts will not be able to legislate about any railroads within her confines?

Mr. PETERS. Massachusetts will have the protection of the Constitution to legislate directly on matters of a local nature, but the field of the present activities of its railroad commission will be considerably invaded should this bill pass in its present shape.

Mr. O'CONNELL. Would it not be altogether restricted, inasmuch as the three roads passing through it are all comprised within the provisions of this law?

Mr. PETERS. This law does not allow a railroad to issue securities, but it limits the issue of securities by a railroad organized under the law of the State. The Boston and Maine Railroad would first have to comply with the state law in the issuance of its securities and then come to the Interstate Commerce Commission to have such issue approved of.

Mr. O'CONNELL. Then, if this Boston holding act is found to be incomplete and further legislation necessary to make it effective, will it in any way come into conflict with the provisions of this contemplated law?

Mr. PETERS. It is hard to answer until you know the aim of such contemplated legislation. Such legislation might bring it into conflict with some of the prohibitions of this act.

Mr. O'CONNELL. Would this bill have the effect in any way of nullifying what was done in Massachusetts, which enabled the New Haven road to violate the federal law, and also the state law, contrary to the decision of that holding act?

Mr. PETERS. As the New Haven and Boston and Maine are incorporated under the law of the State of Massachusetts an act might be passed by Massachusetts to provide for their consolidation, and it might be deemed to be a benefit to Massachusetts to allow that consolidation under circumstances which would be prohibited by the provisions of this act, although I should suppose that this act ordinarily is broader in its scope than any consolidation which would likely meet the approval of public opinion in Massachusetts. I do not think that the provision here for consolidation would restrict any consolidation which the legislature would be likely to approve. This act is a restricting act and in most of its provisions is broader than the present laws of the State.

Mr. O'CONNELL. Is not this law in direct conflict with the law, or does it not attempt to override the federal law prohibiting mergers?

Mr. PETERS. This law in its effect on mergers is not very clear by the provisions of the act, and it may have very considerable effect on the powers it is now supposed the state railroads have to consolidate. Its uncertainties are one of the great difficulties.

Mr. NORRIS. Will the gentleman permit an interruption?

Mr. PETERS. Certainly.

Mr. NORRIS. For the purpose of information, and to get the gentleman's idea, I want to ask him if he is opposed to that portion of the bill that gives the Interstate Commerce Commission the right and the power to supervise the issuing of securities by the railroads.

Mr. PETERS. As it is placed in this bill, I am opposed to it. I have tried to make my position specifically clear. I do not believe the subject should be taken up unless it is taken up in a separate measure and given careful consideration, its exceptional aspects presented before the committee, and a bill drawn which will more adequately meet the subject than the present one. Until such presentation and consideration have been had, I should not desire to say that under all considerations I am opposed to such an idea. I will take that up presently.

Mr. NORRIS. The point I wanted to reach was this: Would it not be necessary, in order to supervise the rates or the fixing of reasonable rates, that the bonds and stocks should be taken into consideration as one of the elements in reaching a just conclusion; and if that is true, then would it not be necessary, if we wanted to get justice in the rate-making power, to give them the right to supervise the issuing of stocks and bonds?

Mr. PETERS. In reply to the gentleman, it seems to me much may be urged in support of such a view. The question, however, has come before the supreme court of the State of New York, which has passed on a ruling of the railroad commissioners of that State, and by parity of reasoning, sections 13, 14, and 15 of this act, which attempt to give to the Interstate Commerce Commission and the court of commerce the power to control capitalization, would probably be beyond the federal jurisdiction, under the interpretation of the commerce clause of the Constitution given in Gibbons *v.* Ogden.

Mr. NORRIS. That raises the question of constitutionality, which I did not desire to raise. I wanted to get the gentleman's idea more than anything else. It seemed to me that in order to reach a just conclusion fixing a rate, the value of the railroad property is one of the main elements to take into consideration; and I think it would be conceded that in order to reach that point—that is, to ascertain the value of the property—the question of stocks and bonds would be a necessary consideration, not perhaps one that would be controlling, but, I think, in reaching the value of a railroad property you would take them into consideration at least. And if that is true, then would it not follow that in order to adjust a rate properly we would have to take into consideration, at least to some extent, the bonds and stocks, as well as the other property of the railroad?

Mr. PETERS. Personally, I think there is much to be urged in support of the position which the gentleman takes. But the constitutionality of the subject has not been given the consideration that it merits, and this New York decision would tend to show that the consideration which the gentleman has in mind would not be taken up in determining the reasonableness of a rate.

Mr. PARSONS. Will the gentleman permit a suggestion?

Mr. PETERS. With pleasure.

Mr. PARSONS. A few years ago a prominent German banker was in this country, and he stated that one of the uninviting things about American railway securities was that they were not issued under any public supervision. He said that if they

were issued under the supervision of some public body—and I suppose he meant by that the Interstate Commerce Commission—they would be much more sought after throughout the world as perfectly secure investments.

Mr. NORRIS. I should think there would be no doubt about that.

Mr. PARSONS. Of course it would be done partly on the idea that in making a rate the commission would have in mind the fact that the stocks and bonds had been issued under public supervision and therefore were entitled to earn reasonable rates.

Mr. PETERS. In reply to what the gentleman has said, I may say that the public supervision of the issuing of securities has been taken up in many of the States, both in his own State and the one which I represent, and it seems to me that the issuing of securities there meets the conditions which he suggests were in the mind of the German banker.

Mr. MANN. Will the gentleman yield?

Mr. PETERS. With pleasure.

Mr. MANN. The gentleman from Massachusetts is one of the ablest and fairest members of the Committee on Interstate and Foreign Commerce as well as of the House.

Mr. NORRIS. That is a good return for the compliment which the chairman got, and the gentlemen are even. [Laughter.]

Mr. MANN. I would like to ask the gentleman from Massachusetts his judgment on two matters which never were discussed in the committee. The gentleman just stated that he thought perhaps the provision as to stocks and bonds ought to be in a separate bill. The gentleman from Wisconsin last evening took the same position, and intimated—although I think not seriously—that if those provisions included in this bill should be declared unconstitutional it would render the whole bill unconstitutional. I think the gentleman from Massachusetts would not take that position.

Mr. PETERS. No, Mr. Chairman, I would not.

Mr. MANN. Assuming, which is undoubtedly the fact, that including these provisions as to stocks and bonds and merger in this bill, if they should be declared unconstitutional it would have no effect whatever on the balance of the bill as to its validity, does not the gentleman think, in view of the fact that there is doubt about the constitutional power to enact sections 13 and 14 of the bill, and the further fact that it is claimed that the position as to the issuance of stocks and bonds can be maintained as the constitutional exercise of authority on the ground that they affect the rates to be paid by railroads, does not the gentleman think that the proper place to put such provision is in the act as additional sections to regulate commerce, where we are endeavoring to govern railroad rates as we are by this bill; that that of itself would render the matter stronger when it comes to be considered by the Supreme Court?

Mr. PETERS. In reply to the question of the gentleman, I would say that the Supreme Court of New York does not seem to take his view as to the consideration that should be given to determine the reasonable rate or the issuance of securities. I should, and do, most emphatically object to the propositions of this bill, which are of so important a nature and which affects so greatly every interest in our country, being considered—and of necessity—in so hasty a manner.

I must again call attention to the views of the chairman of the committee and those of the chairman of the Interstate Commerce Commission expressed as recently as six weeks ago as to their respective knowledge and the competency to pass upon these matters of preeminent importance.

Mr. NORRIS. Will the gentleman yield?

Mr. PETERS. With pleasure.

Mr. NORRIS. I interrupt the gentleman not in any critical spirit, but to get as much light on the subject as possible. I am reminded by what the gentleman says as to the expression of ignorance on the part of the chairman of the committee and the chairman of the Interstate Commerce Commission——

Mr. PETERS. Reminded or pained? [Laughter.]

Mr. NORRIS. No; I am not pained, because I think, as a matter of fact, it was simply a little modesty on the part of the chairman and I did not pay much attention to it when I read it in the hearings. But I am reminded of a question that I wanted to ask. A separate and independent bill on this subject, as the gentleman suggests, would undoubtedly in the natural course of things be referred to the same committee, the Committee on Interstate and Foreign Commerce, would it not?

Mr. PETERS. Yes.

Mr. NORRIS. And I presume in the consideration of the bill that committee would send for the members of the Interstate Commerce Commission as they did in this case. So, even if you had a separate bill, you would have it before the same ignorant men and the same incompetent fellows, who admit their incompetence, and the consideration would be the same, except that it might be an independent bill instead of being coupled with this subject. If there has not been sufficient consideration given to it, then, is it not the fault of the committee in not giving it more consideration? I concede that it is a serious question and deserves great consideration, but I do not understand why it could not be given just as full consideration in connection with this bill as if it were introduced as a separate proposition and in an independent bill.

Mr. PETERS. The gentleman would understand that if he had attended the daily sessions of the committee when we had hearings and the daily meeting upon which we sat in executive session on the bill.

The committee has given to the consideration of this bill the greatest effort, has spent on it all of the time available, and its members have sacrificed all else to this measure, sitting both in the morning and in the afternoon from the time the matter was first taken up. We had before the committee—and I refer to the whole bill now—evidence from all over the country on these different sections.

As to the issuance of stock and bonds, it was unable to have, in the limited time, an opportunity to give sufficient consideration to the subject and to have before it the evidence which, I think, it should expect to receive before attempting to legislate on a matter of such importance.

Mr. NORRIS. In the first place I agree with the gentleman fully as to the consideration that has been given to the bill. I do not want to be understood as in any way criticising the committee, because I think they have done excellent work, but the gentleman speaks of the limited time at their disposal. Now, if more time were necessary, or if there were some other information that the committee ought to have had, could it not have gotten it just as well in connection with this bill, and have taken more time, if it were necessary, for the consideration of this particular branch of the subject, as though it were in a separate bill? If it were a separate bill it would require the same length of time, and as much delay would result, would it not? In other words, I do not see the advantage that would accrue—and I do not see any objection to having it in a separate bill, I will say—I do not see the justice of the gentleman's criticism when he says it ought to have been in a separate bill.

It seems to me the same committee would have charge of it and they would have the same right to get information from any source that they saw fit, if it were coupled with this bill, just the same as though it were in a separate one.

Mr. ADAMSON. If the gentleman from Massachusetts will permit me to inject a remark right there, I think I can tell the gentleman from Nebraska the truth about it.

Mr. PETERS. I will yield to the gentleman.

Mr. ADAMSON. We set out to regulate rates and practices in interstate commerce. The idea of our people is that the local authorities would attend to the morals and the safety of investments, and we never expected to have thrust upon us, in framing a bill to regulate rates and practices in transportation, a proposition to invade the province of other authorities and go into and establish entirely foreign regulations; that is, the taking care of investments and providing for consolidations of corporations.

Mr. NORRIS. If the gentleman from Massachusetts will permit me——

Mr. ADAMSON. And I will just add that if you want to learn how to do right about it, we had plenty of time and knew what was right at first, and were ready to vote at any time; and if you want to learn how to do wrong about it, as the administration is trying to force us to do, I would suggest a postponement of a thousand years.

Mr. NORRIS. The gentleman from Georgia, it seems to me, is taking an entirely different view from that advocated by the gentleman from Massachusetts. The gentleman from Massachusetts thinks we ought to have this in a separate bill, if we have it at all.

Mr. ADAMSON. That is right.

Mr. NORRIS. And that he has not had time enough to give it consideration.

Mr. ADAMSON. The gentleman from Massachusetts perhaps has this view, that if we have any jurisdiction at all of such matters, it would be when these aggregations of capital go into combinations or violate the antitrust law, and then the bill should go to the Committee on the Judiciary.

Mr. NORRIS. But the gentleman does not reach the question, as I look at it, at all.

Mr. PETERS. Mr. Chairman——

Mr. NORRIS. Of course, Mr. Chairman, I am interrupting only at the gentleman's courtesy, and I will stop at any time he suggests.

Mr. PETERS. I wish to answer the gentleman's question.

Mr. NORRIS. Oh, I supposed that the gentleman from Georgia had answered the question. If the gentleman from Massachusetts wants to answer it, I will be very glad to have him do so.

Mr. PETERS. Mr. Chairman, in regard to the consideration of this matter in a special measure, as to which a question was just asked me, I would say that I think the committee should have taken more time and have gone into the consideration of it much more fully than it was able to, and only included the subject in a special bill. If it is necessary to report the other part of this bill, that might have been done, but we should either have taken a longer time to study this question at this session of Congress or the entire matter should have been put over to another session of Congress, in order to give the committee more opportunity to learn the views and the situation of the country, and to study more carefully the question, and I think that further consideration would have resulted in legislation more complete and more satisfactory.

Mr. LENROOT. Will the gentleman yield?

Mr. PETERS. With pleasure.

Mr. LENROOT. If I understood the gentleman correctly, he agrees with the gentleman from Illinois, the chairman of the committee, that if these provisions with reference to stock and bonds should be held to be invalid by the courts, it would not affect the balance of the bill.

Mr. PETERS. I do not think it would make invalid the balance of the bill.

Mr. LENROOT. That is what I understood. Now, I wish to get the gentleman's views upon this proposition: I understand the rule of construction is that if an invalid portion of a bill is an inducement to the passage of the valid portion, and if it can be fairly said that the valid portion would not have been passed except for the coupling up of the invalid portion, that the entire bill will be held invalid by the court. Does the gentleman agree with me upon that construction?

Mr. PETERS. I should think that rule, as stated by the gentleman, is fairly accurate. As I remember it, where part only of a statute is unconstitutional, that part alone is void, unless the other provisions are so dependent and connected that it can not be presumed the legislature would have passed one without the other.

Mr. LENROOT. Now, my question is this: Suppose that in the consideration of this bill, although the House shall agree perfectly and although in full accord upon the valid portions of the bill, and they would disagree upon the invalid section, assuming the stock-and-bond portion would be held invalid, and this bill goes to conference, it is apparent from the entire record that this bill would not pass except for the inclusion of those invalid portions. Might not the court then hold that those invalid portions were an inducement to the passage of the bill, and therefore the entire bill might be held invalid? I do not assert that that is so, but I merely say I do believe it is a serious question.

Mr. PETERS. There is a question which might be well raised which the gentleman suggests. I should think, taking the bill as a whole and the fact of the connection between the rest of the bill and these provisions that were referred to, that should that be declared unconstitutional it would not invalidate the whole bill, but it certainly might be fairly stated to open up the question which the gentleman suggests.

To return to the question of the issuance of securities, and I shall cite an example of my own State of Massachusetts, the statistics of which are most available, and I shall point out the enormous work which it is proposed by this act to throw on the shoulders of the present Interstate Commerce Commission and how totally and utterly they are unprepared, both by experience and by the fact they are to-day overworked, to assume this extra burden.

THE EXAMPLE OF MASSACHUSETTS.

Take the statistics for one State which are most available, that of Massachusetts. In 1906 the railroad commissioners of that State passed upon 15 separate applications for the issuing of securities; in 1907 on 25 applications; in 1908, 12 applications; and in 1909, 11. In all of these instances the companies issuing them are required to file reports with the Interstate Commerce Commission, and while it is impossible to predict the wordings of this bill as the conference committee will complete it, yet probably many, if not all, of these applications would have to come, under this bill, to the Interstate Commerce Commission for its additional approval.

Mr. O'CONNELL. Suppose the Massachusetts railroad commission had said that bonds and stocks could not be issued, then do I understand the Interstate Commerce Commission could come along and say they could?

Mr. PETERS. No. Any company incorporated in Massachusetts could only issue bonds and stocks or any securities under the law of Massachusetts, and they would first have to meet with the approval of the provisions of that law and the issue be approved by the railroad commissioner of Massachusetts, and then if there was any contention it would come under the provisions of the interstate-commerce act. After receiving the state railroad commissioner's approval the company would have to come here and pass its issue under the provisions of this act for federal approval.

Mr. O'CONNELL. What do you mean by passing? Do you mean by that the Interstate Commerce Commission must accept it because it has been done there?

Mr. PETERS. No; it would have to pass their approval before it can be issued. Under the provisions of this act the State, as now, would approve the issue of securities by the company, and after such issue was approved by the state railroad commission, or the body upon which the State further imposes the duty of passing on them, then the approval of the Interstate Commerce Commission must be obtained.

Mr. O'CONNELL. So whatever is done by the State can be overridden down here.

Mr. PETERS. Providing it is done by a company which comes under this act and is contrary to its provisions.

Mr. NORRIS. Will the gentleman permit another interruption?

Mr. PETERS. Certainly.

Mr. NORRIS. I think there is much force in what the gentleman says about the commission being overworked, but I would like to ask him if it is not likely that this would result as a matter of practice, that when an application had been passed on by the state railway commission in any of the States like Massachusetts and other States, that it would be fair to assume that the Interstate Commerce Commission was familiar with their laws, and after that state commission had passed on it and it had come before the Interstate Commerce Commission, would it not, as a matter of practice, usually occur that the permission coming from the Interstate Commerce Commission in such cases would be a matter of form only, and that the real object in having the Interstate Commerce Commission pass on it is to cover cases where States are not as careful as they ought to be in regard to the permission that should be granted these corporations to issue their stocks and bonds?

In other words, if all the States had good commissions and good laws, of course, it would follow, then, that this provision would be unnecessary for the Interstate Commerce Commission to have a supervisory power. But the real object would be to gather in those States that do not have the wholesome laws and the commissions under such laws as would properly supervise the issuing of stock.

Mr. PETERS. If any advantage would come from the bill, it would certainly come in that way.

Mr. O'CONNELL. Will the gentleman bear with me just another moment? Suppose the Massachusetts railroad commission had refused to grant permission on an application for a certain issue of bonds and stocks; could the company appeal under this law to the Interstate Commerce Commission?

Mr. PETERS. Certainly not.

Mr. O'CONNELL. And get their approval?

Mr. PETERS. Certainly not. And replying to the gentleman, I would like to say, as regards the Interstate Commerce Commission, that the provisions of this act for the approval of securities are somewhat different from those of the one or two States with which I am familiar, and I imagine that it could not act without some individual investigation on applications coming even from States so careful as Massachusetts on account of the different provisions in the law.

Seven signally capable but still human beings, charged already with the supervision and regulation of interstate commerce over 32,000 miles of railroads, can scarcely have time or energy to pass upon the necessity or reasonableness of the financing arrangements of the railroads of the whole country.

MERITS OF THE BILL.

In many of its provisions this bill adds to the protection of the public. In so far as the work of the committee has gone in this direction, the minority most heartily joins in the construction of its measures, and has added no small amount to the amendments which have improved and strengthened its

provisions. Such amendments have contributed much to the bill, but have not, I regret to say, cured it of its defects. Many amendments have been added by the committee, but the number of those which survive the shock of conference will, I suspect, be but limited. In the provisions of the bill which give to the public the power to provide for through routes and classifications and give reasonable facilities for transportation, I most heartily concur. The penalty for the failure of carriers to give equal rates and the punishment for false statement I willingly support. The power to initiate an inquiry as to the reasonableness of a rate or the compliance with any of the provisions of this act, gives to the commission a long-needed aid in its powers. Provisions giving it jurisdiction over switching and terminal charges and empowering the shippers to designate through routes, all extend and strengthen the work of the Interstate Commerce Commission and commend themselves to support.

COUNTERBALANCED BY ITS DEMERITS.

These measures of the bill, however, have no connection with certain of its other and most objectionable provisions, and could well have been included and passed in a separate act, in the support of which all would have concurred, but coupled with these excellent provisions are others I most urgently condemn. A commerce court is an unnecessary extravagance, apologized for by every supporter of the bill, and stands as its first blunder. Its creation would never have been attempted had the decision of the Supreme Court in the Illinois Central case to which I referred been anticipated. Advertised now as an administrative measure, the commerce court is kept in this bill to save the face of the party which is responsible for the idea. Taking from the Interstate Commerce Commission the prosecution of its own cases against its wishes weakens the work of that body and brings the supporters of the bill to a remedial measure, which, even in their party loyalty, they can not swallow without a shudder. The administration prescription for the railroad ills of this country is truly worse than the disease. The virtual suspension of the Sherman antitrust law and the legalizing of certain stock requirements makes still more heavy the burden the supporters of the measure must bear for their party's sake.

IT DOES NOT MEET THE SITUATION.

Finally, provisions for the issuing of securities bring the federal power into fields hitherto untouched, provisions ill-considered, unasked for, and untried, and tamper with the enormous interests and welfare of our country at a time when those interests need the curbing of a sure and steady hand. With the enormous investment in railroads is bound up in no small degree the welfare of the Nation, and the time has come when the Government should show the public and the transportation companies that the regulative policy of this country is to be henceforth not a sporadic and nagging interference, but a carefully planned and gradual development of legislation designed to secure to the people the just maximum benefit from their public servants.

The bill we have before us has been hurriedly drawn up to cover the whole vast field of railroad regulation. It is part of no thoughtful plan of control, and does not and can not command the sincere respect of even the chairman who favorably reports it. It has been thrown together hastily in order that the political pledges of a hard-pressed administration may be fulfilled. We are asked to pass it promptly that the second session of the Sixty-first Congress may properly swell the glorious list of Republican deeds which the gentleman from Illinois has recently laid before a country sadly lacking in appreciation.

AND SHOULD BE DEFEATED.

It is better we should have no legislation at all than hasty and ill-considered legislation rushed through by the majority to nominally fulfill party promises. In this measure we are asked to ratify some excellent provisions mingled with so many propositions that would be disturbing and harmful to the Nation from every point of view, that approbation of the whole is out of the question. The minority will always give its aid to improve the relations between the public and the railroads. To the passage of crude and ill-considered legislation as a political sop to help any party whatsoever Democracy stands now and for all time, as a minority or as a majority, in united and unalterable opposition. [Prolonged applause.]

APPENDIX.

RAILROAD PLANK OF THE DEMOCRATIC NATIONAL PLATFORM, ADOPTED JULY 10, 1908.

Railroad regulation: We assert the right of Congress to exercise complete control over interstate commerce and the right of each State to exercise like control over commerce within its borders.

We demand such enlargement of the powers of the Interstate Commerce Commission as may be necessary to compel railroads to perform their duties as common carriers and prevent discrimination and extortion.

We favor the efficient supervision and rate regulation of railroads engaged in interstate commerce; to this end we recommend the valuation of railroads by the Interstate Commerce Commission, such valuation to take into consideration the physical value of the property, the original cost and cost of reproduction, and all elements of value that will render the valuation made fair and just.

We favor such legislation as will prohibit the railroads from engaging in business which brings them into competition with their shippers; also legislation which will assure such reduction in transportation rates that conditions will permit, care being taken to avoid reductions which would compel a reduction of wages, prevent adequate service, or do injustice to legitimate investments. We heartily approve the laws prohibiting the pass and the rebate, and we favor any further legislation necessary to control and prevent such abuses.

We favor such legislation as will increase the power of the Interstate Commerce Commission, giving it the initiative with reference to rates and transportation charges put into effect by the railroad companies, and permitting the Interstate Commerce Commission, on its own initiative, to declare a rate illegal and as more than should be charged for such service. The present law relating thereto is inadequate by reason of the fact that the Interstate Commerce Commission is without power to fix or investigate a rate until complaint has been made to it by the shipper.

We further declare that all agreements of traffic or other associations of railway agents affecting interstate rates, service, or classification shall be unlawful unless filed with and approved by the Interstate Commerce Commission.

We favor the enactment of a law giving the Interstate Commerce Commission the power to inspect proposed railroad tariff rates or schedules before they shall take effect, and, if they be found unreasonable, to initiate an adjustment therefor.

RAILROAD PLANK OF THE REPUBLICAN NATIONAL PLATFORM, ADOPTED JUNE 18, 1908.

Railroads: We approve the enactment of the railroad rate law and the vigorous enforcement by the present administration of the statutes against rebates and discriminations, as a result of which the advantages formerly possessed by the large shipper over the small shipper have substantially disappeared; and in this connection we commend the appropriation by the present Congress to enable the Interstate Commerce Commission to thoroughly investigate, and give publicity to, the accounts of interstate railroads. We believe, however, that the interstate-commerce law should be further amended so as to give railroads the right to make and publish traffic agreements subject to the approval of the commission, but maintaining always the principle of competition between naturally competing lines and avoiding the common control of such lines by any means whatsoever. We favor such national legislation and supervision as will prevent the future overissue of stocks and bonds by interstate carriers.

Mr. MANN. Mr. Chairman, I yield one hour to the gentleman from Ohio [Mr. KENNEDY].

Mr. KENNEDY of Ohio. Mr. Chairman and gentlemen of the committee, my judgment lends complete support to this bill. I believe that it makes no false step in the direction of railroad legislation and railroad regulation.

I shall pass briefly over some of the features of the bill. The first matter for discussion is the commerce court. The reason for the adoption of a commerce court, and it is the only reason, is to expedite litigation. There is no class of cases that is ever litigated in which it is more imperatively necessary that they should be promptly tried than the cases which are to be submitted to this court. It makes no difference how many cases will come before it. If there be but a few, they should be promptly tried, and the provisions of this bill creating the commerce court provides that when not engaged the judges of this court shall be appointed to do work in the circuit court in other fields. So the objections to the commerce court are trivial. The commerce court is a mere incident to the bill, and finds a place in the bill because of the President's enthusiasm for speedy justice.

As to the method of the appointment of judges, it was thought by the committee that judges ought to be appointed by the President when the court was created. The judges of the circuit court are so busy that we have just recently enacted legislation providing for other judges to take care of the business of that court. So that if this court be appointed it is practically necessary that it should be constituted in the first instance of new men. And if so constituted, the President was the only party that would have the constitutional right and power to appoint them. It was the judgment of the committee that the court so constituted, as members thereof should retire, should have their places supplied by circuit judges to be designated by the Chief Justice of the Supreme Court. The hypercritical gentlemen who discover sinister motives in this simple arrangement would have been frightened by ghosts of their own imagination no difference what method had been adopted.

