proved June 24, 1910, to be constructed in one of the navy yards, is hereby increased to $6,400,000, exclusive of indirect charges."

Mr. CALDER. Mr. Speaker, I move to recede and concur in the Senate amendment.

Mr. FITZGERALD. Mr. Speaker, my colleague [Mr. CALDER], has made a motion to recede and concur. As we are in a stage of disagreement, that motion takes precedence over the motion of the gentleman from Illinois [Mr. Foss]. The motion to recede and concur is the motion that brings the two Houses most quickly together at this stage of the proceedings.

The SPEAKER. There is no time made by calling for a vote until the question is settled as to which is the preferential motion. The question is on agreeing to the motion of the gentleman from New York [Mr. CALDER].

Mr. FOSS. Mr. Speaker, I would like to say a word on this, because I would like to have the House understand what they are voting on.

Mr. LIVINGSTON. We do. We know all about it.

The SPEAKER. The Chair desires to say that a motion to recede and concur in the Senate amendments takes precedence over a motion to recede and concur with amendments.

Mr. FOSS. I realize that, Mr. Speaker, but I wish to say that we have to-day two ships in process of construction, identical ships, one the *Utah* and the other the *Florida*. The *Florida* to-day is being built in the New York Navy Yard and it will cost this Government $6,400,000, and we are increasing the limit of cost on the *Florida* in this bill to $6,400,000. The sister ship, the *Utah*, is being built by private contract at the New York Ship Building Co. yards for less than $4,000,000. The building of the *Florida* in the New York Navy Yard will cost $2,500,000 more than the sister ship in a private yard.

I desire to have it distinctly understood that, in my judgment, this ship, by reason of the fact that it is to be built in a Government navy yard, will cost $7,500,000, whereas if it were built under contract by a private shipbuilding concern without any restrictions whatever it would cost $3,000,000 less. I desire that that statement shall go into the RECORD.

Now, Mr. Speaker, I have nothing further to say. [Cries of "Vote!" "Vote!"]

The SPEAKER. The question is on the motion that the House recede from its disagreement and concur in the Senate amendments.

The question was taken; and on a division (demanded by Mr. Foss) there were—ayes 59, noes 17.

So the motion was agreed to.

Mr. FOSS. Mr. Speaker, the House by concurring in these two amendments has passed the bill. [Applause.]

On motion of Mr. FITZGERALD, a motion to reconsider the vote whereby the Senate amendments were concurred in was laid on the table.

BRIDGE ACROSS THE SNAKE RIVER, IDAHO.

Mr. MANN. I ask unanimous consent to take from the Speaker's table two Senate bills, one the bill (S. 10878) to authorize the Commercial Club of Payette, Idaho, to construct a bridge across the Snake River, near the town of Payette, Idaho, and the other the bill (S. 10823) to extend the time for the completion of a bridge across the Missouri River at Yankton, S. Dak., by the Yankton, Norfolk & Southern Railway Co., and put them on their passage.

The SPEAKER. The gentleman from Illinois [Mr. MANN] moves to take from the Speaker's table two Senate bridge bills, S. 10878 and S. 10823, and put them upon their passage. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the bills.

The Clerk read the bill S. 10878.

The SPEAKER. Is there objection?

There was no objection.

The bill was ordered to a third reading, was read the third time, and passed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Coggeshall, one of its clerks, announced that the Senate had further insisted upon its amendments to the bill (H. R. 31539) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1912, and for other purposes, disagreed to by the House of Representatives, had agreed to the further conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. PENROSE, Mr. CARTER, and Mr. BANKHEAD as the conferees on the part of the Senate.

BRIDGE ACROSS THE MISSOURI RIVER, S. DAK.

The Clerk read the bill, S. 10823.

The SPEAKER. Is there objection?

There was no objection.

The bill was ordered to a third reading, was read the third time, and passed.

INJURIES TO GOVERNMENT EMPLOYEES.

The SPEAKER laid before the House the bill (H. R. 26307) to pay certain employees of the Government for injuries received while in the discharge of duty, with Senate amendments thereto.

The Senate amendments were read.

Mr. MANN. Mr. Speaker, unless there is some agreement about the matter in advance, that bill goes to the committee. It has a lot of Senate amendments that take it to the Committee of the Whole. We passed that bill here a short time ago, and when it got in the House certain gentlemen became very enthusiastic and proceeded to stick in the words "five thousand dollars" at 14 or 15 places. They may try to do the same thing again.

Mr. AUSTIN. I certainly will do all I can to prevent the passage of that bill as amended by the Senate. The Senate has reduced the amounts so that they are utterly inadequate. The bill shall never pass in its present form if I can prevent it. I object.

The SPEAKER. What is the point that the gentleman makes?

Mr. MANN. There are a lot of Senate amendments added that require consideration in Committee of the Whole, although I shall not make the point.

The SPEAKER. Yes; there are a lot of Senate amendments here. It is subject to the point that it should be considered in the Committee of the Whole House on the state of the Union.

Mr. AUSTIN. I have no objection to the reading of the bill, but I object to its consideration, unless the House wishes to disagree to the Senate amendments and let it go to conference.

The SPEAKER. Is the point of order made?

Mr. AUSTIN. I make the point of order. There is a proposition here to pay a widow $450 for the death of her husband, killed through no fault of his own. A Democratic House will do better by these widows than that.

The SPEAKER. The gentleman makes the point of order, and the bill is referred to the Committee on Claims.

FALSE REPORTS BY UNITED STATES EMPLOYEES.

The SPEAKER laid before the House the bill (H. R. 25503) to provide punishment for the falsification of accounts in the making of false reports by persons in the employ of the United States, with a Senate amendment thereto.

The Senate amendment was read.

Mr. OLMSTED. I move to concur in the Senate amendment.

The motion was agreed to.

RECESS.

Mr. PAYNE. Mr. Speaker, I move that the House take a recess until 7.15 o'clock.

The motion was agreed to.

Accordingly (at 5 o'clock and 40 minutes a. m. on Saturday, March 4, 1911) the House took a recess until 7.15 o'clock a. m., Saturday, March 4, 1911.

SENATE.

SATURDAY, *March 4, 1911.*

The Senate met at 8 o'clock a. m.

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

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

EXCISE BOARD OF THE DISTRICT OF COLUMBIA.

The VICE PRESIDENT laid before the Senate a communication from the Commissioners of the District of Columbia, transmitting a report of the operations of the excise board of the District of Columbia for the license year ended October 31, 1910, etc. (H. Doc. No. 1420), which, with the accompanying papers, was referred to the Committee on the District of Columbia and ordered to be printed.

THANKS FROM COMMANDER ROBERT E. PEARY.

The VICE PRESIDENT presented a telegram, which was read and ordered to lie on the table, as follows:

WASHINGTON, D. C., *March 4.*

Vice President JAMES S. SHERMAN,
Washington, D. C.:

If such a request is allowable, will you kindly express to the Members of the Senate my sincere thanks for their support and my deep appreciation of the high honor shown in voting me the rare thanks of Congress? Accept my personal regards.

PEARY.

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:

S. 10822. An act to extend the time for the completion of a bridge across the Missouri River at Yankton, S. Dak., by the Yankton, Norfolk & Southern Railway Co.;

S. 10863. An act to give the consent of Congress to the building of a bridge by the city of Northport, Wash., over the Columbia River at Northport; and

S. 10878. An act to authorize the Canyon Snake River Wagon Bridge Commission to construct a bridge across the Snake River at or near the town of Payette, Idaho.

The message also announced that the House had agreed to the amendments of the Senate to the following bills:

H. R. 3982. An act for the relief of David F. Wallace;

H. R. 7549. An act providing for the erection of monuments, respectively, to Gens. Daniel Stewart and James Screven, two distinguished officers of the American Army;

H. R. 24145. An act for the establishment of marine schools, and for other purposes;

H. R. 25503. An act to provide punishment for the falsification of accounts and the making of false reports by persons in the employ of the United States; and

H. R. 32674. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The 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 Senate to the bill (H. R. 32212) making appropriations for the naval service for the fiscal year ending June 30, 1912, and for other purposes; recedes from its disagreement to the amendments of the Senate Nos. 58 and 61 to the said bill; and agrees to the same.

The message also announced that the House had disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 31539) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1912, and for other purposes; asks a further conference with the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. WEEKS, Mr. GARDNER of New Jersey, and Mr. MOON of Tennessee managers at the conference on the part of the House.

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 Senate to the bill (H. R. 32909) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1912, and for other purposes; further insists upon its disagreement to the amendments of the Senate to the bill upon which the first committee of conference had been unable to agree; asks a further conference with the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. TAWNEY, Mr. SMITH of Iowa, and Mr. FITZGERALD managers at the conference on the part of the House.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a joint resolution adopted by the Legislature of the State of California, which was referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

SACRAMENTO, CAL., *March 3, 1911.*

PRESIDENT OF THE SENATE,
Washington, D. C.

SIR: I am hereby instructed to forward you a copy of senate joint resolution No. 24, introduced by Senator Wolfe and unanimously adopted by both houses of the California Legislature this 3d day of March, 1911.

Whereas there is now pending in the Congress of the United States a resolution demanding the universal recognition by all nations of American passports, so that there shall be no discrimination of any foreign power against any American citizen holding an American passport by reason of his race or creed: Now therefore be it

Resolved by the senate and assembly jointly, That our Senators be instructed and our Representatives requested to use their best efforts to secure the adoption of this resolution, so that all American citizens, without regard to their religion, may be on an equal footing when seeking to enter foreign countries and in possession of an American passport; and be it further

Resolved, That the secretary of the senate be instructed to send this resolution to the Speaker of the House of Representatives, the President of the Senate, and the President of the United States, by wire, as soon as it shall be adopted by both houses of the legislature.

WALTER N. PARRISH, *Secretary of Senate.*

The VICE PRESIDENT presented a joint resolution adopted by the Seventy-fifth Legislature of the State of Maine, which was ordered to lie on the table and be printed in the RECORD, as follows:

STATE OF MAINE.

Joint resolution of the Seventy-fifth Legislature of the State of Maine, making application to the Congress of the United States to call a convention for proposing an amendment to the Constitution of the United States.

Whereas we believe that Senators of the United States shall be elected directly by voters; and

Whereas to authorize such direct election an amendment to the Constitution of the United States is necessary; and

Whereas the failure of Congress to submit such amendment to the States has made it clear that the only practicable method of securing submission of such amendment to the States is through a constitutional convention to be called by Congress upon application of legislatures of two-thirds of all the States: Therefore be it

Resolved by the Legislature of the State of Maine, That the Legislature of the State of Maine hereby makes application to the Congress of the United States, under Article V of the Constitution of the United States, to call a constitutional convention for the purpose of proposing an amendment to the Constitution of the United States providing for the election of United States Senators by popular vote.

SEC. 2. This resolution, duly authenticated, shall be delivered forthwith to the President of the Senate and Speaker of the House of Representatives of the United States, with the request that the same shall be laid before the Senate and the House.

HOUSE OF REPRESENTATIVES, *February 6, 1911.*

Read and passed. Sent up for concurrence.

C. C. HARVEY, *Clerk.*

IN SENATE CHAMBER, *February 21, 1911.*

Read once; senate amendment A adopted. Read and passed as amended. Sent down for concurrence.

W. C. HANSON, *Secretary.*

HOUSE OF REPRESENTATIVES, *February 22, 1911.*

House receded from original action. Senate amendment A adopted in concurrence. Resolution as amended read and passed in concurrence.

C. C. HARVEY, *Clerk.*

A true copy.
Attest:

C. C. HARVEY,
Clerk House of Representatives.

The VICE PRESIDENT presented resolutions adopted at the second annual convention of the Jewish Community of New York City, N. Y., favoring the abrogation of existing treaties between the United States and Russia, which were referred to the Committee on Foreign Relations.

Mr. GRONNA. I present a telegram transmitting a concurrent resolution passed by the Legislature of the State of North Dakota, which I ask may lie on the table and be printed in the RECORD.

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

BISMARCK, N. DAK., *March 3.*

A. J. GRONNA,
United States Senate, Washington, D. C.:

Following concurrent resolution passed landslide assembly to-day:

Whereas the navigable rivers are the heritage of all of the people of the Commonwealth; and

Whereas the Yellowstone River is a navigable stream, and has in the past served a mighty purpose in the transportation of merchandise and produce thereon; and

Whereas the stream is now, and always will be, valuable for commerce, and may become the controlling factor in the matter of rates throughout that fertile valley: Be it

Resolved by the senate of the State of North Dakota (the house of representatives concurring), That the State of North Dakota, through her legislature, heartily indorses the policy of maintaining the navigability of said Yellowstone River and of preventing any obstruction thereof that will impede or obstruct or prevent the navigation of said river or so much thereof as is in fact navigable.

That it will be detrimental to the interests of the locality through which the navigable portion of said river runs and to this State to permit any dam to be maintained in the Yellowstone River below Glendive, Mont., for any purpose unless there shall be constructed in connection with such dam such lock or locks as may amply and surely keep said stream open for navigation.

And the Legislative Assembly of North Dakota does hereby urge the United States Senators and Representatives in Congress from the State of North Dakota, and each of them, to appear before the Board of Engineers for Rivers and Harbors at Washington, D. C., and urge the construction of a lock or locks in any dam that may be built across the Yellowstone River below Glendive, Mont., so that the navigability of said river shall be maintained, and to urge such other measures and improvements as may be essential and necessary to perpetually protect and maintain the navigability of the Yellowstone and the upper Missouri Rivers: Be it further

Resolved, That the Legislature of North Dakota deplores the fact that no mention of the upper Missouri River is contained in the recently enacted river and harbor bill, nor is any provision made therein for the continued improvement of either the Yellowstone or upper Missouri Rivers, and urges adequate appropriations be provided in future river and harbor enactments for the improvement of these rivers.

J. W. FOLEY, *Secretary of Senate.*

Mr. DEPEW. I present a concurrent resolution of the Legislature of the State of New York, which I ask may be printed in the RECORD and referred to the Committee on Foreign Relations.

There being no objection, the concurrent resolution was referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

IN ASSEMBLY, *February 20, 1911.*

Mr. Spielberg offered for the consideration of the house a resolution in the words following:

Resolved, That the Legislature of the State of New York, speaking for the people of the State, does hereby express its sense that uniform treatment and protection should be accorded to every American citizen, regardless of race or creed, and that every earnest effort should be made by the executive department of this Government to secure from the government of other countries uniformity of treatment and protection to American citizens holding passports duly issued by the authorities of the United States, in order that all American citizens shall have guaranteed freedom of travel and sojourn, without regard to race, creed, or religious faith, in all countries holding friendly relations with the United States; and be it further

Resolved, That our Senators and Representatives in Congress be requested to use their efforts to bring about this highly desirable result; and be it further

Resolved, That the clerk be requested to transmit a copy of these resolutions to the President of the United States and to each of our Senators and Representatives in Congress.

Said resolution giving rise to debate, ordered that the same be laid upon the table.

FEBRUARY 27, 1911.

Pursuant to notice, Mr. Spielberg called up his resolution in relation to discrimination against American citizens in Russia, introduced February 20 and laid over under the rule.

Debate was had thereon.

The speaker put the question whether the house would agree to said resolution, and it was determined in the affirmative.

Ordered, That the clerk deliver said resolution to the senate and request their concurrence therein.

FEBRUARY 28, 1911.

The senate returned the concurrent resolution in relation to discrimination against American citizens in Russia with a message that they have concurred in the same without amendment.

STATE OF NEW YORK, COUNTY OF ALBANY,
Office of the Clerk of the Assembly, ss:

I, Luke McHenry, clerk of the assembly, do hereby certify that I have compared the foregoing resolution with the original thereof as contained in the original copy of the official journal of the proceedings of the Assembly of the State of New York of the 20th, 27th, and 28th of February, 1911, now on file in my office; that the foregoing is a true and correct transcript of said original resolution; and that said resolution was duly adopted by said assembly on said date.

In witness whereof I have hereunto set my hand and affixed my official seal this 1st day of March, 1911.

[SEAL.] LUKE MCHENRY, *Clerk of the Assembly.*

Mr. BURKETT. I present resolutions unanimously adopted by the Legislature of the State of Nebraska, which I ask may lie on the table and be printed in the RECORD.

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

LINCOLN, NEBR., *February 16, 1911.*

Hon. E. J. BURKETT,
United States Senate, Washington, D. C.

Following resolutions were unanimously adopted by Nebraska State Senate:

Whereas there is now pending for ratification by our National Congress a trade agreement between Canada and the United States establishing reciprocity between these countries; and

Whereas we firmly believe that such reciprocity will result in great benefit to both of these countries where interests and people are so closely allied: Therefore be it

Resolved, That the senate of Nebraska, in regular session assembled, most emphatically indorses the ratification of said trade agreement, and that we ask our Senators and Representatives in the National Congress to work and vote for this treaty; and be it further

Resolved, That copies of this resolution be forwarded to our Senators and Representatives at Washington.

WM. H. SMITH, *Secretary State Senate.*

Mr. BURNHAM presented a memorial of Lafayette Grange, No. 208, Patrons of Husbandry, of Franconia, N. H., remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which was ordered to lie on the table.

He also presented petitions of C. M. Ayers, of Concord; Mrs. J. Gladstone, of Manchester; and of the Rockingham County Women's Christian Temperance Union, all in the State of New Hampshire, praying that an investigation be made into certain existing conditions in the Territory of New Mexico before the ratification of the constitution thereof, which were ordered to lie on the table.

Mr. BULKELEY presented petitions of Wichita Grange, of Warren; Silver Lake Grange, of Sharon; Rock Rimmon Grange, of Beacon Falls; New Canaan Grange, of New Canaan; New London County Pomona Grange; Higganum Grange, of Higganum; Clinton Grange, of Clinton; Central Pomona Grange; Ridgefield Grange, of Ridgefield; Burritt Grange, of New Britain; East Hampton Grange, of East Hampton; Avon Grange, of Avon; Farmington Grange, of Farmington; Kent Grange, of Kent; Aspetuck Grange, of New Milford; Bridgewater Grange, of Bridgewater; Ashford Grange, of Ashford; Lebanon Grange, of Lebanon; and Senexet Grange, of Woodstock, all of the Patrons of Husbandry, in the State of Connecticut, praying for the passage of a full and complete parcels post bill, which were ordered to lie on the table.

He also presented a memorial of the Connecticut Pomological Society, C. L. Gold, secretary, of West Cornwall, Conn., remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which was ordered to lie on the table.

Mr. BRANDEGEE presented a joint resolution passed by the Legislature of the State of Connecticut, which was referred to the Committee on Foreign Relations, and ordered to be printed in the RECORD, as follows:

STATE OF CONNECTICUT,
OFFICE OF THE SECRETARY,
General Assembly, January Session, A. D. 1911.

Whereas for more than a generation passports issued by our Government to American citizens have been openly and continually disregarded and discredited by Russia in violation of its treaty obligations and the usage of civilized nations; and

Whereas during all that time administration after administration irrespective of party, has protested against this insult and humiliation and Congress has on repeated occasions given emphatic expression to its resentment of the stain imposed upon our national honor; diplomacy has exhausted itself in ineffectual effort to bring relief, for which a new generation is impatiently waiting; and

Whereas the citizenship of every American who loves his country has in consequence been subjected to degradation, and it has become a matter of such serious import to the people of the United States, as an entirety, that this condition can no longer be tolerated: Be it therefore

Resolved by the general assembly, That it is the sense of this general assembly, having at heart the preservation of the honor of the Nation, joining in generous emulation with all other legislative bodies and citizens to elevate its moral and political standards and to stimulate an abiding consciousness of its ideal mission among the nations of the earth, that the President of the United States, the Department of State, and Congress be respectfully and earnestly urged to take immediate measures, in conformity with the express terms of the treaties now existing between the United States and Russia, and in accordance with the law of nations, to terminate such treaties, to the end that if treaty relations are to exist between the two nations it shall be upon such conditions and guaranties only as shall be consonant with the dignity of the American people; and be it further

Resolved, That a copy of this resolution be sent to the President of the United States, the Department of State, and both Houses of Congress.

STATE OF CONNECTICUT, *Office of the Secretary, ss:*

I hereby certify that the foregoing is a true copy of record in this office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said State, at Hartford, this 2d day of March, A. D. 1911.

[SEAL.] MATTHEW H. ROGERS, *Secretary.*

Mr. SUTHERLAND presented a joint resolution of the Legislature of the State of Utah, which was referred to the Committee on Public Lands and ordered to be printed in the RECORD, as follows:

Memorial to the Congress of the United States, requesting that the Government establish a naval and military hospital on certain lands containing hot saline and hot sulphur springs at Salt Lake City, Utah.

To the honorable Senate and House of Representatives of the Congress of the United States:

Whereas there exists within the city limits of Salt Lake City, State of Utah, in section 23, township 1 north, range 1 west, Salt Lake meridian, a tract of land containing a hot saline spring and a hot sulphur spring, which land would make a desirable site for a military and naval hospital, similar to the establishment maintained by the Government of the United States at the Hot Springs Reservation, in Arkansas; and

Whereas the waters of said springs possess curative properties equal to the waters of the Hot Springs of Arkansas; and

Whereas the proximity to Salt Lake City of the brigade post at Fort Russell, Wyo., the regimental post at Fort Douglas, Utah, and the several posts in the intermountain country; and

Whereas the owner of said springs is willing to donate a strip of land on said section 23 to the Government of the United States and the use of the waters from said springs on certain conditions to be hereafter agreed upon, provided that the Government of the United States will erect, establish, and maintain a sailors and soldiers' hospital or sanitarium on said strip of land; and

Whereas Salt Lake City is a city of about 100,000 resident population, with churches of all denominations, public and private schools, a fine street-railway system running direct to said springs, with city water running and the city sewerage system extending across said tract of land; the city having also a fine electric-lighting system, a well-equipped fire department, local and long-distance telephone systems, metropolitan police system, magnificent hotels, theatres, public parks, three transcontinental railway lines, and suburban car lines crossing the property; the Great Salt Lake, the bathing in which waters is said to be the finest in the world; and in fact, the city possessing every accomodation and convenience to be found in any metropolitan city in the United States, not to speak of the magnificent climate and health-giving properties which an elevation of 4,100 feet above sea level affords; and

Whereas the total number of baths given during the fiscal year ending June 30, 1910, at Hot Springs, Ark., according to the governmental report, was 922,699, and the benefits conferred upon seekers after health incalculable, and it is desirable that a similar institution be established in the far West: Therefore be it

Resolved by the senate and house of representatives of the State of Utah (and the governor concurring), That Congress be, and is hereby, requested to enact the necessary legislation in order that the Government may acquire said tract of land and erect, maintain, and operate

thereon such buildings as may be necessary for a hospital or sanitarium for sailors and soldiers of the United States; and be it further

Resolved, That a copy of this memorial be sent to United States Senators REED SMOOT and GEORGE SUTHERLAND and Representative JOSEPH HOWELL for presentation to Congress.

HARRY GARDNER, *President of the Senate.*
E. W. ROBINSON, *Speaker of the House.*

Mr. JONES presented a resolution adopted by the Legislature of the State of Washington, which was referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

OLYMPIA, WASH., *March 2, 1911.*

Hon. WESLEY L. JONES,
United States Senate, Washington, D. C.:

The Legislature of the State of Washington has this day passed the following joint memorial:

Whereas in certain countries discrimination is made against American citizens on account of race or creed, and passports furnished to such citizens are refused recognition and effect: Now therefore be it

Resolved by the senate (the house concurring), That the President of the United States be, and he is hereby, requested to use every effort to have American citizens respected abroad without regard to race or creed; and be it further

Resolved, That we do hereby indorse and call upon Congress to pass the resolution now pending therein looking to the universal recognition of American passports, so that no discrimination will be made against passports carried by American citizens no matter what the race or creed of the holder.

WILLIAM T. LAUBE,
Secretary of the Senate.

Mr. SMITH of Michigan. I present a telegram in the nature of a memorial from the Gleaner Organization, of Detroit, Mich., which I ask may lie on the table and be printed in the RECORD.

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

DETROIT, MICH., *February 14, 1911.*

Hon. WM. ALDEN SMITH,
United States Senate, Washington, D. C.:

Daily press announces action on Canadian treaty by House to-day. Thirty million farmers vitally interested and not given time to be heard. Michigan farmers are looking to you to prevent ratification of treaty *until* farmers can be heard. Remember, farmers are unorganized. Would treaty affecting manufacturing interests be rushed through?

G. H. SLOCUM,
Secretary Gleaner Organization.

Mr. SMITH of Michigan presented resolutions of the executive committee of the Michigan Grange, which were ordered to lie on the table and to be printed in the RECORD, as follows:

LANSING, MICH., *March 3, 1911.*

Hon. WILLIAM ALDEN SMITH,
United States Senate, Washington, D. C.:

Whereas it is universally understood by the farmers of our country and is in accordance with the administration party platform and protection promises that the farm's share of the benefit from a higher protective tariff policy shall come from an undisputed privilege in the use of a protected home market for agricultural products;

Whereas because of these understandings and promises it becomes a sacred obligation upon the present administration to carefully guard and keep for the sole use of the American farmer such benefits as he is now privileged to enjoy so long as a system of high protective duties shall be the policy of our Government: Therefore

Resolved, By the executive committee of the Michigan Grange, believing that it represents the views of the entire body of farmers of the State, that it protests against the ratifications by Congress of the pending so-called reciprocal relations with Canada and through its provisions place agricultural products upon the free lists, with no direct benefit in return.

Resolved, That our Representatives in Congress be informed of the actions of this committee.

GEO. B. HORTON,
N. P. HULL,
T. H. MCNAUGHTON,
F. G. PALMER,
C. S. BARTLETT,
T. V. OVIATT,
JERRY LAWSON,
J. W. HUTCHINS,
Committee.

Mr. MCCUMBER. Mr. President, I offer the following concurrent resolution of the Legislature of the State of North Dakota and ask that it be printed in the RECORD without reading and referred to the Committee on Commerce.

The PRESIDING OFFICER (Mr. BACON in the chair). It is so ordered, without objection.

The telegram is as follows:

BISMARCK, N. DAK., *March 3.*

P. J. MCCUMBER,
United States Senate, Washington, D. C.

Following concurrent resolution passed landslide assembly to-day:

Be it resolved by the senate of the State of North Dakota (the house of representatives concurring):

Whereas the navigable rivers are the heritage of all of the people of the Commonwealth; and

Whereas the Yellowstone River is a navigable stream and has in the past served a mighty purpose in the transportation of merchandise and produce thereon; and

Whereas the stream is now, and always will be, valuable for commerce and may become the controlling factor in the matter of rails throughout that fertile valley: Be it

Resolved, That the State of North Dakota, through her legislature, heartily indorses the policy of maintaining the navigability of said Yellowstone River and of preventing any obstruction thereof that will impede or obstruct or prevent the navigation of said river, or so much thereof as is in fact navigable.

That it will be detrimental to the interests of the locality through which the navigable portion of said river runs and to this State to permit any dam to be maintained in the Yellowstone River below Glendive, Mont., for any purpose, unless there shall be constructed in connection with such dam such lock or locks as may amply and surely keep said stream open for navigation.

And the Legislative Assembly of North Dakota does hereby urge the United States Senators and Representatives in Congress from the State of North Dakota, and each of them, to appear before the board of engineers for rivers and harbors at Washington, D. C., and urge the construction of a lock or locks in any dam that may be built across the Yellowstone River below Glendive, Mont., so that the navigability of said river shall be maintained, and to urge such other measures and improvements as may be essential and necessary to perpetually protect and maintain the navigability of the Yellowstone and the upper Missouri Rivers: Further be it

Resolved, That the Legislature of North Dakota deplores the fact that no mention of the upper Missouri River is contained in the recently enacted river and harbor bill, nor is any provision made therein for the continued improvement of either the Yellowstone or upper Missouri Rivers, and urges that adequate appropriations be provided in future river and harbor enactments for the improvement of these rivers.

J. W. FOLEY, *Secretary of the Senate.*

PAPER ON LABOR.

Mr. SMOOT. I am directed by the Committee on Printing, to which was referred an article by David Lubin, delegate from the United States to the International Institute of Agriculture, on the question of labor, and submitted by the Senator from Washingon [Mr. JONES], to report it favorably. I ask that it be printed as a Senate document (No. 860).

The VICE PRESIDENT. Without objection, it is so ordered.

BIOGRAPHICAL CONGRESSIONAL DIRECTORY.

Mr. SMOOT, from the Committee on Printing, reported the following resolution (S. Res. 384), which was considered by unanimous consent and agreed to:

Resolved, That the resolution of the Senate, adopted June 25, 1910, authorizing the printing of the Biographical Congressional Directory, is hereby rescinded, and that the Biographical Congressional Directory, revised and corrected to the Sixty-second Congress, be printed as a public document.

MILK INSPECTION IN THE DISTRICT OF COLUMBIA.

Mr. SMOOT, from the Committee on Printing, reported the following resolution (S. Res. 385), which was considered by unanimous consent and agreed to:

Resolved, That the report of the special committee of the Washington Chamber of Commerce on the investigation of milk in the District of Columbia be printed as a public document.

THE RAILROADS AND THE PEOPLE.

Mr. LODGE. I present an article by E. P. Ripley, taken from the Atlantic Monthly for January, 1911, on "The Railroads of the People." I move that the article be printed as a Senate document (No. 861).

The motion was agreed to.

THOMAS BRACKETT REED.

Mr. LODGE. I ask to have printed as a Senate document the address upon the late Speaker Reed, by Mr. MCCALL, a Member of the House of Representatives. It is a very admirable address. It has been printed in the RECORD, and it will be a convenience to many people if it can be put in the form of a document (S. Doc. No. 864).

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

WITHDRAWAL OF PAPERS—ELIZA LEE.

On motion of Mr. DICK, it was

Ordered, That permission be granted to withdraw from the files of the Senate all papers accompanying Senate bill 6527, Sixty-first Congress, second session, no adverse report having been made thereon.

REPORT OF UNITED STATES CIVIL SERVICE COMMISSION.

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Civil Service and Retrenchment and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith the Twenty-Seventh Annual Report of the United States Civil Service Commission for the year ended June 30, 1910.

WM. H. TAFT.

THE WHITE HOUSE, *March 3, 1911.*

BUSINESS METHODS IN EXECUTIVE DEPARTMENTS.

The VICE PRESIDENT laid before the Senate the following message from the President of the United States (S. Doc. No. 859), which was read and referred to the Committee on Appropriations and ordered to be printed:

To the Senate and House of Representatives:

I ask that you include in the sundry civil bill an appropriation for $75,000 and a reappropriation of the unexpended balance

of the existing appropriation to enable me to continue my investigation, by members of the departments and by experts, of the business methods now employed by the Government with a view to securing greater economy and efficiency in the dispatch of Government business.

The chief difficulty in securing economy and reform is the lack of accurate information as to what the money of the Government is now spent for. Take the combined statement of the receipts and disbursements of the Government for the fiscal year ended June 30, 1910—a report required by law and the only one purporting to give an analytical separation of the expenditures of the Government. This shows that the expenditures for salaries for the year 1910 were 132 millions out of 950 millions. As a matter of fact, the expenditures for personal services during that year were more nearly 400 millions, as we have just learned by the inquiry now in progress under the authority given me by the last Congress.

The only balance sheet provided to the administrator or to the legislator as a basis for judgment is one which leaves out of consideration all assets other than cash, and all liabilities other than warrants outstanding, a part of the trust liabilities, and the public debt. In the liabilities no mention is made of about $70,000,000, special and trust funds so held. No mention is made of outstanding contracts and orders issued as encumbrances on appropriations; of invoices which have not been vouchered; of vouchers which have not been audited. It is, therefore, impossible for the administrator to have in mind the maturing obligations to meet which cash must be provided. There is no means for determining the relation of current surplus or deficit. No operation account is kept, and no statement of operations is rendered showing the expenses incurred—the actual cost of doing business—on the one side, and the revenues accrued, on the other. There are no records showing the cost of land, structures, equipment, or the balance of stores on hand available for future use; there is no information coming regularly to the administrative head of the Government or his advisers advising them as to whether sinking-fund requirements have been met, or of the condition of trust funds or special funds.

It has been urged that such information as is above indicated could not be obtained for the reason that the accounts were on a cash basis; that they provide for reports of receipts and disbursements only. But even the accounts and reports of receipts and disbursements are on a basis which makes a true statement of facts impossible. For example, all of the trust receipts and disbursements of the Government, other than those relating to currency trusts, are reported as "ordinary receipts and disbursements;" the daily as well as the monthly and annual statements of disbursements are mainly made up from advances to disbursing officers—that is to say, when cash is transferred from one officer to another it is considered as spent and the disbursement accounts and reports of the Government so show them. The only other accounts of expenditures on the books of the Treasury are based on audited settlements, most of which are months in arrears of actual transactions. As between the record of cash advanced to disbursing officers and the accounts showing audited vouchers, there is a current difference of from four hundred millions to seven hundred millions of dollars, representing vouchers which have not been audited and settled.

Without going into greater detail, the conditions under which legislators and administrators, both past and present, have been working may be summarized as follows: There have been no adequate means provided whereby either the President or his advisers may act with intelligence on current business before them; there has been no means for getting prompt, accurate, and correct information as to results obtained; estimates of departmental needs have not been the subject of thorough analysis and review before submission; budgets of receipts and disbursements have been prepared and presented for the consideration of Congress in an unscientific and unsystematic manner; appropriation bills have been without uniformity or common principle governing them; there have been practically no accounts showing what the Government owns, and only a partial representation of what it owes; appropriations have been overencumbered without the facts being known; officers of Government have had no regular or systematic method of having brought to their attention the costs of governmental administration, operation, and maintenance, and therefore could not judge as to the economy or waste; there has been inadequate means whereby those who served with fidelity and efficiency might make a record of accomplishment and be distinguished from those who were inefficient and wasteful; functions and establishments have been duplicated, even multiplied, causing conflict and unnecessary expense; lack of full information has made intelligent direction impossible and cooperation between different branches of the service difficult.

I am bringing to your attention this statement of the present lack of facility for obtaining prompt, complete, and accurate information, in order that Congress may be advised of the conditions which the President's inquiry into economy and efficiency has found and which the administration is seeking to remedy. Investigations of administrative departments by Congress have been many, each with the same result. All the conditions above set forth have been repeatedly pointed out. Some benefits have accrued by centering public attention on defects in organization, method, and procedure, but, generally speaking, however salutary the influence of legislative inquiries (and they should at all times be welcome), the installation and execution of methods and procedure which will place a premium on economy and efficiency and a discount on inefficiency and waste must be carefully worked out and introduced by those responsible for the details of administration.

It was with this strong conviction, based on years of observation in public service, as well as on analogy found in corporate practice, that I asked Congress a year ago for an appropriation of $100,000 to pay the expenses of an inquiry into the methods of transacting public business, with a view to "inaugurating new or changing old methods, so as to attain greater economy and efficiency." First of all, this inquiry has sought to know what is the problem before each administrative head, i. e., what are the powers, duties, and limitations imposed on each officer; what is the organization and equipment by means of which these powers and duties are executed or made effective; what are the methods and procedure employed; what records are kept; what reports have been made. These inquiries have been made and the results have been indexed and tabulated and made available to the several departmental committees. In the progress of the work the estimates for 1912 have been brought together on a uniform basis; expenditures have been reclassified and the objects of expenditure have been codified; uniform forms of expenditure documents have been devised and are now being considered for installation; the auditing organization and procedure are under discussion; new forms of expenditure, accounting, and reporting are being critically reviewed to the end that a common method and procedure may be introduced throughout the service. A general constructive program has been mapped out.

The appropriations asked for will enable the President as the responsible head of the administration, to provide the means for effectively undertaking the revision of administrative methods and accounts, so far as lie in his powers, without legislative action. The amount asked for was small, because it was expected that as soon as a well-supported plan was developed a very large number of highly competent technical men might be found in the service who might be brought into cooperative relation to make the work of revision one of evolution and permanent benefit to the Government. The cooperation and the high character of service obtained among regular employees has even surpassed my hopes.

Predictions and forecasts of economy are relatively easy to make but are seldom of value. It must be admitted, however, by all that under such circumstances as have prevailed in the past any well-directed and well-sustained effort which will cause each branch of the service to cooperate in a program of economy and efficiency will each year produce results that will mean many times more than the cost. If inquiry is accompanied by constructive effort which aims toward uniformity of practice, systematic handling of the business will come inevitably as a result of greater intelligence of administrative direction and control.

I strongly urge, therefore, that Congress provide the necessary funds to carry on this important work. I urge this, not only that the President may have before him the information necessary to the intelligent exercise of his present powers, but that he may also lay before Congress such recommendations as may be deemed necessary to make a well-considered constructive program effective.

WM. H. TAFT.

THE WHITE HOUSE, *March 3, 1911.*

MALAMBO FIRE CLAIMS.

The VICE PRESIDENT laid before the Senate a message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Claims and ordered to be printed (S. Doc. No. 858).