The second change of law that this bill makes I believe to be a very excellent provision. It strikes out of section 1 of the existing law the words:

Provided, however, That the provisions of this act shall not apply to transportaton of passengers or property or to the receiving, delivering, storage, or handling of property wholly within one State and not

shipped to and from a foreign country or from or to any State or Territory, as aforesaid.

The commerce clause of the Constitution confers upon Congress the right to regulate interstate commerce. And if that regulation is ever to be thoroughgoing and complete and scientific, recognizing the true character of the American railroad, the power of that commission which is completest, which can cover the whole field of commerce and all the instruments of interstate commerce, should be amplified and enlarged. And the restriction that was carried in the existing law was exceedingly embarrassing.

Now, my conception of the power of Congress under this commerce clause is this: That every single road of whatever character that is available for interstate commerce is within the power of Congress under the powers given in the commerce clause of the Constitution to regulate. State lines disappear when it comes to questions of commerce. I believe it is within our power for the legislature to prohibit and prevent any conduct in any State on any road that would have a tendency to injure interstate commerce.

Every single railroad in America, I take it, carries interstate commerce; and when it carries interstate commerce, under the recent decisions of the Supreme Court, it becomes an interstate railroad. So that this change of law is in the right direction. It is not a false step.

Mr. CRUMPACKER. Will it interrupt the gentleman to ask him a question?

Mr. KENNEDY of Ohio. Not at all.

Mr. CRUMPACKER. Do I understand from the argument of the gentleman that the amendment to the existing law the gentleman is now discussing will confer upon Congress the power to regulate the rate between two points within a State on an interstate railroad?

Mr. KENNEDY of Ohio. The amendment is but a limitation, a mere limitation, that is being carried in the railroad law up to this time. We strike out that limitation, thus extending the power of the commission to do that.

Mr. CRUMPACKER. Yes; I understand that. I got the impression from the gentleman's argument that that provision of the law limited and restricted somewhat the power of Congress. I wanted to know if he believed, if the amendment were made, that Congress could regulate the rates between two points of a single State on an interstate-commerce railroad?

Mr. KENNEDY of Ohio. I do.

Mr. CRUMPACKER. Now, let me suggest this; let me ask the gentleman this question: Did not the Supreme Court of the United States set aside the employers' liability bill a year or two ago, simply because it did not limit the liability of the carrier to interstate work as distinguished from intrastate work, holding that Congress had no power or control over local transportation at all?

Mr. KENNEDY of Ohio. No; the gentleman is mistaken. The court held that the law passed by Congress did not attempt to exercise control over railroads plainly within a State.

Mr. CRUMPACKER. I have read the decision.

Mr. KENNEDY of Ohio. The court meant, in holding that it was not within our power to regulate interstate carriers, but wherever they happen to be carriers of interstate commerce they come within the jurisdiction of Congress. The court did hold——

Mr. MADDEN. I would like the gentleman to tell the committee whether he believes that if a railroad commission of a single State should fix a rate within the State the Interstate Commerce Commission would have the power to set that rate aside.

Mr. KENNEDY of Ohio. I think I have stated that on interstate traffic or in the control of intrastate railroads they have a perfect right to regulate and control them, provided their regulations and control do not conflict with the national control of those instrumentalities of interstate commerce.

Mr. MADDEN. Does the gentleman believe by that that the railroad commissioners of any State in the Union have jurisdiction only within the State, only subject to the higher power of the Interstate Commerce Commission on questions that relate to transportation purely within the State?

Mr. KENNEDY of Ohio. State railroad commissioners have power only in matters over which the national regulation and control has not been asserted. I have stated my belief that as affecting interstate carriers—and every railroad in this country is an interstate carrier—there is no railroad built within its limits, within the limits of our whole country, that can refuse to carry interstate shipments. They are all available for that purpose, and intrastate commerce and interstate commerce are so intimately related the one with the other, any restriction put upon a railroad within a State that would be detrimental to commerce of any kind would have its effect upon interstate commerce, and the right to control and regulate that is held to be complete.

Mr. OLMSTED. I understood the gentleman to state that Congress could regulate commerce between two points, both within the same State, upon a railroad which does carry interstate business.

Mr. KENNEDY of Ohio. I believe Congress can control the fixing of rates upon every railroad that carries interstate commerce.

Mr. OLMSTED. Then we could by act of Congress put all the state railroad commissions out of business.

Mr. KENNEDY of Ohio. I think so. When we effect a thoroughgoing and complete regulation of the American railroad, it will have to be done here through national agencies, and in substance that will be its effect.

Mr. OLMSTED. I wanted to ask the gentleman if he had considered the decision by the Supreme Court of the United States in the case of the Lehigh Valley Railroad Company against the State of Pennsylvania, in which that court held that transportation beginning in Pennsylvania and crossing the Delaware River and going some miles through New Jersey, but returning to and terminating at a point in Pennsylvania, that is to say, both beginning and ending in Pennsylvania—although traversing some 30 or 40 miles in New Jersey—was nevertheless transportation of a character which the State of Pennsylvania could regulate and tax.

Mr. KENNEDY of Ohio. I have not read that decision, but it might have been under the existing law, because of this clause in the old law. When this law was passed Congress expressly said that they intended the law to have no effect upon that class of business.

Mr. OLMSTED. The decision was rendered without any reference to the interstate-commerce law at all, but upon the general proposition that it was transportation within a State, and therefore subject to state regulation.

Mr. KENDALL. If the gentleman will allow me, is there a provision in this bill under which the Federal Government will undertake to regulate rates between two points in a State on an interstate carrier?

Mr. KENNEDY of Ohio. Oh, no; there is no purpose and no intention on the part of anyone that I know of to do it. I was speaking only of what we might do if we choose.

Mr. KENDALL. I understood the gentleman to say that he thought Congress was competent to make a regulation of that kind.

Mr. KENNEDY of Ohio. I think the Constitution gives us the power, especially in the fixing of rates. The fixing of any rate bears upon the fixing of all other rates.

Now, I want to come to what is called the long-and-short-haul clause:

That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers, or of like kind of property, for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through route than the aggregate of the local rates.

I now call the attention of the House to the practices of the railroads in the past and at present, which come up logically under the discussion of this change in the law.

In section 2 and section 4 of the existing law appear the words "under substantially similar circumstances and conditions." Section 4 provides that it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers or a like kind of property under substantially similar circumstances and conditions for a shorter than for a longer distance over the same line in the same direction, the shorter being included within the longer distance. The same language appears also in section 2. The words in the present bill have been stricken out of section 4.

I wish to explain to the House the practices obtaining at present under the operation of this law. I think it was clearly the intention of the Legislature to stop all discriminations of whatever character upon our railroads when this law was passed. It did operate to prevent favoritism and discriminations as between the railroad and all American shippers. But it has been so construed by the courts that the railroads may do substantially as they please in the making of import rates. Several complaints were made to the Interstate Commerce Commission; among others, was one which exhibited this state of facts:

The through rate on bottled beer from Germany via New Orleans to Dallas, Tex., was 33 cents a hundred pounds. The

rate from New Orleans to Dallas on domestic bottled beer was 65 cents a hundred pounds. Another case was brought by the plate glass people of Pittsburg, complaining of the fact that the rate from Pittsburg on plate glass to Milwaukee over certain roads was double as much as the through rate from Belgium to Milwaukee over the same railroads. It was by reason of complaints like this that on January 29, 1891, the Interstate Commerce Commission entered an order against the Texas and Pacific Railroad Company—

to forthwith cease and desist from carrying any articles of imported traffic shipped from any foreign port through any port of entry of the United States, or any port of entry in a foreign country adjacent to the United States, upon through bills of lading destined to any place within the United States at any other than upon the inland tariff covering the freight from such port of entry to such place of destination, or at any other than the same rates established in such inland tariff for the carriage of the like kind of freight in the elements of bulk, weight, value, and expense of carriage.

In a case arising under this order, the Texas and Pacific Railroad Company *v.* The Interstate Commerce Commission, reported in One hundred and sixty-second United States Reports, page 179, the Supreme Court held that the order was beyond the power of the commission to make, for the reason that domestic shipments and import shipments were not under the same or similar circumstances and conditions; Justice Harlan, Justice Brown, and Chief Justice Fuller dissenting.

I shall cause to be printed with my remarks the dissenting opinion of Justice Harlan, also that of Chief Justice Fuller, which opinions fully state the case. I hope the Members of the House will carefully read this able and convincing opinion, and if they do, I believe that each and every one will lend his assent to my contention that section 2 of existing law ought to be so amended as to prevent discriminations in favor of import shipments except so far as the same shall be approved by the Interstate Commerce Commission.

I will read a few extracts from the dissenting opinion by Justice Harlan:

The record shows that the rate in cents per 100 pounds charged for the transportation, on through bills of lading, of books, buttons, carpets, clothing, and hosiery from Liverpool and London via New Orleans over the Texas and Pacific Railway and the railroads of the Southern Pacific system to San Francisco is 107, while upon the same kind of articles—carried, it may be, on the same train—the rate charged from New Orleans over the same railroads to San Francisco is 288. The rate in cents per 100 pounds charged for the transportation, on through bills of lading, of boots and shoes, cashmeres, cigars, confectionery, cutlery, gloves, hats and caps, laces, linen, linen goods, saddlers' goods, and woolen goods, from Liverpool and London via New Orleans over the same railroad to San Francisco is 107, while upon like goods, starting from New Orleans and destined for San Francisco over the same line—it may be on the same train—the rate charged is 370. Discrimination in the matter of rates is also made by the railroad company—though not to so great an extent—in favor of blacking, burlaps, candles, cement, chinaware, cordage, crockery, common drugs, earthenware, common glassware, glycerine, hardware, leather, nails, soap, caustic soda, tallow, tin plate, and wood pulp manufactured abroad and shipped on through bills of lading from Liverpool and London via New Orleans to San Francisco, and against goods of like kind carried from New Orleans to San Francisco over the same railroads.

These rates have been established by agreement between the railway company whose line, with its connections, extends from New Orleans to San Francisco, and the companies whose vessels run from Liverpool to New Orleans. And the question is presented whether the Texas and Pacific Railway Company can, consistently with the act of Congress, charge a higher rate for the transportation of goods starting from New Orleans and destined to San Francisco than for the transportation between the same places of goods of the same kind in all the elements of bulk, weight, value, and expense of carriage brought to New Orleans from Liverpool on a through bill of lading and to be carried to San Francisco. If this question be answered in the affirmative; if all the railroad companies whose lines extend inland from the Atlantic and Pacific seaboards indulge in like practices—and if one may do so, all may and will do so—if such discrimination by American railways having arrangements with foreign companies against goods the product of American skill, enterprise, and labor, is consistent with the act of Congress, then the title of that act should have been one to regulate commerce to the injury of American interests and for the benefit of foreign manufacturers and dealers.

[Applause.]

* * * * * * *

I am not much impressed by the anxiety which the railroad company professes to have for the interests of the consumers of foreign goods and products brought to this country under an arrangement as to rates made by it with ocean transportation lines. We are dealing in this case only with a question of rates for the transportation of goods from New Orleans to San Francisco over the defendant's railroad. The consumers at San Francisco, or those who may be supplied from that city, have no concern whether the goods reach them by way of railroad from New Orleans or by water around Cape Horn or by the route across the Isthmus of Panama.

Nor is the question before the court controlled by considerations arising out of the tariff enactments of Congress. The question is one of unjust discrimination by an American railway against shippers and owners of goods and merchandise originating in this country, and of favoritism to shippers and owners of goods and merchandise originating in foreign countries. If the position of the Texas and Pacific Railway Company be sustained, then all the railroads of the country that extend inland from either the Atlantic or the Pacific Ocean will follow their example, with the inevitable result that the goods and products of foreign countries, because alone of their foreign origin and the low rates of ocean transportation, will be transported inland from the points where they reach this country at rates so much lower than is accorded to American goods and products, that the owners of foreign goods and products may control the markets of this country to the serious detriment of vast interests that have grown up here, and in the protection of which, against unjust discrimination, all of our people are deeply concerned.

It is said that only boards of trade or commercial exchanges have complained of the favorable rates allowed by railroad companies for foreign freight. It seems to me that this is an immaterial circumstance. So long as the questions under consideration were properly raised by those boards and exchanges it was unnecessary that individual shippers, producers, and dealers should intervene in the proceedings before the commission. But I may ask whether the interests represented by these boards of trade and commercial exchanges are not entitled to as much consideration as the interests of railroad corporations? Are all the interests represented by those who handle, manufacture, and deal in American goods and merchandise that go into the markets of this country to be subordinated to the necessities or greed of railroad corporations? As I have already said, Congress, by enacting the interstate-commerce act, did not seek to favor any special class of persons, nor any particular kind of goods because of their origin. It intended that all freight of like kind, wherever originating, should be carried between the same points, in this country, on terms of equality.

It is said that the Interstate Commerce Commission is entitled to take into consideration the interests of the carrier. My view is that the act of Congress prescribes a rule which precludes the commission or the courts from taking into consideration any facts outside of the inquiry whether the carrier, for like and contemporaneous services, performed in this country under substantially similar circumstances and conditions, may charge one shipper more or less than he charges another shipper of like goods over the same route and betwen the same points. Undoubtedly, the carrier is entitled to reasonable compensation for the service it performs. But the necessity that a named carrier shall secure a particular kind of business is not a sufficient reason for permitting it to discriminate unjustly against American shippers, by denying to them advantages granted to foreign shippers. Congress has not legislated upon such a theory. It has not said that the inquiry, whether the carrier has been guilty of unjust discrimination, shall depend upon the financial necessities of the carrier. On the contrary, its purpose was to correct the evils that had arisen from unjust discrimination made by carriers engaged in interstate commerce. It has not, I think, declared, nor can I suppose it will ever distinctly declare, that an American railway company, in order to secure for itself a particular business and realize a profit therefrom, may burden interstate commerce in articles originating in this country, by imposing higher rates for the transportation of such articles from one point to another point in the United States, than it charges for the transportation between the same points, under the same circumstances and conditions, of like articles originating in Europe, and received by such company on a through bill of lading issued abroad.

Does anyone suppose that if the interstate-commerce bill as originally presented had declared in express terms that an American railroad company might charge more for the transportation of American freight between two given places in this country than it charged for foreign freight between the same points that a single legislator would have sanctioned it by his vote? Does anyone suppose that an American President would have approved such legislation?

Suppose the interstate-commerce bill as originally reported or when put upon its passage had contained this clause: "*Provided, however*, The carrier may charge less for transporting from an American port to any place in the United States freight received by it from Europe on a through bill of lading than it charges for American freight carried from that port to the same place for which the foreign freight is destined." No one would expect such a bill to pass an American Congress. If not, we should declare that Congress never intended to produce such a result, especially when the act it has passed does not absolutely require it to be so interpreted.

Let us suppose the case of two lots of freight being at New Orleans, both destined for San Francisco over the Texas and Pacific Railway and its connecting lines. One lot consists of goods manufactured in this country; the other of goods of like kind manufactured in Europe, and which came from Europe on a through bill of lading. Let us suppose, also, the case of two passengers being at New Orleans—the act of Congress applies equally to passengers and freight—both destined for San Francisco over the same railroad and its connecting lines. One is an American, the other a foreigner who came from Europe upon an ocean steamer belonging to a foreign company that had an arrangement with the Texas and Pacific Railway Company by which a passenger with a through ticket from Liverpool would be charged less for transportation from New Orleans to San Francisco than it charged an American going from New Orleans to San Francisco.

The contention of the railroad company is that it may carry European freight and passengers between two given points in this country at lower rates than it exacts for carrying American freight and passengers between the same points, and yet not violate the statute, which declares it to be unjust discrimination for any carrier, directly or indirectly, by any device, to charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions. And that discrimination is justified upon the ground that otherwise the railroad company will lose a particular traffic. Under existing legislation, such an interpretation of the act of Congress enables the great railroad corporations of this country to place American travelers in their own country, as well as American interests of incalculable value, at the mercy of foreign capital and foreign combinations—a result never contemplated by the legislative branch of the Government.

I can not accept this view, and, therefore, dissent from the opinion and judgment of the court.

Mr. Justice Brown also dissents, and here, by the way, is the opinion of Chief Justice Fuller, and it bears some little relation to matters that we have discussed about the appointment of judges, because I am satisfied that Chief Justice Fuller, if he designates the judges for this commerce court, will have at

heart the interests not of the foreigners, but of the American people. He says:

In my judgment, the second and third sections of the interstate-commerce act are rigid rules of action, binding the commission as well as the railway companies. The similar circumstances and conditions referred to in the act are those under which the traffic of the railways is conducted, and the competitive conditions which may be taken into consideration by the commission are the competitive conditions within the field occupied by the carrier and not competitive conditions arising wholly outside of it.

I am therefore constrained to dissent from the opinion and judgment of the court.

The practices of the railroads in the past with reference to domestic and import shipments are little understood by the public. To give you to understand what has been done in the past, I shall make reference to the report of the Interstate Commerce Commission to the Senate of the United States of February 28, 1903, upon this subject. The tables showing the rates in this report are very voluminous, but I shall incorporate them in my speech; also, published rates for crockery and earthenware, in crates, from East Liverpool, Ohio, to various central and western points, as compared with London and Liverpool, England, in force in 1906.

Mr. BARTLETT of Georgia. Will the gentleman yield?

Mr. KENNEDY of Ohio. Certainly.

Mr. BARTLETT of Georgia. The gentleman's complaint against that decision is that it does not enable the American manufacturer to get the full benefit of the protective tariff that exists in this country; that is, by reason of that decision goods manufactured abroad are permitted to be shipped into this country, and after having reached our ports, are shipped farther into the country in competition with American manufactured goods, and thereby the American manufacturer does not enjoy the full benefit of the tariff rates.

Mr. KENNEDY of Ohio. Oh, I will come to that. I will say to the gentleman that upon imported goods coming into this country that our tariff does not even equal the discrimination that the railroads make against like domestic goods. I doubt if the gentleman can name one item, one single item, in the Payne bill where the duty carried is equal to the discrimination made against like domestic products. Let me except but two items and you can not. I will take out the wool schedule and I will take out the spelter schedule. Now, you guess. I have got the figures here.

Mr. BARTLETT of Georgia. But I am not guessing. I am asking for information.

Mr. KENNEDY of Ohio. And I am giving it to the gentleman—that it costs New England cotton mills $18.60 more per ton in carload lots to get their goods into the markets of this country than is charged for like foreign goods, and the gentleman does not know whether that is more than the tariff or not.

Mr. BARTLETT of Georgia. Well, I could find out very readily. I suppose I could ask the gentleman to tell.

Mr. KENNEDY of Ohio. In 1903 the rate on iron ore on the seaboard from New York to Pittsburg, if imported, was $2.16 per ton; upon ores mined in New York State, $3.36 per ton, making a difference of $1.20 per ton in favor of the imported iron ore. At that time the duty upon iron ore under the Dingley bill was 40 cents per ton, and the ocean rates probably less than 40 cents per ton—the present ocean rate on wheat going abroad—thus making the Spanish ores nearer and more available to the Pittsburg market than the ores of the mines of Witherby, Sherman & Co. by at least 40 cents per ton. At that time the rate upon pottery from East Liverpool, Ohio, to common points in the State of Utah was $2.35 per hundred pounds in carload lots; from London and Liverpool, England, $1.50 per hundred pounds in carload lots, making a differential in favor of English pottery, including the ocean haul, of $17 per ton in car lots—the minimum, 40,000 pounds, or 20 tons.

If the average carload were held to be 30 tons, which I presume would be about the average carload, the preferential in favor of foreign pottery would amount to $510 on every such carload of pottery. It is needless to say that no American pottery during those years entered the Far West. As far as the goods of the American pottery could go to the West was the Mississippi River. The rate from New Orleans on duck, cotton, unbleached, in bags, straight carloads or mixed carloads, with brown cotton bags and bagging, minimum weight per car 30,000 pounds, the rate to Denver, Colorado Springs, Pueblo, and Trinidad, was 82 cents for imported goods per hundred pounds, and $1.75 for the domestic goods, making a differential in favor of such goods coming from abroad against the cotton factories of the South of $18.60 per ton. These are mere illustrations of a prevailing practice which was and is general, was at that time in general operation, and affected prices to the consumer as no revenue tariff has ever done. I am glad to say that the railroads have in many instances, where vigorous protest has been made, voluntarily—to an extent at least—corrected this tremendous wrong.

Mr. KITCHIN. Do you know what is the tariff on a carload of pottery?

Mr. KENNEDY of Ohio. The tariff duty on pottery is 60 per cent ad valorem, and how much that is is pretty hard to tell. I have in my office over at the Office Building the German statistical year books for the last ten years, and by examining them you will find this peculiar fact, that the official valuation made by the Government of Germany of the pottery exported to the United States is just about twice as much in value as the Treasury's valuation of the same identical goods when they got here.

A million dollars' worth of pottery that they valued at a million dollars when it started over was only worth $500,000 when our appraisers valued it. So that if the German value had been taken, our tariff duty would have been 30 per cent instead of 60 per cent.

I will have printed in the RECORD tables which will show the import and domestic rates that were prepared by the Interstate Commerce Commission and filed with the Senate on February 28, 1903. It includes all kinds of merchandise.

Judge Knapp, in his testimony before our committee, had his attention called to this matter, and he stated that the same discriminations obtained now. Of course some rates have changed. For some reason that we do not know the railroads have now consented that domestic pottery shall enter the West. For years they put an embargo upon domestic pottery and held all the territory west of the Mississippi River for the exploitation of the foreign manufacturer of pottery, and the barrier that was placed in front of our goods going into that country was as tyrannical, as arbitrary, as if they had simply issued an order to this effect: "We will not carry your goods." That is going on just the same. But it is not against the potters, and the territory or the zone of the importers' activity is not at the same place it was before.

Mr. MANN. Will the gentleman yield?

Mr. KENNEDY of Ohio. Certainly.

Mr. MANN. As I understand the gentleman's statement which he has made, it is to the effect that the railroad rates for a long time, in connection with foreign importations and the foreign steamboat rates, were less for pottery from New York to points west of Chicago than from East Liverpool to the same points, although the foreign pottery passed over the same line of railroad and passed through East Liverpool?

Mr. KENNEDY of Ohio. Yes, sir.

Mr. MANN. And that the rate was so much less that it more than amounted to the tariff collected on the foreign pottery?

Mr. KENNEDY of Ohio. I think it did. It was so much less that domestic pottery could not compete with imported pottery in western cities.

Mr. HARDY. Will the gentleman allow an interruption?

The CHAIRMAN. Does the gentleman yield to the gentleman from Texas?

Mr. KENNEDY of Ohio. I will be glad to do so.

Mr. HARDY. I just wish to know whether, under the decision of Chief Justice Fuller, which was read a moment ago, even after you strike out that clause which requires that conditions and circumstances shall be substantially similar, if, under the power given to the commission to permit a greater charge for a short haul than a long haul, you will not have the same old evil that you had before?

Mr. KENNEDY of Ohio. Well, I do not believe so. This commission, almost as it is now constituted, undertook to remedy this evil by making the order I have read to you.

Mr. HARDY. Now, just one question further: From your latest remarks before my interruption, I understood you to favor a law which would absolutely forbid the charging of more for a short haul than a long haul through the same territory. Why not put that positive prohibition in the law?

Mr. KENNEDY of Ohio. In the first place, I would not do that, because there is some weight to the arguments that have been made that the passage of such a law would create great confusion, and would throw into confusion the whole transportation business of the country.

Mr. HARDY. That would be temporary.

Mr. KENNEDY of Ohio. That argument had no validity as to the objection to the amendment in this bill, because the bill

provides that there shall be no necessity for any confusion whatever. But to pass a law, as you suggest, would create great confusion. The provisos of this law, as we have it here, that existing rates shall not be disturbed for the period of six months, and that where the railroad company presents—I have forgotten the exact wording of it, but you all know it and will read it—where the railroad company makes request to continue one of these rates, then it shall stand until the commission passes upon the question. Now, there can be no confusion under that provision.

Mr. HARDY. Did you ever hear the railroads object, on the ground that they produced confusion, when it came to raising their rates, as on lemons?

Mr. KENNEDY of Ohio. I never did. I want now to go on in a connected way, if I may.

I requested the Interstate Commerce Commission to prepare a few rates, which I shall incorporate in the RECORD, showing the rates in force at the present time, from which, if compared with the rates of 1903, it will clearly appear that the general practice is just the same as it has been in the past. The power to discriminate in this way has been exercised in the past, and is being exercised now, to monopolize certain territories in the United States, excluding certain domestic goods from zones which are reserved exclusively for the exploitations of the importer. An embargo is placed by the railroads against domestic goods entering certain territories as autocratic and tyrannical as though they issued an order, "We will not haul your goods into this territory." The present rate on pottery permits the goods made by the artisans of my district now to compete with imported pottery as far west as Salt Lake City.

In 1903 they could not enter into competition with the foreign goods west of the Mississippi River. The present published rates to Denver and Salt Lake City—import rate to Denver is $1.01; the domestic, $1.07 per 100 pounds. To Salt Lake City the import rate is $1.57; the domestic rate, $1.63; the differential only being $1.20 per ton as compared with $17 per ton in 1903. Why this change of policy we can not understand; why we should be permitted now to sell our goods in that western country, when we were excluded from it so short a time ago, is beyond our comprehension. It is, however, against public policy to permit the power to remain without control or regulation in the hands of the railroad companies to so control the interstate commerce of this country as to restrict or extend the zone which the American producer can supply at will.

To illustrate the manner in which this power to discriminate against the domestic producer is exercised, I shall call attention to the rate on fuller's earth from New Orleans to points in the Central West. The import rate to Cincinnati from the ship's side at New Orleans is $1.60 per ton, and fuller's earth is produced in that vicinity. The domestic rate to Cincinnati is $7.80 per ton. The import rate to Chicago is $1.60 per ton, while the domestic rate is $8.20 per ton. The import rate to East St. Louis is $2 per ton, while the domestic rate is $7 per ton. If gentlemen will examine the rates which I will cause to be printed in the RECORD, showing rates on fuller's earth from Boston and New York to these same points, the import rate is a little higher than the import rate from New Orleans; the domestic rate, however, is very much lower from these northern points than is the domestic from New Orleans. This is explained by the fact that there is no domestic fuller's earth along the lines of the northern railways. It is produced only in quantities sufficient to compete with the foreign fuller's earth substantially in the southern country. Fuller's earth is largely used for purifying oils; it is used in the manufacture of soaps. I do not know of all of its uses, but I understand that its consumption is very considerable in Chicago, Cincinnati, and the Middle West. Through the courtesy of Congressman MOORE, of Texas, I was given the following letter from the president of the Fuller's Earth Company of Houston, Tex.:

THE FULLER'S EARTH CO.,
Houston, Tex., February 23, 1910.

Hon. JOHN M. MOORE, M. C.,
Washington, D. C.

DEAR SIR: Calling attention to the accompanying clipping from the Galveston News, some of your Texas constituents are suffering very much from such discriminations. As an instance, we control a large fuller's earth deposit, approximately 900,000 tons, and have expended quite a sum in buildings and machinery. The property is located at Somerville, on the Santa Fe Railroad. Our rate to Chicago, which point consumes a very large quantity, is $6 per ton in car loads, and to Cincinnati $6.60 per ton, and other points in proportion, as compared with an import rate from ship side, New Orleans to Chicago, Louisville, Cincinnati, etc., of $1.60 per ton, i. e., 8 cents per 100 pounds, which tariff of the Illinois Central is on file with the Interstate Commerce Commission. The through rate from England, our greatest competitor, to these points is not over 14 cents per 100 pounds, or $2.80 per ton; consequently it is very comprehensible why we can not do business after three years' efforts.

If not too much trouble, will you kindly ascertain from the Interstate Commerce Commission if there is any procedure we can adopt to obtain relief, and oblige,

Yours, respectfully,

THE FULLER'S EARTH CO.,
L. HOHENTHAL, *President.*

DEAR JOHN: I am also a stockholder in this company, and it seems that England can secure better rates than home people.

H. B. RICE.

I am a stockholder and concur in above statement.

J. S. RICE.

In a subsequent letter to me Mr. Hohenthal said that their company had not been able to ship any of their product into the Middle West except at a loss. By an examination of the rates that I shall put in the RECORD, the rates on fuller's earth to Texas points and the excessively high domestic rates to the central western points, the conclusion is forced upon us that the railroads have practically said to this company: "You can do a little business around home, but you must not sell your product in Chicago, Cincinnati, Cleveland, and the cities of the Central West; that territory is reserved for the exploitations of our friends beyond the water." It in fact does what would be a crime for competing manufacturers in this country to attempt to do—makes a division of the territory between the domestic producer and the foreign producer. It is as destructive to any legitimate and proper competition to do this as it would be to permit the manufacturers of this country to enter into an agreement with the importers of Europe that each should restrict his sales to certain defined territory. It is against public policy. It raises the prices to the consumer that this kind of fixing of rates should be tolerated. The company to which I have just alluded at Somerville, in Texas, should have the most advantageous rate upon that road. It is traffic that originates along the line. When that railroad was originally incorporated it was incorporated to carry this trade; it was to take care of the necessities of the community through which it ran. This was the primary purpose for which it was created, and it is a distinct invasion of the vested rights of this corporation to carry for a foreigner cheaper than it will carry for it.

In the consideration of this bill the National Congress should be careful to give no assent to the idea that that railroad company may give preference to other shippers over the shippers which they were created to serve. How does this practice affect prices? If the railroad company carried for both the domestic and the foreign shipper alike, accepting from each what the service is worth, they would haul just as many tons of fuller's earth to the Middle West as they do now, they would supply the demands and there would be actual, fierce competition between the foreigners' goods and the domestic producers' goods over all territory in the Central West and in Texas points as well. But they place an embargo against the domestic producer, they have raised an arbitrary wall which he can not pass. They give over the people of Indiana, Illinois, and Ohio to the exploitations of the foreigner. The contention that this high price of the domestic rate is in order to get more revenue for the road is in all such cases a false pretense, because they have completely stopped the shipping of fuller's earth under the domestic rate. When my attention was called to this company I wrote its president at Somerville, Tex., and received a further letter stating that they were not able to ship into that territory, that they had only operated their factory fifty-one days during the year 1909, and had sold the entire output of their factory in the little circumscribed zone which the railroads in their magnanimity permitted them to occupy. Now, it can be readily seen how that factory can afford to sell its fuller's earth nearly $5 cheaper per ton in any country of Europe than it can sell its product in Cleveland, Cincinnati, or Chicago, and if gentlemen who are complaining about the sale of goods abroad cheaper than at home but will study the railroad rate schedule all will become plain.

I hope our new tariff board in reporting on conditions affecting domestic and foreign trade will give to the country full information as to the exact extent to which the railroads in their discriminations in favor of foreign shipments have abrogated and nullified the schedules of our tariff laws. So far as fuller's earth is concerned, in the State of Indiana no reduction of the tariff on fuller's earth can affect the price to the consumer, for the tax which the railroad is putting upon them

in its excessively high domestic rate is $2 or $3 higher than the tariff, which is $3 per ton. That duty would have to be raised under existing conditions at least $2.50 more to enable the fuller's earth of Texas to enter the Middle West on equal terms with the foreign product after having paid the duty, and yet it is contended throughout the Middle West that the duty of $3 is far more than is necessary to equalize the difference of labor cost here and abroad. The duty is away below that figure adequate to equalize the disparity in freight rates alone and gives no aid to the Texas factory to help it in paying the American rate of wages. I believe that the tolls over our railroads should be like the postage in the Postal Department, for every man alike. I do not believe that railroads should sell thousand-mile tickets at a lower rate than they carry passengers on the same train for 5 miles. And every change of law in the great movement for regulation should be carefully taken to get back to this correct idea. That any American railway should give to a foreign shipper better terms than it gives to Americans at home is monstrous. Passengers from London to San Francisco should have no lower transportation after they arrive at New York over our railroads than American citizens who start from New York to go to San Francisco.

The Fuller's Earth Company, whose troubles I have been discussing, could ship its product to Germany, pay the ocean rate across, transship it again to New Orleans, and, if accorded the rate which is given to the foreign shipper, could reach Chicago over these same railroads $3 cheaper per ton than it can go direct. When we have thoroughgoing regulation of railroads I believe it will comprehend regulations that eliminate practices that represent economic waste. I for one believe that it is high time that the best thought of this country should devote itself seriously to Americanizing the American railroad, rather than to neutralizing the Manchurian railroad. The proposed changes are conservative. It is not sought to abolish at once and entirely all these differentials, but it is desired to place the control and regulation of the same in an impartial commission that shall represent American interests alone, be actuated by the welfare of the carrier, the consumer, the American shipper, and have due regard for public policy as declared in our revenue laws. It is a great task to study and compare the advantages given to imported goods by freight differentials in their favor and advantages which under the Payne bill we have attempted to give to the American producer. Nobody knows whether the schedules of the Payne bill are high enough to equalize the freight differentials alone. In very, very many cases they are not sufficient even to do this. In many cases they are away below a point where they would begin to equalize the differences between the labor costs here and abroad.

Upon this page, prepared by the Interstate Commerce Commission, appear some of the rates from New Orleans to the Middle West, which would indicate that clay of a merchantable character abounds somewhere in that southern country. I find here a rate which reads as follows: Clay, when estimated weight 1,120 pounds to the cask, in carloads, the import rate is 7 cents per hundred pounds to Cincinnati, domestic rate, 28 cents per hundred pounds; just four times as much. To Chicago the import rate is 7 cents per hundred pounds, domestic rate is 31 cents per hundred pounds; and it is a certainty which will be carried out upon investigation that the 28 cent and the 31 cent rate made against the domestic clays are not for the purpose of getting revenue for the railroad, but for the purpose of keeping out the domestic clay, so that there will be no interference with the foreign shipper in the markets of the Middle West, where he will sell his goods for whatever the market will stand. The same is true of kaolin. The import rate a ton to Chicago is $1.80, the domestic rate is $8.20. The duty that this article pays upon entry is $2.50. The imported article in the ship at New Orleans, before it is landed and the duty paid, is worth $3.90 more than the goods of the domestic producer at the same place on its way to Chicago. This system of making rates on the part of the railroad companies does not accord with my idea of the great doctrine of a square deal. This method of rate making, in the first place, stunts and dwarfs industrial development; minimizes the production of those sections of our country which produce these commodities.

It paralyzes the ambition of men who invest their money in enterprises which, under fair treatment and just conditions, would be profitable. It confiscates their property, it makes valuable deposits of rare and valuable mineral earth of less value in our own country, close to our own markets, than if they were located in other countries and beyond broad seas. And how does it affect the consumers in the Middle West? By the arbitrary and tyrannical edict of these public trustees, home competition is barred, and it is no wonder that they seem to be going crazy in Indiana, flying round, scolding about the tariff. Why, it is not the tariff at all that affects these people. What is making prices high to them is the fact that natural competition is interfered with, and importers are selling their goods without competition for what the markets will stand. When we have no competition that originates at home the only way that we can restrain exorbitant prices is to stop buying. We pay in this country for tea 80 cents and $1 per pound which sells in every other tea-consuming country of the world at not to exceed 40 cents per pound. The same brand of tea which is sold here, as a rule, sells in Canada for about one-half the price obtaining here, and in England, where it pays a high tariff duty, it sells at a still lower price, the importer in each country exacting of the consumer all that the market will stand. It is not because he thinks more of the Canadian than he does of the American that he charges in Canada for his tea 40 cents and in the United States $1, but because when he puts his merchandise at a higher price the consumption falls off. The only thing that will lower the prices to the consumer on imported articles is to give the American producer a fair and even chance to fight for the market.

In the provisos to section 6b, which amends section 4 of the old law, it is provided that—

> Upon application to the Interstate Commerce Commission such common carrier may, in special cases, after investigation, be authorized by the commission to charge less for longer than for shorter distances for the transportation of passengers or property, and the commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section.

It is further provided that—

> No rates or charges lawfully existing at the time of the passage of this amendatory act shall be required to be changed by reason of the provisions of this section prior to the expiration of six months after the passage of the act, nor in any case where application shall have been made with the commission in accordance with the provisions of this act until a determination of such application by the commission.

These provisions are thought necessary for the reason that if the law were to go into immediate operation it would occasion very great confusion, as these differentials exist everywhere. In every branch of business done by the railroads they seem to give discriminations to the foreign over the American shipper, and so many changes in schedules will have to be worked out and effected to make this correction that if time sufficient were not granted it would occasion great confusion. Some contracts doubtless have been made for future delivery which are based upon existing rates, and there are rare instances where the making of lower rates for import and export traffic perhaps ought to continue. All this is left to the judgment and discretion of the Interstate Commerce Commission, where it should be placed. When our regulation of railroad corporations is thoroughgoing and complete, I have no doubt that these public-service corporations will be required to route their goods by the most direct and economic routing.

The carrying of traffic in devious ways and over longer rather than over shorter roads represents waste, waste of energy; and at some time, if not now, the clays and the minerals of the South will not be treated by our own railroads as though they were thousands of miles more remote than the clays of England or France or Germany. And when these abuses are corrected I will join our good friends from the Middle West in another revision, which can be downward along all lines without injury to any American interest; but so long as the policy of the American railroad seems to be dictated and controlled by the Americans who have their factories abroad in place of at home, and are permitted to give to their goods preference in this country that exclude American goods entirely from the markets, no such revision can prove anything but a disappointment to the American consumer.

Let us Americanize the American railroad.

This schedule is a schedule showing the rates on different commodities, import and domestic, from New Orleans, La., to Denver, Colorado Springs, Pueblo, Trinidad and intermediate points, Colorado, and New Mexico, in effect June 24, 1902, It reads:

> Duck, cotton, unbleached, in bales, straight carloads, or in mixed carloads, with brown cotton bags and bagging, minimum rate, 30,000 pounds per car.

Fifteen tons would be the minimum carload. The rate on export goods of that character is 82 cents and on domestic $1.75, making a differential in favor of the import cotton goods of 93 cents a hundred pounds, or $18.60 a ton in carload lots. Now, I am giving you an idea why your cotton factories in the South could not prosper.

Mr. BARTLETT of Georgia. Will the gentleman permit me right there——

Mr. KENNEDY of Ohio. Certainly; with pleasure.

Mr. BARTLETT of Georgia. I do not know what effect it has had, but they have thrived remarkably and done remarkably well. They have been so busy during the year 1909 that they have consumed more cotton than all the other mills——

Mr. KENNEDY of Ohio. I am glad of it.

Mr. BARTLETT of Georgia. I know you are, and that is the reason I tell you. They consumed about 2,400,000 bales of cotton in the cotton mills of the South in 1908.

Mr. KENNEDY of Ohio. I am glad to be able to testify to the good things the railroads have lately done.

Mr. BARTLETT of Georgia. That was not due to the railroads altogether.

Mr. KENNEDY of Ohio. I think the railroads are now giving you better rates.

Mr. BARTLETT of Georgia. I did not say so.

Mr. KENNEDY of Ohio. When discussing the Hepburn bill in 1906 I put into the RECORD the rates that the potters of my district had to pay compared with the rate from Liverpool, England.

Published rates for crockery and earthenware in crates from East Liverpool, Ohio, to various central and western points, as compared with rates from London and Liverpool, England.

[Rates in cents per hundred pounds.]

To—	From—	
	East Liverpool, Ohio.	London and Liverpool, England.
Chicago, Ill.	21	22
East St. Louis, Ill.	30	26
St. Paul, Minn.	48	42
Minneapolis, Minn.	48	42
Beatrice, Nebr.	73	54
Lincoln, Nebr.	69	51
Cedar Rapids, Iowa.	55	37
Des Moines, Iowa.	60½	41½
Fort Dodge, Iowa.	63	42
Ottumwa, Iowa.	55	38
Waterloo, Iowa.	56	38½
Abilene, Kans.	103	73
Coffeyville, Kans.	99½	69
Hutchinson, Kans.	111	74
Salina, Kans.	107½	74
Topeka, Kans.	84	59
Wichita, Kans.	111	74
Missouri River points.	65	47
Colorado common points.	145	74
Utah common points.	235	150

Mr. BARTLETT of Georgia. Will the gentleman permit me to say——

Mr. KENNEDY of Ohio. In a moment the gentleman may. I want to answer the gentleman's suggestion about the cotton mills of the South. So far as the pottery of my district is concerned, the railroads are now treating us very fairly. They have changed the import rate and the domestic rate so that now there is little difference. When we passed the Hepburn bill, but a few years ago, the discrimination in favor of foreign pottery to Denver and Salt Lake, I think, was $17 a ton in carload lots of 40,000 pounds to the car, minimum. That, on a 30-ton car, would make a discrimination in favor of the foreign manufacturer of $510, and at that time our goods could not, in fact, go farther to the west than the Mississippi River. Now the discrimination as against our pottery is only $1.20 a ton clear to Salt Lake City.

Mr. BARTLETT of Georgia. May I ask the gentleman how this present bill is going to remedy that?

Mr. KENNEDY of Ohio. The change in this bill will remedy that. Our factories are not at the seaboard; there are none of them at the seaboard. Our shipment is all the shorter shipment, and all we care is that they shall distribute our goods in this country and charge no more for our shorter haul than they do for the foreigner's longer haul over the same roads with the same kind of goods; and is not it just? For whom were the railroads that go through my district built? Why, when the public charters a railroad and gives them the power to take private property for public use, the very first question determined in the proceeding is, Does the public need this road?

And what is considered? Why, the traffic along the line; the traffic along the line. Every railroad that has been built in America was authorized to be constructed primarily to take care of the traffic along the line, and shall we, in passing this act to regulate railroads, take a false step in this matter and pass a bill, when the attention of the House is challenged to this matter, that is distinctly wrong? Why, the railroads ought to give the best rates to the factories that come and locate along the line. They were made originally for that purpose.

Mr. JOHNSON of South Carolina. Will the gentleman permit a question?

Mr. KENNEDY of Ohio. Certainly.

Mr. JOHNSON of South Carolina. That was a very sound proposition in that the railroads ought to give our people the benefit of better rates; do not you think our manufacturers ought to do the same thing?

Mr. KENNEDY of Ohio. I do; I do; and when the railroads of this country serving the Americans give them as good rates in distributing American products to American consumers I will join you in a downward revision, and it can be all along all lines. [Applause.]

Prior to 1906 no pottery that I know of of domestic manufacture went to Denver, Salt Lake City, or as far west as Wichita during the lift of the Dingley bill.

Mr. MANN. In that connection, was there any difference in the case of the railroad company as to whether it was in carload lots or packed pottery?

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. I yield thirty minutes more to the gentleman. Was there any difference in one case from the other?

Mr. KENNEDY of Ohio. No; it was packed the same, and the rates I have given you were all in carload lots, whether imported or domestic.

Mr. REEDER. Mr. Chairman, I would like to ask the gentleman a question, if he will allow me. I would like to inquire if the law, as written now, that we are discussing, will at all control this rate matter?

Mr. KENNEDY of Ohio. I think it will. Of course it will not necessarily make a sudden change. The law, by its proviso, will permit these rates to continue until the Interstate Commerce Commission can act upon them. Then it will put the burden upon the importer, or whoever claims the right to have a discrimination in his favor, to show why that discrimination should continue.

Mr. HENRY W. PALMER. Why do the railroads give these preferences?

Mr. KENNEDY of Ohio. Why did they give rebates to American shippers before the Hepburn bill was passed?

Mr. HENRY W. PALMER. That is not an answer.

Mr. KENNEDY of Ohio. I think it is; and I think they do it for exactly the same reason. I can not conceive of any other reason. There must be a profit in some way to the men who control the railroads.

Mr. HARDY. Will the gentleman permit a question?

Mr. KENNEDY of Ohio. Certainly.

Mr. HARDY. Does not that very same thing that you are speaking of apply to the various railroads within our borders which are allowed to give to water competitive points the same difference that you speak of?

Mr. KENNEDY of Ohio. I think so.

Now, I want to call attention to discriminations. I find in this page the subject of clay. You must have in the southern country some merchantable clays that are distributed for consumption in this country.

Mr. HARDY. We have lots of it.

Mr. KENNEDY of Ohio. Here is an item of clay weighing 1,020 pounds in casks. The importer's rate from New Orleans to Cincinnati is 7 cents, and the domestic rate 28 cents—four times as great.

Now, 7 cents would be $1.40 a ton; 28 cents would be $5.60 a ton. The duty on these clays is $1 a ton. What does this mean? It simply means that that is an embargo against the clays of Texas going into the Central West.

Mr. CRUMPACKER. That low rate from New Orleans to Cincinnati is a rate on import clay?

Mr. KENNEDY of Ohio. Yes.

Mr. CRUMPACKER. Is not that rate made to meet competition from the Atlantic coast the other way, from the East?

Mr. KENNEDY of Ohio. Oh, no; I think not.

Mr. CRUMPACKER. I think in every one of these cases these low rates are made to meet competition, because railroads do not make these exceedingly low rates unless they have to do it. It is all the traffic will bear.

Mr. MANN. But they are not made to meet domestic competition. They are made to meet the competition between railroads for the import business. That does not help us any.

Mr. KENNEDY of Ohio. And if they did not carry the import clay, they could carry the domestic clay. I wrote to this gentleman who wrote about his fuller's earth proposition and got another letter.

In his other letter he said they were able in the year 1909 to operate their factory only fifty-one days, and every particle of the fuller's earth that they manufactured in that time had to be sold right around home. If the railroads wanted to carry fuller's earth to the Central West, why did they not carry his earth? They made the high rate for him. The low import rate is made to meet the import rate from New York by the Pennsylvania and other roads to the Central West. But should not that road, that was built through Somerville, chartered to take care of the traffic of Somerville, be the competitive ally of the factories and people along that line? [Applause.] It could have carried just as much fuller's earth to Cincinnati and the Middle West as it did carry, and it could have carried domestic fuller's earth. It could have had the cars back. The rate is 8 cents on import and 39 cents on domestic from Cincinnati. I gave you the rate from Somerville, which was less. That high rate is where you find the vice of the whole situation. That is an embargo. It is not to get money for the railroad, because it does not get it. There are no shipments under it. It is an embargo to hold American competition out of that field for the benefit of foreign shippers.

Mr. SHACKLEFORD. Will the gentleman assign the reason that the railroads have for pursuing that policy?

Mr. KENNEDY of Ohio. I know what they say.

Mr. SHACKLEFORD. Not what they say, but what is the real reason for that difference?

Mr. KENNEDY of Ohio. They say that they can not have foreign commerce unless they buy from foreign countries, and they can not buy from foreign countries unless they provide a market for those foreign products. So that they put an embargo around certain zones in this country to provide the market. Take the fuller's-earth proposition——

Mr. NYE. Do the railroads claim that they lose money on these low import rates?

Mr. KENNEDY of Ohio. I do not know. They say that these import rates would not be profitable taken alone. They answer that they can afford to carry the goods low rather than have their cars to go back empty, but that is special pleading.

Mr. NYE. Does the gentleman think, from his study of this question—and he has evidently given it a great deal of study—that they lose on an individual shipment such as the gentleman spoke of?

Mr. KENNEDY of Ohio. Either they lose or else the other rates are outrageously high.

Mr. NYE. That is what I am trying to get at, whether they are actually losing, or whether the Interstate Commerce Commission could not properly base rates upon these lower rates and still do justice to the carriers.

Mr. KENNEDY of Ohio. We want to help them to do something.

Mr. HARDY. Is it not probable that these railroads may be interested in some foreign shipping, and are seeking to get business for that shipping as well as themselves?

Mr. KENNEDY of Ohio. There are a great many of the stocks of our railroads here owned abroad. There is a very rich and influential lot of capitalists in this country who are now building their factories abroad, manufacturing almost everything that supplies our markets in foreign countries, because labor is cheaper there. I think they are controlling our railroad rates and making rates for themselves.

Mr. MADDEN. Will the gentleman yield?

Mr. KENNEDY of Ohio. Certainly.

Mr. MADDEN. What does the gentleman say to the proposition whether or not this bill will give the power to the Interstate Commerce Commission to prevent the discrimination to which he has referred with relation to domestic and foreign rates?

Mr. KENNEDY of Ohio. I think it will; I think it does exactly that thing.

Mr. SHACKLEFORD. Instead of giving the commission power to do it, would it not be better to direct the commission to cure the evil and not leave it to the discretion of the commission to do it, but make it their duty?

Mr. KENNEDY of Ohio. I am in thorough accord with the gentleman's ideas, but I will be very much pleased if Congress will pass this bill and carry into law what we have written in this bill. We were not in entire accord.

Mr. SHACKLEFORD. If the gentleman will see the Attorney-General and get his consent, he might put the amendment in.

Mr. KENNEDY of Ohio. The amendment is in, and I think it will stay in.

Mr. HARDY. Will the gentleman from Ohio yield?

Mr. KENNEDY of Ohio. I will yield to the gentleman from Texas.

Mr. HARDY. I think the gentleman feels as I do, but does not he think that the Supreme Court, under the terms established by Judge Fuller, will hold that these conditions of the railroad demanding the opportunity to get business will entitle them to retain these same discriminatory charges that they now have under the broad terms that the conditions and circumstances are dissimilar?

Mr. KENNEDY of Ohio. I do not think so. If this law is passed as we have written it, the matter will be cured.

Mr. HARDY. Would it not be better if the clause were stricken out?

Mr. KENNEDY of Ohio. That might be all right, but does the gentleman know what the railroads and the commission would do for a while?

Mr. HARDY. I know what it would do if the courts would enforce the law.

Mr. KENNEDY of Ohio. A new rate could not be made for thirty days, and it would create inexplicable confusion.

Mr. HARDY. The law itself gives six months for it to go into effect.

Mr. KENNEDY of Ohio. The six months would help out a little, but we do not know whether they could get in shape in six months. I am satisfied with the law as we have written it.

Evidently kaolin is produced in Texas because the domestic rate on kaolin is 39 cents and the foreign rate is 9 cents from New Orleans to Cincinnati. The rates made by the northern roads where there is no fuller's earth contain scarcely any discrimination at all between the imported earth and the domestic, because there is no domestic fuller's earth shipped over those roads, and therefore there is very little, if any, discrimination.

You can tell exactly where the clay and fuller's earth are located, in what section of the country they are produced, by studying the rates of the railroads. That high rate on kaolin—imported 9 cents and domestic 39 cents—is put there not to get more money for the railroads. Although I know nothing about it, I will hazard all I have got that they do not carry any domestic kaolin from that territory. That rate is put there to allow the foreign clay to command a good price in the Middle West, to keep the foreigner from being troubled by American competition.

The discrimination against the American in railroad rates alone is twice as much as the duty on kaolin. This method of rate-making represents economic extravagance and waste, and when the regulation of railroads is scientific and thorough, we will carry into our law regulations that the traffic shall go by the most economical route. When we have the Panama Canal completed, I hope power will be vested in the Interstate Commerce Commission to compel freight that ought to go by boat through the canal to go that way.

Mr. COX of Indiana. Mr. Chairman, will the gentleman yield for a question?