To the Senate and House of Representatives:

I transmit herewith a letter addressed to me by the Attorney General, under date of February 24, together with accompanying papers, in regard to certain claims for damages on account of the fire on January 12, 1906, which destroyed the Malambo Ward in the city of Panama. This fire was said to have been caused by the negligence of the sanitary department of the Isthmian Canal Commission in fumigating one of the buildings located in that district.

The joint commission which assembled under the treaty with Panama early in 1907 considered these claims, and, although unable to determine the exact origin of the fire, recommended that the claims be compromised by paying in all $53,800.

The correspondence relating to these claims, together with a copy of the proceedings before the joint commission, and its recommendation, were transmitted to Congress and published in House Document No. 1411, Sixtieth Congress, second session, a copy of which document is transmitted herewith. Particular attention is invited to the following paragraph from the letter addressed to me by the Attorney General:

> The case, however, is such as naturally appeals to one's sense of justice. There is practically no doubt that the claimants in this case lost their property and homes through the negligence of the agents of the Government in fumigating their houses. I therefore suggest that you urge upon Congress the propriety of making an appropriation for their relief.

The Secretary of War has advised me of his concurrence in the recommendation of the Attorney General, and in view of all the circumstances, I now recommend that an appropriation be made to pay the sum suggested by the joint commission, namely, $53,800.

WM. H. TAFT.

THE WHITE HOUSE, *March 3, 1911.*

WILLIAM PORTER WHITE.

The VICE PRESIDENT. The Chair lays before the Senate a bill from the House of Representatives and calls the attention of the Senator from New Hampshire to it. The Secretary will report the title.

The SECRETARY. A bill (H. R. 30969) for the relief of William Porter White.

Mr. GALLINGER. That is a bill that the Senate committee has considered carefully, and I hope the bill will be passed.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes that the President be, and he is hereby, authorized to appoint William Porter White captain on the retired list of the United States Navy, to the grade of captain on the active list of the United States Navy: *Provided*, That the said William Porter White shall establish to the satisfaction of the Secretary of the Navy, by examination pursuant to law, his physical, mental, moral, and professional fitness to perform the duties of that grade: *Provided further*, That the said William Porter White shall be carried as additional to the number of the grade to which he may be appointed or at any time thereafter promoted: *Provided*, That the said William Porter White shall take rank next after Capt. George Ramsay Clark, as carried on the Navy list, published January 1, 1911: *And provided further*, That the said William Porter White shall not by the passage of this act be entitled to back pay of any kind.

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

TARIFF BOARD.

The Senate resumed the consideration of the bill (H. R. 32010) to create a tariff board.

Mr. BEVERIDGE obtained the floor.

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

The PRESIDING OFFICER (Mr. GALLINGER in the chair). The absence of a quorum being suggested, the Secretary will call the roll.

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

Bailey	Cullom	Kean	Rayner
Bankhead	Cummins	La Follette	Richardson
Beveridge	Curtis	Lodge	Simmons
Borah	Davis	Lorimer	Smith, Md.
Bourne	Dick	McCumber	Smith, Mich.
Bristow	Dillingham	Martin	Smith, S. C.
Brown	du Pont	Money	Smoot
Bulkeley	Fletcher	Nelson	Stone
Burkett	Flint	Newlands	Sutherland
Burrows	Frazier	Nixon	Swanson
Burton	Gallinger	Oliver	Taliaferro
Carter	Gamble	Overman	Taylor
Chamberlain	Gronna	Owen	Thornton
Clapp	Guggenheim	Page	Warner
Clark, Wyo.	Hale	Paynter	Warren
Clarke, Ark.	Heyburn	Percy	Watson
Crane	Johnston	Perkins	Young
Culberson	Jones	Piles	

The PRESIDING OFFICER. Seventy-one Senators have answered to their names. A quorum of the Senate is present. The Senator from Indiana will proceed.

Mr. BEVERIDGE. Mr. President, in a few minutes we shall vote on a measure of fundamental importance. We are now in the fourth year since the idea of a permanent, nonpartisan tariff commission was given concrete form in a well-considered, carefully drawn bill. That bill was written after the most painstaking study, after thorough and prolonged consultation with informed and earnest business men and with the best equipped economists and most thorough students of fiscal questions in the United States. The bill upon which we are about to vote is substantially the measure which I had the honor to present to the Senate more than three years ago.

I repeat that this is a fundamental reform. It is no transient law to be enacted to-day and repealed to-morrow; if passed it will be more than any measure passed by Congress during my 12 years of service, the enactment into law of the determined public opinion of the Nation.

Four years ago a systematic propaganda was begun for a scientific and common-sense method of handling our tariff problem. This agitation originated among the people themselves. It grew out of their stern necessities. We had reached the point in our industrial and commercial development where the people no longer could permit their tariff to be made a thing of barter and deal; the point where the people could no longer permit politicians to use the tariff for their partisan purposes and for the unjust advantage of those enormous standardized interests which have grown up in the last few decades.

The haphazard, uninformed lack of method by which our tariffs have been builded gave to craft its opportunity, no matter by what party the tariff was revised, no matter whether a law was builded upon the theory of a tariff for revenue only or the theory of protection.

And the people—the great body of our honest business and producing interests—were kept in ignorance almost, and, indeed, the majority of those Members of Congress who passed these various laws were not and could not be well informed.

And so the welfare of all the people required a radical change of method. It was absolutely necessary that the facts concerning every schedule and item of our tariff should be ascertained precisely as it is necessary to the successful conduct of any business that the facts with which that business deals must be carefully and accurately ascertained.

And when ascertained it is necessary that those facts shall be laid before the people's servants in Congress and before the people themselves.

And so the propaganda for a tariff commission became a great, steady, and ever-increasing movement of public thought. And in a few minutes we shall register the first legislative triumph of that movement by passing this bill through the Senate.

And so, Mr. President, the bill which we are about to pass, if the House concurs and makes it a law, never will be repealed. Senators will find that they are voting upon a measure which, if enacted, will be as permanent as any department of the Government. We are creating a body whose powers will grow as the wisdom of this measure proves itself by experience and as public necessity requires.

Last year, when we secured an appropriation to enable the persons employed by the President to continue their expert work of investigating the tariff I declared on the floor of the Senate that that was only the foundation stone—only the beginning, the small beginning, of a permanent, nonpartisan tariff commission. Our vote in the Senate this morning begins the redemption of that prophecy.

From the time our Government was adopted until now our tariff methods have been haphazard and obscure. This was not so serious at first. The country was sparsely populated. Modern industrialism and commerce had not been developed or even begun. There was little trade, either foreign or domestic, compared with our vast commerce to-day.

And so things ran along; and while advance unparalleled in history was made in business, industrial, and commercial methods, no advance was made in legislative methods, especially as concerns the tariff.

It is a startling fact that no orderly classification of tariff schedules was made until 1883. I have carefully gone over all of our tariff laws in this particular at the cost of much time and patient research.

While the time before the vote is too short for any extended discussion, it is long enough to sketch broadly the development of the modern scientific idea of tariff building which this measure crystallizes into our laws. And, indeed, there is no necessity for any extended review, because on several former occasions I have laid the facts concerning the historical and contemporaneous experiences of other countries before the Senate.

So I shall recall them but briefly. The world owes to the thoughtful, thorough, and constructive German mind the development of the tariff commission idea. Under the great Bis-

marck Germany adopted the American protective-tariff system. For a long time Bismarck was a free trader; but a wider observation than nearly any other statesman of the last half century made, and a profound study of the question, converted Bismarck to the policy of protection. I think he said that the American tariff experiment was the largest factor in changing his views.

So Germany adopted the American protective-tariff policy, and for awhile it worked well. It developed German industry; it broadened German trade. But with the growth of her industry and commerce, Germany found that while she should still adhere to a protective tariff she must change the methods of enacting such a tariff into law. And so Germany devised the great but simple plan of having the facts on which a tariff should be builded ascertained for the Reichstag by men specially equipped for that work.

That was a part of that wonderful German method which placed all of her legislation on a scientific basis. It is this German method, applied by Germany's business men to their business affairs, and applied by her public men to her laws, that has caused Germany's astounding commercial and industrial progress. For Germany, with a limited territory, with poor soil, with comparatively small resources, and with only a window on the sea, is outstripping every other nation in commerce, industry, and all the beneficent activities of peace.

Germany's lead has been followed by other progressive nations. And now, as Germany took our protective system from us and improved upon it, so we will take that improvement and make still further improvement upon it. That is the true American spirit. We boast that we lead the world. We should not boast at all. But surely, if we do we should do those things that might give some excuse and justification for it. In enacting this measure we are doing more to make ourselves in realtiy an advanced nation in handling this great fiscal problem than anything else we have done on the subject.

But the important and far-reaching effect of the law we are about to pass is not confined to the tariff. It is one section of a great constructive movement to make all of our legislative methods scientific, progressive, and sound. Every business man, every student of our business problems, knows that while we have developed our industrial and commercial affairs our business legislation has not kept pace in its methods with the methods of our business itself.

In passing this bill we are taking the first fundamental step to make American business legislation as systematic in method as American business itself is systematic in method. This movement will cover the whole range of our legislative methods applied to laws that affect the whole people. Next will follow the systematization of our financial chaos. Our financial legislation, up to the present time, has been as wanting in method as our tariff legislation has been wanting in method.

And so, Mr. President, when we cast our votes we may know that they are historic votes, for they register the first great step in this period of constructive reform—the first step in an historic progressive movement for the reconstruction of American legislative methods.

But should this measure by any device of its enemies fail to become a law, we may thoroughly understand that the demand of the people will only grow the stronger, more determined, and more militant until Congress obeys the people's will.

The VICE PRESIDENT. The hour of 8.30 o'clock having arrived, the question is on the engrossment of the amendment and the third reading of House bill 32010, to create a tariff board.

Mr. GORE. I desire to say, Mr. President——

The VICE PRESIDENT. No debate is in order.

Mr. GORE. I have no intention to debate the bill.

The VICE PRESIDENT. No debate is in order. Anything said is debate.

Mr. GORE. Mr. President——

The VICE PRESIDENT. The question is on the engrossment of the amendments and the third reading of the bill.

Mr. GORE. Mr. President——

The VICE PRESIDENT. As many as are in favor will say "aye"——

Mr. STONE. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator from Missouri will state his parliamentary inquiry.

Mr. STONE. The parliamentary inquiry is—I have no idea of debate or delay—whether, aside from unanimous consent, a bill before the third reading has been ordered is not amendable.

The VICE PRESIDENT. Is not what?

Mr. STONE. Is not amendable.

The VICE PRESIDENT. Before the third reading, yes; after the third reading, it is not.

Mr. STONE. We are now proposing, as I understand, to order the engrossment of the amendments and the third reading of the bill.

The VICE PRESIDENT. That is right. The question is on the engrossment of the amendments and the third reading of the bill. [Putting the question.] The ayes have it.

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

The bill was read the third time.

Mr. GORE. Mr. President, I sent to the desk last night an amendment——

The VICE PRESIDENT. Debate is not in order. The question is on the passage of the bill. As many as are in favor of the passage of the bill will say "aye," opposed "no"——

Mr. GORE. I rise to a point of order.

The VICE PRESIDENT. The ayes appear to have it——

Mr. CULBERSON. Yeas and nays, Mr. President.

Mr. BEVERIDGE. Yeas and nays.

Mr. GORE. Mr. President, I rise to a question of personal privilege.

Mr. CULBERSON. I rise to a question of order.

The VICE PRESIDENT. The Senator will state it.

Mr. CULBERSON. The Senator from Oklahoma [Mr. GORE] desires to offer an amendment. He was proceeding to state to the Chair that the amendment was on the Secretary's desk——

The VICE PRESIDENT. But no debate was in order, as the Chair stated to the Senator from Oklahoma.

Mr. CULBERSON. The Senator from Oklahoma does not desire to debate the question, but simply desires to offer an amendment to the pending bill without debate.

The VICE PRESIDENT. The Chair has put the question. As many as favor the passage of the bill——

Mr. GORE. I rise to a question of personal privilege.

Mr. BEVERIDGE. I ask for the yeas and nays.

The VICE PRESIDENT. Will say "aye"——

Mr. BEVERIDGE. I ask for the yeas and nays.

The VICE PRESIDENT. The yeas and nays are asked for.

Mr. GORE. Mr. President——

The VICE PRESIDENT. The yeas and nays are asked for. Is there a second? In the opinion of the Chair, a sufficient number have seconded the demand, and the yeas and nays are ordered.

Mr. GORE. Mr. President, a question of personal privilege.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the names of Mr. ALDRICH and Mr. BACON.

Mr. GORE. Mr. President, a question of personal privilege.

The VICE PRESIDENT. The Senator can not interrupt a roll call.

Mr. GORE. I trust the Chair——

The VICE PRESIDENT. The Chair is sure the Senator does not wish to violate the unanimous-consent agreement made by the Senate.

Mr. GORE. I do not——

The VICE PRESIDENT. The Secretary will continue to call the roll.

Mr. GORE. I do not wish the Chair to disregard the rules of the Senate.

The VICE PRESIDENT. The Senator is not in order.

Mr. GORE. I have a right as a Member of this body——

The VICE PRESIDENT. The Secretary will continue the calling of the roll.

The Secretary called the name of Mr. BAILEY.

Mr. BAILEY. I decline to vote under a roll call ordered in that manner.

Mr. GORE. I have a right to speak on a question of personal privilege——

The Secretary called the name of Mr. BANKHEAD.

Mr. GORE. I addressed the Chair before the roll call began, and I do not intend to be taken from the floor in this manner until other recourses are had.

The VICE PRESIDENT. The Secretary will continue the calling of the roll.

Mr. GORE. Mr. President——

The Secretary called the names of Mr. BEVERIDGE and Mr. BORAH.

Mr. GORE. I wish to say that I did not know that the President of this body was possessed of the——

The VICE PRESIDENT. The Senator is not in order.

Mr. GORE (continuing). Spirit which he is exhibiting, and I merely wish to apologize for having offered an amendment after the ruling of the Chair last night, an amendment which I had intended to offer at an earlier day.

The VICE PRESIDENT. The Secretary will continue the calling of the roll.

The Secretary called the name of Mr. BOURNE.

Mr. GORE. I regret to resort to this extremity in the protection of my rights as a Senator.

The VICE PRESIDENT. The Secretary will continue calling the roll.

The Secretary resumed the calling of the roll.

Mr. THORNTON (when Mr. FOSTER's name was called). I am authorized by my colleague [Mr. FOSTER] to say that on account of illness he is not able to be present in the Chamber this morning. If he were present, he would vote "nay."

Mr. McCUMBER (when his name was called). I am paired with the senior Senator from Louisiana [Mr. FOSTER]. I transfer that pair to the senior Senator from New York [Mr. DEPEW] and vote. I vote "yea."

Mr. CULBERSON (when Mr. TERRELL's name was called). The Senator from Georgia [Mr. TERRELL] is absent by reason of sickness. He has a pair with the Senator from Rhode Island [Mr. ALDRICH]. If the Senator from Georgia were present, he would vote "nay."

The roll call was concluded.

Mr. CULBERSON. The Senator from Georgia [Mr. BACON] is necessarily absent. He is paired with the Senator from Maine [Mr. FRYE]. If the Senator from Georgia were present, he would vote "nay."

Mr. BAILEY. I desire to know if this vote is on the final passage of the bill.

The VICE PRESIDENT. It is on the passage of the bill.

Mr. BAILEY. I desire the RECORD to show that I declined to vote because I believed the roll call was improperly ordered; but that if I had voted, I would have voted "nay."

Mr. GALLINGER. I am requested to announce that on this vote the Senator from Wisconsin [Mr. STEPHENSON] stands paired with the Senator from Indiana [Mr. SHIVELY].

The result was announced—yeas 56, nays 23, as follows:

YEAS—56.

Beveridge	Clark, Wyo.	Guggenheim	Penrose
Borah	Clarke, Ark.	Hale	Perkins
Bourne	Crane	Jones	Piles
Bradley	Crawford	Kean	Richardson
Brandegee	Cullom	La Follette	Root
Briggs	Cummins	Lodge	Scott
Bristow	Curtis	Lorimer	Smith, Mich.
Brown	Dick	McCumber	Smoot
Burkett	Dillingham	Nelson	Sutherland
Burnham	du Pont	Newlands	Thornton
Burton	Flint	Nixon	Warner
Carter	Gallinger	Oliver	Warren
Chamberlain	Gamble	Owen	Wetmore
Clapp	Gronna	Page	Young

NAYS—23.

Bankhead	Heyburn	Percy	Swanson
Bulkeley	Johnston	Rayner	Taliaferro
Culberson	Martin	Simmons	Taylor
Davis	Money	Smith, Md.	Tillman
Fletcher	Overman	Smith, S. C.	Watson
Frazier	Paynter	Stone	

NOT VOTING—12.

Aldrich	Burrows	Foster	Shively
Bacon	Depew	Frye	Stephenson
Bailey	Dixon	Gore	Terrell

So the bill was passed.

Mr. BURROWS subsequently said: I desire to say that I was necessarily detained this morning when the vote was taken on the tariff-board bill. Had I been present, I would have voted "yea."

Mr. DIXON subsequently said: I merely wish to state that, having been detained, I did not reach the Chamber until just after the vote on the tariff-board bill had been announced. Had I been present I should have voted for the bill.

Mr. CARTER. Mr. President——

Mr. STONE. Mr. President——

The VICE PRESIDENT. The Senator from Montana.

Mr. CARTER. From the committee——

Mr. STONE. Mr. President, I desire to make a motion to reconsider. I can not be cut off from that.

The VICE PRESIDENT. The Chair will recognize the Senator from Missouri for that purpose.

Mr. STONE. That was my purpose in rising. I move to reconsider the vote by which the bill was passed.

The VICE PRESIDENT. The Senator from Missouri moves to reconsider the vote by which the bill was passed.

Mr. LODGE. I move to lay that motion on the table.

The VICE PRESIDENT. The Senator from Massachusetts moves to lay the motion on the table.

Mr. STONE. On that I demand the yeas and nays.

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

Mr. CULBERSON (when Mr. BACON's name was called). I again announce that the Senator from Georgia [Mr. BACON] is unavoidably absent. He is paired with the junior Senator from Maine [Mr. FRYE]. If the Senator from Georgia were present, he would vote "nay."

Mr. McCUMBER (when his name was called). I again announce my pair with the senior Senator from Louisiana [Mr. FOSTER], and transfer the pair to the senior Senator from New York [Mr. DEPEW], and will vote. I vote "yea."

Mr. CULBERSON (when Mr. TERRELL's name was called). I again announce the pair of the junior Senator from Georgia with the senior Senator from Rhode Island [Mr. ALDRICH]. If the Senator from Georgia were present, he would vote "nay."

Mr. GALLINGER (when Mr. STEPHENSON's name was called). I again announce a pair between the Senator from Wisconsin [Mr. STEPHENSON] and the Senator from Indiana [Mr. SHIVELY].

The roll call having been concluded, the result was announced—yeas 56, nays 22, as follows:

YEAS—56.

Beveridge	Clapp	Gamble	Page
Borah	Clark, Wyo.	Gronna	Penrose
Bourne	Clarke, Ark.	Guggenheim	Perkins
Bradley	Crane	Jones	Piles
Brandegee	Crawford	Kean	Richardson
Briggs	Cullom	La Follette	Root
Bristow	Cummins	Lodge	Scott
Brown	Curtis	Lorimer	Smith, Mich.
Bulkeley	Dick	McCumber	Smoot
Burkett	Dillingham	Nelson	Sutherland
Burnham	Dixon	Newlands	Warner
Burton	du Pont	Nixon	Warren
Carter	Flint	Oliver	Wetmore
Chamberlain	Gallinger	Owen	Young

NAYS—22.

Bailey	Johnston	Rayner	Taliaferro
Bankhead	Martin	Simmons	Taylor
Culberson	Money	Smith, Md.	Tillman
Fletcher	Overman	Smith, S. C.	Watson
Frazier	Paynter	Stone	
Heyburn	Percy	Swanson	

NOT VOTING—13.

Aldrich	Depew	Hale	Thornton
Bacon	Foster	Shively	
Burrows	Frye	Stephenson	
Davis	Gore	Terrell	

So Mr. STONE's motion to reconsider was laid on the table.

Mr. GORE. Mr. President, I rise to a question of personal privilege. I feel that I owe this explanation to myself and to the Senate.

I sent to the desk last night an amendment which I stated I would propose to the tariff-board bill this morning. The amendment embraced the Canadian reciprocity agreement. The Chair indicated at the time that the amendment would not be admissible under the unanimous-consent agreement. I had intended to offer this amendment, or this substitute, before any time had been fixed for taking a vote upon this measure, but, as Senators will remember, the request for the unanimous-consent agreement to vote came up under rather peculiar circumstances. I could not then offer the amendment without either defeating or delaying that agreement. I was not willing to assume that responsibility, in view of the protracted debate which had been indulged in on the tariff-board bill.

When I sent this amendment to the desk last evening the Chair indicated that it would be contrary to the rules of the Senate and contrary to the agreement entered into. I merely wish to say this morning that if the amendment were in order under the rules of the Senate, if it should be deemed to violate the spirit of the unanimous-consent agreement, I should not offer it even under those circumstances. I desired to make that statement before the roll call began. I now apologize to the Senate for any rudeness of which I may have been guilty; but of course I feel constrained, by whatever means may be required, to defend my rights and privileges as a Senator. I regret that the incident occurred.

Mr. STONE. Mr. President, just a word for the RECORD, which has not yet been brought to the desks of Senators, of our proceedings of night before last. I intended, when the RECORD came, to ask for some corrections, if corrections were proper where I thought they ought to be made.

Now, in the absence of it I desire to make this statement, so that it may go into the RECORD: Among other innocent inaccuracies, as I deem it, into which the Chair fell during that rather amiable interchange between the Chair and myself on that evening, was a statement made by the Chair that this bill had passed beyond the stage of amendment. That we on

this side did not think was correct, but there was no particular occasion for challenging it very pointedly then.

Afterwards, as this unanimous-consent order shows, and as the action of the Senate this morning shows, the motion pending and to be first acted upon by the Senate was the ordering of the bill to engrossment and third reading, and that I might have the judgment of the Chair, I asked the question this morning if the bill was not amendable until it had been ordered to a third reading, and the Chair said it was, in which opinion I concur.

In view of this statement I desire to call attention to the fact and have the RECORD show that the Chair was in error in the statement made the other night that the bill had passed beyond the point of amendment.

REPORT OF THE COMMITTEE ON IRRIGATION.

Mr. CARTER. From the Committee on Irrigation and Reclamation of Arid Lands I present to the Senate the report of an investigation by that committee in pursuance of a resolution of the Senate.

The VICE PRESIDENT. The Senator from Montana submits a report from the Committee on Irrigation presenting to the Senate the result of investigations by that committee in pursuance of the resolution of the Senate. Without objection, out of order, the report will be received.

Mr. NEWLANDS. I wish to state, in connection with this report, that some time ago the Committee on Irrigation was called together with reference to a report which had been tentatively prepared by the chairman, the Senator from Montana [Mr. CARTER], for submission to the committee. The report being read, there was a great deal of difference of opinion in the committee. I thereupon wrote a suggestion of a report to be substituted for the report presented by the Senator from Montana, which was sent out to the various members of the committee. Our understanding was that later on there should be a committee meeting at which these matters of difference should be thrashed out. Owing probably to the pressure of public business the chairman was unable to get the committee together, and last night I learned that this report was being signed by the members of the committee. Upon inquiry of certain members of the committee, who had expressed agreement with the views which I entertain upon matters of difference between the chairman and myself, and who had signed the report now submitted, I was told that assurance had been given that the report had been modified in these particulars. So far as I am individually concerned I have had no opportunity to look over this report as modified, and I therefore request the privilege of submitting, on my own behalf and on behalf of others who may concur with me, my views regarding this subject, such views to be printed with the report presented by the chairman, the Senator from Montana.

The VICE PRESIDENT. Is there objection to the request?

Mr. CARTER. I would be delighted to have the views expressed and printed in the report; but I think a time should be fixed in which the views should be submitted, so as not to indefinitely postpone the printing of the report. I suggest that by March 15 the views of the minority be filed, and thus enable the printer to go forward with the work.

The VICE PRESIDENT. Is there objection to the request as thus modified? The Chair hears none.

Mr. CHAMBERLAIN. I desire to unite with the Senator from Nevada in the request for leave to print our views with the report of the committee.

I desire to state in this connection that it is barely possible I may not differ from the chairman, but inasmuch as the report was not presented to me as finally prepared until 1.30 o'clock this morning, I have not had time to examine it at all, and I thought it best to preserve my right to unite with the Senator from Nevada in making a report.

The VICE PRESIDENT. The request of the Senator from Nevada covered those who desire to unite with him, the Chair understood.

Mr. NEWLANDS. I will state in this connection that the report was signed by several members who did not have time to look it over.

RECESS.

Mr. HALE. I move that the Senate take a recess until 10 o'clock. I hope by that time we may be able to present the conference reports.

The motion was agreed to; and the Senate (at 9 o'clock) took a recess until 10 o'clock a. m., March 4, 1911.

The Senate reassembled at 10 o'clock a. m.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by W. J. Browning, its Chief Clerk, announced that the House had agreed to the reports of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the following bills:

H. R. 31539. An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1912, and for other purposes; and

H. R. 32909. An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1912, and for other purposes.

The message also 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 Senate to the bill (H. R. 32957) making appropriations to supply deficiences in appropriations for the fiscal year 1911 and for prior years, and for other purposes, further insists upon its disagreement to the amendment of the Senate No. 108 to the bill, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and has appointed Mr. TAWNEY, Mr. DAWSON, and Mr. LIVINGSTON managers at the conference on the part of the House.

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

H. R. 13384. An act placing M. H. Plunkett, assistant engineer, United States Navy, on the retired list with an advanced rank;

H. R. 24256. An act to authorize commissions to issue in the cases of officers retired or advanced on the retired list with increased rank; and

H. R. 32980. An act to remove the charge of desertion against David R. Lane.

The message also announced that the House had passed without amendment the joint resolution (S. J. Res. 147) providing for a commission to investigate cost of transporting and handling second-class matter.

M. H. PLUNKETT.

The VICE PRESIDENT laid before the Senate the bill (H. R. 13384) placing M. H. Plunkett, assistant engineer, United States Navy, on the retired list with an advanced rank.

Mr. SMITH of Maryland. I ask unanimous consent for the present consideration of the bill just laid before the Senate.

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

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

NEW MEXICO AND ARIZONA.

Mr. KEAN. I demand the regular order, which is the unfinished business.

The VICE PRESIDENT. The regular order is the unfinished business. The Chair lays before the Senate the unfinished business.

Mr. KEAN. Let the unfinished business be stated.

Mr. OWEN. Mr. President——

The VICE PRESIDENT. The Secretary will state the regular order.

The SECRETARY. A joint resolution (H. J. Res. 295) approving the constitution formed by the constitutional convention of the Territory of New Mexico.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. HALE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on certain amendments of the Senate to the bill (H. R. 32909) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1912, and for other purposes, 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 amendments numbered 19, 20, 49, 78, and 92.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 3, and 109, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$225,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "including salaries of commissioners and salaries of clerks appointed by the commissioners on the part of the United States with the approval

solely of the Secretary of State"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert "$10,000"; and the Senate agree to the same.

EUGENE HALE,
C. A. CULBERSON,
Managers on the part of the Senate.
JAMES A. TAWNEY,
W. I. SMITH,
JOHN J. FITZGERALD,
Managers on the part of the House.

Mr. OWEN. Mr. President——

The VICE PRESIDENT. The Senator from Oklahoma rises for what purpose?

Mr. OWEN. I rise for the purpose of discussing the conference report if it has precedence over me. I do not wish to have the conference report submitted just now.

The VICE PRESIDENT. Does the Senator object to its present consideration?

Mr. OWEN. I do object to its present consideration.

The VICE PRESIDENT. The question, then, is on considering the conference report. Will the Senate now consider the conference report?

Mr. OWEN. I wish to discuss the conference report.

The VICE PRESIDENT. It is not debatable at this time. The question is, Will the Senate proceed to the consideration of the conference report?

Mr. OWEN. I do not understand that. What is the rule?

The VICE PRESIDENT. That motion is not debatable. The motion was that the Senate proceed to the consideration of the conference report, which is not debatable.

Mr. OWEN. I understand that.

The VICE PRESIDENT. The question is on agreeing to the conference report. [Putting the question.] The ayes have it. The conference report will now be considered.

Mr. HALE. I move the adoption of this report.

The VICE PRESIDENT. The Senator from Oklahoma desires to speak upon that question.

NEW MEXICO AND ARIZONA.

Mr. YOUNG. Mr. President, I have no desire to displace the Senator from Oklahoma.

I want to make a final appeal to him to allow New Mexico to become a State. New Mexico has been a Territory 60 years. I believe every State west of the Mississippi has been organized and become a State since New Mexico became a Territory. Patriotism, pride, every other consideration, should indicate that our noble Senator from the young State of Oklahoma should surrender his position and allow New Mexico to come into the Union.

This is the only Government in the world builded by the voluntary coming in of States, the highest evidence of a triumphant government by the people, for which every Senator stands. In the name of the men who followed Roosevelt, who followed men from Oklahoma in the late Spanish-American War, I appeal to our friend, the distinguished Senator from Oklahoma, one of our newest States, not to withhold statehood from this great Territory, large enough to make several countries in Europe.

Mr. KEAN. Let us have the regular order.

The VICE PRESIDENT. The regular order is demanded, which is the speech of the Senator from Oklahoma.

Mr. OWEN. Mr. President, in answer to the appeal of the Senator from Iowa [Mr. YOUNG] that I should yield to allow the present admission of New Mexico, I respond that I have long desired the admission of New Mexico, and I have long desired the admission of Arizona.

There is a great contest in this country. It is a contest between the special interests and the people. New Mexico stands on one side and Arizona on the other. Arizona has the most progressive constitution in the United States. It has the initiative and the referendum. It has direct legislation. It has the power in the hands of its own people to pass the laws that they do want and to veto laws that they do not want. It has a great and splendid privilege of liberty.

I am not willing to have Arizona rebuked before the people of the United States for having a progressive constitution. I will ask gentlemen who are so anxious to introduce to the Union New Mexico whether they are willing to admit Arizona with her constitution? If he were present I should ask the Senator from Texas [Mr. BAILEY] whether he would be willing to admit Arizona with her constitution. I would ask the Senator from Idaho [Mr. HEYBURN] if he would be willing to admit Arizona with the constitution written by her people and approved by 80 per cent of her voters. He would answer "no," if he were here. He would answer that he regards that constitution as insane.

Mr. YOUNG. Mr. President——

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

Mr. OWEN. I yield.

Mr. YOUNG. Why should not we admit New Mexico to-day and Arizona at any other time?

Mr. OWEN. Mr. President, I am somewhat familiar with the course of human affairs, and I like to see my friends come in at the same time with those who are perhaps not quite so close.

Mr. YOUNG. Mr. President——

The VICE PRESIDENT. Does the Senator from Oklahoma further yield?

Mr. KEAN. Let us have the regular order.

The VICE PRESIDENT. The regular order is demanded.

Mr. OWEN. I have no objection to yielding.

The VICE PRESIDENT. The Senator will proceed.

Mr. OWEN. It is all very well to say let New Mexico in to-day and we will let Arizona in to-morrow. What guaranty have we that Arizona will be admitted to-morrow? On the contrary, I have good and sufficient reason to believe that to-morrow Arizona would be denied and humiliated in the presence of this country and be compelled to go back home and rewrite her constitution, although she would amend it the next day. The Attorney General of the United States has in his hands now the constitution of Arizona, as I am informed by a telegram from the White House, signed by Mr. Charles D. Norton, which I read into the RECORD this morning.

Mr. JONES. Will the Senator yield to me?

The VICE PRESIDENT. Does the Senator from Oklahoma yield to the Senator from Washington?

Mr. OWEN. I have no objection.

Mr. JONES. I received a telegraphic resolution this morning from the legislature of my State.

Mr. KEAN. Mr. President, let us have the regular order.

The VICE PRESIDENT. The regular order is demanded. The Senator from Oklahoma will proceed.

Mr. OWEN. My time is very short and I greatly prefer the regular order. Unless Senators really desire seriously to ask me to yield the floor, I hope they will not ask me to do so.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, Executive clerk, announced that the President had approved and signed the following acts and joint resolution:

On March 3, 1911:

S. 7031. An act to codify, revise, and amend the laws relating to the judiciary;

S. 3501. An act providing for the taking over by the United States Government of the Confederate cemetery at Springfield, Mo.;

S. 5843. An act to authorize the extension of Van Buren Street NW.;

S. 6059. An act to remove cloud from the title of the southeast quarter of the northeast quarter of section 23, township 47, range 23 west of the fifth principal meridian, except 10 acres off of the north side thereof, in Pettis County, Mo., and to release the title of the United States therein to George R. Shelley, his heirs and assigns;

S. 7574. An act for the relief of John M. Bonine;

S. 7648. An act for the relief of Charles J. Smith;

S. 9271. An act for the relief of William H. Walsh;

S. 10476. An act for the relief of Passed Asst. Paymaster Edwin M. Hacker;

S. 10559. An act to designate St. Andrews, Fla., as a subport of entry;

S. 10792. An act to promote the erection of a memorial in conjunction with Perry's victory centennial celebration on Put-in-Bay Island during the year 1913, in commemoration of the one hundredth anniversary of the Battle of Lake Erie and the northwestern campaign of Gen. William Henry Harrison in the War of 1812;

S. 10822. An act to extend the time for the completion of a bridge across the Missouri River at or near Yankton, S. Dak., by the Winnipeg, Yankton & Gulf Railroad Co.;

S. 10883. An act authorizing the Erie Railroad Co. to construct a canal connecting the Hackensack River and Berrys Creek, Bergen County, N. J., as an aid to navigation, and for other purposes;

S. 10177. An act to authorize additional aids to navigation in the Lighthouse Establishment, and for other purposes;

S. 10761. An act to amend section 3 of the act of Congress of May 1, 1888, and extend the provisions of section 2301 of the Revised Statutes of the United States to certain lands in the

State of Montana embraced within the provisions of said act, and for other purposes;

S. 8774. An act to change the name of Messmore Place to Mozart Place;

S. 6639. An act for the relief of Margaretha Weideman, Clarence C. Weideman, and Auguerite E. Weideman, owners of lots Nos. 1, 2, and 3, square No. 434, in the city of Washington, D. C.; and

S. 8306. An act to authorize the extension of Seventeenth Street NE.

On March 4, 1911:

S. 1031. An act for the relief of Jaji Bin Ydris;

S. 2045. An act for the relief of John B. Lord, owner of lot 86, square 723, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to construction of the Union Station, District of Columbia;

S. 3662. An act for the erection of a monument over the grave of President John Tyler;

S. 4023. An act for the relief of Arthur G. Fisk;

S. 4196. An act to place David Robertson on the retired list of the United States Army;

S. 5269. An act to provide for allotments to certain members of the Hoh, Quileute, and Ozette Tribes of Indians in the State of Washington;

S. 6104. An act providing for the promotion of Civil Engineer Robert E. Peary, United States Navy, and tendering to him the thanks of Congress;

S. 9094. An act to authorize the Secretary of War to sell to the Nahant & Lynn Street Railway Co. a portion of the United States coast defense military reservation, at Nahant, Mass.;

S. 9270. An act for the relief of Frank W. Hutchins;

S. 9351. An act to amend an act entitled "An act providing for the retirement of certain medical officers of the Army," approved June 22, 1910;

S. 9529. An act for the relief of Alexander Wilkie;

S. 9874. An act to refund to the Gate of Heaven Church, South Boston, Mass., duty collected on stained-glass windows;

S. 9954. An act for the relief of Lincoln C. Andrews;

S. 10274. An act to authorize construction of the Broadway Bridge across the Willamette River at Portland, Oreg.;

S. 10357. An act authorizing the Secretary of the Interior to issue patent to David Eddington covering homestead entry;

S. 10536. An act directing the Secretary of War to convey the outstanding legal title of the United States to lot No. 20, square No. 253, in the city of Washington, D. C.;

S. 10591. An act to grant certain lands to the city of Trinidad, Colo.;

S. 10638. An act to authorize the Secretary of War to sell certain lands owned by the United States and situated on Dauphin Island, in Mobile County, Ala.;

S. 10756. An act granting public lands to the town of Omak, State of Washington, for public-park purposes;

S. 10823. An act to extend the time for the completion of a bridge across the Missouri River at Yankton, S. Dak., by the Yankton, Norfolk, and Southern Railway Co.;

S. 10863. An act to give the consent of Congress to the building of a bridge by the City of Northport, Wash., over the Columbia River at Northport;

S. 10878. An act to authorize the Canyon Snake River Wagon Bridge Commission to construct a bridge across the Snake River at or near the town of Payette, Idaho; and

S. J. Res. 147. Joint resolution providing for commission to investigate cost of transporting and handling second-class mail.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. Browning, its Chief Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 32957) making appropriations to supply deficiencies in the appropriations for the fiscal year 1911 and for prior years, and for other purposes.