Mr. KENNEDY of Ohio. Yes.

Mr. COX of Indiana. I want to see if I understood the gentleman's statement. In the shipment of what the gentleman is designating here at fuller's earth, does the gentleman mean that under the rates now as fixed by the railroads, as an illustration, that a man who wants to buy it, say at the gentleman's town, can have that actually shipped from the mine in Texas to Germany and then reshipped to this country cheaper than he could get it shipped in the first instance directly from the mine in Texas?

Mr. KENNEDY of Ohio. He can, if the railroads will give him the import rate coming in. There is a packing house in Buffalo, that my friend, Mr. MURDOCK, told me of, that had a shipment of salt pork which it wanted to send to San Francisco. Their rate man went down and studied out the best way to make the shipment, and that salt pork was shipped to Rotterdam, in Holland, and transshipped under a lower classification to New York, and thence across the continent to San Francisco, and money saved by shipping it in that way.

Mr. COX of Indiana. In that instance, did the pork actually go to Rotterdam?

Mr. KENNEDY of Ohio. Well, my authority is Mr. VICTOR MURDOCK.

Mr. COX of Indiana. Well, quoting him?

Mr. KENNEDY of Ohio. Yes; and the company was Dole & Co., of Buffalo, N. Y. I know that if the ocean rate be only 40 cents a ton from New Orleans—well, let us see what it is: Fuller's earth, 8 cents, that is $1.60, and to Chicago 41 cents; that would be $8.20. One dollar and sixty cents from $8.20—well, it would cost $8.20 to ship a ton of fuller's earth from New Orleans to Chicago. Now, if they can send it across to Holland and back for 80 cents and then get the $1.60 rate, why they would save $4.

Mr. KENDALL. I want to ask the gentleman a question right there. Is it his theory from the investigation that he has made of the subject that there is collusion between the importer and the domestic railroad company, or how does the gentleman account for the largely increased domestic rate over that allowed foreign goods?

Mr. KENNEDY of Ohio. The high domestic rate in cases like this is an embargo. It means nothing else.

Mr. KENDALL. That is what I want to get at.

Mr. KENNEDY of Ohio. There is somebody that is influenced to make those exorbitantly high rates who is getting something from the foreign shipper.

Mr. KENDALL. What inducement is there to the railroad company to impel it to establish that embargo? What is the gentleman's theory about it?

Mr. KENNEDY of Ohio. Well, I am giving the gentleman the facts, and he will have to draw his own conclusions.

Mr. KENDALL. I wanted the gentleman's conclusion.

Mr. KENNEDY of Ohio. My conclusion is not worth any more than the gentleman's. I have wondered why they did this. It is not for the best interests of the railroad company; it benefits no stockholder; it is as utterly wrong and out of character as were the rebates that were given before we passed the Hepburn bill to American shippers here at home.

Mr. KENDALL. It is an outrage; it is monstrous. There is no question about that.

Mr. KENNEDY of Ohio. Now, it is argued that these railroads, by giving a low import rate and getting the traffic, can carry it clear across from New Orleans to San Francisco, and that they ought to do that, because if they do not do it it will go in ships around the Horn. When we regulate the railroads, I hope the commission will have power to make the traffic go by the most economic route, if it be in our boats around the Horn.

I have now said all that I am going to say about this bill, Mr. Chairman, except incidentally in connection with section 13, with reference to stocks and bonds.

I think that section is an admirable piece of legislation, and while the chairman of the committee is reported to have said that he knew nothing about the issuance of stocks and bonds and that the committee knew nothing about it, I think that the judgment of the country will be that he meant that he knew nothing about the way stocks and bonds are now issued, because I believe that the legislation in section 13 will stand as a monument to the wisdom of our chairman, that he did know how stocks and bonds ought to be issued.

This provision provides that the Interstate Commerce Commission shall go forward and determine what money the railroad needs, in the first place. It is as complete a piece of legislation, going along right and scientific lines, as could be formulated. It provides that before stocks and bonds can be issued at all the commission shall determine how much money and for what purpose it is to be used. It is like our Appropriations Committee in providing for the support of the Post-Office Department, and is consistent with the highest ideas of railroad regulation. Now, in connection with the matter I was just talking about, if we are going to put $5,000,000,000 of money into our railroads to amplify their transportation facilities, that money ought not to go in to enable the railroads to compete with ocean-going vessels to carry traffic that we have no business to build public highways to carry. Our highways should be chartered and financed and built to transport traffic that is essentially theirs. This competition between railroads ought to be regulated. We are carrying traffic by devious ways all around Robin Hood's barn, way out of the natural channel, in order that some transportation company may compete with another transportation company.

I hope the time is not far distant when the regulation of railroads may make the traffic go by the proper channel, by the cheapest route. I would be better suited with section 12 if the Interstate Commerce Commission were substituted for the commerce court, for this reason: If the questions to be submitted in section 12 are submitted to the court, there will be no discretion that they can exercise whatever. They will simply have to determine whether the strict letter of that criminal statute would be violated or not.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. ADAMSON. I will yield the gentleman time.

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

Mr. KENNEDY of Ohio. This is the language of that section:

> But any railroad or water-carrier corporation, being a common carrier as aforesaid, which proposes to acquire any interest in the capital stock or to lease or purchase a railroad or water line of any other corporation may apply to the commerce court by its petition for that purpose, filed in advance of actual taking of such interest in capital stock or the acquisition of such railroad or water line, but after an agreement or contract for its acquisition has been made, with a stipulation therein that such agreement or contract shall take effect in case it is found by the commerce court not to violate this section.

We can confer upon a court no legislative discretion, and the court can not consider the questions which might be submitted to a legislative commission. Now, the question of whether or not the road substantially competes can be determined by a court, but I would like to see this clause amended so that we could submit to a legislative commission, not the question whether they compete or not, but whether or not the best interest of the shipper and the public in general might be subserved by such combination; whether or not the service of the railroads would be better or the rates cheaper by permitting them to so combine. I believe that it would be a grand thing for this country if all the railroads in this country substantially were combined a great deal more than they are, and if our system of regulation was more complete we would have less waste in transportation; we would have better service. Competition among the railroads in connection with railroad regulation is inconsistent. If we had thoroughgoing regulations there need be no competition.

The interests that are affected by this bill can hardly be overstated; in its framing Congress should be careful to take no false step. I believe it is better to go slowly in a great matter of this kind. I believe this legislation contains no provision that is not consistent with the character of the American railroads and that is not in line with the highest and best regulation. [Applause.]

APPENDIX A.

Statements showing import and domestic rates on various commodities in cents per 100 pounds, unless otherwise shown, from and to points shown.

[Interstate Commerce Commission, Bureau of Tariffs, April 9, 1910.]

	From Boston, Mass., to—					
	Cincinnati.		Chicago.		East St. Louis.	
	Import.[a]	Domestic.	Import.[a]	Domestic.	Import.[a]	Domestic.
Burlap and burlap bagging	16	[b] 30	16	[b] 30	19	[b] 35
Clay, estimated weight of 1,120 pounds to the cask	10	[b] 17	10	[b] 20	13	[b] 23
Crockery, including A. G. and J. china; released value, $12 per 100 pounds, less than carload, in boxes, barrels, tierces, casks, or hogsheads	32	[c] 35	32	[c] 40	38	47
Crockery, including A. G. and J. china; released value, $12 per 100 pounds, carload, in boxes, barrels, tierces, casks, or hogsheads	22	[c] 26	22	[c] 30	26	[c] 35
Crockery, any quantity in crates or slatted boxes	22	[cd] 35 / [ce] 26	22	[cd] 40 / [ce] 30	26	[d] 47 / [ce] 35
Fuller's earth	11	[b] 19	11	[b] 22	13	[b] 26
Kaolin	12	[b] 17	12	[b] 20	15	[b] 23
Ore, manganese, 2,240 pounds	253	[b] 435	300	[b] 500	[b] 361	[b] 585
Rice, brewers'	15	[c] 22	15	[c] 25	18	[c] 29

[a] Import commodity rate.
[b] Domestic commodity rate.
[c] Domestic class rate.
[d] Less than carload.
[e] Carload.

Statements showing import and domestic rates on various commodities in cents per 100 pounds, unless otherwise shown, from and to points shown—Continued.

	From Baltimore, Md., to—					
	Cincinnati.		Chicago.		East St. Louis.	
	Import.[a]	Domestic.	Import.[a]	Domestic.	Import.[a]	Domestic.
Burlap and burlap bagging	16	[b] 27	16	[b] 27	19	[b] 32
Clay, carload, estimated weight 1,120 pounds to the cask	10	[b] 14	10	[b] 17	13	[b] 20
Crockery, including A. G. and J. china; released value, $12 per 100 pounds, less than carload, in boxes, barrels, tierces, casks, hogsheads	32	[c] 33	32	[c] 38	38	[c] 45
Crockery, including A. G. and J. china; released value, $12 per 100 pounds, carload, in boxes, barrels, tierces, casks, hogsheads	22	[c] 23	22	[c] 27	26	[c] 32
Crockery, in crates or slatted boxes, any quantity	22	[d] 33 / [c e] 23	22	[d] 38 / [c e] 27	26	[d] 45 / [c e] 32
Fuller's earth	11	[b] 16	11	[b] 19	13	[b] 23
Kaolin	12	[b] 14	12	[b] 17	15	[b] 20
Ore, manganese, 2,240 pounds per ton	253	[b] 375	300	[b] 440	361	[b] 525
Rice, brewers'	15	[c] 19	15	[c] 22	18	[c] 26

	From Philadelphia, Pa., to—					
	Cincinnati.		Chicago.		East St. Louis.	
	Import.[a]	Domestic.	Import.[a]	Domestic.	Import.[a]	Domestic.
Burlap and burlap bagging	17	[b] 28	17	[b] 28	20	[b] 33
Clay, carload, estimated weight 1,120 pounds to the cask	11	[b] 15	11	[b] 18	14	[b] 21
Crockery, including A. G. and J. china, released value $12 per 100 pounds, less than carload, in boxes, barrels, tierces, casks, hogsheads	33	[c] 34	33	[c] 38	39	[c] 46
Crockery, including A. G. and J. china, released value $12 per 100 pounds, carload, in boxes, barrels, tierces, casks, hogsheads	23	[c] 24	23	[c] 28	27	[c] 33
Crockery, in crates or slatted boxes, any quantity	23	[d] 34 / [c e] 24	23	[d] 38 / [c e] 28	27	[d] 46 / [c e] 33
Fuller's earth	12	[b] 17	12	[b] 20	14	[b] 24
Kaolin	13	[b] 15	13	[b] 18	16	[b] 21
Ore, manganese, per ton of 2,240 pounds	273	[b] 395	320	[b] 460	381	[b] 545
Rice, brewers'	16	[c] 20	16	[c] 23	19	[c] 27

	From New York to—					
	Cincinnati.		Chicago.		East St. Louis.	
	Import.[a]	Domestic.	Import.[a]	Domestic.	Import.[a]	Domestic.
Burlaps and burlap bagging, carload	19	[b] 30	19	[b] 30	22	[b] 35
Clay, carload, estimated weight, 1,120 to the cask	15	[b] 17	15	[b] 20	18	[b] 23
Crockery, in boxes, barrels, tierces, casks, or hogsheads, carload; released value, $12 per 100 pounds	25	[c] 26	25	[c] 30	29	[c] 35
Crockery, in boxes, barrels, tierces, casks, or hogsheads, less than carload; released value, $12 per 100 pounds	35	[c] 35	35	[c] 40	41	[c] 47
Crockery, in crates or slatted boxes, less than carload and carload	25	[d] 35 / [c e] 26	25	[d] 40 / [c e] 30	29	[d] 47 / [c e] 35
Fuller's earth, carload	14	[b] 19	14	[b] 22	16	[b] 26
Kaolin, carload	15	[b] 17	15	[b] 20	18	[b] 23
Ore, manganese, carload, per ton of 2,240 pounds	313	[b] 435	360	[b] 500	421	[b] 585
Rice, brewers', carload	18	[c] 22	18	[c] 25	21	[c] 29

[a] Import commodity rate.
[b] Domestic commodity rate.
[c] Domestic class rate.
[d] Less than carload.
[e] Carload.

Statements showing import and domestic rates on various commodities in cents per 100 pounds, unless otherwise shown, from and to points shown—Continued.

	From New York, N. Y., to Pittsburg, Pa.	
	Import.	Domestic.
Ore, iron, crude, in bulk, carload, per ton, 2,240 pounds	216	300

	From Boston, Mass., to Denver, Colo.	
	Import.	Domestic.
Cotton piece goods in bales or boxes, any quantity:		
To Mississippi River	58	65
Beyond	115	115
Total	173	180

	From New Orleans, La., to—					
	Cincinnati.		Chicago.		East St. Louis.	
	Import.[a]	Domestic.	Import.[a]	Domestic.	Import.[a]	Domestic.
Burlap and burlap bagging, carload	13	[b] 16	13	[b] 16	[b] 16	[b] 16
Clay, carload, when estimated weight 1,120 pounds to cask	7	[c] 28	7	[c] 31	10	[c] 25
Crockery, including G. A. and J. China, relative value $12 per 100 pounds, carload	19	[c] 39	19	[c] 41	23	[c] 35
Crockery, including G. A. and J. China, relative value $12 per 100 pounds, less than carload	27	[c] 54	27	[c] 58	33	[c] 50
Crockery, in crates or slatted boxes, less than carload	19	[c] 54	19	[c] 58	23	[c] 50
Fuller's earth	8	[c] 39	8	[c] 41	10	[c] 35
Kaolin	9	[c] 39	9	[c] 41	12	[c] 35
Ore, manganese, per ton 2,240 pounds	193	[d] 23	240	[d] 25	301	[d] 21
Rice, brewers'	12	[c] 25	12	[b] 23	15	[c e] 23

	From New Orleans to Denver, Colo.	
	Import.[a]	Domestic.
Burlap and burlap bagging	55	56
Clay, carload	30	[b] 30
Crockery. (See other table.)		
Kaolin	35	[c] 77
Ore, manganese, per ton of 2,240 pounds	560	[c] 53½
Rice, brewers'	33	[b] 38
Denims, straight carload, minimum weight 30,000 pounds	[f] 180	[b] 107
Duck, cotton, unbleached, in bales, straight carload	[f] 180	[b] 107

	Import and domestic rates (current) from New Orleans, La., to Texas common points.	
	Import.	Domestic.
Burlap bagging	[f] 48½	[b] 54
Crockery and queensware, including white and finished crockery commonly known as tableware, etc., carload	[f] 44½	[b] 69
Fuller's earth, carload	[a] 16½	[b] 23
Ore, manganese, carload	[f] 26½	[b] 33
Rice, carload	[a] 16½	[b] 49

[a] Import commodity rate.
[b] Domestic commodity rate.
[c] Domestic class rate.
[d] Per 100 pounds.
[e] Fifteen cents to St. Louis, Mo., only.
[f] Import class rate, the import commodity rate on denims and cotton duck apparently withdrawn.

Statements showing import and domestic rates on various commodities in cents per 100 pounds, unless otherwise shown, from and to points shown—Continued.

	From Newport News to—					
	Cincinnati.		Chicago.		East St. Louis.	
	Import.[a]	Domestic.	Import.[a]	Domestic.	Import.[a]	Domestic.
Burlap and burlap bagging	16	[b]25	16	[b]27	19	[b]32
Clay, carload, casks, estimated weight 1,120 pounds per cask	10	[b]14	10	[b]17	12	[b]20
Crockery in boxes, barrels, tierces, casks, hogsheads, including A. G. and J. china, released value, $12 per 100 pounds, carload	22	[c]22	22	[c]25	26	[c]30
Crockery in boxes, barrels, tierces, casks, hogsheads, including A. G. and J. china, released value, $12 per 100 pounds, less than carload	32	[c]30	32	[c]34	38	[c]42
Crockery in crates or slatted boxes, any quantity	22	[d]22 / [c c]30	22	[d]25 / [c c]34	26	[d]30 / [c c]42
Fuller's earth	11	[b]16	11	[b]19	13	[b]23
Kaolin	12	[b]14	12	[b]17	15	[b]20
Ore, manganese, per ton 2,240 pounds	253	[c]360	300	[c]400	361	[c]480
Rice, brewers'	15	[c]18	15	[c]20	18	[c]24

	From New York to Denver.					
	Import.			Domestic.		
	To Mississippi River.	Beyond Mississippi River.	Through.	To Mississippi River.	Beyond Mississippi River.	Through.
Crockery, in boxes, barrels, tierces, casks, or hogsheads, value released, $12 per 100 pounds (carloads)	29	72	101	35	72	107
From Newport News (carloads)	26	72	98	30	72	102
From New Orleans (carloads)	.....	.....	65	.....	.....	77
Crockery, earthenware, n. o. s.; also earthen flower and greenhouse pots, carloads	.....	.....	.....	56½	72	128½

	From New York to Salt Lake City.					
	Import.			Domestic.		
	To Mississippi River.	Beyond Mississippi River.	Through.	To Mississippi River.	Beyond Mississippi River.	Through.
Crockery, in boxes, barrels, tierces, casks, or hogsheads, value released, $12 per 100 pounds (carloads)	29	128	157	35	128	163
From Newport News (carloads)	26	128	154	30	128	158
From New Orleans (carloads)	.....	.....	132	.....	.....	144
Crockery, earthenware, n. o. s.; also earthen flower and greenhouse pots, carloads	.....	.....	.....	56½	128	184½

[a] Import commodity rate.
[b] Domestic commodity rate.
[c] Domestic class rate.
[d] Less than carload.
[e] Carload.

APPENDIX B.

TABLE 1.—*Statement showing import and domestic rates on various commodities from New York, N. Y., to the several points hereinafter shown, in effect June 2½, 1902.*

[Rates in cents per 100 pounds, unless otherwise shown, C. L.]

Commodity.	From New York, N. Y., to—														
	Buffalo, N. Y.			Cleveland, Ohio.			Pittsburg, Pa.			Detroit, Mich., Toledo, Ohio, Columbus, Ohio.			Cincinnati, Ohio.		
	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.
Ammonia, sulphate of	.....	.....	.....	15	18	3	.....	.....	.....	15	20	5	15	22	7
Asphaltum	.....	.....	.....	.....	.....	.....	13	14	1	.....	.....	.....	.....	.....	.....
Bagging	18	19	1	18	25	7	18	21	3	18	25	7	18	25	7
Bleach	.....	.....	.....	15	16	1	.....	.....	.....	15	16	1	15	16	1
Brimstone, crude, in bulk	.....	.....	.....	16	18	2	.....	.....	.....	16	20	4	16	22	6
Burlaps	18	19	1	18	25	7	18	21	3	18	27	9	18	30	12
Castor beans	.....	.....	.....	20	21	1	.....	.....	.....	20	23	3	20	26	6
Cement	.....	.....	.....	13	16	3	13	14	1	13	16	3	13	17	4
Clay	.....	.....	.....	15	16	1	.....	.....	.....	15	16	1	15	17	2
Crockery: Common (see note)	.....	.....	.....	18	21	3	.....	.....	.....	18	23	5	18	26	8
Crockery: English (see note)	.....	.....	.....	16	21	5	16	18	2	16	23	7	16	26	10
Fuller's earth	.....	.....	.....	15	16	1	.....	.....	.....	15	16	1	15	17	2
Iron pyrites (per gross ton)	.....	.....	.....	207½	284	76½	207½	240	32½	247½	285	37½	247½	305	57½
Kainit	.....	.....	.....	15	16	1	.....	.....	.....	15	17	2	15	19	4
Kaolin	.....	.....	.....	15	16	1	.....	.....	.....	15	16	1	15	17	2
Magnesite, Grecian, in bags or in bulk	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	16	17	1
Ore (iron, chrome, or manganese), per ton	216	240	24	256	320	64	216	336	120	281	351	70	313	392	79
Potash: Carbonate of	.....	.....	.....	15	21	6	15	18	3	15	23	8	15	26	11
Potash: Muriate of	.....	.....	.....	15	16	1	15	18	3	15	17	2	15	19	4
Potash: Sulphate of	.....	.....	.....	15	16	1	15	18	3	15	17	2	15	19	4
Rice, brewers'	.....	.....	.....	.....	.....	.....	.....	.....	.....	18	20	2	18	22	4
Salt, mineral, in barrels, 30,000; in boxes, sacks, or bulk, 40,000 pounds	.....	.....	.....	13	16	3	13	14	1	13	16	3	13	17	4
Salt cake	.....	.....	.....	15	16	1	.....	.....	.....	15	16	1	15	17	2
Soda ash	.....	.....	.....	15	16	1	.....	.....	.....	15	16	1	15	16	1
Soda: Bicarbonate of	.....	.....	.....	15	16	1	.....	.....	.....	15	16	1	15	17	2
Soda: Caustic	.....	.....	.....	15	16	1	.....	.....	.....	15	16	1	15	16	1
Soda: Nitrate	15	16	1	15	21	6	15	18	3	15	23	8	15	26	11
Soda: Sal	.....	.....	.....	15	16	1	.....	.....	.....	15	16	1	15	16	1
Soda: Silicate	.....	.....	.....	15	16	1	.....	.....	.....	15	16	1	15	16	1
Soda: Sulphate of	.....	.....	.....	15	16	1	.....	.....	.....	15	16	1	15	16	1
Spiegeleisen, ferromanganese, silicon, and pig iron, per ton	.....	.....	.....	284	320	36	240	403	163	312	351	39	348	392	44
Sulphur, crude, in bulk	.....	.....	.....	16	18	2	.....	.....	.....	16	20	4	16	22	6

Commodity.	From New York, N. Y., to—														
	Indianapolis, Ind.			Grand Rapids, Mich.			Chicago, Ill., Louisville, Ky.			Peoria, Ill.			East St. Louis, Ill.		
	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.
Ammonia, sulphate of	15	23	8	15	24	9	15	25	10	17	28	11	17	29	12
Asphaltum	18	19	1	18	19	1	18	20	2	20	22	2	21	23	2
Bagging	18	25	7	18	25	7	18	25	7	20	28	8	21	29	8
Bleach	15	17	2	15	17	2	15	18	3	17	20	3	17	21	4
Brimstone, crude, in bulk	16	23	7	16	24	8	16	25	9	18	28	10	19	29	10
Burlaps	18	33	15	18	34	16	18	35	17	20	39	19	21	41	20
Castor beans	20	28	8	20	29	9	20	30	10	22	33	11	23	35	12
Cement	13	19	6	13	19	6	13	20	7	14	22	8	15	23	8
Clay	15	19	4	15	19	4	15	20	5	17	22	5	17	23	6

TABLE 1.—*Statement showing import and domestic rates on various commodities from New York, N. Y., etc.*—Continued.

Commodity.	From New York, N. Y., to—														
	Indianapolis, Ind.			Grand Rapids, Mich.			Chicago, Ill., Louisville, Ky.			Peoria, Ill.			East St. Louis, Ill.		
	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.
Crockery:															
Common (see note)	18	28	10	18	29	11	18	30	12	20	33	13	21	35	14
English (see note)	16	28	12	16	29	13	16	30	14	18	33	15	19	35	16
Fuller's earth	15	19	4	15	19	4	15	20	5	17	22	5	17	23	6
Iron pyrites (per gross ton)	247½	326	78½	247½	336	88½	247½	350	102½	272	385	113	287	406	119
Kainit	15	20	5	15	21	6	15	22	7	17	24	7	17	26	9
Kaolin	15	19	4	15	19	4	15	20	5	17	22	5	17	23	6
Magnesite, Grecian, in bags or in bulk	16	19	3	16	19	3	16	20	4	18	22	4	19	23	4
Ore (iron, chrome or manganese), per ton	335	419	84	346	432	86	360	450	90	396	495	99	418	522	104
Potash:															
Carbonate of	15	28	13	15	29	14	15	30	15	17	33	16	17	35	18
Muriate of	15	20	5	15	21	6	15	22	7	17	24	7	17	26	9
Sulphate of	15	20	5	15	21	6	15	22	7	17	24	7	17	26	9
Rice, brewers'	18	23	5	18	24	6	18	25	7	20	28	8	21	29	8
Salt, mineral, in barrels, 30,000; in boxes, sacks, or bulk, 40,000 pounds	13	19	6	13	19	6	13	20	7	14	22	8	15	23	8
Salt cake	15	19	4	15	19	4	15	20	5	17	22	5	17	23	6
Soda ash	15	17	2	15	17	2	15	18	3	17	20	3	17	21	4
Soda:															
Bicarbonate of	15	19	4	15	19	4	15	20	5	17	22	5	17	23	6
Caustic	15	17	2	15	17	2	15	18	3	17	20	3	17	21	4
Nitrate	15	28	13	15	29	14	15	30	15	17	33	16	17	35	18
Sal	15	17	2	15	17	2	15	18	3	17	20	3	17	21	4
Silicate	15	17	2	15	17	2	15	18	3	17	20	3	17	21	4
Sulphate of	15	17	2	15	17	2	15	18	3	17	20	3	17	21	4
Spiegeleisen, ferromanganese, silicon, and pig iron, per ton	372	419	47	384	432	48	400	450	50	440	495	55	464	522	58
Sulphur, crude, in bulk	16	23	7	16	24	8	16	25	9	18	28	10	19	29	10

NOTE.—Will include cheap tableware invoiced at prices not exceeding those of English crockery, in crates, although such shipments may be marked as china; also includes English crockery, in packages other than crates.

Domestic rate on crockery, in boxes or slatted boxes, L. C. L., from New York to Chicago, 65 cents per 100 pounds. Domestic rate on crockery, in crates, barrels, tierces, casks, or hogsheads, L. C. L., from New York to Chicago, 40 cents per 100 pounds. Rates to other points, as shown above, are adjusted to the New York and Chicago basis.