The message also announced that the Speaker of the House had appointed a committee of three Members to join a similar committee appointed by the Senate to wait upon the President of the United States and to inform him that the two Houses, having completed the business of the present session, are ready to adjourn unless he has some other communication to make to them, and that the Speaker announced the appointment of Mr. TAWNEY and Mr. BURLESON as members of the committee on the part of the House.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolutions, and they were thereupon signed by the Vice President:

S. 2045. An act for the relief of John B. Lord, owner of lot 86, square 723, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to construction of the Union Station, District of Columbia;

S. 10591. An act to grant certain lands to the city of Trinidad, Colo.;

S. 10756. An act granting public lands to the town of Omak, State of Washington, for public-park purposes;

S. 10823. An act to extend the time for the completion of a bridge across the Missouri River at Yankton, S. Dak., by the Yankton, Norfolk & Southern Railway Co.;

S. 10863. An act to give the consent of Congress to the building of a bridge by the city of Northport, Wash., over the Columbia River at Northport;

S. 10878. An act to authorize the Canyon Snake River Wagon Bridge Commission to construct a bridge across the Snake River at or near the town of Payette, Idaho;

H. R. 3982. An act for the relief of David F. Wallace;

H. R. 6043. An act for the relief of registers of the United States land offices;

H. R. 7549. An act of a joint monument to the memory of Gen. James Screven and Gen. Daniel Stewart, two distinguished officers of the American Army;

H. R. 8185. An act for the relief of Valentine Fraker;

H. R. 9137. An act to authorize the expenditure of the sum of $25,000 as part contribution toward the erection of a monument at Germantown, Pa., in commemoration of the founding of the first German settlement in America;

H. R. 9624. An act for the relief of Hansell Hatfield, of McMinn County, Tenn.;

H. R. 13384. An act placing M. H. Plunkett, assistant engineer, United States Navy, on the retired list with an advanced rank;

H. R. 17493. An act for the relief of the Baltimore & Ohio Railroad Co.;

H. R. 19010. An act authorizing proper accounting officers of the Treasury Department to reopen pay accounts of certain officers of the Navy;

H. R. 19685. An act to compensate William P. Williams for losses sustained by him while Assistant Treasurer of the United States at Chicago, Ill.;

H. R. 20136. An act for the relief of Elmer P. Kerr;

H. R. 21225. An act for the relief of certain persons having supplied labor and materials for the prosecution of the work of making the main canal of the Belle Fourche irrigation project;

H. R. 22270. An act for the relief of Amos M. Barbin;

H. R. 22747. An act for the relief of Edward Swainor;

H. R. 24145. An act for the establishment of marine schools, and for other purposes;

H. R. 24256. An act to authorize commissions to issue in the cases of officers retired or advanced on the retired list with increased pay;

H. R. 24886. An act to amend sections 3548 and 3549 of the Revised Statutes of the United States, relative to the standards for coinage;

H. R. 25503. An act to provide punishment for the falsification of accounts and the making of false reports by persons in the employ of the United States;

H. R. 26121. An act for the relief of Edward F. Kerns;

H. R. 30160. An act for the relief of John Lee, alias James Riley;

H. R. 30280. An act authorizing the Secretary of the Interior to exchange certain desert lands within national forests in Oregon;

H. R. 31539. An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1912, and for other purposes;

H. R. 32170. An act for the protection of game in the Territory of Alaska;

H. R. 32212. An act making appropriations for the naval service for the fiscal year ending June 30, 1912, and for other purposes;

H. R. 32531. An act authorizing the Secretary of the Interior to permit the Missouri, Kansas & Texas Coal Co. and the Eastern Coal & Mining Co. to exchange certain lands embraced within their existing coal leases within the Choctaw and Chickasaw Nation for other lands within said nation;

H. R. 32674. An act granting pensions and increase of pensions to certain soldiers of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

H. R. 32909. An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1912, and for other purposes;

H. R. 32957. An act making appropriations to supply deficiencies in appropriations for the fiscal year 1911 and for prior years, and for other purposes;

H. R. 32980. An act to remove the charge of desertion against David R. Lane;

H. J. Res. 286. Joint resolution authorizing the printing of 100,000 copies of the Special Report on the Diseases of the Horse; and

H. J. Res. 287. Joint resolution authorizing the printing of 100,000 copies of the Special Report on the Diseases of Cattle.

VETO MESSAGE—COMMODORE VEEDER.

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying paper, referred to the Committee on Naval Affairs (S. Doc. No. 865):

To the Senate:

I return herewith, without approval, Senate bill No. 10172, entitled "A bill for the relief of Ten Eyck De Witt Veeder, commodore on the retired list of the United States Navy."

In accordance with the provisions of the personnel act of March 3, 1899, Capt. Veeder was placed upon the retired list with the rank of commodore, being one of the officers deemed by the board of five rear admirals less efficient than the remaining captains on the active list.

The finding of this board was approved by me, acting upon the recommendation of the Navy Department, and I see no reason why that action should be reversed. The board was composed of well-known officers, and I believe that their recommendation was, in accordance with their oaths, based upon the relative standing and special fitness of the officer concerned as well as the efficiency of the naval service.

If this bill for the relief of Commodore Veeder is approved it will probably be followed by others of a similar nature for the return of all officers who have been placed on the retired list in accordance with the provisions of the personnel act, and it is my opinion that the enacting of this measure into a law will have a most injurious effect upon the naval service.

WM. H. TAFT.

THE WHITE HOUSE, *March 4, 1911.*

MEMBERS OF MONETARY COMMISSION.

The VICE PRESIDENT appointed the Senator from California [Mr. FLINT] and the Senator from Florida [Mr. TALIAFERRO] members of the Monetary Commission created under the act of May 30, 1908, to fill vacancies.

ALASKAN COMMITTEE.

The VICE PRESIDENT appointed Mr. NELSON, Mr. SMOOT, Mr. NIXON, Mr. SIMMONS, and Mr. BANKHEAD members of the Alaskan Committee.

NEW MEXICO AND ARIZONA.

[Mr. OWEN resumed his speech on the joint resolution (H. J. Res. 295) approving the constitution formed by the constitutional convention of the Territory of New Mexico, which is printed below.]

Mr. OWEN. Mr. President, I should be glad to see both New Mexico and Arizona admitted, although I do not approve the constitution of New Mexico, which unduly favors corporation control of that State. The constitution of Arizona, or at least a certified copy of it, was transmitted to the Senate of the United States and to the House of Representatives on the 30th of January by Hon. R. A. Ballinger, Secretary of the Interior. This letter is as follows:

DEPARTMENT OF THE INTERIOR,
Washington, January 30, 1911.

There is inclosed a copy of the constitution adopted by the constitutional convention of Arizona which the secretary of the Territory has asked this department to distribute to the Members of the Senate and House of Representatives in compliance with the resolution of the constitutional convention.

Very respectfully, R. A. BALLINGER, *Secretary.*

To the MEMBERS OF THE SENATE AND HOUSE OF REPRESENTATIVES.

It was printed as a Senate document, No. 798, Sixty-first Congress, third session, and referred to the Committee on Territories. The copy I have in my hand has the committee's stamp on the face of it. There can be no reasonable doubt that every Member of the Senate and every Member of the House of Representatives had abundant opportunity to know what the constitution of Arizona was. There is no doubt about the accuracy of the copy which was transmitted to the Senate of the United States and printed as a Senate document. It was signed by George W. P. Hunt, president of the constitutional convention; A. W. Cole, secretary of the constitutional convention; and was transmitted under the safeguards of the usual rules to the Secretary of the Interior.

[At this point Mr. OWEN yielded to Mr. CHAMBERLAIN.]

Mr. OWEN. Mr. President, I had intended, if I had had an opportunity conveniently, to introduce an amendment to this proposed joint resolution, admitting Arizona with its progressive constitution, but I call the attention of the Senate of the United States to the fact that the constitution of New Mexico has never been before a meeting of a committee of this body. It is a very important thing to introduce a State into the Union. It is certainly worth while to have at least one committee meeting in regard to it, where it might be read and discussed, but there has been no committee meeting on New Mexico. The committee was polled and I refused to sign the poll for the reasons which I shall presently disclose. Why was not this joint resolution written so as to admit Arizona as well as New Mexico? For 30 days a copy of that constitution, transmitted by the Secretary of the Interior, was before the committee. On January 21, 1911, the people of New Mexico adopted their constitution. On February 7, a month ago, the people of Arizona adopted their constitution. Now, it seems that we have not had time enough to get that constitution.

Mr. DILLINGHAM. Mr. President, will the Senator from Oklahoma allow me to ask him a question?

The VICE PRESIDENT. Does the Senator from Oklahoma yield to the Senator from Vermont?

Mr. OWEN. I do.

Mr. DILLINGHAM. Does the Senator from Oklahoma state that the Arizona constitution has been transmitted to Congress by the President so as to come regularly before any committee of this body?

Mr. OWEN. Mr. President, I am complaining that it has not been transmitted as ought to have been done, and I have a just ground of complaint, too, because the Territory of Arizona is in the control of the President of the United States and the Secretary of the Interior. They can command the governor there, they can command the officers there, to transmit these papers. I do not know why it has not been done. The Secretary certainly has shown reasonable diligence in transmitting a copy of the Arizona constitution a month ago, and had it printed here by order of the Senate for the use of Senators and Members of the House of Representatives.

Mr. DILLINGHAM. I understood the Senator to state in a previous debate this morning that he had had information that the Arizona constitution only reached the President yesterday afternoon——

Mr. OWEN. I had a telegram——

Mr. DILLINGHAM. And that it had been referred to the Attorney General. Am I right?

Mr. OWEN. Substantially; but I am complaining of that very matter; that it was not long since transmitted, as it ought to have been in justice to Arizona.

Mr. BEVERIDGE. Mr. President——

The VICE PRESIDENT. Does the Senator from Oklahoma yield to the Senator from Indiana?

Mr. OWEN. I yield to the Senator from Indiana.

Mr. BEVERIDGE. I apprehend that the reason for not transmitting the constitution was because——

Mr. KEAN. Let us have the regular order, Mr. President.

The VICE PRESIDENT. The regular order is demanded. The Senator from Oklahoma will proceed.

Mr. BEVERIDGE (continuing). It was not ratified.

Mr. OWEN. I understand it was ratified. I was advised that it was ratified on February 9, nearly a month ago, and I say that since these Territories are in the control of the administration that that constitution ought to have been here, it ought to have been passed upon, it ought to have been submitted to Congress and a report made upon it, pointing out in what particulars this constitution was offensive, if it were so, to the administration; but, no, Arizona's constitution comes at the last minute—to sustain the flimsy pretext of being too late. Is this frank, open, and fair treatment of a new State or of the Senate and Congress?

Now, I will point out what are supposed to be the objectionable portions of the Arizona constitution. I had intended to offer this amendment if I had had a convenient opportunity, but I have been on this floor since about midnight of yesterday (legislative day, calendar day of March 4), trying to discuss this matter and yielding one moment after another, and so the hours have gone by and I have had no sufficient opportunity. I now think it proper to use the opportunity I have to present my views with regard to this matter. I had intended to offer the following as an amendment to House joint resolution No. 295.

At the end of the resolution add a new paragraph, as follows:

2. That the constitution formed by the constitutional convention of the Territory of Arizona, elected in accordance with the terms of the act of Congress entitled "An act to enable the people of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States, etc.," approved June 20, A. D. 1910, which said constitutional convention met at Phoenix, Ariz., on the 10th day of October, A. D. 1910, and adjourned December 9, A. D. 1910, and which constitution was subse-

quently ratified and adopted by the duly qualified electors of the Territory of Arizona, at an election held according to law, on the 7th day of February, A. D. 1911, being republican in form, and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence, and complying with the terms of said enabling act, be, and the same is hereby, approved.

Amend the title so as to read: "Joint resolution approving the constitutions severally formed by the constitutional conventions of the Territories of New Mexico and Arizona, respectively."

Mr. President, the alleged offensive portions of the constitution of Arizona will be found in article 4, entitled "Legislative department—Initiative and referendum:"

ARTICLE IV.—LEGISLATIVE DEPARTMENT.

1. INITIATIVE AND REFERENDUM.

SEC. 1. (1) The legislative authority of the State shall be vested in a legislature, consisting of a senate and a house of representatives, but the people reserve the power to propose laws and amendments to the constitution and to enact or reject such laws and amendments at the polls, independently of the legislature, and they also reserve, for use at their own option, the power to approve or reject at the polls any act, or item, section, or part of any act, of the legislature.

So the people in Arizona, from whom all power flows, from whom comes all power, reserve to themselves this right of direct legislation. The constitution makes it plain what these powers are:

(2) The first of these reserved powers is the initiative. Under this power 10 per cent of the qualified electors shall have the right to propose any measure, and 15 per cent shall have the right to propose any amendment to the constitution.

Now we are told that Arizona may be admitted a little later on with this provision, but I call attention to the experience which we in Oklahoma had. We put this provision in our constitution, and our present National Chief Executive made an address in our State advising our people to vote down that constitution. One of his objections to it was that he regarded this provision as unwise. I know of no reason to believe that he has changed his mind with regard to it, although that is entirely possible. I deeply trust he may do so, but I greatly fear the reactionaries in the Senate will not vote to admit a progressive State, and I do not wish to leave the matter open.

(3) The second of these reserved powers is the referendum. Under this power the legislature, or 5 per cent of the qualified electors, may order the submission to the people at the polls of any measure, or item, section, or part of any measure, enacted by the legislature, except laws immediately necessary for the preservation of the public peace, health, or safety, or for the support and maintenance of the departments of the State government and State institutions; but to allow opportunity for referendum petitions, no act passed by the legislature shall be operative for 90 days after the close of the session of the legislature enacting such measure, except such as require earlier operation to preserve the public peace, health, or safety, or to provide appropriations for the support and maintenance of the departments of State and of State institutions; provided, that no such emergency measure shall be considered passed by the legislature unless it shall state in a separate section why it is necessary that it shall become immediately operative, and shall be approved by the affirmative votes of two-thirds of the members elected to each house of the legislature, taken by roll call of ayes and nays, and also approved by the governor; and should such measure be vetoed by the governor, it shall not become a law unless it shall be approved by the votes of three-fourths of the members elected to each house of the legislature, taken by roll call of ayes and nays.

(4) All petitions submitted under the power of the initiative shall be known as initiative petitions, and shall be filed with the secretary of state not less than four months preceding the date of the election at which the measures so proposed are to be voted upon. All petitions submitted under the power of the referendum shall be known as referendum petitions, and shall be filed with the secretary of state not more than 90 days after the final adjournment of the session of the legislature which shall have passed the measure to which the referendum is applied. The filing of a referendum petition against any item, section, or part of any measure shall not prevent the remainder of such measure from becoming operative.

(5) Any measure of amendment to the constitution proposed under the initiative, and any measure to which the referendum is applied, shall be referred to a vote of the qualified electors, and shall become law when approved by a majority of the votes cast thereon and upon proclamation of the governor, and not otherwise.

(6) The veto power of the governor shall not extend to initiative or referendum measures approved by a majority of the qualified electors.

(7) The whole number of votes cast for all candidates for governor at the general election last preceding the filing of any initiative or referendum petition on a State or county measure shall be the basis on which the number of qualified electors required to sign such petition shall be computed.

(8) The powers of the initiative and the referendum are hereby further reserved to the qualified electors of every incorporated city, town, and county as to all local, city, town, or county matters on which such incorporated cities, towns, and counties are or shall be empowered by general laws to legislate. Such incorporated cities, towns, and counties may prescribe the manner of exercising said power within the restrictions of general laws. Under the power of the initiative 15 per cent of the qualified electors may propose measures on such local, city, town, or county matters, and 10 per cent of the electors may propose the referendum on legislation enacted within and by such city, town, or county. Until provided by general law, said cities and towns may prescribe the basis on which said percentages shall be computed.

(9) Every initiative or referendum petition shall be addressed to the secretary of state in the case of petitions for or on State measures, and to the clerk of the board of supervisors, city clerk, or corresponding officer in the case of petitions for or on county, city, or town measures; and shall contain the declaration of each petitioner, for himself, that he is a qualified elector of the State (and in the case of petitions for or on city, town, or county measures, of the city, town, or county affected), his post-office address, the street and number, if any, of his residence, and the date on which he signed such petition. Each sheet containing petitioners' signatures shall be attached to a full and correct copy of the title and text of the measure so proposed to be initiated or referred to the people, and every sheet of every such petition containing signatures shall be verified by the affidavit of the person who circulated said sheet or petition, setting forth that each of the names on said sheet was signed in the presence of the affiant, and that in the belief of the affiant each signer was a qualified elector of the State, or in the case of a city, town, or county measure, of the city, town, or county affected by the measure so proposed to be initiated or referred to the people.

(10) When any initiative or referendum petition or any measure referred to the people by the legislature shall be filed, in accordance with this section, with the secretary of state, he shall cause to be printed on the official ballot of the next regular general election the title and number of said measure, together with the words "Yes" and "No" in such manner that the electors may express at the polls their approval or disapproval of the measure.

(11) The text of all measures to be submitted shall be published as proposed amendments to the constitution are published, and in submitting such measures and proposed amendments the secretary of state and all other officers shall be guided by the general law until legislation shall be especially provided therefor.

(12) If two or more conflicting measures or amendments to the constitution shall be approved by the people at the same election, the measure or amendment receiving the greatest number of affirmative votes shall prevail in all particulars as to which there is conflict.

(13) It shall be the duty of the secretary of state, in the presence of the governor and the chief justice of the supreme court, to canvass the votes for and against each such measure or proposed amendment to the constitution within 30 days after the election, and upon the completion of the canvass the governor shall forthwith issue a proclamation giving the whole number of votes cast for and against each measure or proposed amendment, and declaring such measures or amendments as are approved by a majority of those voting thereon to be law.

(14) This section shall not be construed to deprive the legislature of the right to enact any measure.

(15) This section of the constitution shall be, in all respects, self-executing.

SEC. 2. The legislature shall provide a penalty for any willful violation of any of the provisions of the preceding section.

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ARTICLE VIII.—REMOVAL FROM OFFICE.

1. RECALL OF PUBLIC OFFICERS.

SECTION 1. Every public officer in the State of Arizona holding an elective office, either by election or appointment, is subject to recall from such office by the qualified electors of the electoral district from which candidates are elected to such office. Such electoral district may include the whole State. Such number of said electors as shall equal 25 per cent of the number of votes cast at the last preceding general election for all of the candidates for the office held by such officer may by petition, which shall be known as a recall petition, demand his recall.

SEC. 2. Every recall petition must contain a general statement in not more than 200 words of the grounds of such demand, and must be filed in the office in which petitions for nominations to the office held by the incumbent are required to be filed. The signatures to such recall petition need not all be on one sheet of paper, but each signer must add to his signature the date of his signing said petition and his place of residence, giving his street and number, if any, should he reside in a town or city. One of the signers of each sheet of such petition, or the person circulating such sheet, must make and subscribe an oath on said sheet that the signatures thereon are genuine.

SEC. 3. If said officer shall offer his resignation, it shall be accepted, and the vacancy shall be filled as may be provided by law. If he shall not resign within five days after a recall petition is filed, a special election shall be ordered to be held, not less than 20 nor more than 30 days after such order, to determine whether such officer shall be recalled. On the ballots at said election shall be printed the reasons, as set forth in the petition, for demanding his recall, and, in not more than 200 words, the officer's justification of his course in office. He shall continue to perform the duties of his office until the result of said election shall have been officially declared.

SEC. 4. Unless he otherwise request, in writing, his name shall be placed as a candidate on the official ballot without nomination. Other candidates for the office may be nominated to be voted for at said election. The candidate who shall receive the highest number of votes shall be declared elected for the remainder of the term. Unless the incumbent receive the highest number of votes, he shall be deemed to be removed from office, upon qualification of his successor. In the event that his successor shall not qualify within five days after the result of said election shall have been declared, the said office shall be vacant, and may be filled as provided by law.

SEC. 5. No recall petition shall be circulated against any officer until he shall have held his office for a period of six months, except that it may be filed against a member of the legislature at any time after five days from the beginning of the first session after his election. After one recall petition and election no further recall petition shall be filed against the same officer during the term for which he was elected, unless petitioners signing such petition shall first pay into the public treasury which has paid such election expenses all expenses of the preceding election.

SEC. 6. The general election laws shall apply to recall elections in so far as applicable. Laws necessary to facilitate the operation of the provisions of this article shall be enacted, including provision for payment by the public treasury of the reasonable special election campaign expenses of such officer.

Mr. President, these provisions are matters of vital importance; this is a matter which goes to the fundamentals of government; this is a method by which the people themselves have retained the power over their legislatures, so that their legislatures can not dare to try to be the masters or to assume the airs of arrogance, disregarding the people who sent them there, as has been so often the case in this country. Under this constitution the people will be the masters of their legislatures and of their representatives, not only in the legislatures, but in the administrative offices as well.

Oklahoma has this provision in her constitution, and I am not willing to have Arizona affronted before the whole world and before this Republic because she has dared to write the initiative and referendum in her constitution. I do not think

that right, and I am not going to submit to it. Why should Arizona and the people of Arizona be denied the right to write the organic law under which they live? There is no sound reason for it. Seventy-six per cent of the people of Arizona have voted in favor of this constitution. It is all very well to say, "Let us have New Mexico admitted now and Arizona hereafter," but I do not believe the reactionaries or retrogressives intend to do anything of the kind if they can help it.

It is well known to everybody that the President is going to call an extra session. It will not be pretended that I am bringing about an extra session. Nobody can pretend that, because it is not true. The only thing which I am doing here is to emphasize this matter of the contest between delegated government and a government by popular sovereignty. That is the issue here, and I want to emphasize it as strongly as I can. It is the issue which is sweeping this Nation; it is an issue which carried California in the last election, carried Washington, and which has controlled Oregon and has controlled Montana; which has become a part of the constitution of South Dakota; which is indorsed by both parties in North Dakota; which is written into the law of Nevada; which has been established as a principle in Arizona; which has been adopted by Colorado and Oklahoma and Missouri and Arkansas, and is about to be written into the laws of Nebraska. It is the issue in Michigan. It is an issue in Minnesota. It is the issue in Wisconsin, and is now about to be written on the face of the constitution of Wisconsin. It carried Illinois in the last election by 4 to 1, and carried Gov. Foss into the governor's chair in Massachusetts; and I think this notion of this being an "insane" doctrine is merely an evidence of the astonishing ignorance of some Senators of the United States of what is going on in this Republic.

Even the old State of Maine adopted it by a vote of 2 to 1 two years ago and wrote the initiative and referendum in her constitution.

Mr. CLARKE of Arkansas. Mr. President——

The VICE PRESIDENT. Does the Senator from Oklahoma yield to the Senator from Arkansas?

Mr. OWEN. I yield to the Senator.

Mr. CLARKE of Arkansas. The Senator is predicating his present address to the Senate upon the idea that it is necessary to defeat the adoption of the joint resolution proposing to admit New Mexico at this time because he thinks that thereby the prospect of the early admission of Arizona will be promoted. Is he not aware of the fact that in the event this Congress shall fail to adopt the joint resolution admitting New Mexico, the President of the United States may do so, and that he has accomplished nothing in the interest of Arizona by the contest which he is making at this time? Is the Senator familiar with the provisions of sections 4 and 5 of the enabling act by which——

Mr. OWEN. I will immediately call the attention of the Senate to them. Section 4 is as follows; I have it in my hand:

That when said constitution and such provisions thereof as have been separately submitted shall have been duly ratified by the people of New Mexico as aforesaid a certified copy of the same shall be submitted to the President of the United States and to Congress for approval, together with the statement of the votes cast thereon and upon any provisions thereof which were separately submitted to and voted upon by the people. And if Congress and the President approve said constitution and the said separate provisions thereof, or, if the President approves the same and Congress fails to disapprove the same during the next regular session thereof, then and in that event the President shall certify said facts to the governor of New Mexico, who shall, within 30 days after the receipt of said notification from the President of the United States, issue his proclamation for the election of the State and county officers—

I will insert sections 4 and 5 in my remarks, without objection.

The PRESIDING OFFICER (Mr. SMOOT in the chair). Is there objection? The Chair hears none.

The sections are as follows:

SEC. 4. That when said constitution and such provisions thereof as have been separately submitted shall have been duly ratified by the people of New Mexico as aforesaid a certified copy of the same shall be submitted to the President of the United States and to Congress for approval, together with the statement of the votes cast thereon and upon any provisions thereof which were separately submitted to and voted upon by the people. And if Congress and the President approve said constitution and the said separate provisions thereof, or if the President approves the same and Congress fails to disapprove the same during the next regular session thereof, then and in that event the President shall certify said facts to the governor of New Mexico, who shall, within 30 days after the receipt of said notification from the President of the United States, issue his proclamation for the election of the State and county officers, the members of the State legislature and Representatives in Congress, and all other officers provided for in said constitution, all as hereinafter provided; said election to take place not earlier than 60 days nor later than 90 days after said proclamation by the governor of New Mexico ordering the same.

SEC. 5. That said constitutional convention shall, by ordinance, provide that in case of the ratification of said constitution by the people, and in case the President of the United States and Congress approve the same, or in case the President approves the same and Congress fails to act in its next regular session, all as hereinbefore provided, an election shall be held at the time named in the proclamation of the governor of New Mexico, provided for in the preceding section, at which election officers for a full State government, including a governor, members of the legislature, two Representatives in Congress, to be elected at large from said State, and such other officers as such constitutional convention shall prescribe, shall be chosen by the people. Such election shall be held, the returns thereof made, canvassed, and certified to by the secretary of said Territory in the same manner as in this act prescribed for the making of the returns, the canvassing and certification of the same of the election for the ratification or rejection of said constitution, as hereinbefore provided, and the qualifications of voters at said election for all State officers, members of the legislature, county officers, and Representatives in Congress, and other officers prescribed by said constitution shall be made the same as the qualification of voters at the election for the ratification or rejection of said constitution as hereinbefore provided. When said election of said State and county officers, members of the legislature, and Representatives in Congress, and other officers above provided for shall be held and the returns thereof made, canvassed, and certified as hereinbefore provided, the governor of the Territory of New Mexico shall certify the result of said election, as canvassed and certified as herein provided, to the President of the United States, who thereupon shall immediately issue his proclamation announcing the result of said election so ascertained, and upon the issuance of said proclamation by the President of the United States the proposed State of New Mexico shall be deemed admitted by Congress into the Union, by virtue of this act, on an equal footing with the other States. Until the issuance of said proclamation by the President of the United States, and until the said State is so admitted into the Union and said officers are elected and qualified under the provisions of the Constitution, the county and territorial officers of said Territory, including the Delegate in Congress thereof elected at the general election in 1908, shall continue to discharge the duties of their respective offices in and for said Territory: *Provided*, That no session of the territorial legislative assembly shall be held in 1911.

Mr. OWEN. Now, it is true, as the Senator from Arkansas so forcibly points out, that if Congress at its next regular session does not act (sec. 5) or fails to disapprove (sec. 4), the President can and the President will admit. Why, then, this appeal to me to save New Mexico? Look at the astonishing constitution of New Mexico, with corporate control and machine politics written all over it, an ignorant electorate put in power and perpetuated so that an intelligence qualification is impossible.

Mr. YOUNG. Mr. President——

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

Mr. OWEN. I yield to the Senator from Iowa.

Mr. YOUNG. On later information the appeal is withdrawn.

Mr. CLARKE of Arkansas. I think I ought to say that I did not intend to have it understood that I called the Senator's attention to the provisions out of any tender regard for the welfare of New Mexico, but I thought the inevitable effect of his present efforts would be to impose upon a large number of his colleagues the necessity for attending a special session of this Congress, which they desire very greatly for public and private reasons not to be forced to do, and there is no question of practical remedy for New Mexico pending before Congress. The only effect of an attempt at this time to present the reasons why New Mexico should not be admitted here and now will be to produce a result that I feel satisfied the Senator from Oklahoma does not want to bring about, and will impose burdens upon some of us that we do not care at this time to undertake, in the interest of the public service—delay and obstruction, by the necessity which the Senator from Oklahoma feels himself to rest under to Arizona's case at this time.

New Mexico's interest is not involved in anything that can take place here, because the President of the United States has the amplest power within one hour after the adjournment of this body to issue his proclamation admitting the State of New Mexico.

Mr. OWEN. As I have said heretofore, I do not think that the present Congress has any moral or ethical right to write the great appropriation bills, to pass ship-subsidy bills, or to perform other legislative functions belonging to the American people after the people of the United States have appointed by their suffrage other legislative agents who are available and who are already called in extra session as far as the written document is concerned, because it is an open secret that the proclamation calling an extra session has been prepared and will be immediately promulgated, as I have been personally assured on the floor of the Senate during this discussion. I am in favor of an extra session and believe the Democrats should rejoice in seizing the first opportunity to give the people some relief by the prompt exercise of the power the people have intrusted to them.

Only the assurance that it will not be pretended that any discussion of free government, of popular government against delegated government on this floor, is causing the extra session. The extra session is being called because the President of the United States being deeply desirous of closer relations with Canada has been disappointed in his expectations at the hands of his friends. Of his fixed purpose to call this extra session I have been assured positively since I took the floor, and I cordially approve his purpose, for I approve reciprocity with Canada. The President offered free trade to Canada, and he did a wise act. It

has been free trade between the States of this Union which has been the basis of our glorious commercial growth. Imagine a tariff wall at the border line of every State and having your baggage go through 14 customhouses between Boston and San Francisco. Obstruction to trade does not help commerce. Our great northern neighbor ought to be bound close to our side by every reciprocal commercial, social, and financial attachment for her sake and for ours. God bless Canada and the United States.

Mr. CARTER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from Montana?

Mr. OWEN. Yes.

Mr. CARTER. I inquire of the Senator if he has prepared an amendment to this pending joint resolution proposing the concurrent admission of the Territories of New Mexico and Arizona?

Mr. OWEN. I have read it into the RECORD already, Mr. President.

Mr. CARTER. I desire to know if the amendment is available at any point where it can be inspected.

Mr. OWEN. It has been sent to the Clerk's desk, I believe.

Mr. CARTER. I will endeavor to procure it from the files.

Mr. OWEN. I have a duplicate copy here.

It is the failure of the reciprocity bill that has called this extra session, and everybody knows it. The President could not possibly have anticipated my discussion of popular government here on this joint resolution that was brought up in this peculiar way. I say "peculiar," because I have the authority of the Senator from Maine [Mr. HALE], the Republican leader of the Senate, and of the Democratic leader of the Senate [Mr. MONEY] for saying that when the Finance Committee appointed the Senator from Massachusetts to present a measure to this body, as in the case of the tariff board, it is not in good order, nor in accordance with the customs or practice of the Senate for some other Senator to take charge of the bill; and I think the Senator from Maine and the Senator from Mississippi [Mr. MONEY] and the Senator from Missouri [Mr. STONE] are entirely correct in that observation. But we see here in this case the exact parallel and violation of this unbroken custom. There has been a speedy following of that solitary bad example.

In the case of the joint resolution (H. J. Res. 295) admitting New Mexico, reported by the Senator from New Hampshire [Mr. DILLINGHAM] for the Committee on Territories, the honorable Senator from Texas [Mr. BAILEY], who is not a member of the Committee on Territories, took charge of the joint resolution and offered it to the Senate, taking it away from the control of the chosen representative of the Committee on Territories. I do not think that to ignore the members of the committee in this fashion or to invade the duty imposed on the Committee on Territories by the Senate is good practice. I do not think it good legislative doctrine to have a measure of this consequence passed upon by a committee which never has met and never has considered it; who simply signed their names on the back of it with an O. K. I do not think that is a wise method of legislating on an important measure of this kind; but still the bill should be presented and cared for primarily by the members of the Committee on Territories, and having been charged with the duty of representing the Democrats of the Senate on that committee, I shall try to do my duty as I see it in defending the Democratic interest, notwithstanding the views or the conduct of the distinguished Senator from Texas.

Now, admitting Arizona and New Mexico together, it seems to me, might be a wise and proper method of proceeding if New Mexico had a decent constitution, but to admit New Mexico with a corporation constitution and allow the people of New Mexico to send two standpat Republican Senators to this floor, and deny the people of Arizona, with a people's rule constitution, the privilege of sending two Democratic Senators to this floor I do not think a very good doctrine from a mere party standpoint, and I can not consent to follow the leadership of the honored Senator from Texas in this proposal and demand, regardless of the merits of either constitution, for it will do the Republicans great service in the control of the next Senate and next presidential campaign, giving them four presidential electors, and will do the Democrats great harm by denying them two Democratic Senators and three presidential electors.

I do not like the direction of such Democratic leadership, and I can not consent to follow it.

Mr. CARTER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from Montana?

Mr. OWEN. Yes.

Mr. CARTER. The Senator from Oklahoma presented to the Senate an amendment to the joint resolution. The amendment, in substance, provides for the admission of the Territory of Arizona; and if the joint resolution as thus amended should pass, it would provide for the admission of New Mexico and Arizona by and through the same instrument.

I now, with the permission of the Senate and of the Senator from Oklahoma, will ask unanimous consent that a vote be now taken on the amendment proposed by the Senator from Oklahoma [Mr. OWEN], proposing the admission of Arizona, with the further understanding that if that motion is lost the Senator from Oklahoma may resume the floor as though no interruption had occurred.

The VICE PRESIDENT. Is there objection to the request of the Senator from Montana?

Mr. OWEN. I should like to make this observation: If there can be given any assurance that Arizona will be now admitted—that this will pass the Senate now and go to the House and be acted upon there—I will be content, and I will make no further objection.

Mr. CARTER. It will require but a few moments to take the vote proposed, and the request for unanimous consent embraces the idea of the Senator retaining the floor as though no intermission had occurred and no business had been transacted.

Mr. OWEN. I agree to that proposal.

Mr. CARTER. Then, Mr. President——

The VICE PRESIDENT. Is there objection?

Mr. HEYBURN. I should like to hear the question stated.

The VICE PRESIDENT. The Senator from Montana asks unanimous consent that a vote be at once taken upon the amendment offered by the Senator from Oklahoma to House joint resolution 295, and that after that vote is taken, should the vote be in the negative, the Senator from Oklahoma shall be understood to occupy the floor as if he had not been disturbed. Is there objection?

Mr. OWEN. I do not think the Chair stated that quite as I understand it.

The VICE PRESIDENT. The Chair certainly intended to.

Mr. OWEN. Surely; of course; there is no doubt about that. I have the greatest confidence in the sincerity and the accuracy of the Chair. But what I want to have understood is that this joint resolution pass the Senate and be agreed to by the House before the sundry civil appropriation bill passes this body. That is what I want agreed to.

Mr. HEYBURN. I will bring that to a short close. I object.

Mr. CARTER. I hope the Senator from Idaho will withhold his objection for the moment.

Mr. HEYBURN. No.

The VICE PRESIDENT. The Senator from Idaho objects. The Senate will please be in order.

Mr. CARTER. Will the Senator from Idaho withhold his objection for the moment?

Mr. HEYBURN. I withhold the objection for the time being.

The VICE PRESIDENT. The Senator from Idaho withholds his objection for the present, until there can be further discussion of the proposition.

Mr. CARTER. The Senator from Oklahoma mentions the sundry civil appropriation bill as the one to be attached as a condition precedent to this unanimous-consent agreement. I wish to submit to the Senator this state of facts:

The sundry civil appropriation bill is the largest of all the bills. The enrollment of the bill will occupy practically every moment from now until the hour of 12 o'clock—the expiration of this Congress. The Senator may interpose an objection as to some other appropriation bill which can be enrolled more expeditiously. Should this joint resolution pass the House and the Senate, it is quite obvious that the purpose of the Senator from Oklahoma would be served, and there would be no object in defeating any appropriation bill.

I think, therefore, that the Senator may well reserve the right to interpose objection to some other appropriation bill, but to permit the sundry civil bill to pass, the conference report to be acted upon immediately after this vote is taken.

Mr. OWEN. Mr. President, I would like to suggest that under the legends of the Senate the clock of the Senate is not always absolutely accurate, and it might be turned back a little without violating the precedents.

Mr. HALE. I call for the regular order.

The VICE PRESIDENT. The regular order is demanded, which is equivalent to an objection. The Senator from Oklahoma will proceed.

Mr. OWEN. Mr. President, I have expressed my willingness to go just as far as I can toward the admission of Arizona and New Mexico. I am perfectly willing to agree to any plan that will bring that about, and the reason why I was temporarily occupying the floor was in the hope that I might be able to arrive at some plan by which those two great communities should be given the right to which they are justly entitled.

Mr. CARTER. Mr. President, if the Senator will permit me——

The VICE PRESIDENT. Does the Senator from Oklahoma yield to the Senator from Montana?

Mr. OWEN. I do.

Mr. CARTER. In my judgment, the Senate will approve the joint resolution with the amendment proposed by the Senator from Oklahoma. By virtue of that approval the Senator will have achieved the victory he seeks in the forum to which we all belong. It is well known that this joint resolution has many friends; indeed, I think a pronounced majority in the House of Representatives, whether applied to New Mexico singly or to New Mexico and Arizona jointly. So it seems to me that with a clearance here and a majority there and ample time for action the Senator is taking no special risk in doing what he can and what all can do to further the purposes of the amendment offered.

I hope, Mr. President, the Senator without qualification will consent to the proposal I made, because within a few minutes——

Mr. HALE. I call for the regular order. I insist upon it.

The VICE PRESIDENT. The Senator from Oklahoma has the floor. The regular order is the conference report.

Mr. OWEN. Mr. President, the proposal of the Senator from Montana, of course, would leave the President with the power to disapprove this bill, I suppose, and drop Arizona and New Mexico out together if either fail. I would be willing to take that chance. All that I want to do is to get these States admitted if possible.

I want to call the attention of the country to the real reason why Arizona is being kept out. As I understand the matter, it is that Arizona has a progressive constitution, with the initiative and referendum; that is, with the power of direct legislation, the direct primary, and the right of recall. New Mexico, on the other hand, has not. Arizona is Democratic and progressive; New Mexico is Republican and retrogressive. They practically approved their constitutions at approximately the same time. There is no reason why they should not come in here together.

Mr. MONEY. Mr. President, if the Senator from Oklahoma will permit me a moment——

Mr. OWEN. I yield to the Senator.

Mr. HALE. Mr. President, I must call for the regular order.

The VICE PRESIDENT. The Senator from Maine objects and demands the regular order. The Senator from Oklahoma will proceed.

Mr. MONEY. Mr. President——

The VICE PRESIDENT. The Senator from Oklahoma can not yield the floor in the face of an objection, and objection is made.

Mr. MONEY. I have not asked the Senator to yield the floor, but to answer a question, which he has a right to do in his own time.

The VICE PRESIDENT. Oh, certainly, the Senator has a right to yield for a question and to answer.

Mr. KEAN. Only by unanimous consent.

The VICE PRESIDENT. He can yield for a question.

Mr. MONEY. With the kindest feeling in the world for the Senator, which he fully understands, I ask him, in the name of this side of the House, if he will not allow the bill to be taken from conference and acted upon, and hold the floor after it is out of the way. It is now within an hour of final adjournment, and it is exceedingly necessary that these supply bills should pass. I know the Senator from Oklahoma will appreciate that fact. I ask him now to do the favor to this side of the House to permit these bills to come to a conclusion. I hope the Senator will yield to that. It is unnecessary for me to say to him that in the closing of this Congress, when some of us will never be here again, we ought to part in good humor and friendship. I want to appeal to him in the name of the Democratic Party to yield.

Mr. OWEN. Mr. President, I have already agreed as to all of these bills except the sundry civil bill, and I would be perfectly willing to leave the sundry civil bill awaiting the signature of the President of the Senate subject to the passing by the House of a bill admitting these two States. That can be easily done. The President of the Senate can withhold his signature until this House joint resolution 295 is acted on. It will not delay at all.

I will be glad to do that. I think the Senator from Maine [Mr. HALE] might agree to that. All I want to do is to take care of these two States and see to it that two Democrats come here at the same time two Republicans do. I think that is fair; I think that is right. I do not think I ought to be asked by my Democratic colleagues that I should quit. Why should I agree to have two Republicans come here and not have two Democrats to accompany them? As far as the sundry civil bill is concerned, the President has already determined to call Congress together. Why could not the newly chosen Representatives immediately write a sundry civil appropriation bill? It is only one bill. They will have plenty of time. The fiscal year does not expire until June 30.

Why this extraordinary urgency? There is no good political reason why I should yield my point. On the contrary, I do not agree with my colleague from Mississippi [Mr. MONEY] on that matter. He knows that I not only have the greatest possible respect for him, but that I have and have had the warmest possible affection for him through a long period of years, which never has been marred by the slightest difference in over 20 years of friendship.

Mr. BACON. Will the Senator permit me to make a suggestion?

Mr. HALE. Mr. President, I insist on the regular order.

Mr. BACON. I am asking the Senator a question. I have a right to do that.

Mr. HALE. I do not object; but under the general rule that is a very narrow privilege.

The VICE PRESIDENT. The Chair holds he can not yield the floor, but a Senator may yield for a question. Beyond that he can not yield.

Mr. OWEN. I yield for a question.

Mr. BACON. The question I desire to ask the Senator from Oklahoma is this: If the proposition submitted by the Senator from Montana [Mr. CARTER] were acted upon and both States were voted upon at the same time, would it not be true that there would either be four Senators from the two States or none from either State?

Mr. OWEN. Yes, sir.

Mr. BACON. Why not let us pursue that plan?

Mr. OWEN. That is exactly what I now propose.

Mr. BACON. I understood the Senator from Montana to offer that and the Senator objected.

Mr. OWEN. No; I agree to it. I think that we ought not as Democrats, if we are going to look at this matter from a partisan standpoint, refuse any opportunity to bring in two Democratic Senators when two Republican Senators are brought in. I do not think we ought to be asked to do that.

Mr. CLARKE of Arkansas. How is the Senator going to prevent that very thing from being done by his present stand? New Mexico will be admitted to-morrow by Executive proclamation. Then what have you accomplished except to give an excuse for an extra session that will impose onerous conditions upon the membership here and disturb the business of the country? Let those who stand behind it take the responsibility, and do not impose a party responsibility upon the Democratic Party. If there was any practical good to come out of the extra session I would be willing to have it. I was a member of the Committee on Territories and refused to sign that report. The matter should be disposed of upon a footing of absolute equality, so far as any national control is concerned. The joint resolution was brought in here last night by a vote much against my judgment and, I believe, against the judgment of the Committee on Territories.

Mr. HALE. Regular order!

The VICE PRESIDENT. The Senator from Maine objects. The Senator can not further yield in the face of an objection.

Mr. OWEN. Now, perhaps the most obnoxious feature about the Arizona constitution to my distinguished opponents is the recall, and particularly as the recall applies to judges on the bench. It is true that the language of the constitution does not mention a judge on the bench. It only says this, in Article VIII:

SECTION 1. Every public officer in the State of Arizona holding an elective office, either by election or appointment, is subject to recall from such office by the qualified electors of the electoral district from which candidates are elected to such office. Such electoral district may include the whole State. Such number of said electors as shall equal 25 per cent of the number of votes cast at the last preceding general election for all of the candidates for the office held by such officer may by petition, which shall be known as a recall petition, demand his recall.

They say this will apply to a judge. So it does, and why should it not, if the Arizona people want it? If a judge on the bench proves to be corrupt, proves to be unworthy and dishonest, or a brutal tyrant on the bench, imposing upon his fellow citizens by virtue of the power in his hands, why should he not be recalled by the Arizona people if they wish to have the law so? It is an easier method of dealing with him than by impeachment. The impeachment of a judge is done under circumstances most painful to the man who is impeached. Is not impeachment the right of recall? Impeachment puts a stigma upon him, however. It disgraces him to such an extent that men dislike to associate with him thereafter, whereas the right of recall is simply a matter of advising a man that he is not an acceptable public servant. The man who is defeated in a recall goes from his office without any necessary disgrace

and without any deep stigma. It is simply a question of his being an unacceptable public servant. It has never been applied except for dishonesty. It has only been used three times, I believe, on the Pacific coast—once in Los Angeles, where the mayor and an alderman were believed to be corrupt. They simply nominated his successor and elected him and the former mayor went out of office without any particular stigma except that of being a defeated candidate who was replaced by another man.

I want to quote from very high authority, our honorable ex-President, who has written upon this matter. In the Washington Post of March 4, 1911, this very morning, I find this item by our distinguished ex-President Theodore Roosevelt, headed "Intelligent criticism of judges an absolute necessity:"

INTELLIGENT CRITICISM OF THE JUDGES AN ABSOLUTE NECESSITY.

(Theodore Roosevelt, in the Outlook.)

In the first place, it is absolutely necessary that there should be discrimination between, and therefore intelligent criticism of, the judges who by their power of interpretation are the final arbiters in deciding what shall be the law of the land. Men ought not to be classed together for praise or blame because they occupy one kind of public office. The bonds that knit them in popular esteem or popular disfavor should be based not upon the offices they hold, but upon the way in which they fill these offices. Chief Justice Taney was, I doubt not, in private life as honorable a man as Chief Justice Marshall; but during his long term of service as chief justice his position on certain vital questions represented a resolute effort to undo the work of his mighty predecessor. If, on these positions, one of these two great justices was right, then the other was wrong; if one is entitled to praise, then the other must be blamed. Buchanan and Lincoln do not stand together in the popular eye because both were Presidents; on the contrary, they represent antipodal schools of thought. Andrew Johnson and Grant were as far asunder as Washington and Jefferson. There is no more ground for demanding that we refrain from differentiation between, and therefore from criticism of, chief justices than for adopting the same attitude as regards Presidents.

We must bear in mind the office; but we must also bear in mind the man who fills the office. This is a government of law, but it is also, as every government always has been and always must be, a government of men; for the worth of a law depends as much upon the men who interpret and administer it as upon the men who have enacted it.

And Mr. Roosevelt in his recent Chicago speech asserted his belief that Arizona should not be denied the right to put the recall in her constitution as Massachusetts did in 1780.

It is not necessary to insist on the wisdom of the recall of judges, but I do insist that the people of Arizona have the right to establish their own organic law, if it be not in violation of the Constitution of the United States and of the principles of the Declaration of Independence.

Mr. President, I feel that it is our duty to promote the welfare of human beings, to promote liberty and justice, to promote human happiness, and not to permit these great essentials of human progress to be obstructed, defeated, or denied by organized greed. It is our duty to work for the honor, stability, and happiness of the Republic, and in that manner to promote the welfare of men and the glory of God. The beautiful words of Richard L. Metcalf in "A New Year thought," of January 1, 1911, Lincoln, Nebr., come to mind:

THE KINGDOM, THE POWER, AND THE GLORY.

"For Thine is the kingdom and the power and the glory"—but as he said it he took from willing, working men the necessaries of life, that he might gather gold, and the glory he knew was greed; another took usury from the poor, and the glory he knew was cunning; another surrendered his conscience to his party, and the glory he knew was folly.

"For Thine is the kingdom"—it came in life-full notes, for I read its meaning in the campfires lighted by those who have broken the shackles of party pride; I felt its strength in the business methods of unpretending men who take their toll and give to every man his due.

"For Thine is the kingdom"—and it was a new, sweet song, for I saw it spring to life in the love light of the mother's eyes, in the laughter of the little child, in faithful friendships, in generous deeds.

Then I threw open my own dear memory doors and saw go trooping through—some with tears in their eyes, but all with laughter in their hearts—those who had brought happiness to me. What a line of loving, living men and women and children they are! Some are in the now; others are in the forever; but all are frequent visitors to this hall, and never do they come but they bring and leave something of good.

I knew then that the song I had heard was, in truth, a psalm of life, and as the last echo of the footfall of those I love had died away my listening heart received this New Year thought:

"Thine is the kingdom and the power and the glory," for all that is Thine is mine, and mine is the kingdom of good, where the power of love brings the glory of God.

I agree with Metcalf, and I want to do what I can to promote the doctrine of righteousness. I submit, Mr. President, as an exhibit to my remarks, an address which I heretofore had the honor to make before the Society for Ethical Culture, at Carnegie Hall, on March 20, 1910, upon the initiative and referendum in its relation to the political and physical health of the Nation (Exhibit A), and the initiative and referendum as an effective ally of representative government, by Lewis Jerome Johnson, professor of Harvard University (Exhibit B); the English corrupt practices act (Exhibit C); the popular selection of Presidents amendment adopted by Oregon (Exhibit D), with an improved method of the direct primary system (Exhibit E); and the ballot form illustrating preferential voting (Exhibit F).

I favor the initiative and referendum because it has proven to be the most powerful weapon for the overthrow of the organized selfishness which has been exploiting our great Republic and in so many States substantially nullified the chief purposes of our Government.

Through corrupt practices the public moneys, the public lands, the public properties, have been invaded for private benefit. The Oregon system provides a thoroughgoing remedy for this abuse. It has put the political boss and the political machine out of business; it has ended private graft in public affairs; it has terminated corrupt practices, the buying of votes, the coercing of votes, the hiring of voters for election day, hauling voters to the polls, soliciting voters on election day; it has abated blackmail, legislative incompetency, neglect or treachery. It has made legislative and administrative officers responsive to the public will. It has made speedy and satisfactory the civil and criminal court procedure; it has established the rule of the people and enthroned the intelligence and conscience of the State in the governing business.

I believe in the rule of the people, Mr. President, and the initiative and referendum has been the most useful agency in bringing this about.

On May 5, 1910, the Hon. JONATHAN BOURNE, Jr., of Oregon, delivered in the United States Senate an address on "Popular versus delegated government, and its effect on legislation." Over 2,700,000 of these speeches have been called for by the people. It explains the simple, honest method by which the people govern that great State, and no answer has been made to the arguments presented by him, and, in my judgment, none can be made. He showed absolutely that this method of government is conservative, sane, and safe; that the people have not made a single mistake; that the petty and gross corruption prevalent in other States has been substantially terminated by this system.

SUMMARY.

Mr. President, permit me to briefly summarize the reasons which have impelled me to hold the floor of the Senate for the last few hours in opposition to the admission of New Mexico and the exclusion of Arizona. I should have been willing to have them admitted together, notwithstanding the egregious corporation-written constitution of New Mexico, in which an educational qualification is not only prevented for the present, but made impossible for the future by the constitution itself.

I have refused acquiescence in the motion of my distinguished colleague from Texas [Mr. BAILEY] that New Mexico should be summarily admitted, and Arizona denied, because when we admit New Mexico we admit two stand-pat Republican Members of the Senate, two stand-pat Republican Members of the House of Representatives, and four stand-pat Republican presidential electors for 1912, which may hazard the next presidential election.

When we deny Arizona we deny two progressive Democratic Senators, a Democratic Member of the House of Representatives, and three progressive Democratic electors in the presidential campaign of 1912. I can not, Mr. President, follow my distinguished colleague in this proposal for these obvious reasons.

Nor do I think my honored colleague is justified in taking the lead in this matter for the reason that he is violating the unbroken custom of the Senate in assuming a leadership and taking charge of House joint resolution 295, admitting New Mexico, which comes from the Committee on Territories, of which he is not a member. Within two days the leader of the Republican Senators, the Senator from Maine [Mr. HALE], and the chosen leader of the Democratic Senators, the distinguished Senator from Mississippi [Mr. MONEY], and the distinguished Senator from Missouri [Mr. STONE] severely rebuked a violation of this fixed practice of the Senate on the open floor of the Senate.

The Democratic Senators trusted me with representing them on the Committee on Territories, and I feel it my bounden duty to point out to the Senate that the proposal of my distinguished colleague from Texas [Mr. BAILEY] would immediately result in very important Republican partisan advantages and very important Democratic disadvantages.

And for these reasons, Mr. President, and because my distinguished colleague has no commission to lead his party in this matter, and because he is leading in the wrong direction, I have felt compelled to resist his efforts to admit New Mexico without the admission of Arizona.

THE REAL ISSUE.

These partisan considerations, Mr. President, are not, however, the chief controlling motive with me. The purposes I have in demanding the rights of Arizona are far more important than these. My distinguished colleague is not willing to admit Arizona with the initiative, referendum, and recall, and

I am not willing to permit Arizona to be denied and thus rebuked before the Nation on any such ground.

The initiative and referendum and recall, in my opinion, are devices by which the rule of the people can be promoted and corrupt practices abated throughout the country.

The special interests have captured New Mexico and have written a so-called conservative constitution, promotive of machine politics, so drawn that the special interests can easily retain the control they have demonstrated they possess, while Arizona, with the initiative and referendum and recall, is in the hands of the people of Arizona and will remain under the government of the people through the initiative and referendum and recall.

The real issue in this contest between Arizona and New Mexico is whether we shall permit a State controlled by the special interests to be admitted and deny the admission of a State whose government is controlled by the people.

THE PRETEXT AGAINST ARIZONA.

I waive aside the petty pretext that the constitution of Arizona is not officially before the Senate. A copy of this constitution, vouched for by the Secretary of the Interior, was placed in the hands of the Committee on Territories of the United States Senate on January 31, 1911—over a month ago—was printed as a Senate document and made available for the use of every Senator. The President and Secretary of the Interior, Mr. Ballinger, can control the functionaries of Arizona, from the governor down, and the original of this constitution, properly vouched for, could have been here at any time since February 15, for the constitution was ratified on February 9. It could have been placed before Congress just as easily as the constitution of New Mexico. I do not approve this quibbling and trifling with the rights of a great State, nor am I willing that the Senate of the United States should give its sanction to petty political pettifogging in denying a great State its right of admission.

ARIZONA SHALL NOT BE AFFRONTED.

Mr. President, I shall not permit Arizona to be officially affronted and rebuked in the presence of the American people because it has adopted the initiative and referendum and recall in its constitution. Seventy-six per cent of the people of Arizona voted in favor of this constitution. They acted wisely; they acted conservatively; they acted sanely; they acted with more judgment, with more discretion, with more common sense than those who antagonize these conservative measures by mere shallow epithet. I am amazed at those who denounce the great and vital doctrine of the initiative and referendum as a "populistic theory" or as a vagary, when they have offered no reasonable argument against the sound reasons which have been presented to justify the adoption of these necessary processes of government.

THE NEED FOR DIRECT LEGISLATION.

The need for the initiative and referendum is imperative because the government of the States, especially the government of the Eastern, Northern, and Western States, have been slowly drifting toward a condition of corruption in both the legislative and administrative branches.

The initiative and referendum is almost the only means available for putting a speedy end to corruption in government, as I shall immediately show.

The great corporations of this country—the railway systems, the gigantic commercial combinations, the so-called Protective Tariff League, and other commercial conspiracies—having discovered the value of the governing business from a money standpoint, have not hesitated to secretly engage in political activities in Nation, State, and municipalities. They have controlled cities and towns for the purpose of making money out of street railways, telephone and telegraph companies, electric-light companies, water companies, municipal activities, street paving, building sewerage systems, and so forth. They have undertaken the control of larger municipalities, of cities from New York, Pittsburg, St. Louis, and Denver, to San Francisco, and with what results?

The hideous exposures of crime, of graft, of municipal knavery, of vice, and the other results of such government have become an appalling national calamity.

THE SHAME OF OUR CITIES.

I beg you to look at the disclosures in San Francisco, for example, brought about by Francis I. Heney and Rudolph Spreckles. I invite your attention to the shocking criminal conduct of the municipal management of the city of Denver, set forth by Ben Lindsay in The Beast and the Jungle.

I invite your consideration of the wholesale corruption and municipal graft of St. Louis, exposed during the determined campaign of the incorruptible and gallant and able Joseph W. Folk, of Missouri.

I call your attention to the bipartisan system of wholesale corruption in the city of Pittsburg, unearthed not by officers of the Government, but by the activities of private, patriotic citizens, who would not endure any longer the unspeakable corruption of that wonderful municipality. Do you recall that 116 men, members of the city council, leading bankers, and prominent business men of Pittsburg were indicted at one time for wholesale thieving of public property under cover of law?

Has the Senate forgotten the graft disclosed in the construction and furnishing of the capitol of Pennsylvania at Harrisburg?

Shall we close our eyes to the bipartisan system of corruption exposed in Albany, the capital of the greatest State in the Union?

Mr. President, it has been only a few years since public sentiment demanded the cessation of petty bribery of citizens by the railroads of this country through the issuance of hundreds of thousands of private passes.

The infamous conduct of machine politics in buying votes has been illustrated recently in Adams County, Ohio, where nearly 2,000 citizens confessed to having sold their votes, and in like manner in Danville, Ill., similar disclosures are now in progress.

THE SIGNIFICANCE OF CORRUPT PRACTICES.

The significance of these disclosures is not in the frailty of humble citizens who have been led to sell their votes. The bribery was bipartisan, and common men saw no hope of good government under this system of bipartisan purchase, and this may be an extenuation of their bad conduct. The significance of these disclosures is this: That some great sinister force, some mighty commercial power, with enormous wealth, has gone into the wholesale system of corrupting the citizens as well as the municipal officers, until graft is penetrating this country from the highest to the lowest, from the gigantic captains of finance, who control the power to expand the credits of the Nation or to contract the credits of the country and who make hundreds of millions at one operation, down to the cooks in our households, who make secret arrangements with the grocer and get their commissions, a petty graft in humble imitation of the larger grafter who deals on a giant scale. The time has come to end the corruption and dishonesty of American life, and the initiative and referendum is the only practicable means by which it can be speedily done.

HOW TO END CORRUPT PRACTICES.

Mr. President, how shall we be able, in the States which require it, to pass a thorough-going corrupt-practices act which the scheming, corrupt politician and his corrupt commercial allies can not evade? Can we pass it through a legislature whose members are the beneficiaries of corrupt practices and who themselves are elected by bribery and by machine politics?

Will they destroy the incubator out of which they themselves have been hatched?

Will they pass an act which will terminate their own political preferment?

Mr. President, it is obviously impossible to pass a thorough-going corrupt-practices act through a legislature elected by corrupt practices. The only available way, under such circumstances, to obtain honest government is for the people to go over the head of a legislature elected by such methods to the people themselves with the initiative and referendum. In this way the people can directly initiate a thorough-going corrupt-practices act and an honest election machinery by the initiative petition and bring it to a vote of all the people; and when they do the people never have failed, and they never will fail, to pass a properly drawn act for the purpose of putting an end to corrupt practices.

Of equal practical importance is it that the corrupt politician dare not fight the initiative and referendum openly, and when it is demanded, as in Illinois, where jack-pot legislation flourishes, the people voted for it by over 4 to 1 in the last election.

THE PEOPLE'S RULE CONSERVATIVE, PROTECTING PROPERTY.

In 64 proposals under the initiative and referendum in Oregon not a single one has assailed private or corporate property. Even in England, recently, the Tories themselves appealed to the people against the Radical proposals of the representatives of the people in Parliament by a referendum against the proposed tax laws.

It has been highly interesting to observe that on questions of government the most ignorant elements voluntarily eliminate themselves by not voting on statutes submitted by the initiative and referendum. In the slum districts this is conspicuously the case. It might be anticipated, because the more ignorant man does not feel competent to pass upon the wisdom of a statute, nor does he feel a lively interest in such topics. He votes for the governor and the Senator, but does not vote on the statute.

It follows, therefore, that in actual practice the exercise of the legislative power by the people, under the initiative and referendum, is exercised by the more intelligent classes of citizens, by the property-holding class, which accounts for the conservative character of the statutes passed by the people under the initiative and referendum.

The professors of the University of Oregon were found by actual inquiry to have voted on 32 proposals identically with the vote of the people, except in one instance, where the professors voted in favor of woman's suffrage and the people voted against it by a small majority.

Under these circumstances the voter, being a property holder and belonging to the more intelligent class of citizens and being guided by his own proper and just self-interest, will vote for his self-interest and therefore for the interest of the body of the people, uninfluenced by any private graft or any unworthy motive. Such a vote, of necessity, must be "stable, conservative, safe, and sane."

The self-interest of the people, Mr. President, will lead them along conservative, sensible lines and protect them from mistake. This has been abundantly demonstrated in Oregon, Oklahoma, Switzerland, and elsewhere. They are conservatively progressive. They can be fully trusted, as so well explained by the Senator from Oregon [JONATHAN BOURNE] in his great speech of May 5, 1910, in the Senate on the Oregon system of government. They will only pass wise laws, and when these acts are passed by the initiative they can not be repealed by the legislature nor made nugatory or ineffective by the legislature, because, with the referendum, the people can prevent such treachery on the part of a legislature.

It will not do to say, Mr. President, that you can promptly pass a thorough-going corrupt-practices act without the initiative and referendum, because the history of the United States offers an emphatic negative to this fallacious suggestion in so many of the States. In the Southern States of the Union, States made poor by the terrible war of 1861, controlled, as they have been, by patriotic men, corruption has not made such serious inroads, although it is in sufficient evidence to excite the apprehension of thoughtful men.

The Southern States apparently have not felt the need for the initiative and referendum for this reason, and but little consideration appears to have been given to it, although in two years it will be an issue in every Southern State.

REPRESENTATIVE GOVERNMENT MADE SURE.

I, of course, have frequently heard the thoughtless argument that the initiative and referendum would do away with representative government and undermine the foundations of the temple. The truth is that the initiative and referendum makes representative government secure. It puts an end to the undermining of the foundations of the temple by the thieves that are undermining the temple by honeycombing these foundations with gross corruption, bribery, and graft.

The initiative and referendum not only does not destroy representative government, it makes representative government really representative.

It is representative government we want, Mr. President.

It is representative government we earnestly desire, Mr. President.

It is representative government that we are resolutely determined to have.

Mr. President, we will not be denied in this demand by sophistry or by evasion.

The initiative and referendum will compel the representatives in the legislature to write the laws necessary for honest government under penalty of having the laws written over the heads of the representatives if they fail to perform their duty. The initiative enables the people to make good any omission, as the referendum enables them to make good any sins of commission; for, with the referendum, if the representative pass an act containing graft or fraud, if the representative pass an act giving away a franchise of enormous value to a corrupt corporation without consideration, the referendum can veto it and will veto it; but, what is more important, the representative, knowing that his action can be vetoed, is prevented by that fact from exposing himself to public condemnation. The corporation will not buy from a man or legislature which can not deliver. It prevents the legislator from passing acts containing graft for fear of the people, and the representative, in like manner, is led to pass the acts which the people desire because he knows that if he fails to do it the people will pass the acts they want in spite of him by the initiative. It will enforce a great canon of the Lord's prayer. It will lead the representative not into temptation and will deliver him from evil.

Therefore the representative is made truly a representative by this system, which makes him responsive to the will of the people, which makes him write the laws the people want, and prevents him writing laws the people do not want; and if he fails, then the people, by the initiative, can write the laws they do want, and by the referendum they can veto the laws they do not want—and in this simple, common-sense way the people can rule.

DIRECT LEGISLATION WILL END CORRUPT PRACTICES.

It is by this process that the people of the various States of the Union can establish honest government in spite of the corrupt machine, and they can not do it in any other way. The corrupt machine is the agency through which corrupt special interests have obtained control of government in the United States, and have gone into the governing business for private profit.

The people of Arizona understand this perfectly well, and they are determined to protect their government against the corrupt processes that have scandalized and now dominate so many States of the Union, and which so strongly influence Congress itself. I could name many of these States, Mr. President, if the invidious distinction of mentioning them by name should not seem, perhaps, a stigma; but they are well known—certainly within their own borders—and need no direct mention. It is true that some of the States have honest government and do not need the agency of the initiative and referendum for this purpose, but most of the States do need it, and all of the States are going to have it for the reason that this method comprises the most stable and conservative form of government. If the corruption of government could go on unabated and uncorrected, it would lead inevitably to a revolution, to an overthrow of property rights, and would render the Government unstable and the tenure of property insecure, just as it did in Rome where it overthrew the greatest government the world had known up to that time.

It would have overthrown Great Britain utterly, except that that wonderful race of Anglo-Saxons discovered the danger to the stability of property and made haste to end corruption by a thorough-going corrupt-practices act that is a model for the world, and which I submit as an exhibit to my remarks—Exhibit C—and without objection will have it printed as a Senate document.

I have been amazed to hear the Senator from Idaho refer to the initiative and referendum as "insane," although it will be remembered that the honorable Senator denounced his own legislature as insane on the question of voting favorably for submitting a constitutional amendment for the election of Senators by the direct vote of the people.

I have been painfully surprised at the honored Senator from Texas [Mr. BAILEY] expressing hostility to this doctrine of fundamental democracy, for the initiative and referendum is, in concrete form, the embodiment of government of the people, by the people, and for the people.

INITIATIVE AND REFERENDUM IS SWEEPING THE COUNTRY.

It will not do, Mr. President, merely to denounce this doctrine without investigation, examination, or knowledge. Arizona is not alone in favoring this doctrine. She has distinguished company—one of the greatest and the best of all the States in the Union has the initiative and referendum—the glorious State of Oklahoma. Oklahoma declared for this doctrine before she was admitted to the Union, and was admitted to the Union with the initiative and referendum in her constitution. President Roosevelt and his Cabinet holding it was republican in form and duly entitled to admission, notwithstanding this provision. Democratic Missouri also has adopted it, and so have the Democratic States of Arkansas, Colorado, and Nevada. Are all these States insane? And are they so offensive, because of the initiative and referendum, that the Senator from Texas would read them out of the Union?

But Republican Montana, Oregon, South Dakota, Maine, Wyoming, and California have adopted the initiative and referendum. Would the Senator from Idaho [Mr. HEYBURN] say that these great Republican States are insane and unworthy to remain in the Union?

Mr. President, Illinois, conscious of the necessity of controlling the jack-pot legislation system which had insinuated itself into the legislature of that noble and splendid Commonwealth, voted in favor of the initiative and referendum by a vote of over 4 to 1 at the recent election. The Democratic Party of Ohio has declared for this doctrine. William Jennings Bryan, the noblest Roman of them all, advocates it. Theodore Roosevelt—whose conservative and sound statesmanship I trust the Senator from Idaho [Mr. HEYBURN] will not dispute—has approved the trial of this system by the States who care to try the plan. The governor of Michigan, Hon. Chase S. Osborn, recommended it to the Michigan Legislature. The Democratic candidate for governor of Minnesota made his canvass on this issue. Wisconsin will undoubtedly write it immediately in her constitution. Both parties in North Dakota are committed to

it. South Dakota has adopted it. Both parties in Nebraska declared for it. Both parties in Kansas declared for it. Gov. Carey in Wyoming made his race upon it and won, and the legislature has adopted it. Both parties in Idaho, I am informed, were committed to it in previous platforms, although quiescent there now. MILES POINDEXTER, in the State of Washington, made his race upon it, and was nominated by over 30,000 plurality as a Republican Senator.

In California both parties declared in favor of it, and Gov. Johnson, being more aggressively its champion, was elected on the slogan of the initiative and referendum and its corollary, that "the Southern Pacific had to go out of the governing business in California," and the legislature has adopted it by almost a unanimous vote. In Utah the people voted in favor of it 10 years ago, and the legislative machine has obstructed it. It will not do, Mr. President, to say that all the people are insane or unsound or incapable of intellectual discrimination on this great question of public policy. Nowhere that this issue has been submitted has it been defeated by the people. It means more power to the people, and the people favor it.

The Senate of the United States can not refuse to admit Arizona on the ground that its constitution contains the initiative and referendum without insulting over 20 States that are fully committed to this doctrine, including Maine, Wisconsin, Montana, Illinois, California, Oklahoma, Colorado, Wyoming, Nevada, Oregon, Missouri, Arkansas, Nebraska, Wisconsin, South Dakota, and so forth, and even Massachusetts, for be it remembered, Mr. President, that Gov. Eugene N. Foss made his canvass on the initiative and referendum in Massachusetts and was elected governor of that glorious Commonwealth by a great majority.

THE RIGHT OF RECALL.

Oh, but it is said that the Arizona constitution gives the people the right of recall of judges, and this is a dangerous innovation.

The constitution of Arizona does not particularly mention the judges as subject to recall, but it does provide "that every public officer in the State of Arizona holding elective office, either by election or appointment, is subject to recall from such office by the qualified electors of the electoral district from which candidates are elected to such office," and this would include judges.

When electors equal to 25 per cent of the number of votes cast at the last election demand his recall, they nominate his successor, and an election by all the people can elect by a majority vote his successor or reelect the officer whose recall is demanded.

Suppose it does apply to a judge. What of that? If a judge on the bench becomes corrupt, grossly inefficient, or outrageously tyrannical—and judges are men after all—why should the people not recall them from public service? Is it not an easier method than impeachment? Impeachment disgraces the officer forever. It puts an everlasting stigma upon him, but under the system of recall it merely nominates and elects his successor, with the least possible stigma on the official. It is a better and milder method than impeachment.

Mr. President, impeachment is merely the right of recall, limited in its nature to cases where the conduct of the judge is so outrageous as to deserve eternal humiliation and disgrace.

The recall is a milder system. It operates benignly and removes judges and other officials who prove inefficient, without attaching any stain or painful consequences. You might as well contend that a corporation could not remove one of its officers. The annual election of a governor in Massachusetts is due merely to the automatic recall of a short tenure of office that expires annually.

The fact is, Mr. President, that the railroads and special interests of this country make themselves extremely busy about appointing judges on the bench, and they will be found unanimously opposed to the right of recall being exercised by the people, and every kind of ingenious argument will be offered against the doctrine of recall.

The chief value of the recall is this: It serves as an admonition to the public functionary that he is a public servant and not a public boss; that if he proves to be crooked, inefficient, or tyrannical the people have a convenient way in the use of the recall of employing a public servant who will be free from such vices, but the people never have really invoked it except to remove a dishonest man.

Mr. President, over a hundred great municipalities in the last two years have adopted the commission form of municipal government, the chief features of which are the initiative and referendum and recall. I respectfully call the attention of the honored Senator from Texas to the fact that the city of Galveston and of Houston and of many other cities in his State have adopted the recall, as well as the initiative and the referendum. Los Angeles has only invoked the recall twice—once against a mayor who betrayed the interests of the people and once against an alderman who violated his municipal pledge. One other instance occurred in Seattle, where the mayor was recalled for compounding with vice in that city.

We need not be afraid of the recall in Arizona. No conscientious judge will ever be recalled there, even if his opinion be not thought wise by the people. The people are very conservative and very slow to anger. They are patient with their public servants when their servants are faithful.

Mr. President, even granting, for argument sake, that the question of recall is a debatable matter, nevertheless, Arizona should be allowed the right to have its own way in the matter of its own organic law.

THE RECALL NO NOVELTY.

The recall is not a novelty. It appears in the constitution of Massachusetts of 1780 and of to-day. The State of Massachusetts, moreover, elects its governor and other State officers only for one year, recalling them at the end of a year by a short tenure of office without reproach or reproof. If they are quite satisfactory, they are reelected; if they are not quite satisfactory, they are automatically recalled by the short tenure.

If a governor were guilty of high crimes, they might impeach, which would be a recall in the form of a trial.

I can readily understand how an argumentative objection might be argued to the recall of judges on the ground that it would interfere with the independence of the judiciary. But it must be remembered that a judge on the bench, being only a human being after all, may, under temptation, become corrupt, and corrupt in such a fashion that proof of his corruption is impossible, so that impeachment is impossible, while the recall, nominating his successor, is available.

Again, a judge upon the bench, being only a human being after all, might become grossly intemperate, not sufficient to justify impeachment, but sufficient to justify recall.

Again, a judge upon the bench, being only a human being after all, might become utterly tyrannical, overbearing, dictatorial, and offensive to the people over whom he has been trusted to discharge this function; not sufficient, perhaps, to justify impeachment, but yet sufficient to justify recall.

Moreover, a judge upon the bench interpreting the law may so interpret the law as to become a lawmaker instead of a law interpreter; may exercise, under the color of judicial power, legislative power. Not sufficient to justify impeachment, perhaps, but yet sufficient to justify recall.

Moreover, judges on the bench, being merely human beings after all, are themselves controlled by their environment, by their professional education, by social, political, and business influences. They may lead a judge to a point of view extremely injurious to the common welfare. Not sufficient, perhaps, to justify impeachment, but yet sufficient to justify recall.

And, Mr. President, even Boston, the "Hub of the Universe," around which revolves all intellectual, moral, and ethical worth, two years ago adopted the doctrine of the recall in relation to the mayor and members of the municipal council.

Ex-Senator Blair, of New Hampshire, advises me—

that the power of removal of the judiciary by address of the two houses of the legislature existed, and perhaps still exists, in the State of New Hampshire, while the entire judiciary has been changed frequently by act of the legislature whenever the public good seemed to require it, and the courts, since I can remember, about four times.

On the other hand, the reasonable independence of the judiciary is a matter of importance, but Arizona thinks it reasonable to retain power over all her public servants, even of judges. It seems sufficient to say that the people of Arizona, having by a vote of 76 per cent declared in favor of trying this method for their own convenience and for their own self-government, and being able under their constitution easily to change this rule if they find it expedient, ought not to be denied the right of self-government because of this proposal which they have seen fit to approve. It would not do to say that Arizona has been guilty of a grave departure from the canons of good government; that it has indulged in a radical, populistic theory in this matter, because the adjacent Republican State of California has, through its legislature, just adopted by an overwhelming vote the initiative and referendum and the recall, voting in favor of the initiative and referendum by 35 to 1 against in the senate and 75 to none in the house, and for the recall, in the senate by 36 in favor to 4 against. This is a Republican State of great dignity, of great power, of great intellectual and moral worth. Oregon, likewise, has adopted this by an overwhelming vote, and it is working excellently well. Let us beware before we thoughtlessly condemn the great sovereign Commonwealths of the Nation who have considered this matter, and let us not precipitously deny the value of the doctrine of which we ourselves may be perhaps quite uninformed.

Ex-President Theodore Roosevelt is quoted as making the following statement in Chicago:

I saw it stated in the press that certain good people in Washington were against the admission of Arizona as a State because it had adopted in its constitution the recall. In 1780 the State of Massachusetts put into its constitution precisely that provision for the recall. Now, understand me, I am not arguing for or against the recall. I am merely showing that, if the people of Arizona, or any other community, wish to try it, or if they do not wish to try it, it is their affair.