TABLE 2.—*Statement showing import and domestic rates on various commodities from Portland, Me. (via Grand Trunk Railway), to the several points hereinafter shown, in effect June 24, 1902.*

[Rates in cents per 100 pounds, unless otherwise shown.]

Commodity.	From Portland, Me., to—								
	Cincinnati, Ohio.			Indianapolis, Ind.			Grand Rapids, Mich.		
	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.
Bagging	18	22	4	18	22	4	18	22	4
Bleach				15	16	1	15	16	1
Brewer's rice	18	20½	2½	18	21½	3½	18	22½	4½
Burlaps	18	22	4	18	22	4	18	22	4
Cement	13	16	3	13	18	5	13	18	5
Clay	15	16	1	15	18	3	15	18	3
Crockery (in crates)	18	24	6	18	26	8	18	27	9
Fuller's earth	15	16	1	15	18	3	15	18	3
Grecian magnesite (in bulk)				16	18	2	16	18	2
Kaolin	15	16	1	15	18	3	15	18	3
Muriate of potash	15	17	2	15	18	3	15	19	4
Salt	15	16	1	15	18	3	15	18	3
Salt cake	15	16	1	15	18	3	15	18	3
Soda ash				15	16	1	15	16	1
Sdoa:									
Bicarbonate	15	17	2	15	18	3	15	19	4
Caustic				15	16	1	15	16	1
Nitrate of	15	16	1	15	18	3	15	18	3
Sal				15	16	1	15	16	1
Silicate				15	16	1	15	16	1
Sulphate				15	16	1	15	16	1
Sulphur (in bulk)									

TABLE 2.—*Statement showing import and domestic rates on various commodities from Portland, Me., etc.*—Continued.

Commodity.	From Portland, Me., to—								
	Cincinnati, Ohio			Indianapolis, Ind.			Grand Rapids, Mich.		
	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.
Class rates.									
First class	55	60	5	60	65	5	62	67	5
Second class	49	53	4	52	56	4	54	58	4
15 per cent less than second class	42	45	3	44	48	4	46	50	4
Third class	38	41	3	41	44	3	42	45	3
20 per cent less than third class	30	33	3	33	36	3	34	36	2
Fourth class	26	28	2	29	31	2	30	32	2
Fifth class	22	24	2	24	26	2	25	27	2
Sixth class	19	20½	1½	20	21½	1½	21	22½	1½

Commodity.	From Portland, Me., to—								
	Chicago, Ill., Louisville, Ky.			Peoria, Ill.			East St. Louis, Ill.		
	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.
Asphaltum	18	19	1	20	21	1	21	22	1
Bagging	18	22	4	20	25	5	21	26	5
Bleach	15	17	2	17	19	2	18	20	2
Brewers' rice	18	23½	5½	20	26½	6½	21	27½	6½
Brimstone (in bulk)	16	17	1	18	19	1	19	20	1
Burlaps	18	22	4	20	25	5	21	26	5
Cement	13	19	6	14½	21	6½	15	22	7
Clay	15	19	4	17	21	4	18	22	4
Crockery (in crates)	16	28	12	20	31	11	21	33	12
Fuller's earth	15	19	4	17	21	4	18	22	4
Grecian magnesite (in bulk)	16	19	3	18	21	3	19	22	3
Kaolin	15	19	4	17	21	4	18	22	4
Muriate of potash	15	20	5	17	22	5	18	24	6
Salt	10	19	9	17	21	4	18	22	4
Salt cake	15	19	4	17	21	4	18	22	4
Soda:									
Ash	15	17	2	17	19	2	18	20	2
Carbonate	15	20	5	17	22	5	18	24	6
Caustic	15	17	2	17	19	2	18	20	2
Nitrate of	15	19	4	17	21	4	18	22	4
Sal	15	17	2	17	19	2	18	20	2
Silicate	15	17	2	17	19	2	18	20	2
Sulphate	15	17	2	17	19	2	18	20	2
Sulphur (in bulk)	16	17	1	18	19	1	19	20	1
Class rates.									
First class	65	70	5	73	78	5	77	82	5
Second class	57	61	4	64	68	4	67	71	4
15 per cent less than second class	48	52	4	54	58	4	57	61	4
Third class	47	47	3	49	52	3	52	55	3
20 per cent less than third class	35	38	3	39	42	3	42	44	2
Fourth class	31	33	2	35	37	2	37	39	2
Fifth class	26	28	2	29	31	2	31	33	2
Sixth class	22	23½	1½	25	26½	1½	26	27½	1½

TABLE 3.—*Statement showing import and domestic rates on various commodities from Boston, Mass., and Portland, Me., to points hereinafter shown, in effect June 24, 1902.*

[Rates in cents per 100 pounds, unless otherwise shown, C. L.]

Commodity.	From Boston, Mass., and Portland, Me., to—											
	Cleveland, Ohio.			Detroit, Mich., Toledo, Ohio, Columbus, Ohio.			Cincinnati, Ohio.			Indianapolis, Ind.		
	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.
Asphaltum										18	19	1
Bagging	18	25	7	18	25	7	18	25	7	18	25	7
Bleach	15	16	1	15	16	1	15	16	1	15	17	2
Brewers' rice				18	20	2	18	22	4	18	23	5
Brimstone, in bulk	16	18	2	16	20	4	16	22	6	16	23	7
Burlaps	18	25	7	18	27	9	18	30	12	18	33	15
Castor beans	20	21	1	20	23	3	20	26	6	20	28	8
Cement	13	16	3	13	16	3	13	17	4	13	19	6
Clay	15	16	1	15	16	1	15	17	2	15	19	4

TABLE 3.—*Statement showing import and domestic rates on various commodities from Boston, Mass., and Portland, Me., etc.*—Continued.

Commodity.	From Boston, Mass., and Portland, Me., to—											
	Cleveland, Ohio.			Detroit, Mich., Toledo, Ohio, Columbus, Ohio.			Cincinnati, Ohio.			Indianapolis, Ind.		
	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.
Crockery:												
In crates (see note)	18	21	3	18	23	5	18	26	8	18	28	10
English, in crates	16	21	5	16	23	7	16	26	10	16	28	12
Fuller's earth	15	16	1	15	16	1	15	17	2	15	19	4
Grecian magnesite, in bulk	....	....	....	....	....	....	16	17	1	16	19	3
Iron pyrites, per ton 2,240 pounds	207½	284	76½	247½	285	37½	247½	305	57½	247½	326	78½
Kainit	15	16	1	15	17	2	15	19	4	15	20	5
Kaolin	15	16	1	15	16	1	15	17	2	15	19	4
Muriate of potash	15	16	1	15	17	2	15	19	4	15	20	5
Carbonate of potash	15	21	6	15	23	8	15	26	11	15	28	13
Salt, C. L., minimum weight in barrels, 30,000; in boxes, sacks, or in bulk, 40,000 pounds	13	16	3	13	16	3	13	17	4	13	19	6
Salt cake	15	16	1	15	16	1	15	17	2	15	19	4
Soda ash	15	16	1	15	16	1	15	16	1	15	17	2
Soda:												
Bicarbonate	15	16	1	15	16	1	15	17	2	15	19	4
Caustic	15	16	1	15	16	1	15	16	1	15	17	2
Nitrate	15	21	6	15	23	8	15	26	11	15	28	13
Sal	15	16	1	15	16	1	15	16	1	15	17	2
Silicate	15	16	1	15	16	1	15	16	1	15	17	2
Sulphate	15	16	1	15	16	1	15	16	1	15	17	2
Spiegeleisen, per ton	284	320	36	312	351	39	348	392	44	372	419	47
Sulphate of ammonia	15	18	3	15	20	5	15	22	7	15	23	8
Sulphate of potash	15	16	1	15	17	2	15	19	4	15	20	5
Sulphur, in bulk	16	18	2	16	20	4	16	22	6	16	23	7
Ferromanganese, per ton	284	320	36	312	351	39	348	392	44	372	419	47
Ferrosilicon, per ton	284	320	36	312	351	39	348	392	44	372	419	47
Pig iron, per ton	284	298	14	312	328	16	348	365	17	372	391	19
Ore, iron, chrome, and manganese, per ton	256	320	64	281	351	70	313	392	79	335	419	84
Class rates.												
First class	50	53	3	54	59	5	60	65	5	65	70	5
Second class	43	46	3	47	51	4	53	57	4	56	60	4
15 per cent less than second class	37	39	2	40	43	3	45	48	3	48	51	3
Third class	33	36	3	36	39	3	41	44	3	44	47	3
20 per cent less than third class	27	29	2	29	31	2	33	35	2	35	38	3
Fourth class	23	25	2	25	27	2	28	30	2	31	33	2
Fifth class	20	21	1	21	23	2	24	26	2	26	28	2
Sixth class	16½	18	1½	18½	20	1½	20½	22	1½	21½	23	1½

Commodity.	From Boston, Mass., and Portland, Me., to—											
	Grand Rapids, Mich.			Chicago, Ill., Louisville, Ky.			Peoria, Ill.			East St. Louis, Ill.		
	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.
Asphaltum	18	19	1	18	20	2	20	22	2	21	23	2
Bagging	18	25	7	18	25	7	20	28	8	21	29	8
Bleach	15	17	2	15	18	3	17	20	3	17	21	4
Brewers' rice	18	24	6	18	25	7	20	28	8	21	29	8
Brimstone, in bulk	16	24	8	16	25	9	18	28	10	19	29	10
Burlaps	18	34	16	18	35	17	20	39	19	21	41	20
Castor beans	20	29	9	20	30	10	22	33	11	23	35	12
Cement	13	19	6	13	20	7	14	22	8	15	23	8
Clay	15	19	4	15	20	5	17	22	5	17	23	6
Crockery:												
In crates (see note)	18	29	11	18	30	12	20	33	13	21	35	14
English, in crates	16	29	13	16	30	14	18	33	15	19	35	16
Fuller's earth	15	19	4	15	20	5	17	22	5	17	23	6
Grecian magnesite, in bulk	16	19	3	16	20	4	18	22	4	19	23	4
Iron pyrites, per ton 2,240 pounds	247½	336	88½	247½	350	102½	272	385	113	287	406	119
Kainit	15	21	6	15	22	7	17	24	7	17	26	9
Kaolin	15	19	4	15	20	5	17	22	5	17	23	6
Muriate of potash	15	21	6	15	22	7	17	24	7	17	26	9
Carbonate of potash	15	29	14	15	30	15	17	33	16	17	35	18
Salt, carload, minimum weight in barrels, 30,000: in boxes, sacks, or in bulk, 40,000 pounds	13	19	6	13	20	7	14	22	8	15	23	8
Salt cake	15	19	4	15	20	5	17	22	5	17	23	6
Soda ash	15	17	2	15	18	3	17	20	3	17	21	4

TABLE 3.—*Statement showing import and domestic rates on various commodities from Boston, Mass., and Portland, Me., etc.*—Continued.

Commodity.	From Boston, Mass., and Portland, Me., to—											
	Grand Rapids, Mich.			Chicago, Ill., Louisville, Ky.			Peoria, Ill.			East St. Louis, Ill.		
	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.
Soda:												
Bicarbonate	15	19	4	15	20	5	17	22	5	17	23	6
Caustic	15	17	2	15	18	3	17	20	3	17	21	4
Nitrate	15	29	14	15	30	15	17	33	16	17	35	18
Sal	15	17	2	15	18	3	17	20	3	17	21	4
Silicate	15	17	2	15	18	3	17	20	3	17	21	4
Sulphate	15	17	2	15	18	3	17	20	3	17	21	4
Spiegeleisen, per ton	384	432	48	400	450	50	440	495	55	464	522	58
Sulphate of ammonia	15	24	9	15	25	10	17	28	11	17	29	12
Sulphate of potash	15	21	6	15	22	7	17	24	7	17	26	9
Sulphur, in bulk	16	24	8	16	25	9	18	28	10	19	29	10
Ferromanganese, per ton	384	432	48	400	450	50	440	495	50	464	522	58
Ferrosilicon, per ton	384	432	48	400	450	50	440	495	50	464	522	58
Pig iron, per ton	384	403	19	400	420	20	440	462	22	464	487	23
Ore, iron, chrome, and manganese, per ton	346	432	86	360	450	90	396	495	99	418	522	104
Class rates.												
First class	67	72	5	70	75	5	78	83	5	82	87	5
Second class	58	62	4	61	65	4	68	72	4	71	75	4
15 per cent less than second class	49	53	4	52	55	3	58	61	3	60	64	4
Third class	45	48	3	47	50	3	52	55	3	55	58	3
20 per cent less than third class	36	38	2	38	40	2	42	44	2	44	46	2
Fourth class	32	34	2	33	35	2	37	39	2	39	41	2
Fifth class	27	29	2	28	30	2	31	33	2	33	35	2
Sixth class	22½	24	1½	23½	25	1½	26½	28	1½	27½	29	1½

NOTE.—Will include cheap tableware invoiced at prices not exceeding those of English crockery in crates, although such shipments may be marked as china; also includes English crockery in packages other than crates.

TABLE 4.—*Statement showing import and domestic rates on various commodities from Philadelphia, Pa., to several points as shown below, in effect June 24, 1902.*

[Rates in cents per 100 pounds, unless otherwise shown, C. L.]

Commodity.	From Philadelphia, Pa., to—								
	Cleveland, Ohio.			Pittsburg, Pa.			Detroit, Mich., Toledo, Ohio, Columbus, Ohio.		
	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.
Ammonia, sulphate of	13	16	3	13	13	....	13	18	5
Asphaltum	....	....	....	11	12	1	....	....	....
Bagging	16	23	7	16	19	3	16	23	7
Bleach	13	14	1	....	....	....	13	14	1
Brimstone, crude, in bulk	14	16	2	....	....	....	14	18	4
Burlaps	16	23	7	16	19	3	16	25	9
Castor beans	18	19	1	....	....	....	18	21	3
Cement	11	14	3	11	12	1	11	14	3
Clay	13	14	1	....	....	....	13	14	1
Crockery:									
Common (see note)	16	19	3	....	....	....	16	521	5
English	14	19	5	14	16	2	14	21	7
Fuller's earth	13	14	1	....	....	....	13	14	1
Iron pyrites, per ton	167½	244	76½	167½	200	32½	207½	245	37½
Kainit	13	14	1	13	....	....	13	15	2
Kaolin	13	14	1	13	....	....	13	14	1
Ore, iron, chrome or manganese, per ton	216	280	64	176	291	115	241	311	70
Potash:									
Carbonate of	13	19	6	13	....	....	13	21	8
Muriate of	13	14	1	13	....	....	13	15	2
Sulphate of	13	14	1	13	....	....	13	15	2
Rice, brewer's	....	....	....	....	....	....	16	18	2
Salt, mineral, in barrels, 30,000 in boxes, sacks, or bulk, 40,000 pounds	11	14	3	11	12	1	11	14	3
Salt cake	13	14	1	13	....	....	13	14	1
Soda ash	13	14	1	....	....	....	13	14	1
Soda:									
Bicarbonate	13	14	1	....	....	....	13	14	1
Caustic	13	14	1	....	....	....	13	14	1
Nitrate of	13	19	6	13	16	3	13	21	8
Sal	13	14	1	....	....	....	13	14	1
Silicate	13	14	1	....	....	....	13	14	1
Sulphate	13	14	1	....	....	....	13	14	1
Spiegeleisen, ferro-manganese, silicon, pig iron, per ton	244	280	36	200	358	158	272	311	39
Sulphur, crude, in bulk	14	16	2	14	....	....	14	18	4

TABLE 4.—*Statement showing import and domestic rates on various commodities from Philadelphia, Pa., etc.*—Continued.

Commodity.	From Philadelphia, Pa., to—								
	Cincinnati, Ohio.			Indianapolis, Ind.			Grand Rapids, Mich.		
	Import.	Domestic.	In favor of Import.	Import.	Domestic.	In favor of Import.	Import.	Domestic.	In favor of Import.
Ammonia, sulphate of	13	20	7	13	21	8	13	22	9
Asphaltum	....	....	....	16	17	1	16	17	1
Bagging	16	23	7	16	23	7	16	23	7
Bleach	13	14	1	13	15	2	13	15	2
Brimstone, crude, in bulk	14	20	6	14	21	7	14	22	8
Burlaps	16	28	12	16	31	15	16	32	16
Castor beans	18	24	6	18	26	8	18	27	9
Cement	11	15	4	11	17	6	11	17	6
Clay	13	15	2	13	17	4	13	17	4
Crockery:									
Common (see note)	16	24	8	16	26	10	16	27	11
English	14	24	10	14	26	12	14	27	13
Fuller's earth	13	15	2	13	17	4	13	17	4
Iron pyrites, per ton	207½	265	57½	207½	286	78½	207½	296	88½
Kainit	13	17	4	13	18	5	13	19	6
Kaolin	13	15	2	13	17	4	13	17	4
Magnesite, Grecian, in bags or bulk	14	15	1	14	17	3	14	17	3
Ore, iron, chrome or manganese, per ton	273	352	79	295	379	84	306	392	86
Potash:									
Carbonate of	13	24	11	13	26	13	13	27	14
Muriate of	13	17	4	13	18	5	13	19	6
Sulphate of	13	17	4	13	18	5	13	19	6
Rice, brewers'	16	20	4	16	21	5	16	22	6
Salt, mineral, in barrels, 30,000 in boxes, sacks, or bulk, 40,000 pounds	11	15	4	11	17	6	11	17	6
Salt cake	13	15	2	13	17	4	13	17	4
Soda ash	13	14	1	13	15	2	13	15	2
Soda:									
Bicarbonate	13	15	2	13	17	4	13	17	4
Caustic	13	14	1	13	15	2	13	15	2
Nitrate of	13	24	11	13	26	13	13	27	14
Sal	13	14	1	13	15	2	13	15	2
Silicate	13	14	1	13	15	2	13	15	2
Sulphate	13	14	1	13	15	2	13	15	2
Spiegeleisen, ferro-manganese, silicon, pig iron, per ton	308	352	44	332	379	47	344	392	48
Sulphur, crude, in bulk	14	20	6	14	21	7	14	22	8

Commodity.	From Philadelphia, Pa., to—								
	Chicago, Ill., Louisville, Ky.			Peoria, Ill.			East St. Louis, Ill.		
	Import.	Domestic.	In favor of Import.	Import.	Domestic.	In favor of Import.	Import.	Domestic.	In favor of Import.
Ammonia, sulphate of	13	23	10	15	26	11	15	27	12
Asphaltum	16	18	2	18	20	2	19	21	2
Bagging	16	23	7	18	26	8	19	27	8
Bleach	13	16	3	15	18	3	15	19	4
Brimstone, crude, in bulk	14	23	9	16	26	10	17	27	10
Burlaps	16	33	17	18	37	19	19	39	20
Castor beans	18	28	10	20	31	11	21	33	12
Cement	11	18	7	12	20	8	13	21	8
Clay	13	18	5	15	20	5	15	21	6
Crockery:									
Common (see note)	16	28	12	18	31	13	19	33	14
English	14	28	14	16	31	15	17	33	16
Fuller's earth	13	18	5	15	20	5	15	21	6
Iron pyrites, per ton	207½	310	102½	232	345	113	247	366	119
Kainit	13	20	7	15	22	7	15	24	9
Kaolin	13	18	5	15	20	5	15	21	6
Magnesite, Grecian, in bags or bulk	14	18	4	16	20	4	17	21	4
Ore, iron, chrome or manganese, per ton	320	410	90	356	455	99	378	482	104
Potash:									
Carbonate of	13	28	15	15	31	16	15	33	18
Muriate of	13	20	7	15	22	7	15	24	9
Sulphate of	13	20	7	15	22	7	15	24	9
Rice, brewers'	16	23	7	18	26	8	19	27	8
Salt, mineral, in barrels, 30,000, in boxes, sacks, or bulk, 40,000 pounds	11	18	7	12	20	8	13	21	8
Salt cake	13	18	5	15	20	5	15	21	6
Soda ash	13	16	3	15	18	3	15	19	4
Soda:									
Bicarbonate	13	18	5	15	20	5	15	21	6
Caustic	13	16	3	15	18	3	15	19	4
Nitrate of	13	28	15	15	31	16	15	33	18
Sal	13	16	3	15	18	3	15	19	4
Silicate	13	16	3	15	18	3	15	19	4
Sulphate	13	16	3	15	18	3	15	19	4
Spiegeleisen, ferromanganese, silicon, pig iron, per ton	360	410	50	400	455	55	424	482	58
Sulphur, crude, in bulk	14	23	9	16	26	10	17	27	10

NOTE.—Will include cheap tableware invoiced at prices not exceeding those of English crockery in crates, although such shipments may be marked as "China;" also includes English crockery in packages other than crates.

TABLE 5.—*Statement showing import and domestic rates on various commodities from Baltimore, Md., to the several points hereinafter shown, in effect June 24, 1902.*

[Rates in cents per 100 pounds, unless otherwise shown, C. L.]

Commodity.	From Baltimore, Md., to—								
	Cleveland, Ohio.			Pittsburg, Pa.			Detroit, Mich., Toledo, Ohio, Columbus, Ohio.		
	Import.	Domestic.	In favor of Import.	Import.	Domestic.	In favor of Import.	Import.	Domestic.	In favor of Import.
Ammonia, sulphate of	12	15	3	....	....	....	12	17	5
Asphaltum	....	....	....	10	11	1	....	....	....
Bagging	15	22	7	15	18	3	15	22	7
Bleach	12	13	1	....	....	....	12	13	1
Brimstone, crude, in bulk	13	15	2	....	....	....	13	17	4
Burlaps	15	22	7	15	18	3	15	24	9
Castor beans	17	18	1	....	....	....	17	20	3
Cement	10	13	3	10	11	1	10	13	3
Clay	12	13	1	....	....	....	12	13	1
Crockery:									
Common (see note)	15	18	3	....	....	....	15	20	5
English (see note)	13	18	5	13	15	2	13	20	7
Fuller's earth	12	13	1	....	....	....	12	13	1
Iron pyrites, per ton	147½	224	76½	147½	180	32½	187½	225	37½
Kainit	12	13	1	....	....	....	12	14	2
Kaolin	12	13	1	....	....	....	12	13	1
Magnesite, Grecian, in bags or bulk	....	....	....	....	....	....	13	13	....
Ore, iron, chrome, or manganese, per ton	196	260	64	221	269	48	221	291	70
Potash:									
Carbonate of	12	18	6	....	....	....	12	20	8
Muriate of	12	13	1	....	....	....	12	14	2
Sulphate of	12	13	1	....	....	....	12	14	2
Rice, brewers'	....	....	....	....	....	....	15	17	2
Salt, min. in barrels, 30,000; in boxes, sacks, or bulk, 40,000 pounds	10	13	3	10	11	1	10	13	3
Salt cake	12	13	1	....	....	....	12	13	1
Soda ash	12	13	1	....	....	....	12	13	1
Soda:									
Bicarbonate	12	13	1	....	....	....	12	13	1
Caustic	12	13	1	....	....	....	12	13	1
Nitrate of	12	18	6	12	15	3	12	20	8
Sal	12	13	1	....	....	....	12	13	1
Silicate	12	13	1	....	....	....	12	13	1
Sulphate	12	13	1	....	....	....	12	13	1
Spiegeleisen, ferromanganese, silicon, and pig iron, per ton	224	260	36	180	335	155	252	291	39
Sulphur, crude, in bulk	13	15	2	....	....	....	13	17	4

Commodity.	From Baltimore, Md., to—								
	Cincinnati, Ohio.			Indianapolis, Ind.			Grand Rapids, Mich.		
	Import.	Domestic.	In favor of Import.	Import.	Domestic.	In favor of Import.	Import.	Domestic.	In favor of Import.
Ammonia, sulphate of	12	19	7	12	20	8	12	21	9
Asphaltum	....	....	....	15	16	1	15	16	1
Bagging	15	22	7	15	22	7	15	22	7
Bleach	12	13	1	12	14	2	12	14	2
Brimstone, crude, in bulk	13	19	6	13	20	7	13	21	8
Burlaps	15	27	12	15	30	15	15	31	16
Castor beans	17	23	6	17	25	8	17	26	9
Cement	10	14	4	10	16	6	10	16	6
Clay	12	14	2	12	16	4	12	16	4
Crockery:									
Common (see note)	15	23	8	15	25	10	15	26	11
English (see note)	13	23	10	13	25	12	13	26	13
Fuller's earth	12	14	2	12	16	4	12	16	4
Iron pyrites, per ton	187½	245	57½	187½	266	78½	187½	276	88½
Kainit	12	16	4	12	17	5	12	18	6
Kaolin	12	14	2	12	16	4	12	16	4
Magnesite, Grecian, in bags or bulk	13	14	1	13	16	3	13	16	3
Ore, iron, chrome, or manganese, per ton	253	332	79	275	359	84	286	372	86
Potash:									
Carbonate of	12	23	11	12	25	13	12	26	14
Mur ate of	12	16	4	12	17	5	12	18	6
Sulphate of	12	16	4	12	17	5	12	18	6
Rice, brewers'	15	19	4	15	20	5	15	21	6
Salt, min. in barrels, 30,000; in boxes, sacks, or bulk, 40,000 pounds	10	14	4	10	16	6	10	16	6
Salt cake	12	14	2	12	16	4	12	16	4
Soda ash	12	13	1	12	14	2	12	14	2
Soda:									
Bicarbonate	12	14	2	12	16	4	12	16	4
Caustic	12	13	1	12	14	2	12	14	2
Nitrate of	12	23	11	12	25	13	12	26	14
Sal	12	13	1	12	14	2	12	14	2
Silicate	12	13	1	12	14	2	12	14	2
Sulphate	12	13	1	12	14	2	12	14	2
Spiegeleisen, ferromanganese, silicon, and pig iron, per ton	288	332	44	312	359	47	324	372	48
Sulphur, crude, in bulk	13	19	6	13	20	7	13	21	8

TABLE 5.—*Statement showing import and domestic rates on various commodities from Baltimore, Md., etc.*—Continued.