At all events Arizona should have the right of self-government; should have the right to exercise the same right of self-government as California, as Oregon, and the other States in the Union which have adopted the initiative and referendum and recall.

ARIZONA SHALL NOT BE OFFICIALLY REBUKED FOR BEING PROGRESSIVE.

Mr. President, it is maintained by those who would deny the admission of Arizona that she is unworthy to be admitted because she has adopted the initiative and referendum and recall. I will not permit Arizona to be rebuked in the presence of the United States on this issue. This issue is an overwhelming issue throughout the United States. If it had not been for the control of the governing powers of the States and of the Nation by the corrupt selfishness of organized greed in preceding years, we would have long since accomplished many happy results.

If we had had the people's rule, we would long since have corrected the gross abuses of the tariff.

If we had had popular government, we would long since have controlled the extortion of the trusts, which, by conspiracy, have been robbing the American people through the market place.

If we had had the initiative and referendum, we would long since have controlled the transportation problem. We would long since have established a reasonable equality of opportunity for the young men and young women of this country, and we would have long since admitted Arizona and New Mexico.

But, Mr. President, what has all this got to do with the admission of Arizona?

ARIZONA HAS THE RIGHT TO ADOPT HER OWN ORGANIC LAW.

Has not Arizona the right to write her own organic law if Arizona is to be admitted on an equal footing with the other States, as required by the Constitution of the United States? If Arizona should be forced to expunge the initiative and referendum and recall from her constitution and was then admitted, could she not write those provisions into her constitution immediately afterwards? Can you forestall it or prevent it? Or will you drive out of the Union the States of Oregon, Montana, South Dakota, Maine, Arkansas, Oklahoma, Colorado, California, Wyoming, and Nevada, who have already adopted this provision?

The question answers itself.

The truth is self-evident. The initiative and referendum and the recall are not contrary to the Constitution of the United States. The Constitution of the United States was adopted by a practical referendum of delegates pledged by the people.

And the recall of the President of the United States is provided by impeachment proceedings, and the principle of recall by impeachment is recognized in the Constitution of the United States and of every State in the Union, as well as in the hundred municipalities who have recently directly adopted it.

Mr. President, I give notice to the Members of this Senate, and to public men wherever they are, that if they dare to openly oppose the initiative and referendum they will be held to strict account by the people of the United States, who are determined to overthrow the political activities of the commercial oligarchy that has been controlling and corrupting this country.

The people of Arizona have adopted a constitution which is intended to restore to the people of that State all of the powers of government and to put it out of the power of special interests to invade or control the governing function of Arizona. Neither this Congress nor the President of the United States will be able to prevent Arizona adopting this organic law and entering the Union with this constitution.

THE PROGRESSIVE V. THE RETROGRESSIVE.

The progressive movement in the United States, Mr. President, is not confined to parties. The progressive Republicans believe in the initiative and referendum, the recall, and a thoroughgoing corrupt-practices act. They believe in the sovereignty of the people. They believe in the Oregon system of government. Of all the acts proposed by initiative petition in Oregon or passed on by referendum—64 in number—not a single one has proposed to attack either private or corporate property. The progressive Republicans believe in the people's-rule system of government, and the national platform of the Democratic Party at Denver declared the people's rule the overwhelming issue, to which all other issues were subordinate.

For these reasons, Mr. President, and because this is the great issue before the American people—whether the control of government shall be by the special interests or whether the control of government shall be by the people—I have determined that the Senate of the United States should not be put in the attitude of deciding against Arizona unless it decided likewise against New Mexico. I greatly desire the admission of them both, because, as a Democrat, I believe New Mexico has a right to write her constitution as she pleases, within the limitations of constitutional law and the principles of our Government, and I believe Arizona has the same right.

THE VICIOUS FEATURES OF THE NEW MEXICO CONSTITUTION.

Mr. President, the constitution of New Mexico, submitted to the State, has been so drawn as to enthrone the corporations in that State, and I can not believe it is accidental. I do believe it was the intention to so draw that constitution as to give the corporations control of that State.

EDUCATIONAL QUALIFICATION PREVENTED.

First, article 7, on elective franchises, thoroughly safeguards the perpetuation of the grossly ignorant vote and makes it impossible to impose an educational qualification by the provision (art. 7, sec. 3) that the right of any citizen of this State to vote, hold office, or sit upon juries shall never be restricted, abridged, or impaired on account of inability to read or write.

Moreover, Mr. President, it provides that this low standard of electorate shall not be corrected by the vote of the people of that State "except upon a vote of the people of this State in an election at which at least three-fourths of the electors voting in the whole State, and at least two-thirds of those voting in each county of the State, shall vote for such amendment." So that a single county having over one-third of an ignorant vote can veto an intelligence qualification on the franchise. And this is so important to the corporations that propose to run New Mexico that they have made a further provision (art. 19, sec. 1) that no amendment shall apply to or affect the provisions of section 3, article 7, on the elective franchise, "unless it be proposed by a vote of three-fourths of the members elected to each house."

Moreover, under article 11, on corporations, it is provided that the corporation commission may disregard the reasonable safeguards controlling the action of the commission "by charging such rates as the commission may describe as just and equitable" in cases of general epidemics, pestilence, and calamitous fatalities "and other exigencies"—"other exigencies" being broad enough to cover any ingenious argument the corporations might assert.

IMPOSSIBLE TO AMEND.

And in order to retain this control through an ignorant electorate, a purchasable vote, subject to the purchase of the corporations and their agents, article 19 has practically made it impossible for the intelligent citizenship of this State to amend this constitution except under the most extraordinary and well-nigh impossible conditions. Article 19, section 1, provides:

An amendment can only be proposed at a regular session, and if two-thirds of each of the two houses, voting separately, shall vote in favor thereof, it may be entered on the journal or any amendment may be proposed at the first regular session of the legislature held after the expiration of two years from the time the constitution goes into effect, or at the regular session of the legislature convening each eighth year thereafter, and if a majority of all the members elected in each of the two houses, voting separately, shall favor it, the secretary of state may submit the same to the electors of the State for their approval or rejection. If the same be ratified by a majority of the electors voting thereon by an affirmative vote equal to forty per centum of all the votes cast at said election in the State and in at least one-half of the counties thereof, then and not otherwise, such amendment or amendments shall become part of this constitution.

In other words, even under these difficult conditions, a majority of the people of the State will not control it if one-half of the counties be not also carried in favor, and if the affirmative vote be not also equal to 40 per cent of all the votes cast at the said election, it being well known that thousands of voters who vote for officials do not vote on constitutional amendments, being ignorant of the meaning of such amendments. In other words, it gives the corporations the benefit of the ignorant or unintelligent vote.

But there follow still other safeguards for this corporation-written document, to wit, that no more than three amendments shall be submitted at one election, and this would always permit unimportant amendments to be thrust in front of an important amendment and thus prevent important reforms.

But this is not all. The franchise provision preventing any intelligence qualification can not be amended even under these difficult conditions unless it be first proposed by a vote of three-fourths of all the members elected to each house.

And, Mr. President, the corporations have not been content with this. In section 2 they have taken great pains to prevent a constitutional convention being called by the provision that during 25 years after the adoption of this constitution a three-

fourths vote of the members of the legislature or after the expiration of 25 years a two-thirds vote of the members thereof shall be required to make a call for such a convention. And then the call must be confirmed by a majority of all the electors of the State, and, in addition, of a majority of all the electors in at least one-half of the counties of the State.

And this is the constitution which the stand-pat Republicans would rush through, while they would deny admission to Arizona, with its constitution so framed that the people of the State can easily amend it in case they find it inexpedient or unwise for any reason.

The issue is between government by corporations and by special interests and government by the people. Listen to the terms of the Arizona constitution. Article 21, section 1, provides that any amendment may be proposed in either house of the legislature or by initiative petition of 15 per cent of the voters, whereupon, either upon such petition or by a majority vote of the two houses, the proposal is submitted to the qualified electors with appropriate publicity provided, and a majority of the electors can immediately amend their constitution in this manner. Here is a government of men, by men, and for men, who are not tied up by crafty artifices under constitutional forms so as to make self-government well-nigh impossible.

It is not a new subject, Mr. President. It is an old contest, a contest between greed and avarice, on the one side, and human rights on the other side. It is the contest between progress and retrogression.

CORRUPTION PROMOTED BY DENIAL OF SECRET BALLOT.

Mr. President, I call your attention also to the fact that section 8, article 2, provides that "all elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the right of suffrage."

This constitutional joker "open," so unostentatiously placed in the bill of rights, would be interpreted in a corporation-controlled State as a denial of the secret ballot, of the Australian ballot, and when so interpreted by a corporation-elected court, it would be impossible to correct this evil by a constitutional amendment, because the constitution can not be amended.

The Australian ballot, Mr. President, has been found absolutely essential to honest government, absolutely essential to prevent the intimidation of the voter.

This constitution, so drawn as to make the Australian ballot impossible, is drawn in the interest of fraud, of graft, of corruption, and ought not to be endured. The constitution of New Mexico as it has been written does not deserve to be received or approved, because it obviously is controlled by the sinister commercial influences who propose to dominate that State in defiance of justice and equity. In my judgment, New Mexico ought to be speedily admitted, but she ought to be required to so frame her organic law that the people of that State can have a secret ballot and can amend the constitution in case it be found defective, so that they can have self-government in fact and not self-government merely in form; so that they can have a republican form of government, which is republican in its essence as well as in form; so that they shall have government in fact of the people, by the people, and for the people.

CONSTITUTION NOT RATIFIED BY HONEST VOTE.

I call your attention, Mr. President, to the fact that the Hon. Henry W. Blair presented evidence before the committee of the House of Representatives and also before the Senate committee, alleging that this election was obtained by fraud and was not fairly representative of the will of the people of New Mexico, and in effect, he, on behalf of the citizens of New Mexico, has been demanding an investigation of this very matter. They deny that this constitution has been ratified by the vote of the people of New Mexico and demand a congressional inquiry, and it is in the presence of this evidence and these recorded, printed facts before the two Committees on Territories that this bill is rushed forward at 1 o'clock in the morning of the last calendar day of the Sixty-first Congress when it is impossible for Senators to examine this record or be apprised of the facts.

It is denied that there is any constitution from New Mexico here at all, what purports to be such being vitiated by fraud, and those who make this charge demand a hearing, and ought not to be denied.

The difference between the constitutions of New Mexico and Arizona can no longer be described as the difference between Republican and Democrat. The difference is between the reactionary and retrogressive and the progressive. It is the difference between the Tory and the Liberal, as I understand it. The difference between the progressive and the retrogressive. At all events, it is the difference between a constitution drawn to promote corporate power and greed and a constitution drawn to promote the rights of men, of human liberty, and of human happiness.

I would have admitted New Mexico 30 years ago if I could have controlled the matter, and I desire the admission of New Mexico now, but I do not appreciate the demand for the admission of New Mexico, with two Republican Senators, and the denial of Arizona, with two Democratic Senators.

I do not think this is fair to the Democratic Party, separate and apart from the rights of Arizona or New Mexico. The Democratic Party has a great work to perform, for it is about to come into the control of the Government of the United States, and for one, Mr. President, I wish to say that when the Democracy does come into power I expect it to pursue a course so moderate and wise and just, both to the people and to the great commercial enterprises of the country, that it will commend itself to all of the forces of the Republic who believe in honest and faithful and efficient government. We need the two votes of Arizona in the Senate, and until they are admitted I shall not willingly agree to admit New Mexico, nor in any contingency shall I be content until New Mexico has amended her constitution, to permit her own people to amend that constitution easily.

Mr. President, some of my excellent colleagues, for whom I have the greatest possible respect, have not believed in the initiative and referendum and have not seen any need or occasion for it. With them I sympathize, because I did not see any need for the initiative and referendum until within recent years, nor until after giving a careful and thorough study to the evils from which our country was suffering and the possible remedies. I had not seen or realized the importance of the initiative and referendum as an instrumentality for restoring the sovereignty of the people and establishing the people's rule. The real issue is to establish the people's rule against the corrupt rule of the special interests. The initiative and referendum is an agency of great efficiency in bringing this about. In a State where the people do actually rule as a matter of fact and not merely as a matter of theory the urgent importance of the initiative and referendum is not so obvious, although, if I had time and occasion, it would be easy to demonstrate the wisdom of this governmental device on any grounds. First, that it will enable the people to raise special issues and settle them one by one without the confusion of many issues embraced in one party platform and confusedly antagonized in another party platform. It would enable the people with authority to make good any error of omission or commission by a legislature whose integrity was above dispute and beyond doubt. The underlying reason which justifies the initiative and referendum, even in States that are honest, is that all of the people know more than some of the people, and outside of the legislature will be found men of splendid abilities to initiate important improvements of government, men who are superior in intellectual power to members who happen to run for position in legislative assemblies.

The time will come, as it ought to come, when the people, by a short ballot, will place the legislative power of the State in the hands of a smaller number of expert legislators, and we will have an abatement of cumbersome legislatures of immature legislators who pass thousands of ill-digested bills until the State statutes, and our national statutes as well, have grown to be of such mammoth size and complexity that no citizen can know what the laws are he is expected to observe.

The initiative and referendum is not a national issue, but it is a State issue in a large number of States, having a national aspect, because of its relation to the termination of corruption and its relation to the character of representatives who appear in Congress and in the Senate. It has this relation—that it will prevent the representatives of special interests coming into the House of Representatives or the Senate, because the special interests can not control the States where the States have the initiative and referendum.

A number of States do send thoroughly trustworthy representatives to the Senate and to the House without the initiative and referendum, and long may they continue to do so, although they will safeguard their future if they speedily adopt this great doctrine, which makes assurance doubly sure of the integrity of government and its freedom from corruption.

An important additional advantage of the initiative and referendum is:

First. That it raises the level of intelligence of the electors who, being charged with the duty of direct legislation, direct nomination, and direct power in the governing business, consider these questions personally as a part of the duty of citizenship; and,

Second. It is of great value to the representative of the people in the legislature, for the sound reason that he is stimulated to more intelligent, conscientious performance of duty.

A third and highly gratifying result of this system is that the representative is no longer under suspicion of being influenced by special interests, because his act is subject to review by the people, and he acts as a representative subject to the approval of his master—the people—and no man has a

right to impugn his integrity or his wisdom when his action is not criticized in the open by the referendum petition demanding a veto on his conduct, it thus promotes the confidence of the people in the integrity of their Government, stimulates love of country, and promotes the patriotism of the people.

Mr. President, I have been keenly sensible of the demands made upon me by the leaders of the Senate on both sides, Republicans and Democrats, and especially by my colleagues, that I should yield the floor and give up this contest. I have been unwilling to do so, because I regard the issue of the Arizona constitution as of fundamental and vital importance to the people of the United States. I regard it my duty to the people of this Republic to emphasize the importance of this doctrine as a means for the speedy termination of corrupt practices in this Republic and for the restoration of the integrity of government as it was established by our fathers, and while I may feel comparatively alone on the floor of the Senate in this determined purpose, having the earnest support, however, of my noble colleague from Oklahoma [Mr. GORE], I wish to say in extenuation of my conduct that I do it because I feel honor bound as a soldier of the common good to stand faithfully and firmly, in spite of all opposition, in support of what I believe to be essential to the integrity and welfare of our glorious Republic and on behalf of the sweating, toiling millions who are my kinsmen, who produce all the wealth and enjoy too small a part of the wealth they create under the corrupt government of the system.

Mr. President, I am reminded at this critical moment of the sentiment of Abraham Lincoln:

I am not bound to win, but I am bound to be true.
I am not bound to succeed, but I am bound to live up to what light I have.
I must stand with anybody that stands right; stand with him while he is right and part with him when he goes wrong.

The inarticulate mass of men who humbly toil and patiently labor are entitled to enjoy in peace the proceeds of their labor—to have reasonable hours, food, shelter, leisure—and organized greed must stay its sordid hand. The issue is on. The People's Rule *v.* The Rule of the System.

Mr. President, if I were able to secure an expression of the Senate on this matter I am convinced that my Democratic associates and the splendid band of progressive Republicans would almost unanimously support the admission of Arizona and New Mexico, and I am equally sure that the reactionary elements of the Republican Party would be found on the other side. At all events, I do not intend to yield until I have been afforded an opportunity to get a vote of the Senate upon the admission jointly of Arizona and New Mexico.

EXHIBIT A.

AN ADDRESS BY ROBERT L. OWEN, UNITED STATES SENATOR FROM OKLAHOMA, UNDER THE AUSPICES OF THE SOCIETY FOR ETHICAL CULTURE, AT CARNEGIE HALL, MARCH 20 1910, ON THE INITIATIVE AND REFERENDUM IN ITS RELATIONS TO THE POLITICAL AND PHYSICAL HEALTH OF THE NATION.

A nation is in a condition of good political health when its representatives are the free choice of the people and represent the best ideals of the people in the legislative, executive, and judicial departments of the Government.

When these officials are nominated by corrupt machine methods, are controlled by selfish interests, by mere self-preferment, by bribery, or by other sinister influence, the political health of that nation is bad and in need of curative process.

Such government needs restoration to a condition of sound political health, where every official shall be responsive to the best ideals of the people.

Where it has free expression the majority of the people will always stand for the principles of righteousness, for honest and economic government, for the control of sordid ambition and avarice, for the abatement of commercial piracy, and for the control of conspiracies in restraint of trade, and for the higher ideals of the enlightened conscience, and for a more equitable distribution of the proceeds of human labor than is possible under a government corrupted and controlled by machine methods.

The political health of the Nation is distinctly bad in many of the States where corrupt machine politics operating as an agent of selfish interests, both political and commercial, has obtained control of party government, nominating machine men committed to selfish interest at the precinct, in county conventions, and in State conventions, nominating officials from constable to governor by machine methods.

The people appear to rule through party machinery, but do not rule in fact, because the party machinery is in the hands of corrupt machine men, controlled in the interest of the few and against the interest of the many. The remedy is to restore popular government and to overthrow machine government, and the initiative and referendum is the open door by which this can be done, by which it has been gloriously done in Oregon.

Machine control of party government, among other evil results, makes impossible the passage of laws needed for the protection of the physical health of the Nation, notwithstanding the urgent demand of the people expressed through medical and sanitary associations from the Atlantic to the Pacific for 20 years.

The physical health of the Nation depends upon the prevention of epidemics, upon purity of water supply, upon clean air, pure foods, sanitary conditions, reasonable hours of labor, protection of children and infancy from exposure. The people of the United States lose 600,000 people annually from preventable causes. These lives could be saved by good laws; they are lost because of bad laws. In a letter of Charles A. L. Reed, chairman of the legislative committee of the American Medical Association, of March 10—10 days ago—he said to me:

"Suppose our entire native Army and Navy were swept off of the earth, not once, but three times in a year. Would the Congress do anything about it? There are nearly 5,000,000 needlessly ill every year. Suppose that every man, woman, and child in all New York, with Boston and Washington added, were similarly stricken, would the Congress inaugurate an inquiry? Our losses from these causes amount to a billion and a half dollars every year."

"Our health agencies are uncorrelated and unorganized. Suppose that our monetary system were looked after by a dozen or more bureaus in almost as many departments and that it were responsible for a billion and a half dollars loss every year, would the Congress be disposed to think that there was possible relationship between the lack of organization and the deficit?"

The fact is the United States Government has no organized department of public health, no proper publicity of matters affecting the public health, no proper cooperation with the States.

The annual mortality in the United States is 16.5 per thousand; in New Zealand, with no better climate, it is between 9 and 10 to the thousand—a loss of nearly 7 human beings to the thousand for the United States in excess of New Zealand, where they have controlled monopoly and established proper sanitary safeguards. Seven persons to the thousand means in 90,000,000 of people an annual loss of 630,000 people, whole lives might be saved by proper conduct of government.

What is the trouble? Have the people never requested any improvement in this respect? Oh, yes; through all the great societies relating to the health of the people petitions and prayers and demands have gone up to Congress and have remained unheeded, unobserved, uncared for, because the Members of the House and Senate are three degrees removed from the people under the convention machinery of party government. This is not true as to all Members, but it is true as to the majority. Observe how a precinct delegate is sent by a machine boss on an obscure call, at an unsuitable place packed with his partisans to the county convention; how a county convention of machine delegates from the precinct nominates a machine candidate for the legislature; where the legislature of machine men elects a machine man for the United States Senate. Under the pretext of a necessity for organization, this method has developed. At first it worked well, but becoming perverted and corrupted it now works injuriously as an agency of selfish interests. The people are beginning to correct these evils of government in various States of the Union by various processes such as demanding the right of direct nomination of candidates through the direct primary, by insisting on publicity of campaign contributions, by forbidding excessive campaign contributions, by demanding the initiative and referendum, restoring to the people the right to make their own laws and the right to veto acts of the legislature not approved by the people.

From the days of Jefferson as President the right of the people to instruct their Representatives was freely recognized, but gradually the growth of party nominations by the delegate system took the power out of the hands of the people and put it in the hands of machine men, who made a profession of politics, until finally the rule of the people was taken away from them; until the extreme condition of machine rule of party government has been developed in the United States against which there is now going on a universal protest. The questioning of candidates, the direct primary, publicity of campaign contributions, the initiative and referendum, the advisory initiative are being agitated throughout the United States.

The foundation stone of the control of government by the people will be found in the initiative and referendum.

I wish to point out to you the relation between the initiative and referendum and the political and physical health of the Nation.

Ben Lindsay, of Denver, a man of great ability, of great patriotism, and of intense activity in the cause of civic righteousness, has recently, in Everybody's Magazine, painted a most instructive picture in detail of the triumphant corruption and control of the legislative, executive, and judicial authority of the State of Colorado by corporate rascality. In discussing a remedy he said, in effect, "It is useless to talk about controlling the trusts by Government so long as the Government itself is controlled by the trusts."

The political health of the Nation and the physical health of the Nation can not be raised to its highest efficiency until the people of the Nation and of each State in reality and in sober truth actually control their own government. So long as machine politicians make the nominations for both parties, patriotic citizens register their votes for such nominees in vain. They have only a choice of evils. The doctrine of Boss Tweed in New York might be expressed in these words: "Let me select the candidates, I care not who elects." Selection is more vital than election.

When the insurance companies and the gigantic corporations raise millions of money to corruptly influence the elections; when they use the huge strength of financial authority with its far-reaching power to effect votes in an intensely commercial Nation, you may expect while machine methods prevail that the nominations in both parties will be favorable to the selfish commercial interests and that such interests will exercise corrupt and sinister influence over those chosen to administer government in the legislative, executive, and judicial branches of the Government.

In vain the people demand election of Senators by direct vote; in vain do the people clamor for an abatement of one-man power in the House of Representatives; in vain do they seek publicity of campaign contributions; in vain do they demand laws forbidding corrupt practices and other reforms of government; in vain do they demand control of monopoly, reduction of tariff, and lower prices. The people are appealing to the nominees of machine politics committed against them. These nominees are too often political mercenaries playing politics for profit. You can never control commercial conspiracy or ambition by your Government until you have taken your Government out of the hands of commercial conspiracy and out of the hands of purely selfish political ambition.

And how will you do this?

By the initiative and referendum.

Has it ever been done? Without the shadow of a doubt; it has been done; it has been excellently well done. Is it difficult to do this? No; it is easy to be done. It only requires that you, the people, shall understand how to do it and have your interest in regaining control of your Government maintained with sufficient persistence to change each State constitution that stands in the way. Oregon, Montana, South Dakota, Oklahoma, Missouri, and Maine have already acted and established the initiative and referendum. Many other States are actively considering it. Many of the State constitutions have been intentionally made difficult to change by those who, under the plea of conservatism, believe it should be made difficult for the will of the people to register itself in constitutional forms, for fear, forsooth, the people might on impulse misgovern themselves by passing bad laws.

For fear that some of this great audience may not be familiar with the improved methods of making effective Lincoln's great idea of "A Government of the people, by the people, for the people," I wish to explain more clearly the initiative and referendum, the mandatory primary, the corrupt practices act.

The initiative means that a small percentage of the voters, usually 8 per cent, can initiate any law they please, and require it to be submitted at the next regular election for a vote of the people of the whole State for their acceptance or rejection. It is sometimes provided that the legislature may submit a competing measure with the measure proposed by initiative petition.

By the initiative the people of New York State might initiate a mandatory direct primary law, a corrupt-practices act, and compel a vote in spite of the failure of a legislature to pass such a law as the people wanted.

It has been said of the Pennsylvania Legislature that in a former time a member of the house arose and said: "I move, if Tom Scott have no further use for the legislature, that it do now adjourn."

A mandatory direct primary puts in the hands of the members of each party the direct power to nominate their own candidates. The power of selection is more important than the power of election. The people elect in vain if corporate power by machine manipulation nominates the candidates in each party or by control of machinery of government can stuff the ballot box.

The nomination of machine men is absurdly easy. It is done by the convention system. A State convention is called to nominate a Democratic or Republican candidate for governor, the State chairman issues the call, announcing that each county is entitled to so many delegates; the county delegates to be elected by a county convention, the county convention to be composed of delegates selected at the precinct, the precinct has a machine man or two who controls the local patronage and has some local advantages—he is the precinct boss; he calls a precinct meeting on short notice, obscure advertisement at an inconvenient place, perhaps a small room over a saloon, packs the meeting with his own henchmen, has a cut and dried program. The meeting immediately nominates a candidate or candidates to the county convention, their names selected in advance. The candidates are elected immediately viva voce, and the first step has been taken. The county convention, composed of such machine delegates, send machine men chosen in advance or men at all events acceptable to the machine, and the machine delegates to the State convention are thus elected. When the State convention meets, composed of such machine-chosen delegates, what can you expect? Did the people select the precinct delegates? No; certainly not. Did the people select the county delegates? No; certainly not. Did the people select the State delegates? No; certainly not. The people did not select the governor. They only elected the choice of a corrupt machine. It is enough to make a patriot weep who understands it thoroughly.

It sometimes happens that even the machine men are compelled, in order to abate suspicion and to elect the State ticket, to nominate a man absolutely above suspicion, but if they do, you can depend upon it that his power for public service is sufficiently handicapped by his environment that he can not accomplish much substantial constructive service. It has been interesting to observe Gov. Hughes, of New York, trying to establish one of the ten commandments, a direct primary, in vain. Has not this audience intelligence enough to know why? It is because the right of the people to directly nominate by a direct primary, the right of the people to select, means the people's rule and the overthrow of one of the agencies of organized commercialism and of organized political ambition. The machine politicians fatten on the public treasury, on official favoritism, on State franchises, on municipal contracts.

We do not need the present exposures at Albany as evidence of what it means. Everybody knows who is not imbecile.

We do not need Tom Platt's alleged contribution of $300,000 to the Harrison campaign as evidence, nor did we need the exposures of the insurance companies by Gov. Hughes to tell us what this grossly corrupt system means. We all know.

There is no intelligent man in the country who does not know enough of the evils of machine politics to agree that the time has come in the United States for the correction of these evils in both parties and to restore to the people of this country the right to directly nominate their own political servants by direct primary, the right to initiate their own laws by the initiative petition and the right of veto of any act of their servants in the legislature by the referendum.

The referendum provides that when the legislature passes an act not acceptable to the people of the State, a petition within 90 days after the passage of the act, signed by 5 per cent of the voters, will operate to suspend the law until the next regular election, at which the people will vote upon the law whether it shall become a statute or whether it shall not. Is it possible that any man of sound mind and good character will say that a hundred men in the legislature shall pass an act and make it effective over the people of the State against the direct vote of a million men? The right of the people to veto an act of legislature by the referendum is as self-evident as my right to veto the act of my servant who proposes to commit me to an offensive proposition.

The Americans are still a free people, in theory at least, and the general establishment of the initiative and referendum is of the highest importance for the preservation of that freedom and the full enjoyment of their liberties.

The referendum will rarely be used, because it will rarely happen that the American Traction Co. will buy franchises worth forty millions from the local legislature or city council for $837,000, when both the rascal legislator and the traction company know that a referendum vote will veto their rascality. No money in advance will be paid on such a transaction with the power of the referendum hanging over it like the sword of Damocles. With the initiative in force a corrupt-practices act and a pure ballot can be secured. Oregon has the best corrupt-practices act in the United States. There a candidate for the Senate is limited to an expense of 10 per cent of one year's salary as the maximum expense of making his campaign, and so with other State officials. Every dollar of expenditure must be set forth under oath, to include every person who, directly or indirectly, expends any money in the interest of such candidate.

The secretary of state mails each voter in the State a small pamphlet, in which the claims for and against each candidate for nomination are set forth. A like pamphlet is issued before the election; a like pamphlet covers the merits and demerits of every measure initiated by the initiative or opposed by the referendum. The candidates pay a hundred dollars a page and are limited to four pages.

No solicitation or bringing of voters to the polls is allowed on election day. The election is as peaceful and as honest as a Sunday school. I wish we might say as much of New York or of Philadelphia or Boston.

Under the initiative and referendum the Oregon Legislature tries to meet the will of the people. They are not subject to temptation by every corruption or ambition. If they fail to pass the laws the people want, the people pass their own laws with the initiative.

If they pass a law the people don't want, the people veto it through the use of the referendum. This system of government is called the people's rule, and what citizen, when he understands it, will vote against the initiative and referendum; will vote against his own right to rule his own State by his own vote; will vote to deny himself the right to select and nominate the standard-bearer of his own party?

Is it difficult to establish this system? Not at all. In the last few years, since the matter is understood, it has been adopted by Oregon, South Dakota, and Maine, by Oklahoma, Montana, and Missouri, and is being actively pushed in a large number of other States, and will be adopted throughout the United States in a very few years. The agency by which it is accomplished is another device of good government called "the questioning of candidates." This is most conveniently done by the organization of a legislative committee representing large groups of voters. For instance, the National Grange, the American Federation of Labor, the initiative and referendum leagues. Each organization appoints its chairman of a legislative committee, and all the chairmen sign a common letter addressed to each candidate of all parties, demanding a plain answer in a given number of days of the question: "Will you, if elected, use your full influence to establish the initiative and referendum?" If he fail to answer in two weeks, his failure is advertised as opposition and general advertisement given of his position, and all those favoring the initiative and referendum vote and work to defeat such candidate.

An initiative and referendum league ought to be established in every precinct, in every county, in every State of the Union, all members belonging to each party having for their object the restoration to the people of the right of self-government through the initiative and referendum, thus taking the powers of government out of the hands of the machine politician, the corrupt self-seeker, and freeing government from the influence of gross commercialism.

Let this joint legislative committee be organized in every State and address a circular letter to every candidate for office, especially the legislature, the governor, the executive officers, and the judicial officers, and ask them the plain question:

"If elected, will you use your best efforts to establish the initiative and referendum and the direct primary? Your failure to answer will be taken as a negative."

What will his answer be?

When a man is a candidate running against another candidate, he is in a plastic condition of mind. When he needs votes, he is very respectful to the voters. After he is elected he is often more difficult to talk to.

We are entering upon the new campaign of 1910, and if this proposed plan is actively followed throughout the States of the Union, as I hope it will be, every candidate for every legislature in the United States will have to meet this issue. Will you or will you not support the initiative and referendum?

When the initiative and referendum shall have been established, it is the open door to the passage of any law the people have the intelligence and patriotism to devise. The sword of the State will no longer be in the hands of an arrogant, despotic commercialism that is now shaking the foundations of this country and making a spectacle of itself in Philadelphia.

When the people can pass the laws they need, uninterrupted by the corrupting, sinister influence of sordid selfishness, it will be possible in this country to prevent the spread of the bubonic plague, which is now making widespread, insidious progress on the Pacific coast and was not promptly eradicated because of the suppression of the truth by the commercialism of San Francisco and California. We will then be able to pass pure-food laws and have those laws executed, which are now almost nullified by commercialism operating through political agencies. I call as a witness the triumphant success of benzoate of soda over Dr. Wiley's protest.

We can then prevent the deliberate pollution of our streams and water supplies; we can then abate the smoke nuisance; we can then control monopoly and high prices; and we can abate the evils of unrestrained greed, grinding the life out of women and children in sweatshops, and we can establish sanitary precautions, which shall control in greater degree the charnel houses of tuberculosis known as lower New York City.

My fellow citizens, in eight years we have made an annual increase in our appropriations for the Army and Navy over the average of the years just preceding of over a thousand million of dollars. Our patriotism being played upon in large measure by those concerned in selling us materials of war, and how much have we spent for the national health? Are we indeed in league with death that we spend a thousand millions on an increase in expenditure for war purposes and rely on Nathan Straus to abate the killing of babies with infected milk in New York? The cost of one battleship would build a macadam road of improved construction between the cities of Chicago and New York which would pay a splendid interest on the investment, while a battleship costs eight hundred thousand a year for expenses and goes to the junk heap in 20 years. The pension roll of the United States of over a hundred and fifty millions a year, which is pointed to as the evidence of patriotism, is, in fact, the crowning example of the terrible cost of bad government, for the reason that three-fourths of the deaths and disabilities afflicting our pensioned soldiers was due to preventable disease and exposure and was not due to the projectiles or missiles of war. Over three-fourths of these deaths and disabilities, due to such disease, were preventable, and will be prevented in future under a wise and virtuous administration of government, only possible when the powers of the Government are restored to and capable of being exercised by the people themselves. Seventy per cent of our national expenditures are due either to the wars of the past, through the pension roll, or wars in anticipation through the Army, Navy, etc. If we, the people of the United States, follow the great example of the Australian States, adopt the initiative and referendum, we can then adopt improved methods of self-government; we can abolish monopolies and commercial oppression; we can then restore the political and physical health of the Nation. Our example will become the standard for the civilized world and will lead to universal peace; will lead to the brotherhood of man; the peaceful federation of the world, where under beneficent law, unwilling and unmerited poverty shall be abolished, every man be fed and clothed in comfort, decently housed, and afforded reasonable recreation for himself and his family; where men may learn under these better conditions to love each other and to know that crime itself is due to poverty, to ignorance, to temptation, to mental or physical defect born of conditions growing out of bad government; then the human race will take care of its criminals and restore them to society by humane treatment, by kind treatment; then society will only find it necessary to restrain those who are imbecile and insane, among whom should be classed the perverted and habitual criminal. There is an abundance in this world to supply all men with every necessity of food, clothing,

shelter, leisure, education, and happiness, and to furnish every luxury for those who care to seek it. It remains for the high-minded, intelligent patriotism of the people of the United States to set an example to the whole world that shall give our great Republic its place in history as the leader of the world in establishing the divine doctrine of the fatherhood of God and the brotherhood of man.

EXHIBIT B.

THE INITIATIVE AND REFERENDUM AN EFFECTIVE ALLY OF REPRESENTATIVE GOVERNMENT.

(By Lewis Jerome Johnson, professor of civil engineering, Harvard University.)

Our fathers founded this Government in order to secure for the people—all the people—the blessings of life, liberty, and happiness. They devised institutions and machinery to that end.

To-day, after the lapse of a century and a quarter, combinations of power have grown up under these institutions in the face of which, for multitudes of our population, life is precarious, liberty practically despaired of, and happiness, except of a kind enjoyed by the Roman proletariat or the plantation slave, unknown. We know that no one would be more impatient of such conditions than our Revolutionary forefathers, and no one more resolute in seeking a remedy. Honor to their memory requires us to scrutinize their work, and to modernize it if necessary, just as they modernized their inherited institutions.

IDEALS OF THE FATHERS NOT AT FAULT.

Accordingly we turn first to the spirit and purposes underlying our institutions. We find nothing to criticize, even after all this time. We can suggest no improvements in this quarter. Even now we are inspired with a new enthusiasm by the ideals expressed by our fathers in founding this Republic, the ideals so impressively reaffirmed by Lincoln at Gettysburg.

SCRUTINY OF THEIR GOVERNMENTAL MACHINERY.

We turn next to the details of their governmental machinery. Little is left of their industrial methods and institutions, and perhaps their political devices too are out of date. If they are, possibly it is not too late to supplement them or replace them with better.

The legislative machinery underlies all else. We observe that our law making is intrusted to representative bodies. The make-up of these bodies is, nominally at least, under public control, but the output (except amendments to State constitutions) is not even nominally under public control, except as such control may be exerted through pressure upon individual representatives. When we consider the extent to which such pressure is exerted to-day by the greedy and highly organized few, rather than by the merely normally interested and unorganized many, a legislative system which may have been safe once comes to look decidedly defective.

A FUNDAMENTAL DEFECT.

Further reflection convinces us that this lack of adequate popular control of results is not only a defect but is the fundamental defect in our legislative mechanism. Its correction is therefore essential, and is logically the first step in the modernization of our political machinery. This done, improved legislation is assured as fast as the majority can agree upon it. This done, all unnecessary and undesirable obstacles to progress will have been minimized. Until this is done, we have little reason to hope for permanently better conditions, except at an utterly unreasonable cost in effort and delay. The importance of concentrating attention upon this issue is manifest.

WHAT CAN BE DONE.

The next question is, How shall the public get adequate control of results?

The answer is: We must assert our natural right to revise the work of our representatives. We must do this revising ourselves. There is no one else to do it. To do it we must supplement the existing legislative machinery with a workable, orderly, and properly guarded contrivance to enable us to enact laws, to veto them, to amend them or to repeal them by direct popular vote over the head of legislatures and city councils in the instances when these bodies fail to meet the public will. In other words, we must considerably extend the practice of direct legislation by the people, already familiar to us in the New England town meeting and in the popular ratification of amendments to State constitutions.

Fortunately the way to do this has been devised and tested, and has met expectations on a city-wide and State-wide scale. It involves two devices developed in the last few decades, the initiative and the referendum, now included under the single term direct legislation.

INITIATIVE AND REFERENDUM.

The initiative enables the people to enact desirable measures by direct popular vote when such measures have been or are likely to be ignored, pigeonholed, amended out of shape, or defeated by the legislature. Measures passed in this way may be entirely new laws, or they may, of course, amend or repeal existing laws.

The referendum enables the people, by direct popular vote, to veto recent enactments of their representatives.

The initiative corrects sins of omission.

The referendum corrects sins of commission.

The initiative is set in operation by volunteer groups of citizens—civic, labor, or mercantile organizations—who draw up laws which they think good for themselves or the public, or perhaps both. If they can get a certain moderate percentage (the number of signatures required in these petitions ranges, in different States, from 5 to 8 per cent of the voters for initiative petitions for ordinary laws; from 8 to 15 per cent for initiative petitions for constitutional amendments; and from 5 to 10 per cent for referendum petitions; the usual percentages are 8 for initiative and 5 for referendum petitions) of the voters of the city or State to sign the requisite petition the measure goes to the council or legislature, and if this body refuses to adopt it within a specified time without amendment the measure must be transmitted unchanged to the people for their decision. If the legislative body thinks it can produce a better enactment to the same effect, it may draw it up and send it to the people, with the other, as a competing measure. The voters then choose between them, or reject both. In some jurisdictions, notably Oregon, initiative measures go directly to the people without previous submission to the legislature.

The referendum, likewise upon petition (the number of signatures required in these petitions ranges, in different States, from 5 to 8 per cent of the voters for initiative petitions for ordinary laws; from 8 to 15 per cent for initiative petitions for constitutional amendments; and from 5 to 10 per cent for referendum petitions; the usual percentages are 8 for initiative and 5 for referendum petitions), brings newly passed legislation to the popular tribunal for veto or confirmation.

The need of interference with the work of the representatives is greatly reduced by the mere existence of the system, and the number of laws actually coming to popular vote is a small fraction of the whole.

THE RECALL AND ITS RELATION TO DIRECT LEGISLATION.

Direct legislation is likely to result, before being long in operation, in the establishment of the recall, which is the properly guarded power of removal of unsatisfactory officeholders before the expiration of their terms. Thus the people gain the power of removal, the logical supplement to their already existing power of election.

The recall, though obviously a device indispensable for popular control, and usually, in city charters, established simultaneously with direct legislation, will not be discussed further here. It should be looked upon as one of the numerous desirable but subordinate measures, like preferential voting, direct nominations, and the short ballot, which may safely be left to be gained by subsequent enactment in the larger jurisdictions, like our States. This is strikingly true in Massachusetts, where the recall has been authorized in the constitution since its adoption in 1780, as will be seen from article 8 of that constitution, quoted, below, and could probably, unlike the initiative and referendum, be made operative without constitutional amendment.

FURNISHING INFORMATION TO VOTERS.

The initiative and referendum, as now advocated, carry with them, of course, adequate and systematic means, independent of the newspapers, of furnishing each voter the full text of the measures to be voted on, the condensed form in which they will be printed on the ballot, statement of the reasons for and against each measure, and the names of those behind each proposition.

In Oregon the secretary of state edits this information and mails it in pamphlet form to each voter in the State 55 days before election. At least eight weeks have elapsed by that time since the circulation and filing of the petitions. This is found to afford ample time for deliberation and discussion, and the pamphlet provides an adequate basis for decisions. Those who wish to insert arguments in this pamphlet pay the cost of paper and printing—some $80 per page—and the State bears the rest of the cost of the pamphlet and its distribution. In initiative cases supporting arguments are accepted from none but duly accredited representatives of the friends of the measure; anyone who will pay the cost, however, may insert arguments against such a measure. In referendum cases arguments upon either side may be inserted by anyone willing to pay the cost. In the election of June, 1908, when 19 measures were acted upon by the electorate, the State pamphlet was a document of 125 octavo pages.

Oregon voters protect themselves still further from false or misleading campaign literature by a provision of their admirable corrupt-practices act—a comprehensive measure, based on English practice, which came from the people by the initiative—which prescribes a heavy penalty for circulating political literature without the names of its authors and publishers.

In Oklahoma there is a State pamphlet for informing voters as in Oregon, but with some interesting differences in detail. In Oklahoma, as is proposed in Massachusetts, initiative measures go first to the legislature. Hence all popular voting is upon measures which have had recent legislative action. A joint committee of house and senate is therefore naturally called upon to prepare the arguments supporting the legislature's position. The opposing argument is drawn up by a committee representing the petitioners.

The argument for each side of each measure is restricted by the Oklahoma law to 2,000 words, one-fourth of which may be in answer to opponents' arguments. The direct argument on each side is prepared and submitted to the secretary of state, who transmits it to the opposing side to serve as the basis for the rebuttal just mentioned, and thus complete the argument. These arguments on all the questions are then assembled in the State pamphlet and distributed to all the voters of the State a suitable number of weeks before the election. The cost of printing and distribution is borne by the public treasury.

The Oklahoma plan has some striking merits. It requires the legislature to state the reason for the action which it has taken. Doubtless this reason is often good and sufficient, but perhaps more certainly so when the lawmakers know in advance that they may have to defend their position. The legislature's views on the measure should be of great value to the voters.

More important still, it insures the presentation of a negative argument. Experience in Oregon has already shown that a negative argument is not always forthcoming when left to be supplied by volunteers. A campaign of silence is sometimes wisely preferred by interests at whom an initiative measure is aimed to the revelation of weakness which would result from a formal attempt at defense. They well know that voters are likely, from sheer force of habit, thoughtlessly to concede more in the defense of a long-established wrong than its beneficiaries would dare claim for it. The Oklahoma plan of informing voters requires each side to show its hand. Bluffing is eliminated. Privilege has to come out in the open and state such case as it has. Silent contempt is not permitted to do duty as argument.

Both the Oregon and the Oklahoma systems of disseminating information do much to forestall the misleading of voters through the newspapers. Some expense is involved, but this point is not apt to be pressed except by those opposed to the whole system on other grounds. The body of voters well understand that one bad law or one carelessly granted franchise may cost the public in actual dollars and cents many times the cost of the State pamphlet.

HOPEFUL OUTLOOK FOR REPRESENTATIVE GOVERNMENT.

Supplemented by the initiative and referendum, to serve as a permanent background, and for application when called for, the representative system will gradually but surely enter upon a period of honor and usefulness hitherto never surpassed and probably never equaled. Relieved of the unnatural excess of power under which they now stagger and sometimes fall, legislative bodies will cease to be attractive objects for bribery and secret influence. Logrolling will greatly diminish. The power of bosses and rings will be undermined. Seats in the legislatures will then begin to be unattractive to grafters. At the same time they will become more attractive to high-minded, public-spirited citizens. There will be a fairer chance that a man clean when elected will stay clean. It will make it safe to reduce the size of legislatures and to diminish greatly the number of elective officers. The party machines and bosses once permanently out of control, we may reach the point of competing successfully with the corporations in attracting the best young talent to the public service.

With direct legislation in vogue it is not necessary to retire a faithful legislator to express disapproval of some of his measures. The electorate, while returning the man to office, can overrule the measures with no more reflection on his honor or usefulness than is involved in the overruling of a lower court by a higher. Honest and able repre-

sentatives are hence likely to be repeatedly reelected. Long tenure is as valuable to public as to private business. Where the people have been in control long enough for this result to show, as in Switzerland and in the New England towns, they are seen to act upon this principle. In Switzerland it is rare that a new member appears in a legislative body except to fill a vacancy due to death or voluntary retirement. In New England towns it is common for faithful officials to be retained in office practically for life, their annual reelections being frequently uncontested.

With a seat in the legislature thus robbed of its charms for all but the public-spirited, and with reelection practically assured to men of proved merit, real legislative experts in good number may gradually be developed.

REPRESENTATIVE GOVERNMENT YET TO BE GIVEN A FAIR TRIAL.

In view of such untested possibilities, it is beside the mark to wonder whether representative government is a failure. We begin to realize that it has not yet been fairly tried, at least not in recent years. We realize that our legislators have been working under almost intolerable conditions. They have been continually exposed to temptations that no ordinary man ought to be asked to face, and it is a tribute to human nature that so many of our legislators have stayed straight. Under direct legislation legislators will have all the power that is ever accorded to representatives and agents in business, which is all that is wholesome or attractive to worthy citizens of a democratic republic. That final enacting power is far from essential to the dignity of a legislative body is shown by the universal respect in which our American constitutional conventions have always been held.

IMPROVED STATUS OF THE VOTER.

While a sufficiency of power is thus left with the representatives, a salutary increase of responsibility is thrown upon the voter. It brings him, to some purpose, into closer touch with great affairs. It enables him to vote for measures apart from men, and for men apart from measures. He can begin to assume the stature of a man, to become a sovereign in fact as well as in fancy. It will enable him to settle something at an election besides the party label of officeholders, which in turn settles little except which faction shall dispense the spoils of office. For we know only too well that platforms are "merely to get in on, not to ride on." Even if they were expected to be observed, platforms are composites which rarely represent, except in the roughest way, the views of any one thoughtful voter.

SIMPLICITY OF THE VOTER'S TASK.

The new task proposed for the voter, though inspiring, is relatively simple. It differs widely from legislation in the ordinary sense.

The originating and drafting of bills can manifestly never fall as a burden on the mass of the voters. For this service the community can always command ability as wise, disinterested, and as practiced in legislation as any who now do such work. The average voter's part in the work is deliberation, discussion, and the registry of his decision. This is no new task for him; the only novelty is in having a chance to do it intelligently, and to see his decision go into effect.

The voter, going into the booth, has known for months just what is coming up and in just what form it is coming up. There is no thought of possible amendment. With regard to each measure he has simply to approve or reject. He has had plenty of time to make up his mind. If a measure is objectionable in purpose or form, or is lacking in clearness, he will of course reject it and await—or cause—its reappearance in a more acceptable form at a subsequent election.

The voter is thus more like a juror than like a legislator. His capacity for intelligent, discriminating work at a single election is therefore large—much larger, as experience shows, than at first thought might seem possible.

In 1909, for example, the voters of Portland, Oreg., in a city election, besides voting for mayor and other officers, voted discriminatingly and with sustained interest on 35 measures, 13 of which they passed. The average vote on each of the 35 measures was slightly over 81 per cent of the total vote for mayor, with a range from 75 per cent to 90 per cent. The majorities, both yes and no, were sometimes heavy, sometimes light. There is every evidence that the voting in each case reflected the calm judgment of the voters.

In Denver, in the election of May, 1910, the voters, besides electing city officers, dealt discriminatingly with a list of 21 measures, some of them trickily worded. Moreover, in this case, they had to face an enormous corruption fund and all that the combined party machines and selfish interests could do to mislead. The result was a triumph for the people at every significant point.

The people's capacity for direct legislation is not likely to be subjected to severer tests than it has already stood with signal success.

NEW TALENT FREELY ENLISTED FOR PUBLIC SERVICE.

Through direct legislation the State will offer an attractive field of usefulness for such of her citizens as do not care to give up their whole time to public life. Public-spirited citizens, without dislocation of business or profession, may and will devote a much larger share of their time than now to the consideration of public questions. If they conceive of a desirable step in legislation, they will not have to contrive to get into office and to stay there long enough to accomplish their ends. They have a dignified and honorable method of presenting to the final authority for adoption or rejection the best fruits of their labors, free from the risk of mutilation or distortion by ill-informed, overworked, or corrupt legislatures. This alone would be a powerful means of bringing spontaneously to the public service, and at no expense, a large amount of talent of the best possible sort for which there is now little encouragement in public life. This is the talent on which we probably must depend for the most serious lawmaking, and which we have had little chance to utilize. The legislature will thus be facing a reasonable and wholesome competition and the public can not fail to profit thereby.

DIRECT LEGISLATION A SAFEGUARD AGAINST MOB RULE.

Sometimes officeholders or party machine men profess a great fear that direct legislation will result in "mob rule." This must be taken to mean that they fear, probably with reason, that the people, after weeks of deliberation and with adequate information, would not support their pet schemes. Prospective abundance of popular majorities in their favor would neither excite their alarm nor be called by them "mob rule." No; mob action finds a more promising field in nominating conventions and even town meetings than in the long process of gathering signatures, weeks of discussion and deliberation, and the quiet vote on an Australian ballot in isolated, individual booths.

Direct legislation is not only a safeguard against mob rule, but against the only thing likely with us to lead to violent revolution, namely, machine rule for the benefit of the privileged few. Majority rule precludes both mob rule and machine rule, for majority rule brings into play the great patient mass of honest, hardworking citizens, ordinarily silent and little felt. They abhor alike the violent methods of the mob and the intriguing of "politics." No less do they shrink from making themselves individually conspicuous in hopelessly protesting against powerful wrongs which they can, though they ought not to, endure. They are likely to suffer in silence until driven to extremes, rather than seek relief through the distasteful and inadequate means now at their disposal.

To provide the people with orderly and regular means of expressing themselves on equal terms with all their neighbors, with the certainty that their will thus expressed will take effect, is the logical way to insure the healthy and natural progress which in the long run is the only preventive of violent upheaval.

DEEPER VALUE OF DIRECT LEGISLATION.

An additional advantage in direct legislation is the education which it affords the average voter. One can not help believing that the consequent toning up of the public standard of thought and morals would be in the long run the most important feature of the system. Direct legislation tends thus automatically to produce a highly trained and self-respecting electorate and to lay the deepest and most promising foundation for permanent good government.

Direct legislation is the only orderly means known for accurately and unmistakably expressing the public will as to legislation and for making it prevail. It gives at last a fair approach to a proper and worthy means of registering public sentiment, well defined by some one as "the deliberate and reasoned judgment" of the people. It is as effective a balance wheel against mere popular clamor as it is a safeguard against the silent scheming of the crafty few. Direct legislation thus opens for the first time a fair prospect for the early realization of the cherished American ideal—a government by as well as of and for the people.

DEVELOPMENT OF DIRECT LEGISLATION.

The direct legislation idea is no novelty among free peoples. It may be seen in the institutions of the Plymouth Colony. It appears in our time-honored New England town meeting, and the even more ancient Swiss Landesgemeinde and German folkmoot, all of them perfect exemplifications of the direct legislation principle on a small scale. It appears in our popular ratification of State constitutions and their amendments, usually insisted upon from the first, in spite of the pitifully inadequate facilities of our early days.

More recently we note the steady extension of direct legislation through the initiative and referendum from Canton to Canton in Switzerland, its application to Swiss Federal legislation—the referendum in 1874 and the initiative for constitutional amendments in 1891—and its adoption in the last decade by city after city and State after State in this country. Direct legislation (usually accompanied from the start by the recall) is an essential feature of nearly all modern city charters, and those without it will doubtless have to add it sooner or later to get satisfactory results. Notable among the direct legislation cities stand Los Angeles, Des Moines, our own Haverhill and Gloucester, and the newest recruits, Berkeley, Cal.; Colorado Springs, Grand Junction, Colo.; and Burlington, Iowa. Similar examples among the States are South Dakota since 1898, Oregon since 1902, Montana since 1906, Oklahoma since 1907, Maine and Missouri since 1908, and Arkansas and Colorado in 1910.

HOW IT WORKS IN SWITZERLAND.

For examples of the effect of direct legislation, we naturally turn first to Switzerland, where it has been in operation on what may be called a large scale for 50 to 80 years. With the aid of direct legislation, as a result of its moral influence as well as by its direct application, Switzerland has, wherever she has applied it, rid herself of the misrule and exploitation which were previously rampant, as they had been for centuries, in all but the minute but ultrademocratic Cantons. (It is to these little Cantons, including less than 10 per cent of the area and less than 7 per cent of the population of the present whole country, that Switzerland owes her otherwise quite undeserved reputation for century-old free political institutions.) Thanks to sound democratic idealism, supported by suitable machinery for its expression, she has now come to be an admirably governed country.

Mr. James Bryce, the present English ambassador to the United States, declared to a Cambridge audience in 1904 that Switzerland is the most successful democracy that the world has ever seen.

Further expert testimony to what is generally known and admitted by the well-informed and disinterested is hardly needed, but the New International Encyclopedia in its article on Switzerland expresses it so naïvely that it may be worth citing. After a lengthy account of the civil wars and political turmoil in the early part of the nineteenth century, it disposes of the rest of the century with the single remark that "the history of Switzerland for the past quarter of a century has been very uneventful, though marked by a steady material, intellectual, and political growth."

All this does not mean that Switzerland is an unalloyed paradise. Some of the great human problems seem as far from solution in Switzerland as elsewhere. It does mean that the Government promptly reflects public sentiment, and at the same time is free from violent fluctuations of policy. It means that the Government is administered efficiently and in the interest of the public good. It means that Switzerland, with a form of government modeled largely upon our own, by a modification which might have been suggested by our Declaration of Independence, has secured good government in a democratic Republic.

OLD-FASHIONED METHODS SURVIVE IN ONE CANTON.

The excellent results in Switzerland are to be seen not only in her Federal affairs, but also in the affairs of an overwhelming majority of her Cantons. We must not, however, overlook Canton Fribourg, the only one of the 22 Swiss Cantons as yet unable to equip herself with the initiative and referendum. She has still the unperfected or "pure" representative system characteristic of our American States and cities and of the old times in the rest of Switzerland. This brings with it, there as here, boss rule and all that boss rule implies. The legislative body is nominated by the boss, elected by the people, and managed by the boss. Prominent citizens are skillfully kept in line by a share in the plunder for themselves, or for their churches or philanthropies, or by fear of loss of favor with the two chief banks, both creatures of the boss. There is bribery, extravagance, subordination of the general interest to private business, the heaviest per capita cantonal debt in Switzerland, and the public apathy which naturally follows widespread hopelessness. The agitation for the initiative and referendum is still kept up by Fribourg patriots as their only hope, but all orderly means of success are in the control of the boss who, of course, fights them, and will fight them for his political life. (This bit of evidence from Fribourg is drawn from an article entitled "The only political boss in Switzerland," by George Judson King, secretary of the Ohio Direct Legislation League, in the Twentieth Century Magazine for July, 1910. The article is based on recent personal observations in Canton Fribourg.)

INITIATIVE AND REFERENDUM MOST DEVELOPED IN IMPORTANT CENTERS.

As a contrast to Fribourg, it should be observed that the chief Cantons of Switzerland, Berne and Zurich, the former a farming, the latter a manufacturing Canton, both far in the lead of their neighbors in population and importance, are among the Cantons having the initiative and referendum in their most radical and readily workable form. Zurich is clearly the most advanced of the Cantons in this respect, and Berne is surpassed, and at that only slightly, by few besides Zurich.

In short, where the initiative and referendum are most readily set in motion, there have developed clean government and leadership in civic and industrial growth. In the only Canton where there is neither the initiative and referendum nor pure democracy there is misrule and political apathy of the familiar American type.

SWITZERLAND AN ADEQUATE PRECEDENT FOR AMERICAN STATES AND CITIES.

The Swiss success under perfected representative government may reasonably be expected to be repeated in this country, for the strength of the system lies in giving common human nature a fair chance to do itself justice. Human nature in Switzerland is very much like that elsewhere. That it is like that in this country is to be seen from the fact that representative government without direct popular control results in demoralization and bad government there just as it does here, and in just the same way there as it does here.

It is sometimes suggested, however, that little Switzerland, good as her results are conceded to be, is not an adequate precedent for an immense nation like the United States. But a small nation may exemplify a principle essential to the success of a large nation. An ocean liner must obey the laws of steam engineering as well as a tugboat. A sound fundamental principle holds, regardless of the scale of the enterprise. That a self-governing people must have effective control over the laws under which they live would seem to be a principle of this kind. Details may require adjustment, but the principle will hold. But all that aside, the important comparison is not so much with our Nation as with our cities and States. Switzerland, unhomogeneous in population, preeminently a manufacturing nation, larger than Massachusetts, Rhode Island, and Connecticut combined, with a population slightly larger than that of Massachusetts, is plainly an excellent precedent for the adoption of direct legislation by individual American cities and States.

Moreover, there may never be need for a Federal initiative and referendum system for this country. With the rings once permanently ousted from our cities and States, the Federal Government should automatically run clear, for the rings that do the plundering at Washington could manifestly not long survive without their intrenchments in the cities and States. At any rate, it is obviously correct tactics now to go right ahead for the initiative and referendum in States and cities. Our only disappointments with it, judging by experience elsewhere, are likely to arise from excessive restrictions which the legislatures may impose upon it.

NEW ENGLAND STATES ESPECIALLY FITTED FOR DIRECT LEGISLATION.

New England, the home of the town meeting, enjoying the inspiration of the Massachusetts and other New England States constitutions, with Maine already in the direct-legislation ranks, may be expected to take especially kindly to this new and long step toward the realization of her ancient ideals.

The real questions for us in New England to answer are:

1. Are we now as fit for this forward step as the Swiss were when they were putting the system in operation 30 to 50 years ago?

2. Is not even a complicated law, properly explained and vouched for, as suitable a thing for a popular vote as a choice between complicated candidates whose actions no one can foresee?

3. Is not an occasional vote on an ordinary law a natural and reasonable addition to our time-honored system of popular votes on State constitutions and their amendments?

4. Is it not worth while to disentangle measures from men and submit to popular vote definite and distinct propositions instead of mixtures of candidates, parties, and platforms?

ENCOURAGEMENT FROM OREGON.

To ask these questions in America is to answer them in the affirmative. All parts of the country are coming to see the point. Oregon, nearly half as large again as all New England combined, is setting us a most encouraging example.

Seven years ago she adopted direct legislation. She was then deep in political corruption. Thanks to the initiative, and measures secured with it which legislatures had refused to pass, she has made great progress toward better government, and the house cleaning is going right on. (See the speech of Senator BOURNE of Oregon in the United States Senate, May 5, 1910—obtainable from the Massachusetts Direct Legislation League—for an extended description of this remarkable work. Senator BOURNE, a Republican and by birth a Massachusetts man, and his colleague, Senator CHAMBERLAIN, a Democrat, born in Mississippi, are alike active advocates of the initiative and referendum, after observing its eight years of operation in their home State.)

The outcries of the local plunderers show that they feel their power slipping away. Their intrigues for the destruction of the initiative and referendum show that they know the cause.

WHAT THE FATHERS WERE TRYING TO DO.

We shall be interested to see how direct legislation fits in with the ideas of how wonderfully farsighted and successful constitution framers. It will be worth while to quote a few passages from the constitution of the Commonwealth of Massachusetts—the oldest of their works—the spirit of which is no stranger in other parts of the country. Articles V, VII, and VIII of that honored document will give the ideas of the fathers on the relation of the people to their representatives:

"ART. V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents and are at all times accountable to them.

"ART. VII. Government is instituted for the common good; for the protection, safety, prosperity, and happiness of the people, and not for the profit, honor, or private interest of any one man, family, or class of men. Therefore the people have an incontestable, unalienable, and indefeasible right to institute government, and to reform, alter, or totally change the same when their protection, safety, prosperity, and happiness require it.

"ART. VIII. In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life, and to fill up vacant places by certain and regular elections and appointments."

LACK OF STEAM AND ELECTRICITY THE OBSTACLE TO DIRECT LEGISLATION AT THE OUTSET.

On reading these sturdy New England doctrines one must conclude that the only reason why the fathers did not then and there establish direct legislation for the State and for cities as they might develop was that it was at that time physically impossible. Mechanical invention had not advanced far enough to permit it even if they had conceived the idea. We must not forget that their facilities for disseminating information and gathering returns were little superior to those of Julius Cæsar. They knew no more of railways than Cæsar did; such highways as they had were not so good as Cæsar's. But they resolutely did all that was practicable under the mechanical conditions of their time. They provided an obligatory referendum on the adoption and amendment of the constitution of the Commonwealth, even though it might and did take weeks to put the matter to vote and get the returns. And it is clear that nothing was farther from their minds than that the will of representatives should prevail over the will of the people, some modern officeholders to the contrary notwithstanding.

Now that direct legislation, as a working institution on a large scale, has become a possibility through the introduction of the modern means of spreading news and ideas by the telegraph, high-speed printing press, and the railway, we can proceed from the point where the fathers were forced to stop and can vindicate more clearly than ever the soundness of their noble idealism.

AN ATTRACTIVE OUTLOOK.

In closing it may be said that the initiative and referendum appeal particularly to progressive Americans in whom still lives the spirit of the liberty-loving men who founded this Nation. Such citizens readily comprehend the necessity of controlling the important results and of not limiting themselves to toying at government while privilege does the governing. They take great satisfaction, moreover, in a remedial measure so thoroughly in harmony with the old ideals and institutions. It involves, after all, only a bit of additional machinery, and depends for its success only upon our fitness for self-government.

Of course, direct legislation is only a piece of mechanism. It will not suffice merely to set it up. It must be made to work promptly and with vigor when required. This will take real citizens. Oregon shows that such citizens still exist—some of them of New England or other American stock, some of them born in Old-World monarchies.

The success in Switzerland; the steady progress and gratifying results in America; the strenuous opposition by favorites or managers of political machines; the misrepresentations by professional lobbyists and conspicuous officeholders, echoed in ready-made "editorials," all indicate that the initiative and referendum are measures justly destined to receive an increasing amount of public attention and regard.

With the initiative and referendum in force, we shall be equipped as never before to resist enemies from within; enemies far more dangerous to our freedom than any foreign foe.

The initiative and referendum may well be the means of instituting on a permanent basis the responsible kind of representative government which our fathers lived and died to secure.

The initiative and referendum may well prove to be the salvation of the momentous experiment led by Jefferson, Hancock, Franklin, the Adamses, and Washington.

APPENDIX.

How simple an enactment would suffice to establish direct legislation in Massachusetts can perhaps best be shown by quoting in full the constitutional amendment brought before the 1911 legislature (house bill No. 365) by the Massachusetts Direct Legislation League:

ARTICLE OF AMENDMENT.

"The legislative authority of the Commonwealth shall be vested in the general court; but the people reserve to themselves the initiative which is the power to propose acts, statutes, laws, resolves, and amendments to the constitution, and to enact, adopt, or reject the same at the polls independently of the general court; and the people also reserve to themselves the referendum, which is the power at their own option to approve or reject at the polls any act or resolve of the general court or any part or parts thereof.

"The initiative shall be set in operation by petition to the general court requiring for an act or resolve the signatures of legal voters to the number of 8 per cent of the total vote cast for governor at the last preceding election; and for an amendment to the constitution the signatures of legal voters to the number of 15 per cent of said total vote. The full text of the measure so proposed shall be included in the petition.

"Initiative petitions shall be filed in the office of the secretary of the Commonwealth and may be so filed either before the general court assembles or within three weeks thereafter. The secretary shall transmit a copy of the petition without the signatures to each branch of the general court within four weeks after the general court assembles.

"If a measure thus petitioned for, other than an amendment to the constitution, is not passed without amendment in that session, or if vetoed by the governor is not passed over his veto, it shall be referred to the people at the next State election, together with such amended form as the general court may recommend; but such amended form shall not take effect unless approved by the people at such election. If passed without amendment it shall still be subject to a referendum petition.

"If the measure thus petitioned for is an amendment to the constitution it shall be referred to the people at the next State election together with such amended form as the general court may recommend.

"The referendum may be ordered either by the general court, by a majority yea-and-nay vote of all the members of each house, or by petition requiring the signatures of legal voters to the number of 5 per cent of the total vote cast for governor at the last preceding election. Such petition shall be filed in the office of the secretary of the Commonwealth within 90 days after the act or resolve shall have been signed by the governor or passed over his veto. A referendum may be ordered against the whole or against one or more sections or parts of any act or resolve.

"An act or resolve shall not take effect until the expiration of 90 days after it shall have been signed by the governor or passed over his veto, except such as shall be declared to be an emergency measure. Such declaration shall be made in a preamble which shall state the facts constituting the emergency and contain the statement that therefore the act or resolve is necessary for the immediate preservation of the public peace, health, or safety. A special vote shall be taken on the preamble separate from the vote on the act or resolve or any part of it, and a two-thirds yea-and-nay vote of all the members of each house shall be required for the adoption of the preamble. No grant of any franchise or renewal or extension thereof either in respect of time or the area of its operation shall be declared to be an emergency measure. Any measure or part thereof upon which a referendum has been ordered shall either as to the whole or such part thereof be suspended from taking effect until it becomes law on approval by the people, except that an emergency measure shall take effect as therein provided.

"Measures referred to the people of the Commonwealth shall be voted on at the next regular State election.

"A measure submitted to the people shall become law or a part of the constitution if approved by a majority of the votes cast thereon, and shall take effect at the expiration of 30 days after the election at which it was approved or at such time after the expiration of said 30 days as may be therein provided. An emergency measure, or any section or part thereof, shall upon referendum become void at the expiration of 30 days after the election at which it shall have been disapproved by a majority of the votes cast thereon.

"The veto power of the governor shall not extend to measures approved by the people.

"Measures approved by the people at any one election and in conflict in one or more of their provisions shall all take effect as to provisions not in conflict. In each case of conflicting provisions in such measures, that one of the provisions in conflict shall take effect which was contained in that one of such measures which received the greatest number of affirmative votes, and all others of such conflicting provisions shall become void.

"The enacting style in making and passing all acts, statutes, and laws by the general court, both those originating in either branch of the general court and those proposed by initiative petition, shall be—'Be it enacted by the senate and house of representatives in general court assembled and by the authority of the same.' The enacting style of all acts, statutes, and laws, both those in a form proposed by initiative petition and passed by the people and those in a form recommended by the general court and approved by the people, shall be: 'Be it enacted by the people of the Commonwealth of Massachusetts and by the authority of the same;' and of all acts, statutes, and laws approved upon referendum shall be: 'Be it enacted by the senate and house of representatives in general court assembled, and by the authority of the same and by the approval of the people upon referendum.'

"Every measure referred to the people shall be described on the ballots clearly and simply by the secretary of the Commonwealth, subject to review by a court of equity.

"The secretary of the Commonwealth shall print and distribute to each voter a sample ballot, together with the full text of every measure to be submitted to a vote of the people, and the general court shall provide for public dissemination of information and arguments thereon.

"In carrying out the provisions of this amendment, which shall be self-enforcing, the secretary of the Commonwealth and all other officers are to be guided by the general laws and by the terms of this amendment until further provisions shall be made therefor by legislation.

"All provisions in the existing constitution inconsistent with the provisions herein contained are hereby wholly annulled."

This amendment follows closely the lines of the Oregon enactment, which has been working so well since 1902. It differs, however, in requiring that each measure proposed by initiative petition shall go first to the legislature and be transmitted to popular vote only if the legislature refuses to pass it unamended, or unless a referendum be demanded upon it after passage by the legislature; also in requiring a larger number of signers for constitutional amendments than for other measures.

EXHIBIT C.

THE CORRUPT AND ILLEGAL PRACTICES PREVENTION ACT, 1883.

[46, 47 Vict., chap. 51.]

An act for the better prevention of corrupt and illegal practices at parliamentary elections. [25th Aug., 1883.]

[Words in brackets repealed by the statute law revision act, 1898.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

CORRUPT PRACTICES.

1. [Whereas under section 4 of the corrupt practices prevention act, 1854, persons other than candidates at parliamentary elections are not liable to any punishment for treating, and it is expedient to make such persons liable; be it therefore enacted in substitution for the said section 4 as follows:]

"(1) Any person who corruptly by himself or by any other person, either before, during, or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any meat, drink, entertainment, or provision to or for any person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election, or on account of such person or any other person having voted or refrained from voting, or being about to vote or refrain from voting at such election, shall be guilty of treating.

"(2) And every elector who corruptly accepts or takes any such meat, drink, entertainment, or provision shall also be guilty of treating."

Everything in this section depends upon the word "corruptly," and the old doctrine of the election courts was that treating to be corrupt must be with the view of influencing the individual vote and voter. The decisions at Hexham and Rochester carry the principle much further, and render it absolutely necessary for the candidate and the association to find neither money for nor the provisions themselves for social gatherings at which "entertainment" (in the way of food or drink) is provided. The judges held that such provision was an infringement of the act, and unseated the member for even finding a small deficit of a Primrose League gathering. (4 O'M. & H., 150, 156.)

So far the law has not been put in force against anyone accepting entertainment, though two town councilors were scheduled for standing drinks and cigars to men attending a political meeting of the party to which they were opposed.

The judicial test as to corrupt treating.—I should not like it to be supposed that there was any inherent difference between a cup of tea and a bun, and a glass of beer and a sandwich. Inherently a cup of tea and a bun contain just as much of the element of corruption as a glass of beer and a sandwich. I had to ask myself the question whether the entertainment was given with the corrupt intention of corruptly influencing the voters. That is a question of fact and a question of intention. (Mr. Justice Vaughan Williams, Rochester.)

It is not sufficient in order to make out a case of treating or bribery to show that in this place or in that place this kind of refreshment and treating has taken place. One must be careful to see that they really are connected with the election in the sense that the treating was administered for the purpose of influencing the vote. (Mr. Justice Wills, Montgomery Election Petition, 4 O'M. & H., 169.)

In the Norwich case (54 L. T., 625) it was held by Mr. Justice Cave that treating, within the act, did not apply to cases of social equals giving hospitality, but "to treating by superiors to secure the good will of another * * * for the purpose of influencing the vote of the person treated," and not in return for small services, as in the case of a railway guard.

2. Every person who shall directly or indirectly, by himself or by any other person on his behalf, make use of or threaten to make use of any force, violence, or restraint, or inflict or threaten to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting, at any election, or who shall by abduction, duress, or any fraudulent device or contrivance impede or prevent the free exercise of the franchise of any elector, or shall thereby compel, induce, or prevail upon any elector either to give or to refrain from giving his vote at any election, shall be guilty of undue influence.

"Undue influence" has received its latest judicial interpretations in the decisions of the Irish judges in the North and South Meath election petitions. (4 O'M. & H., 131, 186.)

Intimidation, to invalidate an election, must be of such a character, so general and extensive in its operation, that it can not be said that the polling was a fair representation of the opinion of the constituency. (Lord Bramwell, North Durham, 2 O'M. & H., 136.)

Undue spiritual influence is a much more subtle form of influence, and its full effect is much more difficult to estimate than undue influence by physical violence. (Mr. Justice Andrews, North Meath.)

3. The expression "corrupt practice," as used in this act means any of the following offenses, namely, treating and undue influence, as defined by this act, and bribery, and personation, as defined by the enactments set forth in Part III of the third schedule to this act, and aiding, abetting, counseling, and procuring the commission of the offense of personation, and every offense which is a corrupt practice within the meaning of this act shall be a corrupt practice within the meaning of the parliamentary elections act, 1868.

"Corrupt practices," hereinafter legally defined, bear penalties which are set out in sections 36, 37, and 50.

"Personation" can only be punished by imprisonment with hard labor.

4. Where upon the trial of an election petition respecting an election for a county or borough the election court, by the report made to the speaker in pursuance of section 11 of the parliamentary elections act, 1868, reports that any corrupt practice other than treating or undue influence has been proved to have been committed in reference to such election by or with the knowledge and consent of any candidate at such election, or that the offense of treating or undue influence has been proved to have been committed in reference to such election by any candidate at such election, that candidate shall not be capable of ever being elected to or sitting in the House of Commons for the said county or borough, and if he has been elected, his election shall be void; and he shall further be subject to the same incapacities as if at the date of the said report he had been convicted on an indictment of a corrupt practice.

5. Upon the trial of an election petition respecting an election for a county or borough, in which a charge is made of any corrupt practice having been committed in reference to such election, the election court shall report in writing to the speaker whether any of the candidates at such election has been guilty by his agents of any corrupt practice in reference to such election; and if the report is that any candidate at such election has been guilty by his agents of any corrupt practice in reference to such election, that candidate shall not be capable of being elected to or sitting in the House of Commons for such county or borough for seven years after the date of the report, and if he has been elected his election shall be void.

6. (1) A person who commits any corrupt practice other than personation, or aiding, abetting, counseling, or procuring the commission of the offense of personation, shall be guilty of a misdemeanor, and on conviction on indictment shall be liable to be imprisoned, with or without hard labor, for a term not exceeding one year, or to be fined any sum not exceeding £200.

(2) A person who commits the offense of personation, or of aiding, abetting, counseling, or procuring the commission of that offense, shall be guilty of felony, and any person convicted thereof on indictment shall be punished by imprisonment for a term not exceeding two years, together with hard labor.