Commodity.	From Baltimore, Md., to—								
	Chicago, Ill., Louisville, Ky.			Peoria, Ill.			East St. Louis, Ill.		
	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.
Ammonia, sulphate of	12	22	10	14	25	11	14	26	12
Asphaltum	15	17	2	17	19	2	18	20	2
Bagging	15	22	7	17	25	8	18	26	8
Bleach	12	15	3	14	17	3	14	18	4
Brimstone, crude, in bulk	13	22	9	15	25	10	16	26	10
Burlaps	15	32	17	17	36	19	18	38	20
Castor beans	17	27	10	19	30	11	20	32	12
Cement	10	17	7	11	19	8	12	20	8
Clay	12	17	5	14	19	5	14	20	6
Crockery:									
Common (see note)	15	27	12	17	30	13	18	32	14
English (see note)	13	27	14	15	30	15	16	32	16
Fuller's earth	12	17	5	14	19	5	14	20	6
Iron pyrites, per ton	187½	290	102½	212	325	113	227	346	119
Kainit	12	19	7	14	21	7	14	23	9
Kaolin	12	17	5	14	19	5	14	20	6
Magnesite, Grecian, in bags or bulk	13	17	4	15	19	4	16	20	4
Ore iron, chrome, or manganese, per ton	300	390	90	336	435	99	358	462	104
Potash:									
Carbonate of	12	27	15	14	30	16	14	32	18
Muriate of	12	19	7	14	21	7	14	23	9
Sulphate of	12	19	7	14	21	7	14	23	9
Rice, brewers'	15	22	7	17	25	8	18	26	8
Salt, min. in barrels, 30,000; in boxes, sacks, or bulk, 40,000 pounds	10	17	7	11	19	8	12	20	8
Salt cake	12	17	5	14	19	5	14	20	6
Soda ash	12	15	3	14	17	3	14	18	4
Soda:									
Bicarbonate	12	17	5	14	19	5	14	20	6
Caustic	12	15	3	14	17	3	14	18	4
Nitrate of	12	27	15	14	30	16	14	32	18
Sal	12	15	3	14	17	3	14	18	4
Silicate	12	15	3	14	17	3	14	18	4
Sulphate	12	15	3	14	17	3	14	18	4
Spiegeleisen, ferro-manganese, silicon, and pig iron, per ton	340	390	50	380	435	55	404	462	58
Sulphur, crude, in bulk	13	22	9	15	25	10	16	26	10

NOTE.—Will include cheap tableware invoiced at prices not exceeding those of English crockery in crates, although such shipment may be marked "china;" also includes English crockery in packages other than crates.

TABLE 6.—*Statement showing import and domestic rates on various commodities from Newport News, Va., to various points shown below, in effect June 24, 1902.*

[Rates in cents per 100 pounds, unless otherwise shown.]

Commodity.	From Newport News, Va., to—											
	Cleveland, Ohio.			Detroit, Mich., Toledo, Ohio, and Columbus, Ohio.			Cincinnati, Ohio.			Indianapolis, Ind.		
	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.
Ammonia, sulphate of	12	16	4	12	17	5	12	18	6	12	18	6
Asphaltum	....	....	....	....	....	....	....	....	....	15	16	1
Bagging and burlaps	....	....	....	15	17	2	15	18	3	15	18	3
Bleach	12	13	1	12	13	1	12	13	1	12	14	2
Brewer's rice	15	16	1	15	17	2	15	18	3	15	18	3
Fireproofing—building tile, per ton	224	259	35	252	291	39	....	....	....	312	358	46
Salt glazed brick, per ton	224	448	224	252	448	196	288	493	205	312	515	203
Brimstone, in bulk	13	16	3	13	17	4	13	18	5	13	18	5
Castor beans	17	20	3	17	20	3	17	22	5	17	23	6
Cement	10	13	3	10	13	3	10	14	4	10	16	6
Clay	12	13	1	12	13	1	12	14	2	12	16	4
Coal facings or ground anthracite coal	....	....	....	....	....	....	....	....	....	....	....	....
Crockery, in crates	15	20	5	15	20	5	15	22	7	15	23	8
Earth paint, in iron, or ocher, dry, in sacks, barrels, bags, or bulk	....	....	....	....	....	....	....	....	....	....	....	....
Fuller's earth	12	13	1	12	13	1	12	14	2	12	16	4
Grecian magnesite, in bulk	11	16	5	13	17	4	13	18	5	13	18	5
Iron pyrites, per ton 2,240 pounds	147½	224	76½	187½	381	193½	187½	288	100½	187½	403	215½
Kainit	12	13	1	12	14	2	12	16	4	12	17	5
Kaolin	12	13	1	12	13	1	12	14	2	12	16	4
Paper:												
Building or roofing, in rolls, bundles, or crates	17	20	3	19	20	1	20	22	2	20	23	3
Printing, n. o. s., in bundles, crates, or boxes	17	20	3	19	20	1	20	22	2	20	23	3
Wrapping, n. o. s., in bundles or crates	17	20	3	19	20	1	20	22	2	20	23	3
Wrapping, straw or manila, in rolls, bundles, or crates	17	20	3	19	20	1	20	22	2	20	23	3
Wrapping, wood pulp, in rolls or bundles	17	20	3	19	20	1	20	22	2	20	23	3
Phosphate, concentrated	13	15	2	14	17	3	16	18	2	17	18	1
Potash, muriate and sulphate	12	13	1	12	14	2	12	16	4	12	17	5
Salt, min. wt. in barrels, 30,000, in boxes, sacks, or bulk, 40,000 pounds	12	13	1	12	13	1	12	14	2	12	16	4
Salt cake	12	13	1	12	13	1	12	14	2	12	16	4
Soda:												
Bicarbonate	12	13	1	12	13	1	12	14	2	12	16	4
Nitrate	12	20	8	12	20	8	12	22	10	12	23	11
Soda ash, soda silicate, sulphate, caustic, and sal	12	13	1	12	13	1	12	13	1	12	14	2
Spiegeleisen, per ton of 2,240 pounds	224	260	36	252	....	....	288	331	43	312	....	....
Starch	17	20	3	19	20	1	20	22	2	20	23	3
Sulphur, in bulk	13	16	3	13	17	4	13	18	5	13	18	5

TABLE 6.—*Statement showing import and domestic rates on various commodities from Newport News, Va., etc.*—Continued.

Commodity.	From Newport News, Va., to—											
	Grand Rapids, Mich.			Chicago, Ill.			Peoria, Ill.			East St. Louis, Ill.		
	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.	Import.	Domestic.	In favor of import.
Ammonia, sulphate of	12	19	7	12	20	8	14	23	9	14	24	10
Asphaltum	15	16	1	15	17	2	17	19	2	18	20	2
Bagging and burlaps	15	19	4	15	20	5	17	23	6	18	24	6
Bleach	12	14	2	12	15	3	14	17	3	14	18	4
Brewer's rice	15	19	4	15	20	5	17	23	6	18	24	6
Fireproofing—building tile, per ton	324	372	48	340	390	50	380	435	55	404	462	58
Salt glazed brick, per ton	324	537½	213½	340	560	220	380	627	247	404	672	268
Brimstone, in bulk	13	19	6	13	20	7	15	23	8	16	24	8
Castor beans	17	24	7	17	25	8	19	28	9	20	30	10
Cement	10	16	6	10	17	7	11	19	8	12	29	8
Clay	12	16	4	12	17	5	14	19	5	14	20	6
Coal facings or ground anthracite coal	....	....	....	....	....	....	....	....	....	....	....	....
Crockery, in crates	15	24	9	15	25	10	17	28	11	18	30	12
Earth paint, in iron, or ocher, dry, in sacks, barrels, bags, or bulk	....	....	....	....	....	....	....	....	....	....	....	....
Fuller's earth	12	16	4	12	17	5	14	19	5	14	20	6
Grecian magnesite, in bulk	13	19	6	13	20	7	15	23	8	16	24	8
Iron pyrites, per ton 2,240 pounds	187½	425½	238	187½	340	152½	212	515	303	227	538	311
Kainit	12	18	6	12	19	7	14	21	7	14	23	9
Kaolin	12	16	4	12	17	5	14	19	5	14	20	6
Paper:												
Building or roofing, in rolls, bundles, or crates	20	24	4	22	25	3	25	28	3	26	30	4
Printing, n. o. s., in bundles, crates, or boxes	20	24	4	22	25	3	25	28	3	26	30	4
Wrapping, n. o. s., in bundles or crates	20	24	4	22	25	3	25	28	3	26	30	4
Wrapping, straw or manila, in rolls, bundles, or crates	20	24	4	22	25	3	25	28	3	26	30	4
Wrapping, wood pulp, in rolls or bundles	20	24	4	22	25	3	25	28	3	26	30	4
Phosphate, concentrated	18	19	1	19	20	1	21	23	2	23	24	1
Potash, muriate and sulphate	12	18	6	12	19	7	14	21	7	14	23	9
Salt, min. wt. in barrels 30,000, in boxes, sacks, or bulk, 40,000 pounds	12	16	4	12	17	5	14	19	5	14	20	6
Salt cake	12	16	4	12	17	5	14	19	5	14	20	6
Soda:												
Bicarbonate	12	16	4	12	17	5	14	19	5	14	20	6
Nitrate	12	24	12	12	25	13	14	28	14	14	30	16
Soda ash, soda silicate, sulphate, caustic, and sal	12	14	2	12	15	3	14	17	3	14	18	4
Spiegeleisen, per ton of 2,240 pounds	324	....	....	340	390	50	380	....	....	404	....	....
Starch	21	24	3	22	25	3	25	28	3	26	30	4
Sulphur, in bulk	13	19	6	13	20	7	15	23	8	16	24	8

TABLE 6.—*Statement showing import and domestic rates on various commodities from Newport News, Va., etc.*—Continued.

Class.	From Newport News, Va., to— Buffalo, N. Y.			Pittsburg, Pa.			Cleveland, Ohio.				
	Import.	Domestic.	Favor import.	Import.	Domestic.	Favor import.	Import. Note 1.	Import. Note 2.	Domestic.	Favor import.	
First class	39	59	20	37	54½	17½	49	45	54	....	
Second class	33	50	17	31	47	16	42	38	47	....	
15 per cent less than second class	28	42½	14½	26	40	14	36	....	40	....	
Third class	28	41	13	27	35½	8½	33	33	35½	....	
20 per cent less than third class	22	33	11	22	28½	6½	26	....	28½	....	
Fourth class	19	28	9	18	24	6	23	22	24	....	
Fifth class	16	24	8	15	20	5	20	18	20	....	
Sixth class	13	19	6	12	16	4	17	15	16	....	

Class.	From Newport News, Va., to— Detroit, Mich.				Toledo, Ohio.			Cincinnati, Ohio.			Indianapolis, Ind.		
	Import. Note 1.	Import. Note 2.	Domestic.	Favor import.	Import.	Domestic.	Favor import.	Import.	Domestic.	Favor import.	Import.	Domestic.	Favor import.
First class	51	51	54	....	51	54	3	57	54	....	62	54	....
Second class	44	43	47	....	43	47	4	49	47	....	52	47	....
15 per cent less than second class	37	....	40	....	36½	40	3½	....	....	....	....	....	....
Third class	34	36	36	....	36	36	....	41	38	....	44	40	....
20 per cent less than third class	27	....	29	....	29	29	....	....	....	....	....	....	....
Fourth class	25	24	24	....	24	24	....	27	25	....	30	27	....
Fifth class	21	20	....	....	20	20	....	23	22	....	25	23	....
Sixth class	18	17	....	....	17	17	....	19	18	....	20	18	....

Class.	From Newport News, Va., to— Grand Rapids, Mich.			Chicago, Ill.			Peoria, Ill.			East St. Louis, Ill.		
	Import.	Domestic.	In favor of import.	Import. Note 1.	Import. Note 2.	Domestic. In favor of import.	Import.	Domestic.	In favor of import.	Import. Note 1.	Import. Note 2.	Domestic. In favor of import.
First class	64	56	....	59	67	59	75	67	....	77	79	71 ....
Second class	54	48	....	51	57	51	64	58	....	66	67	61 ....
15 per cent less than second class	....	....	....	....	....	....	....	....	....	....	....	....
Third class	45	41	....	40	47	43	52	48	....	51	55	51 ....
20 per cent less than third class	....	....	....	....	....	....	....	....	....	....	....	....
Fourth class	31	28	....	29	32	29	36	33	....	37	38	35 ....
Fifth class	26	24	....	25	27	25	30	28	....	30	32	30 ....
Sixth class	21	19	....	21½	22	20	25	23	....	25½	26	24 ....

NOTE 1.—Applicable on import shipments in force from May 15 to November 15 of each year.

NOTE 2.—Applicable on import shipments in force from November 15 to May 15 of each year.

TABLE 7.—*Statement showing class rates, import and domestic, from Montreal, Quebec; Quebec, Quebec, and Halifax, Nova Scotia, to Chicago, Ill.*

[Rates in cents per 100 pounds.]

From—	To Chicago Ill. Class 1.	Class 2.	Class 3.	Class 4.	Class 5.	Class 6.
Montreal, Quebec:						
Domestic	66	58	45	31	26	22
Import	54	47	37	27	23	20
Quebec, Quebec:[a]						
Domestic	75	63	49	36	31	27
Halifax, Nova Scotia:[a]						
Domestic	85	75	60	45	38	32

[a] No import rates on file.

The import commodity rates shown in the preceding statements as applying from New York, Boston, and Portland, to Chicago, Ill., and points in the Middle West, also apply from Montreal, Quebec, to same points.

There being no domestic commodity rates applying on the same commodities covered by the import tariffs, no comparison of import with domestic rates on such commodities has been made from Montreal.

TABLE 8.—*Statement showing import and domestic rates on various commodities from New Orleans, La., to Texas common points, in effect June 24, 1902.*

[Rates in cents per 100 pounds.]

Commodity.	From New Orleans, La., to Abilene, Bowie, Brownwood, Corpus Christi, Dallas, Denison, Fort Worth, Gainesville, Marshall, Paris, Sherman, Terrell, Texarkana, Weatherford, and Wichita Falls, Tex. Import. L.C.L.	C. L.	Domestic. L.C.L.	C. L.	In favor of import. L.C.L.	C. L.
Ale and porter, in glass, packed, o. r. b.	59	47	87	64	28	17
Beer, in glass, packed	59	26	87	42	28	16
Bags, burlap, gunny, or jute, in bales or bundles, straight or mixed, C. L.	61	47	81	64	20	17
Burlaps, in bales or bundles	61	47	81	64	20	17
Bagging for baling cotton, in bales or rolls	61	21	81	30	20	9
Bleaching powder, n. o. s. (see also Soda)	61	35	81	47	20	12
Chicory, in double bags:						
Ground	61	47	81	64	20	17
Not roasted	78	61	103	81	25	20
China, majolica, and porcelain ware, o. r. b., viz:						
In barrels, boxes, casks, or tierces	87	87	120	120	33	33
In crates	130½	130½	153	153	22½	22½
China clay, in casks	65	19	87	30	22	11
Chloride of zinc	68	47	81	64	13	17
Crockery, o. r. b., released (value not to exceed $500 per car), viz:						
In barrels or boxes	78	47	103	64	25	17
In crates, tierces, casks, or hogsheads	65	47	87	64	22	17
Cotton piece goods (as described in note 1, p. 5)	61	61	81	81	20	20
Cyanide of potassium	87	87	120	120	33	33
Drugs, n. o. s., in boxes	87	87	120	120	33	33
Duck, cotton, unbleached, in bales	61	61	81	81	20	20
Dry goods, n. o. s.	87	87	120	120	33	33
Fuller's earth, in casks	61	36	81	48	20	12
Furniture, viz:						
Iron bedsteads, k. d	78	.....	103	.....	25	.....
Brass bedsteads, k. d	87	.....	120	.....	33	.....
Glass (common window), boxed, viz:						
External measurement of package exceeding 86 united inches, o. r.	87	45	120	57	33	12
External measurement of package not exceeding 86 united inches, o. r	78	45	103	57	25	12
External measurement of package not exceeding 68 united inches, o. r	61	45	81	57	20	12
Glass, common, viz: Light or heavy, in crates, casks, or hogsheads, released	78	61	103	57	25	.....
Groceries, n. o. s., viz:						
Classified first class in western classification	87	87	120	120	33	33
Classified second class in western classification	78	78	103	103	25	25
Classified third class in western classification	65	65	87	87	22	22
Classified fourth class in western classification	61	61	81	81	20	20
Hardware	78	.....	103	.....	25	.....
Iron articles:						
Bar, band, boiler, and rod, straight or mixed, C. L	61	32	81	44	20	12
Galvanized sheet iron	61	39	81	64	20	25
Jute yarn	87	.....	120	.....	33	.....
Mineral water, viz:						
In glass, cans, or jugs, packed	65	32	87	44	22	12
In wood	61	32	81	44	20	12
Paper stock	.....	25	.....	37	.....	12
Pickles:						
In glass, packed, o. r. b	52	36	103	48	51	12
In barrels, kegs, kits, or casks	52	36	81	48	29	12
Preserves, viz:						
In glass or stone jars, packed, o. r. b.	65	47	81	44	16	.....
In tin cans, boxed	61	47	81	44	20	.....
Rice, in bags, barrels, or tierces, o. r. b.	61	32	81	44	20	12
Sauces, in glass, packed, o. r. b	55	36	87	64	32	28
Saltpeter	61	47	81	64	20	17
Sheep dip, viz:						
Liquid or powdered, straight, C. L.	65	36	87	48	22	12
Paste	61	36	81	48	20	12
Soda, viz:						
Soda ash, in barrels or casks, minimum weight, 30,000 pounds	61	35	81	47	20	12
Caustic, in barrels or casks, minimum weight, 30,000 pounds	61	35	81	64	20	29
Bicarbonate of	65	35	87	64	22	29
Sulphate of copper, in iron-banded casks only	61	47	81	64	20	17
Tin plate, in boxes, released, o. r., wet, rust, or damage	61	47	81	64	20	17
Toys, n. o. s. (except toy drums and trunks), boxed, released	87	87	120	120	33	33
Wine, whisky, brandy, and cordials, viz:						
In glass, boxed, o. r., released, value limited to 50 cents per gallon	59	59	120	84	61	25
In wood, released	59	59	103	84	44	25

TABLE 9.—*Statement showing rates on various commodities, import and domestic, from New Orleans, La., to Denver, Colorado Springs, Pueblo, Trinidad, and intermediate points in Colorado and New Mexico, in effect June 24, 1902.*

[Rates in cents per 100 pounds.]

Commodity.	From New Orleans, La., to Denver, Colorado Springs, Pueblo, Trinidad, and intermediate points in Colorado and New Mexico.					
	Import.		Domestic.		In favor of import.	
	L.C.L.	C. L.	L.C.L.	C. L.	L.C.L.	C. L.
Ale, beer, and porter, in glass, packed, o. r. b.	110	65	125	77	15	12
Bags, burlap, gunny or jute burlap, gunny or jute bagging, straight or mixed C. L., minimum weight 30,000 pounds	110	.....	125	.....	15	.....
Bleaching powder, n. o. s.	110	65	125	77	15	12
Cement, C. L., minimum weight 30,000 pounds	84	.....	97	.....	13	.....
Minimum weight 40,000 pounds	.....	25	.....	35	.....	10
Chicory, in double bags	84	65	97	77	13	12
China and majolica ware, o. r. b., released, in barrels, boxes, casks, or tierces	180	.....	205	.....	25	.....
China clay, in casks	110	65	125	77	15	12
Chloride of zinc	84	65	97	77	13	12
Crockery and earthenware, o. r. b., released (value not to exceed $500 per car), viz:						
In barrels or boxes	148	65	165	77	17	12
In crates, tierces, casks, or hogsheads	110	65	125	77	15	12
Cotton piece goods (as described in note 1)	150	150	205	205	55	55
Cyanide of potassium	180	110	205	125	25	15
Denims, straight, C. L., minimum weight 30,000 pounds	.....	100	.....	175	.....	75
Duck, cotton, unbleached, in bales, straight C. L., or in mixed C. L. with brown cotton bags and bagging, minimum weight 30,000 pounds	.....	82	.....	175	.....	93
Drugs, n. o. s.	180	180	205	205	25	25
Dry goods, n. o. s., in boxes	180	180	205	175	25	.....
Fuller's earth, in casks	84	52	97	62	13	10
Furniture, viz:						
Brass bedsteads, minimum weight 12,000 pounds	180	95	205	110	25	15
Iron bedsteads, minimum weight 20,000 pounds	148	82	165	95	17	13
Glass: Common window, boxed, viz:						
External measurement of packages exceeding 86 united inches, o. r.	180	65	205	77	25	12
External measurement of packages not exceeding 86 united inches, o. r.	148	65	165	77	17	12
External measurement of packages not exceeding 68 united inches, o. r.	84	65	97	77	13	12
Glass, common, viz:						
Classified first-class in Western classification	180	180	205	205	25	25
Classified second-class in Western classification	148	148	165	165	17	17
Classified third-class in Western classification	110	110	125	125	15	15
Classified fourth-class in Western classification	84	84	97	97	13	13
Light or heavy, in crates, casks, or hogsheads, released	148	84	165	97	17	13
Hardware	148	148	165	165	17	17
Iron articles, viz:						
Angle, bar, rod, band, boiler, tank, and skelp, and boiler plates, straight or mixed, C. L.	84	65	97	77	13	12
Galvanized sheet iron	84	65	97	77	13	12
Jute yarn, in bales, boxes, or hogsheads	148	84	165	97	17	13
Mineral waters, viz:						
In glass, cans, or stone jugs, packed	110	30	125	37	15	7
In wood	84	30	97	37	13	7
Paper stock	.....	43½	.....	53½	.....	10
Pickles, in tin or in glass, packed or in barrels, kegs, or kits	84	65	97	77	13	12
Porcelain ware, viz:						
In barrels, boxes, or kegs	180	.....	205	.....	25	.....
In casks or hogsheads	148	.....	165	.....	17	.....
Preserves, viz:						
In glass or in stone jars, packed, o. r., released	84	65	97	77	13	12
In tin cans, boxed	84	65	97	77	13	12
Rice, in bags, barrels, or tierces, o. r. l., released	84	65	97	77	13	12
Saltpeter	84	65	97	77	13	12
Sheep dip, viz:						
Liquid or powdered, straight, C. L.	110	52	125	63	15	11
Paste	84	52	97	63	13	11
Soda, viz:						
Soda ash, in barrels or casks, minimum weight 30,000 pounds	84	48	97	55	13	7
Caustic, in barrels or casks, minimum weight 30,000 pounds	84	48	97	55	13	7
Bicarbonate of	84	65	97	77	13	12
Stoneware (not crockery), n. o. s., o. r. b., released value not to exceed $500 per car, viz:						
In barrels or boxes	148	62	165	72	17	10
In crates, casks, or hogsheads—						
Weighing 1,000 pounds or less	84	62	97	72	13	10
Weighing over 1,000 pounds	110	62	125	72	15	10
Sulphate of copper (blue vitriol), in iron-bound casks only	84	53	97	65	13	12
Table sauces, in glass or tin, boxed or in bulk, in barrels	110	65	125	77	15	12
Tin plate, minimum weight 30,000 pounds	84	62	97	69	13	7
Toys, n. o. s. (except toy drums), boxed, released	180	180	205	205	25	25
Wine, whisky, brandy, and cordials, viz:						
In wood, o. r., released value limited to 50 cents per gallon, C. L., minimum weight 24,000 pounds	.....	105	.....	115	.....	10
In wood	148	.....	153	.....	5	.....
In glass	180	.....	200	.....	20	.....

TABLE 9.—*Statement showing rates on various commodities, import and domestic, from New Orleans, La., to Denver, etc.*—Continued.

Commodity.	From New Orleans, La., to Denver, Colorado Springs, Pueblo, Trinidad, and intermediate points in Colorado and New Mexico.					
	Import.		Domestic.		In favor of import.	
	L.C.L.	C. L.	L.C.L.	C. L.	L.C.L.	C. L.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. ROBERTS having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed with amendments bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 19719. An act to provide for an additional professor of mathematics in the navy.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the bills of the following titles:

S. 5787. An act authorizing the Secretary of the Interior to make allotment to Frank H. Pequette; and

S. 4769. An act authorizing the Secretary of the Interior to ascertain the amount due William Johnson, and pay the same out of the fund known as "For the relief and civilization of the Chippewa Indians."

The message also announced that the Senate had passed the following resolutions:

Resolved, That the Senate expresses its profound sorrow on account of the death of the Hon. ROBERT CHARLES DAVEY, late a Member of the House of Representatives from the State of Louisiana.

Resolved, That the business of the Senate be now suspended in order that fitting tributes may be paid his memory.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives and to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the deceased, the Senate do now adjourn.

RAILROAD BILL.

The committee resumed its session.

Mr. MANN. Mr. Chairman, I yield to the gentleman from California [Mr. KNOWLAND] forty-five minutes.

Mr. KNOWLAND. Mr. Chairman, the Committee on Interstate and Foreign Commerce which reported the pending bill consists of 18 members, and of that number all but two are lawyers. I am one of the two not of the legal profession, but after attending the exhaustive hearings upon the measure now under discussion, which began on the 18th day of January and continued until the 1st day of March, when the committee in executive session took up the consideration of the bill section by section and line by line, I consider myself almost qualified to apply for admission to the bar.