(3) A person who is convicted on indictment of any corrupt practice shall (in addition to any punishment as above provided) be not capable during a period of seven years from the date of his conviction:

(*a*) Of being registered as an elector or voting at any election in the United Kingdom, whether it be a parliamentary election or an election for any public office within the meaning of this act; or

(*b*) Of holding any public or judicial office within the meaning of this act, and if he holds any such office the office shall be vacated.

(4) Any person so convicted of a corrupt practice in reference to any election shall also be incapable of being elected to and of sitting in the House of Commons during the seven years next after the date of his conviction, and if at that date he has been elected to the House of Commons his election shall be vacated from the time of such conviction.

It is as well during the progress of an election to take care that posters and placards setting out the penalties of corrupt practices and of personation, so rife in large metropolitan and urban constituencies, are publicly exhibited on the walls and in committee rooms.

Each canvass book should contain a summary of offenses under the corrupt-practices act.

For the meanings of the terms used in (3), (*a*) and (*b*), see section 64.

ILLEGAL PRACTICES.

7. (1) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at any election, be made—

(*a*) On account of the conveyance of electors to or from the poll, whether for the hiring of horses or carriages, or for railway fares, or otherwise; or

See section 14.

The payment by the clerk of an agent of a railway fare to an elector voided the return of the member for Pontefract.

In the Lichfield division case (5 O'M. & H., 30, 31) this section was held to be violated by payments for stabling and baiting horses sent overnight for the purpose of conveying voters to the poll. Forty or fifty vehicles had been sent as part of an organized system, but Mr. Baron Pollock said the case might be different "if a gentleman paid money for the baiting of his own horses under same peculiar circumstances;" and Mr. Justice Bruce said he need not consider "whether there would be anything illegal in the friends of the candidate putting up vehicles, horses, and men gratuitously."

In the Southampton case (Austen *v.* Chamberlayne and Simeon (1896), 12 T. L. R., 237) it was proved that an agent of the respondents had paid 2s. for the conveyance of a voter to and from the poll, that one of the respondents, S., and his election agent had taken all

reasonable means to prevent the commission of corrupt and illegal practices, but that the other, C., had not done so. S. was declared duly elected, being relieved from the consequences of the act by section 22, but C.'s election was void. The agent himself then applied for relief from the consequences of his act under section 23, but the court held with regret that as there was no "inadvertence" they had no power to grant him relief in spite of the triviality of the offense.

(*b*) To an elector on account of the use of any house, land, building, or premises for the exhibition of any address, bill, or notice, or on account of the exhibition of any address, bill, or notice; or

This does not apply to a regular advertisement agent or hoarding contractor, but to all payments to voters for putting bills in windows, on walls, etc.

(*c*) On account of any committee room in excess of the number allowed by the first schedule to this act.

Committee rooms which are lent without fee or reward are not counted within the number prescribed by the first schedule.

(2) Subject to such exception as may be allowed in pursuance of this act, if any payment or contract for payment is knowingly made in contravention of this section either before, during, or after an election, the person making such payment or contract shall be guilty of an illegal practice, and any person receiving such payment or being a party to any such contract, knowing the same to be in contravention of this act, shall also be guilty of an illegal practice.

(3) Provided that where it is the ordinary business of an elector as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with such elector, if made in the ordinary course of business, shall not be deemed to be an illegal practice within the meaning of this section.

8. (1) Subject to such exception as may be allowed in pursuance of this act, no sum shall be paid and no expense shall be incurred by a candidate at an election or his election agent, whether before, during, or after an election, on account of or in respect of the conduct or management of such election, in excess of any maximum amount in that behalf specified in the first schedule to this act.

(2) Any candidate or election agent who knowingly acts in contravention of this section shall be guilty of an illegal practice.

The maximum must not be exceeded. Relief under section 23 will only be given in very exceptional cases, and not merely "because the contest was severe." (Ex parte Ayrton. 2 T. L. R., 215.)

At an election.—It is often very difficult to say when an election begins, and consequently whether a payment was made "at" or before an election. In the Lichfield division case ([1895] 5 O'M. & H., 35) Mr. Baron Pollock suggests the test applied in the Walsall case: "I think the limit of time to which we ought to apply our minds is a period commencing from the time when it was first known that the respondent announced his intention to present himself as a candidate for election at the next ensuing election."

The meaning of the words was discussed at length in the Counties of Elgin and Nairn case ([1895] 5 O'M. & H., 1), where Lord McLaren suggests that "election refers to a definite election within the knowledge and contemplation of the parties who are engaged in conducting and managing it," and Lord Kyllachy says the expenses do not refer to the whole expenses of the candidature, but the period to be considered is "not at least much anterior, I will not say to the date of nomination, but to the group or series of events which immediately precede the nomination, and which, as we all know, begin in the case of a general election with the announcement of the dissolution, and in the case of a by-election with the announcement of the vacancy."

It is entirely a matter—I will not say of discretion—but of sound judgment to say how far you may go back.—Mr. Baron Pollock (Lancaster division case (1896), 5 O'M. & H., 45).

The same point arises in the construction of section 28 regarding the payment of a candidate's expenses "at an election" through his election agent, and both sections are frequently considered together.

Payments to improve the registration do not fall within this section, nor yet within section 28 (Kennington case, 4 O'M. & H., 93); nor yet subsidies to a newspaper to advance certain political views, unless it can be shown that such subsidies were not made "until the pressure of an election was being felt." (Lichfield division case [1895], 5 O'M. & H., 35.)

9. (1) If any person votes or induces or procures any person to vote at any election, knowing that he or such person is prohibited, whether by this or any other act from voting at such election, he shall be guilty of an illegal practice.

Under this section the judges held on the Stepney petition that the agent must inform all paid workers that they are debarred from voting if electors in the constituency in which they are so engaged.

(2) Any person who before or during an election knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate shall be guilty of an illegal practice.

The offense here is the knowingly publishing the false statement.

(3) Provided that a candidate shall not be liable, nor shall his election be avoided, for any illegal practice under this section committed by his agent other than his election agent.

The candidate is excused for the acts of any person but his authorized election agent.

10. A person guilty of an illegal practice, whether under the foregoing sections or under the provisions hereinafter contained in this act, shall on summary conviction be liable to a fine not exceeding £100, and be incapable during a period of five years from the date of his conviction of being registered as an elector or voting at any election (whether it be a parliamentary election or an election for a public office within the meaning of this act) held for or within the county or borough in which the illegal practice has been committed.

11. [Whereas by subsection 14 of section 11 of the parliamentary elections act, 1868, it is provided that where a charge is made in an election petition of any corrupt practice having been committed at the election to which the petition refers, the judge shall report in writing to the speaker as follows]:

(*a*) ["Whether any corrupt practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at such election, and the nature of such corrupt practice;]

(*b*) ["The names of all persons (if any) who have been proved at the trial to have been guilty of any corrupt practice;]

(*c*) ["Whether corrupt practices have, or whether there is reason to believe that corrupt practices have, extensively prevailed at the election to which the petition relates";]

[And whereas it is expedient to extend the said subsection to illegal practices:]

[Be it therefore enacted as follows:]

Subsection 14 of section 11 of the parliamentary elections act, 1868, shall apply as if that subsection were herein reenacted with the substitution of illegal practice within the meaning of this act for corrupt practice; and upon the trial of an election petition respecting an election for a county or borough, the election court shall report in writing to the speaker the particulars required by the said subsection as herein reenacted, and shall also report whether any candidate at such election has been guilty by his agents of any illegal practice within the meaning of this act in reference to such election, and the following consequences shall ensue upon the report by the election court to the speaker, that is to say:

(*a*) If the report is that any illegal practice has been proved to have been committed in reference to such election by or with the knowledge and consent of any candidate at such election, that candidate shall not be capable of being elected to or sitting in the House of Commons for the said county or borough for seven years next after the date of the report, and if he has been elected his election shall be void; and he shall further be subject to the same incapacities as if at the date of the report he had been convicted of such illegal practice; and

(*b*) If the report is that a candidate at such election has been guilty by his agents of any illegal practice in reference to such election, that candidate shall not be capable of being elected to or sitting in the House of Commons for the said county or borough during the Parliament for which the election was held, and if he has been elected his election shall be void.

12. [Whereas by the election commissioners act, 1852, as amended by the parliamentary elections act, 1868, it is enacted that where a joint address of both Houses of Parliament represents to Her Majesty than an election court has reported to the speaker that corrupt practices have, or that there is reason to believe that corrupt practices have, extensively prevailed at an election in any county or borough, and prays Her Majesty to cause inquiry under that act to be made by persons named in such address (being qualified as therein mentioned), it shall be lawful for Her Majesty to appoint the said persons to be election commissioners for the purpose of making inquiry into the existence of such corrupt practices;]

[And whereas it is expedient to extend the said enactments to the case of illegal practices;]

[Be it therefore enacted as follows:]

When election commissioners have been appointed in pursuance of the election commissioners act, 1852, and the enactments amending the same, they may make inquiries and act and report as if "corrupt practices" in the said act and the enactments amending the same included illegal practices; and the election commissioners act, 1852, shall be construed with such modifications as are necessary for giving effect to this section, and the expression "corrupt practice" in that act shall have the same meaning as in this act.

The expenses entailed by the proceedings of the commissioners and their report are charged upon the borough or county fund.

ILLEGAL PAYMENT, EMPLOYMENT, AND HIRING.

13. Where a person knowingly provides money for any payment which is contrary to the provisions of this act, or for any expenses incurred in excess of any maximum amount allowed by this act, or for replacing any money expended in any such payment or expenses, except where the same may have been previously allowed in pursuance of this act to be an exception, such person shall be guilty of illegal payment.

The offense must be committed "knowingly." Relief has, so far, been given for any innocent or trivial mistake.

The penalty for "illegal payment" prescribed by section 10 is a fine up to the sum of £100.

14. (1) A person shall not let, lend, or employ for the purpose of the conveyance of electors to or from the poll, any public stage or hackney carriage, or any horse or other animal kept or used for drawing the same, or any carriage, horse, or other animal which he keeps or uses for the purpose of letting out for hire, and if he lets, lends, or employs such carriage, horse, or other animal, knowing that it is intended to be used for the purpose of the conveyance of electors to or from the poll, he shall be guilty of an illegal hiring.

See section 7, subsection 1 (*a*), and notes thereto. This section is an absolute prohibition of hired vehicles or hired horses for the conveyance of voters to the poll. "Illegal hiring" is punished the same as illegal payment.

(2) A person shall not hire, borrow, or use for the purpose of the conveyance of electors to or from the poll any carriage, horse, or other animal which he knows the owner thereof is prohibited by this section to let, lend, or employ for that purpose, and if he does so he shall be guilty of an illegal hiring.

(3) Nothing in this act shall prevent a carriage, horse, or other animal being let to or hired, employed, or used by an elector, or several electors, at their joint cost, for the purpose of being conveyed to or from the poll.

Electors may go to the poll in a hired vehicle at their joint cost, but there must be no free ride given therein to any voter going to the poll.

(4) No person shall be liable to pay any duty or to take out a license for any carriage by reason only of such carriage being used without payment or promise of payment for the conveyance of electors to or from the poll at an election.

15. Any person who corruptly induces or procures any other person to withdraw from being a candidate at an election, in consideration of any payment or promise of payment, shall be guilty of illegal payment, and any person withdrawing in pursuance of such inducement or procurement shall also be guilty of illegal payment.

It is no offense to provide money for a candidate to go to the poll, but it has been discussed whether, if the money is found by another candidate at the election, it is or is not an election expense, and whether it must be returned as part of the election expenses, and is therefore within the maximum permitted.

16. (1) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at any election, be made on account of bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction.

The offense is the payment or contract for payment of the expenditure prohibited in the section.

Mr. Justice Cave has laid down that the payment for a band of music at political gatherings other than during an election is not in itself illegal. What is a banner is clearly laid down in the *Stepney* decision. (4 O'M. & H., 178.)

"Marks of distinction" have been held to include hat cards, for the payment of which the member for Walsall was unseated, but the division between the forbidden "marks of distinction" and the kinds of notice permitted by the act (see the first schedule) is a very narrow one, so that in the Walsall case (4 O'M. & H., 123) payment for hat cards "specially adaptable to place in the hat" was held a breach of the act, but in the eastern division of Clare case (4 O'M. & H., 162) cards not made to fit the hat, though sometimes fastened to the hat by electors, were held to be merely canvassing cards, and not "marks of distinction."

(2) Subject to such exception as may be allowed in pursuance of this act, if any payment or contract for payment is made in contravention of this section, either before, during or after an election, the person making such payment shall be guilty of illegal payment, and any person being a party to any such contract or receiving such payment shall also be guilty of illegal payment if he knew that the same was made contrary to law.

17. (1) No person shall, for the purpose of promoting or procuring the election of a candidate at any election, be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever, except for any purposes or capacities mentioned in the first or second parts of the first schedule to this act, or except so far as payment is authorized by the first or second parts of the first schedule to this act.

Part I of the first schedule sets out in detail the list of those who may be legally employed.

At a parliamentary election D., at the suggestion of his "consulting committee," and on the advice of his agent, provided refreshments for a number of "workers," whose chief duty was to bring up voters to the poll. Held, that these "workers" were illegally "employed for payment" within the meaning of the section; consequently D.'s election was void. (Schneider *v.* Duncan, 54 L. T., 618.)

It must be remembered that by section 64 payment means pecuniary or other reward or other equivalent for money. Therefore assistants may be "employed for payment," although, as in the present case, no money may actually be given to them. Similarly, under previous acts permission to shoot rabbits had been held equivalent to "payment." (Borough of Launceston case, 30 L. T., 823.)

In the Ipswich case (Packard *v.* Collings & West, 54 L. T., 619) payments to persons to keep order at election meetings were held illegal within this section.

(2) Subject to such exceptions as may be allowed in pursuance of this act, if any person is engaged or employed in contravention of this section, either before, during, or after an election, the person engaging or employing him shall be guilty of illegal employment, and the person so engaged or employed shall also be guilty of illegal employment if he knew that he was engaged or employed contrary to law.

18. Every bill, placard, or poster having reference to an election shall bear upon the face thereof the name and address of the printer and publisher thereof; and any person printing, publishing, or posting, or causing to be printed, published, or posted, any such bill, placard, or poster as aforesaid which fails to bear upon the face thereof the name and address of the printer and publisher, shall, if he is the candidate, or the election agent of the candidate, be guilty of an illegal practice; and if he is not the candidate, or the election agent of a candidate, shall be liable on summary conviction to a fine not exceeding £100.

Where a notice bears the name and address of the party signing or issuing it, but without the printer's imprint, it has been held that such notice does not offend against this section. It is, however, best to have the printer's imprint on all printed election matter.

Relief can not be given to the printer himself who neglects to comply with this provision.

19. The provisions of this act prohibiting certain payments and contracts for payments, and the payment of any sum, and the incurring of any expense in excess of a certain maximum, shall not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of the same being in contravention of this act.

20. (*a*) Any premises on which the sale by wholesale or retail of any intoxicating liquor is authorized by a license (whether the license be for consumption on or off the premises), or

(*b*) Any premises where any intoxicating liquor is sold, or is supplied to members of a club, society, or association other than a permanent political club, or

(*c*) Any premises whereon refreshment of any kind, whether food or drink, is ordinarily sold for consumption on the premises, or

Where it is found necessary either to hire or use a public room at a licensed house, the agent should serve upon the landlord a notice that he will not be responsible for the payment of any meat, drink, or entertainment, and the publican should also be served with a copy of the sections which imperil his license if treating is found to take place on his premises.

(*d*) *The premises of* any public elementary school in receipt of an annual parliamentary grant, or any part of any such premises, shall not be used as a committee room for the purpose of promoting or procuring the election of a candidate at an election, and if any person hires or uses any such premises or any part thereof for a committee room he shall be guilty of illegal hiring, and the person letting such premises or part, if he knew it was intended to use the same as a committee room shall also be guilty of illegal hiring.

A schoolmaster's house must not be used as a committee room when he occupies it in right of his office as schoolmaster.

Provided, That nothing in this section shall apply to any part of such premises which is ordinarily let for the purpose of chambers or offices or the holding of public meetings or of arbitrations, if such part has a separate entrance and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

Meetings may be held at political clubs at parliamentary, but not at municipal or county council elections, and the same difference exists in the law as to the use of public houses for political meetings as differing from municipal.

21. (1) A person guilty of an offense of illegal payment, employment, or hiring shall, on summary conviction, be liable to a fine not exceeding £100.

(2) A candidate or an election agent of a candidate who is personally guilty of an offense of illegal payment, employment, or hiring shall be guilty of an illegal practice.

This proviso brings with it all the liabilities set out in sections 10 and 11—incapacity of voting for five years, etc.

EXCUSE AND EXEMPTION FOR CORRUPT OR ILLEGAL PRACTICE OR ILLEGAL PAYMENT, EMPLOYMENT, OR HIRING.

22. Where, upon the trial of an election petition respecting an election for a county or borough, the election court report that a candidate at such election has been guilty by his agents of the offense of treating and undue influence, and illegal practice, or of any of such offenses in reference to such election, and the election court further report that the candidate has proved to the court—

(*a*) That no corrupt or illegal practice was committed at such election by the candidate or his election agent, and the offenses mentioned in the said report were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent; and

(*b*) That such candidate and his election agent took all reasonable means for preventing the commission of corrupt and illegal practices at such election; and

(*c*) That the offenses mentioned in the said report were of a trivial, unimportant, and limited character; and

(*d*) That in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and of his agents;

Then the election of such candidate shall not, by reason of the offenses mentioned in such report, be void, nor shall the candidate be subject to any incapacity under this act.

As to relief, it may be applied for during the sitting of an election court by public notice being also given in the constituency. It can be ordinarily applied for to the divisional court of the royal courts of justice upon affidavits being filed, public notices issued in the ward, or constituency affected, and by two days' notice to the opposing party or candidate and the returning officer.

There are some important judicial utterances as to who are entitled to relief reported in the Rochester and Stepney decisions of Mr. Justice Cave and Mr. Justice Vaughan Williams.

The intention of this act of Parliament is to draw the strings of the law as tightly around practices at election as possibly can be, but at the same time I think that the law intended, by the twenty-second and twenty-third sections, to enable judges to relieve candidates from all responsibility for contempt and illegal practices where they have satisfied the judges that they have done everything on their part to render the election pure and free from corruption. It is of all things essential that those who stand for Parliament should feel that the success or failure of a petition against them does not depend upon matters which are beyond their control. (4 O'M. & H., 160.)

It will be noticed that by section 22 candidates may be relieved from responsibility for treating, undue influence, and illegal practice by agents, but such relief will not be given in case of bribery by an agent. (Norwich case, Birkbeck *v.* Bullard, 54 L. T., 625, 628.)

For an instance of relief granted to a candidate but not to his agent see note under section 7 (1), (*a*).

23. Where, on application made, it is shown to the high court or to an election court by such evidence as seems to the court sufficient—

(*a*) That any act or omission of a candidate at any election, or of his election agent or of any other agent or person would, by reason of being a payment, engagement, employment, or contract in contravention of this act, or being the payment of a sum or the incurring of expense in excess of any maximum amount allowed by this act, or of otherwise being in contravention of any of the provisions of this act, be but for this section an illegal practice, payment, employment, or hiring; and

(*b*) That such act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith; and

(*c*) That such notice of the application has been given in the county or borough for which the election was held as to the court seems fit;

And under the circumstances it seems to the court to be just that the candidate and the said election and other agent and person, or any of them, should not be subject to any of the consequences under this act of the said act or omission, the court may make an order allowing such act or omission to be an exception from the provisions of this act, which would otherwise make the same an illegal practice, payment, employment, or hiring, and thereupon such candidate, agent, or person shall not be subject to any of the consequences under this act of the said act or omission.

Mere triviality of the offense—even absence of intention to break the act—is not sufficient reason for granting relief, unless there is also "inadvertence." (See note to sec. 7 (1), *a*.)

Some doubt appears to exist as to the exact meaning of "inadvertence." In the Stepney case Mr. Justice Cave held that inadvertence "may be either that the party was not aware of what was done, or that he did not know that it was wrong" (4 O'M. & H., 182); but in the Walsall case, which had at that time been decided but not yet reported, Mr. Baron Pollock and Mr. Justice Hawkins laid it down that a misconception of the law could not constitute inadvertence so as to entitle the wrongdoer to relief (4 O'M. & H., 128); while in the Stepney case (4 O'M. & H., 34, 53) Mr. Justice Denman gave relief for inadvertence where an illegal action had been committed because the act was "by no means easy to master," but intimated that he might not do so again. See also Mr. Justice Vaughan Williams's interpretation of sections 22 and 23 in the Rochester case in note to section 22.

ELECTION EXPENSES.

24. (1) On or before the day of nomination at an election a person shall be named by or on behalf of each candidate as his agent for such election (in this act referred to as the election agent).

(2) A candidate may name himself as election agent, and thereupon shall, so far as circumstances admit, be subject to the provisions of this act, both as a candidate and as an election agent, and any reference in this act to an election agent shall be construed to refer to the candidate acting in his capacity of election agent.

(3) On or before the day of nomination the name and address of the election agent of each candidate shall be declared in writing by the candidate or some other person on his behalf to the returning officer, and the returning officer shall forthwith give public notice of the name and address of every election agent so declared.

(4) One election agent only shall be appointed for each candidate, but the appointment, whether the election agent appointed be the candidate himself or not, may be revoked, and in the event of such revocation or his death, whether such event is before, during, or after the election, then forthwith another election agent shall be appointed and his name and address declared in writing to the returning officer, who shall forthwith give public notice of the same.

The election agent must be named on or before the nomination day.

The returning officer must have notice of the appointment, and public notice must be given in compliance with subsection 3.

The candidate may be his own agent.

There can only be one election agent in a borough.

In a county there may be one election agent, and a subagent for each polling district.

The candidate is equally responsible for the acts of his subagents as for his agent.

"The act intends," said Mr. Justice Cave, at Hexham, "that where men conducted the election in their own particular district they should be nominated (and returned) as subagents. It is for the very purpose that agency under such cases should not be in dispute that the persons who are appointed to conduct the election locally should be responsible in the way in which election agents are responsible. They should not be put down as clerks or something of that kind."

25. (1) In the case of the elections specified in that behalf in the first schedule to this act an election agent of a candidate may appoint the number of deputies therein mentioned (which deputies are in this act referred to as subagents) to act within different polling districts.

(2) As regards matters in a polling district, the election agent may act by the subagent for that district, and anything done for the purposes of this act by or to the subagent in his district shall be deemed to be done by or to the election agent, and any act or default of a subagent which, if he were the election agent, would be an illegal practice or other offense against this act, shall be an illegal practice and offense against this act committed by the subagent, and the subagent shall be liable to punishment accordingly; and the candidate shall suffer the like incapacity as if the said act or default had been the act or default of the election agent.

(3) One clear day before the polling the election agent shall declare in writing the name and address of every subagent to the returning officer, and the returning officer shall forthwith give public notice of the name and address of every subagent so declared.

(4) The appointment of a subagent shall not be vacated by the election agent who appointed him ceasing to be election agent, but may be revoked by the election agent for the time being of the candidate, and in the event of such revocation or of the death of a subagent another subagent may be appointed, and his name and address shall be forthwith declared in writing to the returning officer, who shall forthwith give public notice of the same.

26. (1) An election agent at an election for a county or borough shall have within the county or borough, or within any county of a city or town adjoining thereto, and a subagent shall have within his district, or within any county of a city or town adjoining thereto, an office or place to which all claims, notices, writs, summons, and documents may be sent, and the address of such office or place shall be declared at the same time as the appointment of the said agent to the returning officer, and shall be stated in the public notice of the name of the agent.

(2) Any claim, notice, writ, summons, or document delivered at such office or place and addressed to the election agent or subagent, as the case may be, shall be deemed to have been served on him, and every such agent may in respect of any matter connected with the election in which he is acting be sued in any court having jurisdiction in the county or borough in which the said office or place is situate.

27. (1) The election agent of a candidate by himself or by his subagent shall appoint every polling agent, clerk, and messenger employed for payment on behalf of the candidate at an election, and hire every committee room hired on behalf of the candidate.

The appointment should be in writing. It should be signed by the agent or subagent. It should specify the remuneration per day or per week, and the length of the engagement.

He ought to keep a cash book in which everything should be set down in chronological order, with counterfoil, which should be numbered consecutively. He would be well advised if he had an order book with counterfoils, which should be numbered consecutively, so that by an inspection of the book one would at once see that all the counterfoils were there. Lastly, he would be wise to have a receipt book made up in a similar form, and to take a receipt from the persons to whom he pays any money. When a man has these documents he can come with confidence before an election tribunal and say, "These books represent everything I have ordered, everything I have spent, everything I have paid." The documents which have to be returned should be required to be kept for a certain time, and it is very little to require of an election agent that he should keep his documents until it is certain that all chance of an election petition being presented is at an end. (Mr. Justice Cave on agents' duties.)

(2) A contract whereby any expenses are incurred on account of or in respect of the conduct or management of an election shall not be enforceable against a candidate at such election unless made by the candidate himself or by his election agent, either by himself or by his subagent; provided that the inability under this section to enforce such contract against the candidate shall not relieve the candidate from the consequences of any corrupt or illegal practice having been committed by his agent.

28. (1) Except as permitted by or in pursuance of this act, no payment and no advance or deposit shall be made by a candidate at an election or by any agent on behalf of the candidate or by any other person at any time, whether before, during, or after such election, in respect of any expenses incurred on account of or in respect of the conduct or management of such election, otherwise than by or through the election agent of the candidate, whether acting in person or by a subagent; and all money provided by any person other than the candidate for any expenses incurred on account of or in respect of the conduct or management of the election, whether as gift, loan, advance, or deposit, shall be paid to the candidate or his election agent and not otherwise.

Provided, That this section shall not be deemed to apply to a tender of security to or any payment by the returning officer or to any sum disbursed by any person out of his own money for any small expense legally incurred by himself, if such sum is not repaid to him.

(2) A person who makes any payment, advance, or deposit in contravention of this section, or pays in contravention of this section any money so provided as aforesaid, shall be guilty of an illegal practice.

Money paid by an agent of a candidate for the employment of persons to keep order at meetings connected with the election is a payment "in respect of the management" of such election within section 28, and is also illegal under section 17. (Ipswich Case, 54 L. T., 619.) As to the meaning of "at an election," and as to certain payments which do not fall within the section, see notes to section 8.

Mr. Justice Cave, on returning officers' charges under this proviso, laid down: "I think it is quite clear that the returning officer has two courses open to him. He may either demand security for his fees, or he may elect not to demand security for them. If he demands security it is clear that anybody may deposit the necessary security in whatever form the returning officer is ready to take it. If, on the other hand, he does not require security, then his charges are to be sent in to the election agent, and the amount is paid by the election agent. Whether the election agent is bound to return the amount where he does not himself pay the sum, but where it is deducted by the returning officer from the deposit, is a matter of no great moment."

29. (1) Every payment made by an election agent, whether by himself or a subagent, in respect of any expenses incurred on account of or in respect of the conduct or management of an election, shall, except where less than 40s., be vouched for by a bill stating the particulars and by a receipt.

(2) Every claim against a candidate at an election or his election agent in respect of any expenses incurred on account of or in respect of the conduct or management of such election which is not sent in to the election agent within the time limited by this act shall be barred and shall not be paid; and, subject to such exception as may be allowed in pursuance of this act, an election agent who pays a claim in contravention of this enactment shall be guilty of an illegal practice.

(3) Except as by this act permitted, the time limited by this act for sending in claims shall be 14 days after the day on which the candidates returned are declared elected.

(4) All expenses incurred by or on behalf of a candidate at an election, which are incurred on account of or in respect of the conduct or management of such election, shall be paid within the time limited by this act and not otherwise; and, subject to such exception as may be allowed in pursuance of this act, an election agent who makes a payment in contravention of this provision shall be guilty of an illegal practice.

(5) Except as by this act permitted, the time limited by this act for the payment of such expenses as aforesaid shall be 28 days after the day on which the candidates returned are declared elected.

(6) Where the election court reports that it has been proved to such court by a candidate that any payment made by an election agent in contravention of this section was made without the sanction or connivance of such candidate, the election of such candidate shall not be void, nor shall he be subject to any incapacity under this act by reason only of such payment having been made in contravention of this section.

(7) If the election agent in the case of any claim sent in to him within the time limited by this act disputes it or refuses or fails to pay it within the said period of 28 days, such claim shall be deemed to be a disputed claim.

(8) The claimant may, if he thinks fit, bring an action for a disputed claim in any competent court; and any sum paid by the candidate or his agent in pursuance of the judgment or order of such court shall be deemed to be paid within the time limited by this act and to be an exception from the provisions of this act requiring claims to be paid by the election agent.

It will be remembered that by the county courts act, 1903 (3 Edw. VII, c. 42), the jurisdiction of the county courts is now extended to £100.

(9) On cause shown to the satisfaction of the high court, such court, on application by the claimant or by the candidate or his election agent, may by order give leave for the payment by a candidate or his election agent of a disputed claim, or of a claim for any such expenses as aforesaid, although sent in after the time in this section mentioned for sending in claims, or although the same was sent in to the candidate and not to the election agent.

Notice of such application by the candidate should be given to the other candidate, the returning officer, and to the constituency by advertisement. (South Shropshire election, 34 W. R., 342.)

(10) Any sum specified in the order of leave may be paid by the candidate or his election agent, and when paid in pursuance of such leave shall be deemed to be paid within the time limited by this act.

30. If any action is brought in any competent court to recover a disputed claim against a candidate at an election, or his election agent, in respect of any expenses incurred on account or in respect of the conduct or management of such election, and the defendant admits his liability, but disputes the amount of the claim, the said amount shall, unless the court, on the application of the plaintiff in the action, otherwise directs, be forthwith referred for taxation to the master, official referee, registrar, or other proper officer of the court, and the amount found due on such taxation shall be the amount to be recovered in such action in respect of such claim.

31. (1) The candidate at an election may pay any personal expenses incurred by him on account of or in connection with or incidental to such election to an amount not exceeding £100, but any further personal expenses so incurred by him shall be paid by his election agent.

Where personal expenses are over £100 they must be paid through the election agent and returned by him. They may be in excess of the maximum.

It was argued at Rochester that house hire in the constituency should be returned as a personal expense. Mr. Justice Cave was unable to satisfy himself that it is a matter which must be returned as the personal expenses of the candidate.

In the interpretation clauses the expression "personal expenses," as used with respect to the personal expenses of any candidate, includes the reasonable traveling expenses of such candidate and the reasonable expenses of his living at hotels or elsewhere for the purpose of and in relation to such election.

(2) The candidate shall send to the election agent within the time limited by this act for sending in claims a written statement of the amount of personal expenses paid as aforesaid by such candidate.

(3) Any person may, if so authorized in writing by the election agent of the candidate, pay any necessary expenses for stationery, postage, telegrams, and other petty expenses, to a total amount not exceeding that named in the authority, but any excess above the total amount so named shall be paid by the election agent.

(4) A statement of the particulars of payments made by any person so authorized shall be sent to the election agent within the time limited by this act for the sending in of claims, and shall be vouched for by a bill containing the receipt of that person.

32. (1) So far as circumstances admit, this act shall apply to a claim for his remuneration by an election agent and to the payment thereof in like manner as if he were any other creditor, and if any difference arises respecting the amount of such claim the claim shall be a disputed claim within the meaning of this act, and be dealt with accordingly.

The contract with the agent as to his fee should always be with the proviso that his fee, along with the legal expenses returned by him, is within the prescribed maximum.

(2) The account of the charges claimed by the returning officer in the case of a candidate and transmitted in pursuance of section 4 of the parliamentary elections (returning officers) act, 1875, shall be transmitted within the time specified in the said section to the election agent of the candidate, and need not be transmitted to the candidate.

33. (1) Within 35 days after the day on which the candidates returned at an election are declared elected, the election agent of every candidate at that election shall transmit to the returning officer a true return (in this act referred to as a return respecting election expenses), in the form set forth in the second schedule to this act or to the like effect, containing, as respects that candidate—

(*a*) A statement of all payments made by the election agent, together with all the bills and receipts (which bills and receipts are in this act included in the expression "return respecting election expenses");

(*b*) A statement of the amount of personal expenses, if any, paid by the candidate;

(*c*) A statement of the sums paid to the returning officer for his charges, or, if the amount is in dispute, of the sum claimed and the amount disputed;

(*d*) A statement of all other disputed claims of which the election agent is aware;

(*e*) A statement of all the unpaid claims, if any, of which the election agent is aware, in respect of which application has been or is about to be made to the high court;

(*f*) A statement of all money, securities, and equivalent of money received by the election agent from the candidate or any other person for the purpose of expenses incurred or to be incurred on account of or in respect of the conduct or management of the election, with a statement of the name of every person from whom the same may have been received.

Subsection 1 of section 33 is complied with if the return is posted within the 35 days, although the return does not reach the returning officer until after the expiration of that period. The fact that the return of election expenses contains an error does not make it a nullity so as to render the candidate liable to the penalties imposed by subsection 5. (Mackinnon *v.* Clark [1898], 2 Q. B., 251.)

(2) The return so transmitted to the returning officer shall be accompanied by a declaration made by the election agent before a justice of the peace in the form in the second schedule to this act (which declaration is in this act referred to as a declaration respecting election expenses).

The declaration will be found at the end of this work, with other forms.

(3) Where the candidate has named himself as his election agent, a statement of all money, securities, and equivalent of money paid by the candidate shall be substituted in the return required by this section to be transmitted by the election agent for the like statement of money, securities, and equivalent of money received by the election agent from the candidate; and the declaration by an election agent respecting election expenses need not be made, and the declaration by the candidate respecting election expenses shall be modified as specified in the second schedule to this act.

(4) At the same time that the agent transmits the said return, or within seven days afterwards, the candidate shall transmit or cause to be transmitted to the returning officer a declaration made by him before a justice of the peace, in the form in the first part of the second schedule to this act (which declaration is in this act referred to as a declaration respecting election expenses).

(5) If in the case of an election for any county or borough, the said return and declarations are not transmitted before the expiration of the time limited for the purpose, the candidate shall not, after the expiration of such time, sit or vote in the House of Commons as member for that county or borough until either such return and declarations have been transmitted or until the date of the allowance of such an authorized excuse for the failure to transmit the same as in this act mentioned, and if he sits or votes in contravention of this enactment he shall forfeit £100 for every day on which he so sits or votes to any person who sues for the same.

(6) If without such authorized excuse as in this act mentioned a candidate or an election agent fails to comply with the requirements of this section he shall be guilty of an illegal practice.

The "authorized excuse" can alone come from an election court, a divisional court of the high court of justice, or in vacation from the vacation judge.

(7) If any candidate or election agent knowingly makes the declaration required by this section falsely, he shall be guilty of an offense, and on conviction thereof on indictment shall be liable to the punishment for willful and corrupt perjury; such offense shall also be deemed to be a corrupt practice within the meaning of this act.

(8) Where the candidate is out of the United Kingdom at the time when the return is so transmitted to the returning officer, the declaration required by this section may be made by him within 14 days after his return to the United Kingdom, and in that case shall be forthwith transmitted to the returning officer, but the delay hereby authorized in making such declaration shall not exonerate the election agent from complying with the provisions of this act as to the return and declaration respecting election expenses.

(9) Where, after the debate at which the return respecting election expenses is transmitted, leave is given by the high court for any claims to be paid the candidate or his election agent shall within seven days after the payment thereof transmit to the returning officer a return of the sums paid in pursuance of such leave, accompanied by a copy of the order of the court giving the leave, and in default he shall be deemed to have failed to comply with the requirements of this section without such authorized excuse as in this act mentioned.

34. (1) Where the return and declarations respecting election expenses of a candidate at an election for a county or borough have not been transmitted as required by this act, or being transmitted contain some error or false statement, then—

(*a*) "If the candidate applies to the high court or an election court and shows that the failure to transmit such return and declarations, or any of them or any part thereof, or any error or false statement therein, has arisen by reason of his illness, or of the absence, death, illness, or misconduct of his election agent or subagent or of any clerk or officer of such agent, or by reason of inadvertence or of any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the applicant, or

(*b*) "If the election agent of the candidate applies to the high court or an election court and shows that the failure to transmit the return and declarations which he was required to transmit, or any part thereof or any error or false statement herein, arose by reason of his illness or of the death or illness of any prior election agent of the candidate, or of the absence, death, illness, or misconduct of any subagent, clerk, or officer of an election agent of the candidate, or by reason of inadvertence or of any reasonable cause of a like nature, and not by reason or any want of good faith on the part of the applicant,"

the court may, after such notice of the application in the said county or borough, and on production of such evidence of the grounds stated in the application, and of the good faith of the application, and otherwise, as to the court seems fit, make such order for allowing an authorized excuse for the failure to transmit such return and declaration, or for an error or false statement in such return and declaration, as to the court seems just.