Without betraying any confidences or divulging committee secrets, I might announce that I have made the startling discovery that occasionally even lawyers fail to agree as to their interpretations of the law, as well as upon questions of policy, and when such contingencies arose, and the committee divided about equally, it devolved upon the laymen to cast the deciding vote. If modesty did not forbid, I would say confidentially to the Members of the House that the most meritorious provisions of the pending bill can of course be traced to contingencies of this character. [Laughter.]

The bill is a fulfillment of the pledges of the Republican platform of 1908, which declared, in referring to rate legislation:

We believe the interstate-commerce law should be further amended, so as to give the railroads the right to make and publish tariff agreements subject to the approval of the commission, but maintaining always the principle of competition between naturally competing lines and avoiding the common control of such lines by any means whatsoever. We favor such national legislation and supervision as will prevent the overissue of stocks and bonds by interstate carriers.

The pending measure also carries out the recommendations of President Taft in his message to this body on January 7 last, in which he specifically advocated the creation of a commerce court; the right of railroads to make and publish traffic agreements; that railroads be compelled to quote correct rates in writing when requested by shippers; that the commission be granted power to act on its own initiative in investigating the fairness of an existing rate or practice, and giving it the additional power, when an increased rate is filed, to enter upon an investigation of the proposed schedule before it goes into effect; that shippers have the privilege of routing; that railroads be inhibited from acquiring competing carriers, and that legislation be enacted to prevent the overissue of stocks and bonds.

The bill likewise embodies practically all the recommendations which the Interstate Commerce Commission has made to Congress.

The commission, in their report for 1909, say, touching the question concerning the prevention of advances in rates pending investigation:

It seems plain to us also that some method should be provided by which railroads can be prevented from advancing their rates or changing their regulations and practices to the disadvantage of the shipper, pending an investigation into the reasonableness of the proposed change.

We have embodied in section 9 of the bill, amending section 15 of the present law, language to carry out this recommendation, and to which I will later refer.

In the matter of establishing through routes the report contains the following language:

This commission now has authority to establish a through route and joint rate "provided no reasonable or satisfactory through route exists."

And suggest that this proviso should be eliminated, which the committee has done in section 9, and the commission adds as a further argument in favor of striking out this proviso:

We think the commission should have authority to establish through routes and joint rates wherever, upon investigation, it is found that the public necessity and convenience, having due reference to the interests of the carrier, require such action.

Touching the right of the shipper to route freight, the commission says:

There are, however, circumstances under which the privilege of designating the route by which the traffic shall move is a matter of convenience as well as value to the shipper, and under such circumstances his right ought to be protected.

In section 9 of the bill, amending section 15 in the original act, we carry out this recommendation.

Upon the question of orders in proceedings instituted by the commission the following language is used:

We believe that wherever it appears, either from a formal complaint filed or from informal complaint received or from the general knowledge of the commission, that a given situation ought to be investigated, the commission should have authority, upon its own motion or by modifying a complaint already filed, to prosecute an adequate inquiry upon notice to the carrier and to make a relieving order if one be required.

In section 8b of the bill we have carried out this recommendation.

Sections 13, 14, and 15 of the pending measure deal with the question of the overcapitalization of railroads, which the commission direct attention to in the following language:

The need of exercising control over railway capitalization is again urged upon the attention of Congress.

It is my purpose to discuss the bill from the standpoint of the practical business man, dwelling upon those features which, in my opinion, tend to very materially strengthen existing statutes upon the general subject of railroad regulation, curing defects which time and experience have brought to light, and meeting present conditions. The most progressive railroad men to-day are free to acknowledge that they would oppose the repeal of the Hepburn Act, frankly admitting that it has proved of value in encouraging honest railroad management, breaking up practices which, in many instances, the railroads were forced to resort to by shippers in order to obtain and hold business, the culpability of shippers being as great as that of carriers.

As I personally view the commerce-court provision, if a tribunal of this character will tend to expedite the adjudication of cases affecting the question of rates, which will be to the interest of the shipper; if it will mean the creation of a body of experts peculiarly qualified to deal with the great problems of transportation, one of the most intricate subjects before the American people to-day, affecting as it does every line of business; if it will result in a greater uniformity of decisions—then, I say, such a court should be given a fair trial. For my part I am willing to accept the judgment of President Taft upon this most important feature of the pending bill, for few men have had wider judicial experience and are as well qualified to speak touching the necessity for such a court.

Mr. SIMS. May I ask the gentleman to give the authority seeking to create a court of that character?

Mr. KNOWLAND. I am glad the gentleman has risen, because I wanted to call attention to the fact that when my colleague from Tennessee was upon the floor the other day, in answer to a question by the gentleman from Texas [Mr. GILLESPIE], in which the gentleman from Texas asked if the Interstate Commerce Commission wanted this special court, and if he knew whether the commission had made any recommendations, the gentleman from Tennessee replied:

I certainly do not, and I defy any man to find any evidence in the hearings that points that out.

I accept the challenge of the gentleman from Tennessee, and will quote from the testimony of Mr. Knapp, chairman of the Interstate Commerce Commission, which he gave when before the Committee on Interstate and Foreign Commerce, as found on page 1225 of the Hearings:

Mr. WASHBURN. Then may I ask you to outline briefly the reasons which have led the commission to the conclusion that the creation of this court is desirable?

Mr. KNAPP. In answer to your question I should like to be definitely understood as giving expression only of my personal views.

I regard the creation of a tribunal of this sort as highly important. There are many reasons which bring me to that conclusion. The rather fundamental reason is grounded in the fact that these are all questions of national scope and interest. They are in no sense the local and isolated questions which arise in the ordinary courts. It is important that there be one tribunal of first instance which shall pass upon all these questions so that the determination will be harmonious and consistent, and not as it is now, uncertain and conflicting in different parts of the country.

Mr. SIMS. Does he not distinctly disclaim speaking for the commission?

Mr. KNOWLAND. He does in what he says personally, but calls attention to the fact of the commission's indorsement of the commerce-court provision, and then he goes on to state that he gives his reasons, which can only be considered as personal reasons and not the reasons which actuated the Interstate Commerce Commission in indorsing the commerce-court provision.

Mr. WANGER. Will my colleague permit a question?

Mr. KNOWLAND. Certainly.

Mr. WANGER. Is it not a fact that prior to the statement by Chairman Knapp, in answer to Mr. WASHBURN, he announced to the committee the action of the Interstate Commerce Commission formally and officially taken in approbation of the provision for the commerce court?

Mr. KNOWLAND. I am pleased to say that my colleague is absolutely right about that.

Mr. WANGER. Subject, however, to the recommendation in favor of the appointment of the judges by the President as the other judges of the United States courts are appointed.

Mr. KNOWLAND. The very contention the gentleman from Tennessee made the other day in his opposition to the measure. He wanted to know why the President should make the appointments instead of the judges being appointed in the first instance, or designated by the Chief Justice, while the Interstate Commerce Commission strongly recommended that these first judges be appointed by the President and not by the Chief Justice, as contended by the gentleman.

Mr. SIMS. You mean designated, not appointed.

Mr. KNOWLAND. Yes; designated.

Mr. SIMS. I understood the gentleman from Texas to say, "Does the commission ask for this court?" I fail to find the commission have ever asked for it.

Mr. KNOWLAND. There is no very great distinction between indorsing a proposition absolutely and asking for it.

Mr. SIMS. Here is what I wanted to convey: That the commerce court was not a suggestion made up by that commission; that they were not the fathers of the idea; that it was explained that Mr. TOWNSEND, of Michigan, was the father of the idea; and I said that it made me think more of it.

Mr. KNOWLAND. While I do not claim that the commission fathered the idea, they strongly approved it.

Mr. SIMS. Well, I do not think the gentleman will give very much weight to that. The reasons given by a commission which can be removed and enlarged.

Mr. KNOWLAND. Evidently the gentleman who asked the question of the gentleman from Tennessee the other day gave weight to that, otherwise he would not have put the question as he did. He wanted to know if it was not a fact that the commission had indorsed the proposition, or agreed to it, or

had approved it, and the gentleman immediately replied that such was not the case.

Mr. SIMS. I said it had not.

Mr. KNOWLAND. Yes. The gentleman had overlooked just what Commissioner Knapp had said on this particular point.

Mr. SIMS. I state frankly I do not recall that.

Did not Commissioner Clements in his testimony before that state that he was absolutely opposed to their being designated by either the Chief Justice or the President to serve in this particular court?

Mr. ADAMSON. Will the gentleman yield to me?

The CHAIRMAN. Does the gentleman yield to the gentleman from Georgia?

Mr. KNOWLAND. I do.

Mr. ADAMSON. Mr. Chairman, I can not hear very much of what is being said. I suppose it is the modesty of gentlemen which causes them to speak in such soft voices that we back in the suburbs can not hear them. Do I understand the gentleman from California to be insisting that the Interstate Commerce Commission want this commerce court?

Mr. KNOWLAND. Mr. Chairman, I am simply quoting the testimony before the committee, in which Chairman Knapp advances some of the strongest arguments that have been advanced in any quarter in favor of the creation of the court.

Mr. ADAMSON. I listened carefully to the hearings for two or three months and have associated with the members of the Interstate Commerce Commission, and while Chairman Knapp did make a perfunctory statement of that sort, I have never found that the members of the commission were enthusiastic for this slaughter of the commission.

Mr. KNOWLAND. The gentleman, then, is questioning the good faith of the gentlemen of the commission. If they indorse it, as the gentleman claims, and do not mean what they say, then I claim this is a reflection upon the Interstate Commerce Commission.

Mr. ADAMSON. I am neither questioning the good faith of the commission nor of the gentleman from California; but I say, as a Member who heard the evidence and who has associated with the commission, that I fail to discover that the commission want this court.

Mr. KNOWLAND. Mr. Chairman, I leave to the Members of the House for their interpretation the statement of Chairman Knapp, of the Interstate Commerce Commission. If language can be stronger in approval of any proposition, then I ask the gentleman to point out where such language has been used in favor of this bill.

Mr. ADAMSON. I admit the commission want it as much as the railroads oppose it.

Mr. SIMS. The gentleman did not answer, though, as to what shipper could bring a suit in this court.

Mr. KNOWLAND. It is true a shipper can not bring a suit, but, as I claimed, it is important to him that suits brought by the railroads be expedited.

From the standpoint of the shipper, one of the most important provisions of the bill is found in section 8, and relates to the quotation of rates. There is scarcely a Member of this House who has not had brought to his direct attention cases where shippers have met with losses, or suffered great annoyance, by reason of erroneous quotations on the part of carriers. One case cited before the committee where the quotation of an incorrect rate resulted in damage was that of a firm in Johnstown, Pa., which had a shipment of rails for Whittier, N. C. They wired to Pittsburg for a quotation, received an answer by wire, later confirmed by letter. A reference to the published tariff by the shipper confirmed the rate, and the sale was consummated, based on the rate quoted. Before the rails were shipped, however, the firm was notified that the rate had been quoted in error. The agent informed the shipper that an amendment had been made to the tariff advancing the rate $2 a ton, and the firm stood a loss of $1,500. There was no recourse, as the commission could not authorize the railroad to refund the amount, for to do so would necessitate the recognition of a rate which was not legal at the time of the shipment. Innumerable other cases were cited. It is of the utmost importance to a shipper that a correct rate be quoted.

In many instances large sales are lost because the rate erroneously quoted by the agent of a carrier was in excess of the correct rate, which correct rate was perhaps quoted to a competitor seeking to sell the same class of goods to the same customer. It is provided in this section that a common carrier upon written request must state the correct rate in writing between given points, and is under a penalty of $250 if the firm or company making such request suffers damage.

Of equal importance to the shipper is the provision which enables the Interstate Commerce Commission to institute an inquiry, on its own motion, as to the fairness of an existing rate or practice. While under existing law the commission had authority to investigate, it was questionable on the part of the commission whether under the fifteenth section it could, after investigation, apply any remedies. It is a protection to the small shipper who may not be able to go to the expense of instituting a complaint, or may not have the knowledge that a rate is excessive. The provision goes still further in the interest of the shipper. When a schedule is filed with the commission stating a new individual or joint rate, fare, or charge, the commission is given authority upon its own initiative without complaint to suspend the operation of the rate, fare, or charge for a period of one hundred and twenty days, while it enters upon a hearing as to the fairness or reasonableness of the proposed schedule. Now, it can not investigate a rate until it becomes effective.

Another very meritorious provision is that which confers upon the commission authority to establish through routes and joint classifications and rates. Under the present law only such authority is granted where a satisfactory through route does not already exist. In other words, a through route might be established with a water line and there be a competing water carrier, but the railroad, having an understanding with the particular water carrier, would refuse to establish relations with the competing water line, in time possibly driving it out of business. The same would be true of a competing railroad seeking through traffic arrangements.

In the making of through routes we provide in the bill in another section that the railroad shall afford reasonable facilities for operating such through routes, and exchange, interchange, and return cars, fair compensation to be provided for the use, injury, or destruction of such cars.

One of the most important privileges granted the shipper is that which gives to him the right of routing his freight where two or more routes now exist. It was believed that this right belonged to the shipper prior to the decision of the Supreme Court in what is known as the Citrus Fruit case (200 U. S., 536). The right of the shipper to route is of great importance for many reasons. In the case of perishable fruits—and California is vitally interested in this phase of the question—it is important in routing to consider climatic conditions and quick dispatch. In many large cities certain roads have convenient terminal facilities, which offer great advantages to the consignee in handling the goods after receipt, frequently saving him considerable expense. It is important also to shippers to know just what route his freight is taking in order to expedite its movement. He can keep in touch with its progress. Frequently a shipment arrives on one line when expected over another, and unnecessary delay results. Without this privilege the shipper may be compelled to patronize roads in bad physical condition, which would mean delay in the movement of freight. With the privilege of routing in the hands of the shipper there will be less incentive on the part of the roads to attempt pooling. There results greater competition among roads for business with the power of routing in the hands of the man who ships, and such competition insures improved service.

From my point of view I regard section 12 as one of the most important sections of the bill—a bold step in the direction of preventing the future stifling of competition by the common carriers of the country. As the section comes from the House committee it goes much further than contemplated originally, and, what is more, features considered objectionable and tending to weaken the section have been eliminated. The original section provided, and the Senate bill provides, that no railroad corporation which is a common carrier subject to the act to regulate commerce shall hereafter acquire, directly or indirectly, any interest of whatsoever kind in the capital stock of any railroad, or purchase or lease any railroad which is directly and substantially competitive with that of such first-named corporation.

The House committee added water carriers to the inhibition by adopting the amendments which I proposed to the section. In other words, as the section now reads, no railroad corporation can acquire capital stock in, or purchase or lease, a competing water line, nor can a water line acquire a competing railroad. After July 1, 1911, no officer or director of a railroad or water carrier can serve as an officer or upon the board of directors of a competing line.

Water competition is the most powerful and dangerous rival the railroads are called upon to meet, and it necessarily follows that whenever and wherever the opportunity is offered to strangle that competition the shrewd business men who manage our great railroads are going to attempt to control these water lines either by purchase or lease. We are spending millions upon our waterways. The River and Harbor Committee of this House has announced a policy of annual appropriations.

The bill just reported from the Senate committee carries a total of over $52,000,000 in appropriations and authorizations for rivers and harbors. Since 1896, covering a period of fourteen years, the total amounts actually expended for river and harbor improvements by the Government of the United States have aggregated a grand total of $295,648,021.

Four hundred million dollars, in round numbers, will be the total cost of the Panama Canal. Will there accrue to the Nation benefits commensurate with such vast expenditures? Not unless we, as Representatives of the people, enact legislation that will curb the power of the railroads to destroy the water competition which, by the expenditure of these millions, we are seeking to develop. From every section of the country can be cited innumerable cases where attempts are being made to deprive the people of the advantages of water competition. I am going to mention a few cases that have been brought personally to my attention.

The Louisville and Nashville Railroad controls, it is claimed, all freight and passenger boats plying upon the Green and Barren rivers, the termini being Bowling Green, Ky., and Evansville, Ind. This is a territory served almost entirely by the Louisville and Nashville Railroad. The rates for the distance carried, I am reliably informed, are the highest of any water line of the entire Mississippi Valley. The same condition, perhaps to a lesser extent, applies upon the traffic of the Tennessee River, this same railroad being an important factor in the ownership of the St. Louis and Tennessee River Packet Line, there being, I am told, little conflict as to rates. Practically all the steamboat lines from Baltimore to the Maryland Peninsula are under the control of the New York, Philadelphia and Norfolk Railroad Company. The Delaware and Raritan Canal has been practically put out of service, and the steamship lines to the Eastern Shore are now under the single control of the railroad just mentioned.

On the Atlantic coast there is called to my attention the case of the Montauk Steamship Company, which until quite recently was an independent corporation, in competition with the Long Island Railroad Company between New York City and the terminal points of Sag Harbor, Greenport, Sea Cliff, and other towns touched by both the railroads and steamship company. Since the acquisition by the railroad of the only water competitor it is claimed freight rates have advanced. Along the New England coast the control of competing water carriers by the railroads is notorious. As a specific instance, an unsuccessful struggle was carried on for a number of years by the Enterprise Line plying between Providence, Fall River, and New York in competition with the Fall River Line, of the New England Navigation Company, controlled by the New York, New Haven and Hartford Railroad.

In a recent opinion delivered by the Interstate Commerce Commission, from which I quote, in the case of W. J. Jennison Company *v.* Great Northern Railway Company, the commission sets forth certain facts which strikingly illustrate the effect upon rates resulting from the acquisition of water carriers by railroads:

> Certain railroads with lines reaching from Chicago to the seaboard, or from Buffalo to the seaboard, own and control practically all of the railroad mileage between Chicago and the seaboard, and also own or control all of the regular lines of package-freight-carrying boats on the Great Lakes. Therefore practically all of the tonnage of wheat and wheat products that is transported either all-rail or lake-and-rail, or rail-lake-and-rail from Minneapolis or Duluth to the seaboard or to New England is transported in whole or in part by these carriers.
>
> Prior to the absorption of the lake lines the rail-lake-and-rail and lake-and-rail rates on flour had fluctuated considerably, but, in general, the rail-lake-and-rail rate was a well understood and established differential of 5 cents per 100 pounds under the all-rail rate. Early in 1898, after the railroads had secured control of most of the lake lines, that differential was narrowed to 3 cents by increasing the rail-lake-and-rail rate, and in April, 1902, after the railroads had completed their control of the lake lines, it was narrowed to 2 cents by another increase in the rail-lake-and-rail rate. Sixty-five per cent of the product of the Minneapolis mills that goes to the territory east of Buffalo or Pittsburg is shipped rail-lake-and-rail.

On the Pacific coast a number of the lines between San Francisco and points in Oregon and Washington are controlled by railroads which are in competition. Between San Francisco and New York, on the Pacific side, it has been generally understood that the transcontinental railroads control the Pacific Mail Line.

In this connection I want to say that while it is generally claimed that the Southern Pacific Railroad controls a majority of the stock of the Pacific Mail Line, in all fairness I want to quote the testimony of the general manager, who, although he does not deny that the Southern Pacific controls the steamship line, made this statement before the Committee on Interoceanic Canals of the Senate, in March of this year:

> I would like to say here, under oath, that for the years I have been in the Pacific Mail Steamship Company no officer of the Southern Pacific Company, or any affiliated interest, either an operating officer, traffic officer, or an executive officer, has ever in any way, shape, form, or description given me any instructions in regard to the amount of tonnage I should handle of the traffic of the Pacific Mail, or attempted in any way, shape, form, or description to influence my judgment in regard to the amount of business by that route.

I simply make this statement as a matter of fairness to Mr. Schwerin. I want to say, however, that while it is not charged that the steamship rates are excessive, poor service is afforded, merchants claim, and there have been no striking indications of a fierce competition, to say the least.

For years the people of the Pacific coast have been buoyed up with the hope that with the completion of the great Panama Canal, being constructed with the money of the people, a new era of prosperity would dawn for those States bordering upon the Pacific Ocean. Confidently they look to the completion of that great artificial waterway, with the expectation that it will solve that mighty problem of transportaion charges in transcontinental shipping. Shortening the distance between New York and San Francisco 7,813 miles by water when compared with the route by the Straits of Magellan, and bringing San Francisco within fourteen days of New York by steamers making 16 knots, it is not to be wondered at that the people are, with a keen interest, following the progress of the work on the Isthmus.

Our California fresh fruits, in steamers with cold-storage facilities, will reach the eastern markets as quickly as they are now transported by rail, and at greatly reduced rates. Vast possibilities are opened up; but if the transcontinental roads are to be unrestricted in their present practices, if the strong arm of the law can not be invoked to prevent the control of the competing water lines when the canal is thrown open to traffic, then this great waterway, the hope of shippers since its inception, will prove of small value as a rate regulator, and the benefits confidently expected will not inure to the shipper or the public. This section in a large measure will meet the conditions.

Mr. Chairman, I am not one of those who fear any sinister design or can discover any deep-laid plot in the latter provisions of this section which give to the court of commerce the power of determining, when application is made by common carriers, whether proposed consolidations are in violation of the section. If the section retained provisions it originally contained, I might then have entertained some fear that its effectiveness would be lessened, although the danger would have been slight. I refer particularly to words which were intended to modify the prohibition contained in the first part of the section, the language referred to being that in determining the question of a consolidation the court might consider the relative importance of any benefit to the public interest and of any effect upon competition resulting from such acquisition.

These words have been stricken out, and the commerce court can now, I take it, consider only the question as to whether the line to be acquired is directly and substantially competitive. That there should be such a determination is apparent when we take into consideration certain facts. Practically every railroad in the United States, and many water carriers, taken by themselves and through their connections, might be claimed to be in competition, in the broad sense, with every other road or water carrier. No one, I take it, and particularly no one from the great West, would want to enact a law containing prohibitions of this character, unless there was some elasticity—an elasticity that would allow a road to extend its system in the development of a section of the country by acquiring a feeder, for instance, when such feeder was in no sense "directly and substantially" competitive.

Prospective purchasers of bonds would unquestionably desire a decision upon this point, and the railroads are entitled to a determination by some competent body. It is in the interest of future railroad development upon which the prosperity of the Nation in such a large measure depends. The determination of the court will be largely upon questions of fact, upon evidence presented, and I have full confidence that the Government, through the Attorney-General and his representatives, will perform its full duty in presenting evidence, if such evidence is obtainable, that the road or water carrier sought to be acquired is directly and substantially competitive with the road of the carrier applying to the court. I am frank to admit that some little doubt exists in my mind as to whether the Interstate Commerce Commission should not be substituted in this section for the commerce court, but I do not regard it as a vital question.

It is generally admitted, I think, by those who have studied the transportation problem with care that there exists great need of exercising some kind of control over railroad capitalization. It is necessary for the protection of the investor, and one need not bestow much thought upon the problem to realize that such control will have at least an indirect influence upon

the question of railroad rates. The latter sections of the bill deal with this subject, and while Congress is entering upon a new field, it is apparent that we are justified, in view of the abuses which have prevailed in the overcapitalization of railroads.

This bill deals with questions of vital interest to the American people. With a full realization of the importance of the subject the Committee on Interstate and Foreign Commerce has given to the various provisions of the bill its best thought. For nearly three months the measure has been before the committee. The printed testimony covers over 1,400 pages. Every line of the bill was considered with the utmost care. The members of the committee, representing the majority as well as minority, have been prompted only by the most patriotic motives in their efforts to present to the country a measure in the interest of the people, and one that at the same time attempts to deal justly with common carriers. Where differences of opinion prevailed in the committee they have been honest differences, and the good faith of no member can be questioned.

All legislation is a matter of compromise; no important bill ever passed this House, embodying many separate provisions, where every section suited every Member, but we generally ask ourselves if, on the whole, the proposed legislation is not an improvement over existing conditions or statutes, and when we answer in the affirmative, as I believe an overwhelming majority of the membership of this House, taking the broad view and considering the greatest good to the greatest number, intends to do in this instance, we will be but continuing those progressive policies which, during the past decade alone, have so redounded to the glory of our Nation. [Applause.]

Mr. MANN. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. BENNET of New York, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration (H. R. 17536) the railroad bill, and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 7242. An act to protect the seal fisheries of Alaska, and for other purposes;

S. 7304. An act to revive and extend the provisions of an act entitled "An act to authorize the South and Western Railroad Company to construct bridges across the Clinch River and the Holston River, in the States of Virginia and Tennessee;" and

S. 7499. An act to authorize the Sanford and Everglades Railroad Company to construct and maintain a bridge across the eastern end of Lake Jessup.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills:

H. R. 19633. An act to authorize Aransas Terminal Railroad to construct a bridge across Morris and Cumming Channel;

H. R. 22846. An act to further amend the act entitled "An act to promote the efficiency of the militia, and for other purposes," approved January 21, 1903; and

H. R. 22839. An act to provide for the payment of expenses involved by the participation of the militia in joint maneuvers with the Regular Army during the season of 1908.

ADJOURNMENT.

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

The motion was agreed to.

Accordingly (at 4 o'clock and 53 minutes p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for Shiloh National Military Park (H. Doc. No. 865)—to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for Central Branch, National Home for Disabled Volunteer Soldiers (H. Doc. No. 866)—to the Committee on Appropriations and ordered to be printed.

3. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Northeast Branch of Cape Fear River, North Carolina (H. Doc. No. 867)—to the Committee on Rivers and Harbors and ordered to be printed.

4. A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for relief of Capt. W. S. Scott (H. Doc. No. 868)—to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. BENNET of New York, from the Committee on Immigration and Naturalization, to which was referred the House bills 21325 and 24550 and House concurrent resolution 29, reported in lieu thereof a bill (H. R. 24695) to amend the immigration law relative to the separation of families, accompanied by a report (No. 1064), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. YOUNG of New York, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 20681) to authorize the Secretary of the Interior to lease unallotted Indian lands for mining purposes, reported the same without amendment, accompanied by a report (No. 1074), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HAMER, from the Committee on the Public Lands, to which was referred the bill of the House (H. R. 18376) relating to homestead entries in the former Siletz Indian Reservation, in the State of Oregon, reported the same without amendment, accompanied by a report (No. 1068), which said bill and report were referred to the House Calendar.

Mr. HANNA, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 16032) for the relief of the Saginaw, Swan Creek, and Black River band of Chippewa Indians in the State of Michigan, reported the same with amendment, accompanied by a report (No. 1073), which said bill and report were referred to the House Calendar.

Mr. STAFFORD, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the Senate (S. 7360) to give the consent of Congress to the building of a bridge by the cities of Marinette, Wis., and Menominee, Mich., over the Menominee River, reported the same without amendment, accompanied by a report (No. 1066), which said bill and report were referred to the House Calendar.

Mr. STEVENS of Minnesota, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 18285) to authorize the construction of a bridge across the Mississippi River between Moline, Ill., and Bettendorf, Iowa, reported the same with amendment, accompanied by a report (No. 1067), which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. MILLINGTON, from the Committee on Claims, to which was referred the bill of the House (H. R. 9431) for the relief of the Barse Live Stock Commission Company, reported the same with amendment, accompanied by a report (No. 1063), which said bill and report were referred to the Private Calendar.

Mr. LINDBERGH, from the Committee on Claims, to which was referred the bill of the Senate (S. 7409) for the relief of the First National Bank of Minden, Nebr., reported the same without amendment, accompanied by a report (No. 1069), which said bill and report were referred to the Private Calendar.

Mr. TILSON, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 10634) for the relief of John A. Martin, reported the same with amendment, accompanied by a report (No. 1070), which said bill and report were referred to the Private Calendar.

Mr. MILLER of Minnesota, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 15103) to reimburse G. H. Kitson for money advanced to the Menominee tribe of Indians, of Wisconsin, reported the same with amendment, accompanied by a report (No. 1071), which said bill and report were referred to the Private Calendar.

Mr. CAMPBELL, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 18978) to authorize the Secretary of the Interior to issue patent in fee simple to the city of Anadarko, State of Oklahoma, for the following-described tract of land: A portion of the southwest quarter and the southeast quarter of sections 15 and 16, in township 7 north, of range 10 west of the Indian meridian, and for other purposes, reported the same with amendment, accompanied by a report (No. 1072), which said bill and report were referred to the Private Calendar.

ADVERSE REPORTS.

Under clause 2 of Rule XIII, adverse reports were delivered to the Clerk and laid on the table, as follows:

Mr. COWLES, from the Committee on Claims, to which was referred the bill of the House (H. R. 593) for the relief of Frank Lincoln, reported the same adversely, accompanied by a report (No. 1051), which said bill and report were laid on the table.

Mr. PATTERSON, from the Committee on Claims, to which was referred the bill of the House (H. R. 2057) for the relief of James T. Healy, reported the same adversely, accompanied by a report (No. 1052), which said bill and report were laid on the table.

Mr. GRAHAM of Pennsylvania, from the Committee on Claims, to which was referred the bill of the House (H. R. 2879) authorizing the payment of $126.40 for bounty and arrears to John Dorsey, reported the same adversely, accompanied by a report (No. 1053), which said bill and report were laid on the table.

Mr. TIRRELL, from the Committee on Claims, to which was referred the bill of the House (H. R. 4612) to compensate the estate of Eber Currie, deceased, for the death of said Currie, etc., reported the same adversely, accompanied by a report (No. 1054), which said bill and report were laid on the table.

Mr. HAWLEY, from the Committee on Claims, to which was referred the bill of the House (H. R. 7627) for the relief of Thomas J. Ewing, reported the same adversely, accompanied by a report (No. 1055), which said bill and report were laid on the table.

Mr. TILSON, from the Committee on Claims, to which was referred the bill of the House (H. R. 9104) for the relief of John I. Conroy and others, reported the same adversely, accompanied by a report (No. 1056), which said bill and report were laid on the table.

Mr. CANDLER, from the Committee on Claims, to which was referred the bill of the House (H. R. 11598) for the relief of Thomas G. Williams, reported the same adversely, accompanied by a report (No. 1057), which said bill and report were laid on the table.

Mr. MILLINGTON, from the Committee on Claims, to which was referred the bill of the House (H. R. 11599) for the relief of James C. Duncan, reported the same adversely, accompanied by a report (No. 1058), which said bill and report were laid on the table.

Mr. GOLDFOGLE, from the Committee on Claims, to which was referred the bill of the House (H. R. 11600) for the relief of Kelly Johns, reported the same adversely, accompanied by a report (No. 1059), which said bill and report were laid on the table.

Mr. ADAIR, from the Committee on Claims, to which was referred the bill of the House (H. R. 16683) for the relief of Benjamin F. Busick, reported the same adversely, accompanied by a report (No. 1060), which said bill and report were laid on the table.

Mr. MORGAN of Oklahoma, from the Committee on Claims, to which was referred the bill of the House (H. R. 21100) for the relief of Samuel H. Davenport, reported the same adversely, accompanied by a report (No. 1061), which said bill and report were laid on the table.

Mr. LINDBERGH, from the Committee on Claims, to which was referred the bill of the House (H. R. 21927) for the relief of John Miller, reported the same adversely, accompanied by a report (No. 1062), which said bill and report were laid on the table.

Mr. MANN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 23913) to authorize the Sanford and Everglades Railroad Company to construct a bridge across the eastern end of Lake Jessup, in the State of Florida, reported the same adversely, accompanied by a report (No. 1065), which said bill and report were laid on the table.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on War Claims was discharged from the consideration of the bill (H. R. 21440) for the relief of the heirs of Solomon Cohen, deceased, and the same was referred to the Committee on Claims.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

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

By Mr. BURKE of Pennsylvania (by request): A bill (H. R. 24696) to place control of Columbia Institute for the Instruction of the Deaf and Dumb entirely under the president and board of directors of the institution and Congress—to the Committee on Education.

By Mr. MANN: A bill (H. R. 24697) to promote the safety of travelers by limiting to fourteen-hour shifts the service of interstate employees in train service on interstate railroads, and to provide for stated periods of permitted rest for such employees—to the Committee on Interstate and Foreign Commerce.

By Mr. COOK: A bill (H. R. 24698) to amend section 2871 of the Revised Statutes of the United States—to the Committee on Ways and Means.

By Mr. GOEBEL: A bill (H. R. 24699) to amend an act entitled "An act approved March 2, 1907," relating to post-office clerks and letter carriers in city delivery offices—to the Committee on the Post-Office and Post-Roads.

By Mr. MORGAN of Oklahoma: A bill (H. R. 24700) to authorize the disposal of the frame building formerly used for United States land office at Alva, Okla.—to the Committee on Public Buildings and Grounds.

By Mr. FITZGERALD: A bill (H. R. 24701) to amend an act entitled "An act for the relief of certain volunteer and regular soldiers of the late war and the war with Mexico," approved March 2, 1889—to the Committee on Military Affairs.

Also, a bill (H. R. 24702) to amend an act entitled "An act to relieve certain appointed or enlisted men of the Navy and Marine Corps from the charge of desertion," approved August 14, 1888—to the Committee on Naval Affairs.

By Mr. WILSON of Illinois: A bill (H. R. 24703) for establishing a bureau of domestic science—to the Committee on Agriculture.

By Mr. HARDWICK: Resolution (H. Res. 593) directing the Secretary of Commerce and Labor to investigate and report on certain matters in regard to the market price of cotton—to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bill and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ANDERSON: A bill (H. R. 24704) granting an increase of pension to John T. Hatch—to the Committee on Invalid Pensions.

By Mr. BURKE of South Dakota: A bill (H. R. 24705) to authorize the payment of certain claims for damages sustained by prairie fire on the Rosebud Indian Reservation, in South Dakota—to the Committee on Claims.

By Mr. CALDERHEAD: A bill (H. R. 24706) granting an increase of pension to James Hall—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24707) granting an increase of pension to Thomas Whittleton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24708) granting an increase of pension to Enos B. Gatchell—to the Committee on Invalid Pensions.

By Mr. CANNON: A bill (H. R. 24709) for the relief of William L. Culbertson—to the Committee on Military Affairs.

Also, a bill (H. R. 24710) for the relief of Michael Rapple—to the Committee on Military Affairs.

By Mr. CLARK of Missouri: A bill (H. R. 24711) granting an increase of pension to John Tumilty—to the Committee on Invalid Pensions.

By Mr. COLE: A bill (H. R. 24712) granting an increase of pension to Lemuel Runyan—to the Committee on Invalid Pensions.

By Mr. COX of Indiana: A bill (H. R. 24713) granting an increase of pension to Henry Robinson—to the Committee on Invalid Pensions.

By Mr. FLOYD of Arkansas: A bill (H. R. 24714) granting an increase of pension to John T. Wood—to the Committee on Invalid Pensions.

By Mr. FOWLER: A bill (H. R. 24715) granting an increase of pension to Kate E. B. MacConnell—to the Committee on Invalid Pensions.

By Mr. GRANT: A bill (H. R. 24716) granting a pension to Samuel C. Buchanan—to the Committee on Pensions.

By Mr. HAMILL: A bill (H. R. 24717) granting a pension to Euna Wells Sears—to the Committee on Invalid Pensions.

By Mr. HAMILTON: A bill (H. R. 24718) for the relief of Charles H. Brown—to the Committee on Military Affairs.

Also, a bill (H. R. 24719) for the relief of Alonzo D. Cadwallader—to the Committee on Military Affairs.

By Mr. HOLLINGSWORTH: A bill (H. R. 24720) granting an increase of pension to Edward Freeman—to the Committee on Invalid Pensions.

By Mr. HUMPHREY of Washington: A bill (H. R. 24721) for the relief of W. A. C. Baldwin—to the Committee on Claims.

By Mr. JAMIESON: A bill (H. R. 24722) granting an increase of pension to Folkins Cook—to the Committee on Invalid Pensions.

By Mr. KAHN: A bill (H. R. 24723) granting permission to the city and county of San Francisco, Cal., to operate a pumping station on the Fort Mason Military Reservation, in California—to the Committee on Military Affairs.

By Mr. KINKEAD of New Jersey: A bill (H. R. 24724) granting an increase of pension to Ellen Ryan—to the Committee on Invalid Pensions.

By Mr. McCREDIE: A bill (H. R. 24725) granting a pension to Ione D. Bradley—to the Committee on Invalid Pensions.

By Mr. MADISON: A bill (H. R. 24726) granting an increase of pension to Wilber F. Newhouse—to the Committee on Invalid Pensions.

By Mr. MILLER of Kansas: A bill (H. R. 24727) granting an increase of pension to John J. Holland—to the Committee on Invalid Pensions.

By Mr. MORGAN of Oklahoma: A bill (H. R. 24728) granting a pension to Mary E. Davis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24729) granting an increase of pension to Peter G. Wynegar—to the Committee on Invalid Pensions.

By Mr. PADGETT: A bill (H. R. 24730) granting an increase of pension to Benjamin N. Luffman—to the Committee on Invalid Pensions.

By Mr. PRATT: A bill (H. R. 24731) granting an increase of pension to Elijah Gray—to the Committee on Invalid Pensions.

By Mr. SABATH: A bill (H. R. 24732) granting a pension to Israel Buckowsky—to the Committee on Pensions.

By Mr. SCOTT: A bill (H. R. 24733) granting an increase of pension to Samuel P. Watson—to the Committee on Invalid Pensions.

By Mr. TAYLOR of Colorado: A bill (H. R. 24734) to grant certain lands to the city of Colorado Springs, the town of Manitou, and the town of Cascade, Colo.—to the Committee on the Public Lands.

By Mr. TENER: A bill (H. R. 24735) granting an increase of pension to William H. Barclay—to the Committee on Invalid Pensions.

Also, a bill (H. R. 24736) granting a pension to Thomas S. Vale, alias Thomas Vaile—to the Committee on Invalid Pensions.

By Mr. THOMAS of Kentucky: A bill (H. R. 24737) granting a pension to Lizzie Hampton—to the Committee on Invalid Pensions.

By Mr. TILSON: A bill (H. R. 24738) granting a pension to Mary M. Hill—to the Committee on Invalid Pensions.

PETITIONS, ETC.

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

By Mr. ALEXANDER of Missouri: Paper to accompany bill for relief of Jesse Lee—to the Committee on Invalid Pensions.

By Mr. ALEXANDER of New York: Petition of Chamber of Commerce of Buffalo, N. Y., against restriction of number of naval officers employed in the Hydrographic Office and favoring supervision of all aids to navigation by experienced naval officers—to the Committee on Appropriations.

Also, petition of Chamber of Commerce of Buffalo, N. Y., against removal of the Light-House Service from charge of naval officers—to the Committee on the Merchant Marine and Fisheries.

By Mr. ANTHONY: Petition of Industrial Council, American Federation of Labor, of Topeka, Kans., in support of the city of San Francisco in its effort to secure adequate water supply—to the Committee on the Public Lands.

By Mr. ASHBROOK: Petition of Prof. S. D. Simpkins, of Newark, Ohio, and Charles William Delancy, president of university, Cincinnati, Ohio, for a national bureau of health—to the Committee on Expenditures in the Interior Department.

By Mr. BARCLAY: Petition of Bradford Council, No. 403, Knights of Columbus, favoring House bill 17543—to the Committee on the Post-Office and Post-Roads.

Also, petitions of Blue Ball Grange, No. 1331, of West Decatur, and Brady Grange, No. 1218, of Troutville, both in the State of Pennsylvania, favoring Senate bill 5842 and House bill 20582, relative to regulation of oleomargarine traffic—to the Committee on Agriculture.

By Mr. BURKE of Pennsylvania: Petition of Retail Butchers and Meat Dealers' Protective Association of Allegheny, Pa., against the oleomargarine law—to the Committee on Agriculture.

By Mr. BURLESON: Petition of Ladies of the Maccabees of the World, for amendment of House bill 21321, in the interest of fraternal periodicals as second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. CALDERHEAD: Petitions of citizens of Idana, Riley, Tescott, and Abilene, Kans., for legislation to regulate shipment of liquor between States—to the Committee on Interstate and Foreign Commerce.

By Mr. CLINE: Paper to accompany bill for relief of Alexander A. Rowe—to the Committee on Invalid Pensions.

By Mr. COLE: Petition of Ladies of the Maccabees of the World, of Mount Cory, Ohio, for amendment of House bill 21321 favorably to fraternal publications as to postal rates—to the Committee on the Post-Office and Post-Roads.

By Mr. DIEKEMA: Petition of the Michigan state board of health, favoring the establishment of a national bureau of health—to the Committee on Agriculture.

By Mr. DRAPER: Petition of Oudawa Chapter, Daughters of the American Revolution, of Cambridge, N. Y., for retention of the Division of Information in the Bureau of Immigration and Naturalization—to the Committee on Immigration and Naturalization.

Also, petition of United Garment Workers of America, against any increase in postal rates—to the Committee on the Post-Office and Post-Roads.

Also, petition of Mrs. G. Howland Shaw and others, against extension of the suffrage to women—to the Committee on the Judiciary.

By Mr. EDWARDS of Kentucky: Petition of Knox County (Ky.) Medical Society, for Senate bill 6049, for establishment of a national health bureau—to the Committee on Expenditures in the Interior Department.

Also, paper to accompany bill for relief of R. P. Bruding—to the Committee on War Claims.

By Mr. FITZGERALD: Petition of Brotherhood of Painters, Decorators, and Paperhangers of America, against interference by the Federal Government in the matter of San Francisco water supply—to the Committee on the Public Lands.

Also, petition of Commodore Barry Council, No. 533, favoring House bill 17543—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Tenth Assembly District Republican Club, of Brooklyn, N. Y., for the passage of House bill 15441 and Senate bill 5578, eight-hour bills—to the Committee on Labor.

Also, memorial of the legislature of the State of New York, favoring the bill to place Major-General Sickles on the retired list as lieutenant-general—to the Committee on Military Affairs.

Also, resolutions of Porto Rico Horticultural Society, adopted at San Juan, P. R., against the abridgement of the jurisdiction of the circuit court of Porto Rico—to the Committee on Insular Affairs.

Also, petition of Morrisville (N. Y.) Business Men's Association, for legislation to secure an adequate supply of intelligent farm laborers through the national bureau of distribution—to the Committee on Labor.

Also, petition of James C. Rice Post, No. 29, Grand Army of the Republic, against retention of the statue of Lee in Statuary Hall—to the Committee on the Library.

Also, petition of Flatbush Taxpayers' Association, of Brooklyn, N. Y., favoring extension of the pneumatic-tube system—to the Committee on the Post-Office and Post-Roads.

By Mr. FLOYD of Arkansas: Paper to accompany bill for relief of Luman Murry—to the Committee on Invalid Pensions.

Also, papers to accompany bills for relief of John T. Wood and Edward Waldo—to the Committee on Invalid Pensions.

By Mr. FOWLER: Petition of Morristown (N. J.) Indian Association, for the material welfare of the Indian—to the Committee on Indian Affairs.

Also, petition of E. H. Howard and other citizens of New Jersey, and the Town Improvement Association of Summit, N. J., favoring the Weeks bill for conservation of the forests—to the Committee on Agriculture.

Also, petition of Mrs. J. F. Cowperthwait and other ladies of Westfield, N. J., for House bill 23259, relative to child labor—to the Committee on Labor.

Also, petition of Elizabethtown Chapter, No. 1, Daughters of the American Revolution, for retention of the Division of Information in the Bureau of Immigration and Naturalization of the Department of Commerce and Labor—to the Committee on Immigration and Naturalization.

Also, petition of Morris County Branch, Society for Prevention of Cruelty to Animals, of Morristown, N. J., against House bill 22321 and Senate bill 2799—to the Committee on the District of Columbia.

Also, petitions of the following councils of the Royal Arcanum: Cranford Council, No. 1469, of Cranford; Resolute Council, No. 808, of Elizabeth; McClellan Council, No. 1747, of Summit; Abernethy Council, No. 1607, of Rahway; Fireside Council, No. 715, of Westfield; Roselle Council, No. 1384, of Roselle; Summit Council, No. 1042, of Summit; Morris Council, No. 541; and Cataract Council, No. 884, of Rahway, all in the State of New Jersey, for House bill 17543—to the Committee on the Post-Office and Post-Roads.

By Mr. HOLLINGSWORTH: Paper to accompany bill for relief of Edward Freeman—to the Committee on Invalid Pensions.

By Mr. HUFF: Petition of George J. Kurtz, of Pittsburg, Pa., a member of the United Master Butchers of America, favoring Representative FOELKER's measure for repealing for a time the tariff on imported food-producing animals—to the Committee on Ways and Means.

Also, petition of Latrobe (Pa.) Trades Council, requesting that the War Department make no contract with the Bethlehem Steel Company until settlement of the strike—to the Committee on Labor.

Also, petition of Hall of Worth Grange, No. 1421, Patrons of Husbandry, of Slippery Rock, Pa., for Senate bill 5842, the oleomargarine bill—to the Committee on Agriculture.

By Mr. KAHN: Petition of Thomas J. Sheridan and 28 other residents of San Francisco, Cal., for House bill 22066, the boiler-inspection bill—to the Committee on Interstate and Foreign Commerce.

By Mr. LANGHAM: Petition of Ladies of the Maccabees of the World, of Knox, Pa., for amendment of House bill 21321 by eliminating the fifth clause of section 344, etc.—to the Committee on the Post-Office and Post-Roads.

Also, petition of Rev. J. Reed Morris, pastor of the Homer Presbyterian Church, for an amendment to the Constitution recognizing the Deity—to the Committee on the Judiciary.

By Mr. LOWDEN: Petition of Retailers' Association of Pawnee, Okla., against a parcels-post law—to the Committee on the Post-Office and Post-Roads.

By Mr. McCREDIE: Petition of citizens of Washington, for the Government to establish and maintain a military road from Fort Canby to Fort Columbia, Pacific County, State of Washington—to the Committee on Appropriations.

Also, petition of Garden City Grange and Washington State Grange, for a department of public health—to the Committee on Expenditures in the Interior Department.

Also, petition of Everett Chamber of Commerce, for an appropriation of $25,000 for more extensive roads and trails in Mount Rainier National Park—to the Committee on the Public Lands.

Also, petition of Olympia Lodge, No. 370, Fraternal Union of America, favoring House bill 17543—to the Committee on the Post-Office and Post-Roads.

By Mr. McMORRAN: Petition of grangers and citizens of Lapeer County, Mich., against increasing the salaries of the United States rural mail carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. MADISON: Petition of citizens of the Seventh Congressional District of Kansas, for legislation to prevent shipment of intoxicants into prohibition territory—to the Committee on the Judiciary.

Also, petition of citizens of Sterling, Kans., favoring an amendment to the Constitution recognizing the Deity therein—to the Committee on the Judiciary.

By Mr. MOORE of Pennsylvania: Petition of Continental Council, No. 1144, Royal Arcanum, favoring House bill 17543—to the Committee on the Post-Office and Post-Roads.

Also, petition of Fifth Reformed Presbyterian Church, for an amendment to the Constitution recognizing the Deity in that instrument—to the Committee on the Judiciary.

By Mr. MORGAN of Oklahoma: Petition of Local No. 954, F. E. and C. U. of A., of Grand Valley, Okla., favoring parcels-post bill—to the Committee on the Post-Office and Post-Roads.

By Mr. NYE: Petition of 10,000 women and men of the State of Minnesota, over 21 years of age, for Congress to submit to the legislatures of the several States for ratification an amendment to the National Constitution which shall enable women to vote—to the Committee on the Judiciary.

By Mr. PADGETT: Paper to accompany bill for relief of Benjamin N. Luffman—to the Committee on Invalid Pensions.

By Mr. A. MITCHELL PALMER: Petition of the Eastern Board of Trade, favoring passage of House bill 13915, for conducting investigations into mine explosions, etc.—to the Committee on Mines and Mining.

By Mr. PLUMLEY: Petitions of granges of the Patrons of Husbandry in the following towns and cities of Vermont: West Randolph, Plymouth Union, Sutton, Ascutneyville, Danbury, Northfield, Saxtons River, St. Johnsbury, Strafford, Williamsville, White River, North Hartland, Springfield, Concord, Bridgewater, Duxbury, South Royalton, Sheffield, West Burke, East Calais, West Charleston, Hartland, South Londonderry, North Burke, South Woodbury, and Windham County, for a department of public health—to the Committee on Expenditures in the Interior Department.

Also, petitions of Green Mountain Council, No. 736, and Barre Council, No. 401, Knights of Columbus, for House bill 17543—to the Committee on the Post-Office and Post-Roads.

Also, petition of International Association of Machinists, for construction of at least one first-class battle ship in government navy-yards—to the Committee on Naval Affairs.

Also, petition of Reformed Presbyterian Church of Barnet, Vt., for an amendment to the Constitution recognizing the Deity in that instrument—to the Committee on the Judiciary.

By Mr. ROBINSON: Resolutions of the State Federation of Women's Clubs of Arkansas, asking Congress to appropriate $50,000 to prosecute persons engaged in the white-slave traffic—to the Committee on Interstate and Foreign Commerce.

Also, papers to accompany House bill 24063, for a post-office building at Malvern, Ark.—to the Committee on Public Buildings and Grounds.

Also, papers to accompany House bill 24061, for a post-office building at Fordyce, Ark.—to the Committee on Public Buildings and Grounds.

Also, papers to accompany House bill 24064, for a post-office building at Benton, Ark.—to the Committee on Public Buildings and Grounds.

Also, papers to accompany House bill 23361—to the Committee on the Public Lands.

By Mr. SABATH: Petition of citizens of South Bethlehem, Pa., in mass meeting, deploring sympathy of the Business Men's Association of South Bethlehem, Pa., with Charles M. Schwab and their attempts to deceive Members of Congress and foreign governments relative to affairs of the Bethlehem Steel Company, etc.—to the Committee on Labor.

Also, petition of Switchmen's Union of North America, Local No. 199, of Chicago, Ill., favoring House bill 11193 and Senate bill 6155, amending laws relative to American seamen—to the Committee on the Merchant Marine and Fisheries.

By Mr. SCOTT: Petition of Wyoming Stock Growers' Association, indorsing House bill 22462—to the Committee on the Public Lands.

By Mr. SHEFFIELD: Petition of South Providence (R. I.) Rifle and Revolver Association, favoring House bill 15798, promotive of a patriotic spirit among the youth of the United States—to the Committee on Military Affairs.

By Mr. SLEMP: Petition of citizens of Wytheville, Va., favoring Senate bill 3776, placing regulation of express companies in the hands of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

By Mr. SPERRY: Resolutions of Seymour Grange, of Seymour, Conn., favoring the establishment of a national health bureau—to the Committee on Expenditures in the Interior Department.

Also, resolutions of Charles B. Bowen Camp, No. 2, United Spanish War Veterans, of Meriden, Conn., favoring the bill granting service medals, etc.—to the Committee on Military Affairs.

Also, resolutions of Sidney Beach Camp, United Spanish War Veterans, of Branford, Conn., favoring the bill for service medals, etc.—to the Committee on Military Affairs.

By Mr. STERLING: Petition of citizens of Bloomington, Ill., for House bill 22066, boiler-inspection bill—to the Committee on Interstate and Foreign Commerce.

By Mr. SULLOWAY: Petition of Branch St. Martin, of l'Association Canado-Americaine, of Somersworth, N. H., favoring House bill 17509, by Mr. GOOD, of Iowa, relative to postal rates on fraternal periodicals—to the Committee on the Post-Office and Post-Roads.