(2) Where it appears to the court that any person being or having been election agent or subagent has refused or failed to make such return or to supply such particulars as will enable the candidate and his election agent respectively to comply with the provisions of this act as to the return and declaration respecting election expenses, the court, before making an order allowing the excuse as in this section mentioned, shall order such person to attend before the court, and on his attendance shall, unless he shows cause to the contrary, order him to make the return and declaration, or to deliver a statement of the particulars required to be contained in the return, as to the court seem just, and to make or deliver the same within such time and to such person and in such manner as the court may direct, or may order him to be examined with respect to such particulars, and may in default of compliance with any such order, order him to pay a fine not exceeding £500.

(3) The order may make the allowance conditional upon the making of the return and declaration in a modified form or within an extended time, and upon the compliance with such other terms as to the court seem best calculated for carrying into effect the objects of this act; and an order allowing an authorized excuse shall relieve the applicant for the order from any liability or consequences under this act in respect of the matter excused by the order; and where it is proved by the candidate to the court that any act or omission of the election agent in relation to the return and declaration respecting election expenses was without the sanction or connivance of the candidate, and that the candidate took all reasonable means for preventing such act or omission, the court shall relieve the candidate from the consequences of such act or omission on the part of his election agent.

(4) The date of the order, or if conditions and terms are to be complied with, the date at which the applicant fully complies with them, is referred to in this act as the date of the allowance of the excuse.

35. (1) The returning officer at an election within 10 days after he receives from the election agent of a candidate a return respecting election expenses shall publish a summary of the return in not less than two newspapers circulating in the county or borough for which the election was held, accompanied by a notice of the time and place at which the return and declarations (including the accompanying documents) can be inspected, and may charge the candidate in respect of such publication, and the amount of such charge shall be the sum allowed by the parliamentary elections (returning officers) act, 1875.

(2) The return and declarations (including the accompanying documents) sent to the returning officer by an election agent shall be kept at the office of the returning officer, or some convenient place appointed by him, and shall at all reasonable times during two years next after they are received by the returning officer be open to inspection by any person on payment of a fee of 1s., and the returning officer shall on demand furnish copies thereof, or any part thereof, at the price of 2d. for every 72 words. After the expiration of the said two years the returning officer may cause the said return and declarations (including the accompanying documents) to be destroyed, or, if the candidate or his election agent so require, shall return the same to the candidate.

DISQUALIFICATION OF ELECTORS.

36. Every person guilty of a corrupt or illegal practice or of illegal employment, payment, or hiring at an election is prohibited from voting at such election, and if any such person votes his vote shall be void.

See section 3 and note to section 1 as to "corrupt;" sections 7 and 9 as to illegal practice; and subsections 13 to 20 as to illegal payment, employment, and hiring. The guilty intention is necessary under this section. (Stepney case, 4 O'M. & H., 34, 48.)

37. Every person who, in consequence of conviction or of the report of any election court or election commissioners under this act, or under the corrupt practices (municipal elections) act, 1872, or under part 4 of the municipal corporations act, 1882, or under any other act for the time being in force relating to corrupt practices at an election for any public office, has become incapable of voting at any election, whether a parliamentary election or an election to any public office, is prohibited from voting at any such election, and his vote shall be void.

38. (1) Before a person, not being a party to an election petition nor a candidate on behalf of whom the seat is claimed by an election petition, is reported by an election court, and before any person is reported by election commissioners to have been guilty at an election of any corrupt or illegal practice, the court or commissioners, as the case may be, shall cause notice to be given to such person, and if he appears in pursuance of the notice, shall give him an opportunity of being heard by himself and of calling evidence in his defense to show why he should not be so reported.

(2) Every person reported by election commissioners to have been guilty at an election of any corrupt or illegal practice may appeal against such report to the next court of oyer and terminer or gaol delivery held in and for the county or place in which the offense is alleged to have been committed, and such court may hear and determine the appeal; and, subject to rules of court, such appeal may be brought, heard, and determined in like manner as if the court were a court of quarter sessions and the said commissioners were a court of summary jurisdiction and the person so reported had been convicted by a court of summary jurisdiction for an offense under this act, and notice of every such appeal shall be given to the director of public prosecutions in the manner and within the time directed by rules of court, and subject to such rules then within three days after the appeal is brought.

(3) Where it appears to the lord chancellor that appeals under this section are interfering or are likely to interfere with the ordinary business transacted before any courts of oyer and terminer or gaol delivery, he may direct that the said appeals, or any of them, shall be heard by the judges for the time being on the rota for election petitions, and in such case one of such judges shall proceed to the county or place in which the offenses are alleged to have been committed, and shall there hear and determine the appeals in like manner as if such judge were a court of oyer and terminer.

(4) The provisions of the parliamentary elections act, 1868, with respect to the reception and powers of and attendance on an election court, and to the expenses of an election court, and of receiving and accommodating an election court, shall apply as if such judge were an election court.

(5) Every person who after the commencement of this act is reported by any election court or election commissioners to have been guilty of any corrupt or illegal practice at an election, shall, whether he obtained a certificate of indemnity or not, be subject to the same incapacity as he would be subject to if he had at the date of such election been convicted of the offense of which he is reported to have been guilty: *Provided*, That a report of any election commissioners inquiring into an election for a county or borough shall not avoid the election of any candidate who has been declared by an election court on the trial of a petition respecting such election to have been duly elected at such election or render him incapable of sitting in the House of Commons for the said county or borough during the Parliament for which he was elected.

(6) Where a person who is a justice of the peace is reported by any election court or election commissioners to have been guilty of any corrupt practice in reference to an election, whether he has obtained a certificate of indemnity or not, it shall be the duty of the director of public prosecutions to report the case to the lord high chancellor of Great Britain, with such evidence as may have been given of such corrupt practice; and where any such person acts as a justice of the peace by virtue of his being or having been mayor of a borough, the lord high chancellor shall have the same power to remove such person from being a justice of the peace as if he was named in a commission of the peace.

(7) Where a person who is a barrister or a solicitor, or who belongs to any profession the admission to which is regulated by law, is re-

ported by any election court or election commissioners to have been guilty of any corrupt practice in reference to an election, whether such person has obtained a certificate of indemnity or not, it shall be the duty of the director of public prosecutions to bring the matter before the inn of court, high court, or tribunal having power to take cognizance of any misconduct of such person in his profession, and such inn of court, high court, or tribunal may deal with such person in like manner as if such corrupt practice were misconduct by such person in his profession.

(8) With respect to a person holding a license or certificate under the licensing acts (in this section referred to as a licensed person) the following provisions shall have effect:

(*a*) If it appears to the court by which any licensed person is convicted of the offense of bribery or treating that such offense was committed on his licensed premises, the court shall direct such conviction to be entered in the proper register of licenses.

(*b*) If it appears to an election court or election commissioners that a licensed person has knowingly suffered any bribery or treating in reference to any election to take place upon his licensed premises, such court or commissioners (subject to the provisions of this act as to a person having an opportunity of being heard by himself and producing evidence before being reported) shall report the same; and whether such person obtained a certificate of indemnity or not it shall be the duty of the director of public prosecutions to bring such report before the licensing justices from whom or on whose certificate the licensed person obtained his license, and such licensing justices shall cause such report to be entered in the proper register of licenses.

(*c*) Where an entry is made in the register of licenses of any such conviction of or report respecting any licensed person as above in this section mentioned, it shall be taken into consideration by the licensing justices in determining whether they will or will not grant to such person the renewal of his license or certificate, and may be a ground, if the justices think fit, for refusing such renewal.

(9) Where the evidence, showing any corrupt practice to have been committed by a justice of the peace, barrister, solicitor, or other professional person, or any licensed person, was given before election commissioners, those commissioners shall report the case to the director of public prosecutions, with such information as is necessary or proper for enabling him to act under this section.

(10) This section shall apply to an election court under this act, or under part 4 of the municipal corporations act, 1882, and the expression "election" shall be construed accordingly.

These provisions, which deal with licensed victualers and offenses committed on their premises, should be circulated by each licensed victualers' protection society, and where any public meeting is convened during the election at a licensed house the agent should specifically call the attention of the license holder to these pains and penalties.

Licensed victualers are allowed to combine for the purpose of trade defense to support or oppose any particular candidate, and the expenses incurred by them or their association do not form any portion of the candidate's election expenses which have to be returned.

The licensing act, 1904 (4 Edw. VII, c. 23), transfers in certain cases the power to refuse the renewal of an existing on-license from the licensing justices to quarter sessions, but the licensing justices retain the power to refuse renewal, among other grounds, on grounds connected with the character or fitness of the proposed holder. Whether the licensing justices would be entitled to consider acts of bribery or treating as "connected with the character or fitness of the proposed holder," or would be obliged to refer the matter to quarter sessions, does not yet appear to have been decided, but relates rather to licensing law than to election law.

39. (1) The registration officer in every county and borough shall annually make out a list containing the names and description of all persons who, though otherwise qualified to vote at a parliamentary election for such county or borough, respectively, are not capable of voting by reason of having after the commencement of this act been found guilty of a corrupt or illegal practice on conviction, or by the report of any election court or election commissioners, whether under this act or under part 4 of the municipal corporations act, 1882, or under any other act for the time being in force relating to a parliamentary election or an election to any public office; and such officer shall state in the list (in this act referred to as the corrupt and illegal practices list) the offense of which each person has been found guilty.

(2) For the purpose of making out such list he shall examine the report of any election court or election commissioners who have respectively tried an election petition or inquired into an election where the election (whether a parliamentary election or an election to any public office) was held in any of the following places; that is to say—

(*a*) If he is the registration officer of a county, in that county or in any borough in that county; and

(*b*) If he is the registration officer of a borough, in the county in which such borough is situate or in any borough in that county.

(3) The registration officer shall send the list to the overseers of every parish within his county or borough, together with his precept, and the overseers shall publish the list, together with the list of voters, and shall also, in the case of every person in the corrupt and illegal practices list, omit his name from the list of persons entitled to vote, or, as circumstances require, add "objected" before his name in the list of claimants or copy of the register published by them, in like manner as is required by law in any other cases of disqualification.

(4) Any person named in the corrupt and illegal practices list may claim to have his name omitted therefrom, and any person entitled to object to any list of voters for the county or borough may object to the omission of the name of any person from such list. Such claims and objections shall be sent in within the same time and be dealt with in like manner, and any such objection shall be served on the person referred to therein in like manner, as nearly as circumstances admit, as other claims and objections under the enactments relating to the registration of parliamentary electors.

(5) The revising barrister shall determine such claims and objections, and shall revise such list in like manner, as nearly as circumstances admit, as in the case of other claims and objections, and of any list of voters.

(6) Where it appears to the revising barrister that a person not named in the corrupt and illegal practices list is subject to have his name inserted in such list, he shall (whether an objection to the omission of such name from the list has or has not been made, but) after giving such person an opportunity of making a statement to show cause to the contrary, insert his name in such list and expunge his name from any list of voters.

(7) A revising barrister in acting under this section shall determine only whether a person is incapacitated by conviction or by the report of any election court or election commissioners, and shall not determine whether a person has or not been guilty of any corrupt or illegal practice.

(8) The corrupt and illegal practices list shall be appended to the register of electors, and shall be printed and published therewith wherever the same is printed or published.

PROCEEDINGS ON ELECTION PETITION.

40. (1) Where an election petition questions the return or the election upon an allegation of an illegal practice, then, notwithstanding anything in the parliamentary elections act, 1868, such petition, so far as respects such illegal practice, may be presented within the time following; that is to say—

(*a*) At any time before the expiration of 14 days after the day on which the returning officer receives the return and declarations respecting election expenses by the member to whose election the petition relates and his election agent.

(*b*) If the election petition specifically alleges a payment of money, or some other act to have been made or done since the said day by the member or an agent of the member, or with the privity of the member or his election agent in pursuance or in furtherance of the illegal practice alleged in the petition, the petition may be presented at any time within 28 days after the date of such payment or other act.

(2) Any election petition presented within the time limited by the parliamentary elections act, 1868, may for the purpose of questioning the return or the election upon an allegation of an illegal practice, be amended with the leave of the high court within the time within which a petition questioning the return upon the allegation of that illegal practice can under this section be presented.

The petitioner may not give particulars or evidence of offenses alleged to have been committed after the date of the petition, the petition not having been amended within the time limited for amendment. (Haggerston election petition, 1896, 1 Q. B., 504.)

(3) This section shall apply in the case of an offense relating to the return and declarations respecting election expenses in like manner as if it were an illegal practice, and also shall apply notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice.

(4) For the purposes of this section—

(*a*) Where the return and declarations are received on different days, the day on which the last of them is received; and

(*b*) Where there is an authorized excuse for failing to make and transmit the return and declarations respecting election expenses, the date of the allowance of the excuse, or, if there was a failure as regards two or more of them and the excuse was allowed at different times, the date of the allowance of the last excuse—

shall be substituted for the day on which the return and declarations are received by the returning officer.

(5) For the purposes of this section time shall be reckoned in like manner as it is reckoned for the purposes of the parliamentary elections act, 1868.

A petition grounded upon illegal practices must be presented within 14 days of the receipt by the returning officer of the agent's declaration of election.

The presentation of a petition is a matter of such importance that it can only be intrusted to practitioners who have had experience in such matters.

If an agent has reason to believe that illegal or corrupt practices have prevailed, he should in all cases get written and signed statements from his informants, and should obtain counsel's opinion whether they are sufficient to warrant the presentation of a petition, with its accompanying security or deposit.

41. (1) Before leave for the withdrawal of an election petition is granted there shall be produced affidavits by all the parties to the petition and their solicitors, and by the election agents of all of the said parties who were candidates at the election, but the high court may, on cause shown, dispense with the affidavit of any particular person if it seems to the court on special grounds to be just so to do.

No petition can be withdrawn when once presented without the leave of the court, and the public prosecutor has also to be communicated with.

In the Halifax petition leave was refused, and the petitioner was put to the expense of a hearing and dismissal with costs, though satisfied upon a recount that there had been no substantial mistake.

(2) Each affidavit shall state that to the best of the deponent's knowledge and belief no agreement or terms of any kind whatsoever has or have been made, and no undertaking has been entered into in relation to the withdrawal of the petition; but if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit shall set forth that agreement, and shall make the foregoing statement subject to what appears from the affidavit.

(3) The affidavits of the applicant and his solicitor shall further state the ground on which the petition is sought to be withdrawn.

(4) If any person makes any agreement or terms, or enters into any undertaking, in relation to the withdrawal of an election petition, and such agreement, terms, or undertaking is or are for the withdrawal of the election petition in consideration of any payment, or in consideration that the seat shall at any time be vacated, or in consideration of the withdrawal of any other election petition, or is or are (whether lawful or unlawful) not mentioned in the aforesaid affidavits, he shall be guilty of a misdemeanor, and shall be liable on conviction on indictment to imprisonment for a term not exceeding 12 months and to a fine not exceeding £200.

(5) Copies of the said affidavits shall be delivered to the director of public prosecutions a reasonable time before the application for the withdrawal is heard, and the court may hear the director of public prosecutions or his assistant, or other representative (appointed with the approval of the attorney general), in opposition to the allowance of the withdrawal of the petition, and shall have power to receive the evidence on oath of any person or persons whose evidence the director of public prosecutions or his assistant, or other representative, may consider material.

(6) Where in the opinion of the court the proposed withdrawal of a petition was the result of any agreement, terms, or undertaking prohibited by this section, the court shall have the same power with respect to the security as under section 35 of the parliamentary elections act, 1868, where the withdrawal is induced by a corrupt consideration.

(7) In every case of the withdrawal of an election petition the court shall report to the speaker whether, in the opinion of such court, the withdrawal of such petition was the result of any agreement, terms, or undertaking, or was in consideration of any payment, or in consideration that the seat should at any time be vacated, or in consideration of the withdrawal of any other election petition, or for any other consideration, and if so, shall state the circumstances attending the withdrawal.

(8) Where more than one solicitor is concerned for the petitioner or respondent, whether as agent for another solicitor or otherwise, the affidavit shall be made by all such solicitors.

(9) Where a person not a solicitor is lawfully acting as agent in the case of an election petition, that agent shall be deemed to be a solicitor for the purpose of making an affidavit in pursuance of this section.

42. The trial of every election petition, so far as is practicable, consistently with the interests of justice in respect of such trial, shall be continued de die in diem on every lawful day until its conclusion, and in case the rota of judges for the year shall expire before the conclusion of the trial, or of all the proceedings in relation or incidental to the petition, the authority of the said judges shall continue for the purpose of the said trial and proceedings.

43. (1) On every trial of an election petition the director of public prosecutions shall by himself or by his assistant, or by such representative as hereinafter mentioned, attend at the trial, and it shall be the duty of such director to obey any directions given to him by the election court with respect to the summoning and examination of any witness to give evidence on such trial, and with respect to the prosecution by him of offenders, and with respect to any person to whom notice is given to attend with a view to report him as guilty of any corrupt or illegal practice.

The costs of the public prosecutor are in the discretion of the judges, and where persons are found guilty of illegal or corrupt practices they are visited with the costs of proving the offenses against them.

But where the petition is withdrawn the court has no power to order the preliminary costs of the director of public prosecutions to be paid by the parties (Fascoe *v.* Puleston, the Devonport elections petition, 54 L. T., 733).

The petitioner is sometimes burdened with the costs of the petition and of the public prosecutor if the petition be deemed frivolous (see Kennington case, 54 L. T., 628, and Pontefract case, 4 O'M. & H., 200).

(2) It shall also be the duty of such director, without any direction from the election court, if it appears to him that any person is able to give material evidence as to the subject of the trial, to cause such person to attend the trial, and with the leave of the court to examine such person as a witness.

(3) It shall also be the duty of the said director, without any direction from the election court, if it appears to him that any person who has not received a certificate of indemnity has been guilty of a corrupt or illegal practice, to prosecute such person for the offense before the said court, or if he thinks it expedient in the interests of justice, before any other competent court.

(4) Where a person is prosecuted before an election court for any corrupt or illegal practice, and such person appears before the court, the court shall proceed to try him summarily for the said offense, and such person, if convicted thereof upon such trial, shall be subject to the same incapacities as he is rendered subject to under this act upon conviction, whether on indictment or in any other proceeding for the said offense; and, further, may be adjudged by the court, if the offense is a corrupt practice, to be imprisoned, with or without hard labor, for a term not exceeding six months, or to pay a fine not exceeding £200, and if the offense is an illegal practice to pay such fine as is fixed by this act for the offense:

Provided, That, in the case of a corrupt practice, the court, before proceeding to try summarily any person, shall give such person the option of being tried by a jury.

(5) Where a person is so prosecuted for any such offense, and either he elects to be tried by a jury or he does not appear before the court, or the court thinks it in the interests of justice expedient that he should be tried before some other court, the court, if of opinion that the evidence is sufficient to put the said person upon his trial for the offense, shall order such person to be prosecuted on indictment or before a court of summary jurisdiction, as the case may require, for the said offense; and in either case may order him to be prosecuted before such court as may be named in the order; and for all purposes preliminary and of and incidental to such prosecution the offense shall be deemed to have been committed within the jurisdiction of the court so named.

(6) Upon such order being made—

(*a*) If the accused person is present before the court, and the offense is an indictable offense, the court shall commit him to take his trial, or cause him to give bail to appear and take his trial for the said offense; and

(*b*) If the accused person is present before the court, and the offense is not an indictable offense, the court shall order him to be brought before the court of summary jurisdiction before whom he is to be prosecuted, or cause him to give bail to appear before that court; and

(*c*) If the accused person is not present before the court, the court shall as circumstances require, issue a summons for his attendance, or a warrant to apprehend him and bring him before a court of summary jurisdiction, and that court, if the offense is an indictable offense, shall, on proof only of the summons or warrant and the identity of the accused, commit him to take his trial or cause him to give bail to appear and take his trial for the said offense, or if the offense is punishable on summary conviction, shall proceed to hear the case, or if such court be not the court before whom he is directed to be prosecuted shall order him to be brought before that court.

(7) The director of public prosecutions may nominate, with the approval of the attorney general, a barrister or solicitor of not less than 10 years' standing to be his representative for the purpose of this section, and that representative shall receive such remuneration as the [commissioners of Her Majesty's] treasury may approve. There shall be allowed to the director and his assistant or representative, for the purposes of this section, such allowance for expenses as the [commissioners of Her Majesty's] treasury may approve.

(8) The costs incurred in defraying the expenses of the director of public prosecutions under this section (including the remuneration of his representative) shall in the first instance be paid by the [commissioners of Her Majesty's] treasury, and, so far as they are not in the case of any prosecution paid by the defendant, shall be deemed to be expenses of the election court; but if for any reasonable cause it seems just to the court so to do, the court shall order all or part of the said costs to be repaid to the [commissioners of Her Majesty's] treasury by the parties to the petition, or such of them as the court may direct.

44. (1) Where, upon the trial of an election petition respecting an election for a county or borough it appears to the election court that a corrupt practice has not been proved to have been committed in reference to such election by or with the knowledge and consent of the respondent to the petition, and that such respondent took all reasonable means to prevent corrupt practices being committed on his behalf, the court may make one or more orders with respect to the payment either of the whole or such part of the costs of the petition as the court may think right, as follows:

(*a*) If it appears to the court that corrupt practices extensively prevailed in reference to the said election, the court may order the whole or part of the costs to be paid by the county or borough; and

(*b*) If it appears to the court that any person or persons is or are proved, whether by providing money or otherwise, to have been extensively engaged in corrupt practices, or to have encouraged or promoted extensive corrupt practices in reference to such election, the court may, after giving such person or persons an opportunity of being heard by counsel or solicitor and examining and cross-examining witnesses to show cause why the order should not be made, order the whole or part of the costs to be paid by that person, or those persons or any of them, and may order that if the costs can not be recovered from one or more of such persons they shall be paid by some other of such persons or by either of the parties to the petition.

(2) Where any person appears to the court to have been guilty of the offense of a corrupt or illegal practice, the court may, after giving such person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceeding before the court in relation to the said offense or to the said person to be paid by the said person.

(3) The rules and regulations of the supreme court [of judicature] with respect to costs to be allowed in actions, causes, and matters in the high court shall in principle and so far as practicable apply to the costs of petition and other proceedings under the parliamentary elections act, 1868, and under this act, and the taxing officer shall not allow any costs, charges, or expenses on a higher scale than would be allowed in any action, cause or matter in the high court on the higher scale, as between solicitor and client. (Costs under this section will usually be allowed on the higher scale.—Pascoe *v.* Puleston, the Devonport elections petition, 54 L. T., 733.)

MISCELLANEOUS.

45. Where information is given to the director of public prosecutions that any corrupt or illegal practices have prevailed in reference to any election, it shall be his duty, subject to the regulations under the prosecution of offenses act, 1879, to make such inquiries and institute such prosecutions as the circumstances of the case appear to him to require.

46. Where a person has, either before or after the commencement of this act, become subject to any incapacity under the corrupt practices prevention acts or this act by reason of a conviction or of a report of any election court or election commissioners, and any witness who gave evidence against such incapacitated person upon the proceeding for such conviction or report is convicted of perjury in respect of that evidence, the incapacitated person may apply to the high court, and the court, if satisfied that the conviction or report so far as respects such person was based upon perjury, may order that such incapacity shall thenceforth cease, and the same shall cease accordingly.

47. (1) Every county shall be divided into polling districts, and a polling place shall be assigned to each district in such manner that, so far as is reasonably practicable, every elector resident in the county shall have his polling place within a distance not exceeding 3 miles from his residence, so nevertheless that a polling district need not in any case be constituted containing less than 100 electors.

(2) In every county the local authority who have power to divide that county into polling districts shall from time to time divide the county into polling districts, and assign polling places to those districts, and alter those districts and polling places in such manner as may be necessary for the purpose of carrying into effect this section.

The polling stations are fixed by a committee of the county council, and both parties are generally invited to make representations when and where fresh polling stations are required. This is generally done in the early part of each year, but application for information on this point should be addressed to the clerk of the county council.

(3) The power of dividing a borough into polling districts vested in a local authority by the representation of the people act, 1867, and the enactments amending the same, may be exercised by such local authority from time to time, and as often as the authority think fit, and the said power shall be deemed to include the power of altering any polling district, and the said local authority shall from time to time, when necessary for the purpose of carrying this section into effect, divide the borough into polling districts in such manner that—

The local authority in a borough is the town council, and application for information or to allow additional polling places should be made to the town clerk; but it must not be left until an election is pending, as the polling stations are fixed annually.

(*a*) Every elector resident in the borough, if other than one hereinafter mentioned, shall be enabled to poll within a distance not exceeding 1 mile from his residence, so nevertheless that a polling district need not be constituted containing less than 300 electors; and

(*b*) [Every elector resident in the boroughs of East Retford, Shoreham, Cricklade, Much Wenlock, and Aylesbury, shall be enabled to poll within a distance not exceeding 3 miles from his residence, so nevertheless that a polling district need not be constituted containing less than 100 electors.]

These boroughs have ceased to exist, and subsection (*a*) applies to all county districts.

(4) So much of section 5 of the ballot act, 1872, and the enactments amending the same as in force and is not repealed by this act shall apply as if the same were incorporated in this section.

This section provides for the sending of a report by the local authority of a copy of all orders made under these sections to the secretary of state, and further provides that the clerk of the peace or town clerk shall copy, print, and arrange the list of voters for the purpose of such register in accordance with the orders made as to the polling districts.

(5) The expenses incurred by the local authority of a county or borough under this or any other act in dividing their county or borough into polling districts, and, in the case of a county, assigning polling places to such districts, and in altering any such districts or polling places shall be defrayed in like manner as if they were expenses incurred by the registration officer in the execution of the enactments respecting the registration of electors in such county or borough, and those enactments so far as is consistent with the tenor thereof shall apply accordingly.

48. Where the nature of a county is such that any electors residing therein are unable at an election for such county to reach their polling place without crossing the sea or a branch or arm thereof, this act shall not prevent the provision of means for conveying such electors by sea to their polling place, and the amount of payment for such means of conveyance may be in addition to the maximum amount of expenses allowed by this act.

But this section in no way permits the hire of steamers or other craft for bringing fishermen home to vote, nor does it prevent the voluntary employment and use of yachts, etc., for the purpose where lent.

49. Notwithstanding the provisions of the act (15, 16 Vict., c. 57) or any amendment thereof in any case where [after the passing of this act]

any commissioners have been appointed on a joint address of both Houses of Parliament for the purpose of making inquiry into the existence of corrupt practices in any election, the said commissioners shall not make inquiries concerning any election that shall have taken place prior to the passing of this act, and no witness called before such commissioners or at any election petition [after the passing of this act] shall be liable to be asked or bound to answer any question for the purpose of proving the commission of any corrupt practice at or in relation to any election prior to the passing of this act: *Provided*, That nothing herein contained shall affect any proceedings that shall be pending at the time of such passing.

This only applies to offenses before the act of 1883, and was carried on the motion of Sir Edward Clarke.

LEGAL PROCEEDINGS.

50. Where an indictment as defined by this act for any offense under the corrupt practices prevention acts or this act is instituted in the high court or is removed into the high court by a writ of certiorari issued at the instance of the attorney general, and the attorney general suggests on the part of the Crown that it is expedient for the purposes of justice that the indictment should be tried in the central criminal court, or if a special jury is ordered, that it should be tried before a judge and jury at the royal courts of justice, the high court may, if it think fit, order that such indictment shall be so tried upon such terms as the court may think just, and the high court may make such orders as appear to the court necessary or proper for carrying into effect the order for such trial.

51. (1) A proceeding against a person in respect of the offense of a corrupt or illegal practice or any other offense under the corrupt-practices prevention acts or this act shall be commenced within one year after the offense was committed, or if it was committed in reference to an election with respect to which an inquiry is held by election commissioners shall be commenced within one year after the offense was committed, or within three months after the report of such commissioners is made, whichever period last expires, so that it be commenced within two years after the offense was committed, and the time so limited by this section shall, in the case of any proceeding under the summary jurisdiction acts for any such offense, whether before an election court or otherwise, be substituted for any limitation of time contained in the last-mentioned acts.

The limit is extended to two years if the offense is only brought to light by election commissioners, and the proceedings must be within three months of their report thereon.

One year is the ordinary limit.

(2) for the purposes of this section the issue of a summons, warrant, writ, or other process shall be deemed to be a commencement of a proceeding where the service or execution of the same on or against the alleged offender is prevented by the absconding or concealment or act of the alleged offender, but save as aforesaid the service or execution of the same on or against the alleged offender, and not the issue thereof, shall be deemed to be the commencement of the proceeding.

52. Any person charged with a corrupt practice may, if the circumstances warrant such finding, be found guilty of an illegal practice (which offense shall for that purpose be an indictable offense), and any person charged with an illegal practice may be found guilty of that offense, notwithstanding that the act constituting the offense amounted to a corrupt practice, and a person charged with illegal payment, employment, or hiring may be found guilty of that offense, notwithstanding that the act constituting the offense amounted to a corrupt or illegal practice.

53. (1) Sections 10, 12, and 13 of the corrupt-practices prevention act, 1854, and section 6 of the corrupt-practices prevention act, 1863 (which relate to prosecutions for bribery and other offenses under those acts), shall extend to any prosecution on indictment for the offense of any corrupt practice within the meaning of this act, and to any action for any pecuniary forfeiture for an offense under this act, in like manner as if such offense were bribery within the meaning of those acts, and such indictment or action were the indictment or action in those sections mentioned, and an order under the said section 10 may be made on the defendant: but the director of public prosecutions or any person instituting any prosecution in his behalf or by direction of an election court shall not be deemed to be a private prosecutor, nor required under the said sections to give any security.

No security for costs is necessary.

(2) On any prosecution under this act, whether on indictment or summarily, and whether before an election court or otherwise, and in any action for a pecuniary forfeiture under this act, the person prosecuted or sued, and the husband or wife of such person, may, if he or she think fit, be examined as an ordinary witness in the case.

This section is now (since 62 Vict., c. 36) superfluous.

(3) On any such prosecution or action as aforesaid it shall be sufficient to allege that the person charged was guilty of an illegal practice, payment, employment, or hiring within the meaning of this act, as the case may be, and the certificate of the returning officer at an election that the election mentioned in the certificate was duly held, and that the person named in the certificate was a candidate at such election, shall be sufficient evidence of the facts therein stated.

54. (1) All offenses under this act punishable on summary conviction may be prosecuted in manner provided by the summary jurisdiction acts.

(2) A person aggrieved by a conviction by a court of summary jurisdiction for an offense under this act may appeal to general or quarter sessions against such conviction.

Or, if the point of law be of sufficient importance, a case can be stated for the high court.

55. (1) Except that nothing in this act shall authorize any appeal against a summary conviction by an election court, the summary jurisdiction acts shall, so far as is consistent with the tenor thereof, apply to the prosecution of an offense summarily before an election court in like manner as if it were an offense punishable only on summary conviction, and accordingly the attendance of any person may be enforced, the case heard and determined, and any summary conviction by such court be carried into effect and enforced, and the costs thereof paid, and the record thereof dealt with under those acts in like manner as if the court were a petty sessional court for the county or place in which such conviction took place.

(2) The enactments relating to charges before justices against persons for indictable offenses shall, so far as is consistent with the tenor thereof, apply to every case where an election court orders a person to be prosecuted on indictment in like manner as if the court were a justice of the peace.

56. (1) Subject to any rules of court, any jurisdiction vested by this act in the high court may, so far as it relates to indictments or other criminal proceedings, be exercised by any judge of the Queen's bench division, and in other respects may either be exercised by one of the judges for the time being on the rota for the trial of election petitions, sitting either in court or at chambers, or may be exercised by a master of the supreme court of judicature in manner directed by and subject to an appeal to the said judges:

Provided, That a master shall not exercise jurisdiction in the case either of an order declaring any act or omission to be an exception from the provisions of this act with respect to illegal practices, payments, employments, or hirings, or of an order allowing an excuse in relation to a return or declaration respecting election expenses.

(2) Rules of court may from time to time be made, revoked, and altered for the purposes of this act, and of the parliamentary elections act, 1868, and the acts amending the same, by the same authority by whom rules of court for procedure and practice in the supreme court [of judicature] can for the time being be made.

The election judges have published from time to time rules for the procedure and guidance of petitioners and respondents, but in their absence an application can not be heard by the judge in chambers, who has no power to make orders in election petitions.

57. (1) The director of public prosecutions in performing any duty under this act shall act in accordance with the regulations under the prosecution of offenses act, 1879, and subject thereto in accordance with the directions (if any) given to him by the attorney general; and any assistant or representative of the director of public prosecutions in performing any duty under this act shall act in accordance with the said regulations and directions (if any) and with the directions given to him by the director of public prosecutions.

(2) Subject to the provisions of this act, the costs of any prosecution on indictment for an offense punishable under this act, whether by the director of public prosecutions or his representative, or by any other person, shall, so far as they are not paid by the defendant, be paid in like manner as costs in the case of a prosecution for felony are paid.

58. (1) Where any costs or other sums (not being costs of a prosecution on indictment) are, under an order of an election court, or otherwise under this act, to be paid by a county or borough, the [commissioners of Her Majesty's treasury shall pay those costs or sums, and obtain repayment of the amount so paid, in like manner as if such costs and sums were expenses of election commissioners paid by them, and the election commissioners' expenses acts, 1869 and 1871, shall apply accordingly as if they were herein reenacted and in terms made applicable to the above-mentioned costs and sums.

(2) Where any costs or other sums are, under the order of an election court or otherwise under this act, to be paid by any person, those costs shall be a simple contract debt due from such person to the person or persons to whom they are to be paid, and if payable to the [commissioners of Her Majesty's] treasury shall be a debt to Her Majesty, and in either case may be recovered accordingly.

SUPPLEMENTAL PROVISIONS, DEFINITIONS, SAVINGS, AND REPEAL.

59. (1) A person who is called as a witness respecting an election before any election court shall not be excused from answering any question relating to any offense at or connected with such election on the ground that the answer thereto may criminate or tend to criminate himself or on the ground of privilege:

Provided that—

(*a*) A witness who answers truly all questions which he is required by the election court to answer shall be entitled to receive a certificate of indemnity under the hand of a member of the court stating that such witness has so answered; and

(*b*) An answer by a person to a question put by or before any election court shall not, except in the case of any criminal proceeding for perjury in respect of such evidence, be in any proceeding, civil or criminal, admissible in evidence against him.

(2) Where a person has received such a certificate of indemnity in relation to an election, and any legal proceeding is at any time instituted against him for any offense under the corrupt-practices prevention acts or this act committed by him previously to the date of the certificate at or in relation to the said election, the court having cognizance of the case shall, on proof of the certificate, stay the proceeding, and may, in their discretion, award to the said person such costs as he may have been put to in the proceeding.

A solicitor or a barrister, though he receive a certificate of indemnity, loses any public appointment that he holds, and is liable to action taken by the inn of court or law society to which he belongs. In the Hexham case the solicitor reported as guilty of illegal practices was deprived of every public appointment which he held.

(3) Nothing in this section shall be taken to relieve a person receiving a certificate of indemnity from any incapacity under this act or from any proceeding to enforce such incapacity (other than a criminal prosecution).

(4) This section shall apply in the case of a witness before any election commissioners in like manner as if the expression "election court" in this section included election commissioners.

(5) Where a solicitor or person lawfully acting as agent for any party to an election petition respecting any election for a county or borough has not taken any part or been concerned in such election, the election commissioners inquiring into such election shall not be entitled to examine such solicitor or agent respecting matters which came to his knowledge by reason only of his being concerned as solicitor or agent for a party to such petition.

60. An election court or election commissioners, when reporting that certain persons have been guilty of any corrupt or illegal practice, shall report whether those persons have or not been furnished with certificates of indemnity; and such report shall be laid before the attorney general (accompanied in the case of the commissioners with the evidence on which such report was based) with a view to his instituting or directing a prosecution against such persons as have not received certificates of indemnity, if the evidence should, in his opinion, be sufficient to support a prosecution.

Criminal prosecutions can only be commenced against such witnesses as have not received certificates under section 59.

61. (1) Section 11 of the ballot act, 1872, shall apply to a returning officer or presiding officer or clerk who is guilty of any willful misfeasance or willful act or omission in contravention of this act in like manner as if the same were in contravention of the ballot act, 1872.

(2) Section 97 of the parliamentary registration act, 1843, shall apply to every registration officer who is guilty of any willful misfeasance or willful act of commission or omission contrary to this act in like manner as if the same were contrary to the parliamentary registration act, 1843.

62. (1) Any public notice required to be given by the returning officer under this act shall be given in the manner in which he is directed by the ballot act, 1872, to give a public notice.

(2) Where any summons, notice, or document is required to be served on any person with reference to any proceeding respecting an election for a county or borough, whether for the purpose of causing him to appear before the high court or any election court, or election commis-

sioners, or otherwise, or for the purpose of giving him an opportunity of making a statement, or showing cause, or being heard by himself before any court or commissioners, for any purpose of this act, such summons, notice, or document may be served either by delivering the same to such person, or by leaving the same at or sending the same by post by a registered letter to his last known place of abode in the said county or borough, or if the proceeding is before any court or commissioners in such other manner as the court or commissioners may direct, and in proving such service by post it shall be sufficient to prove that the letter was prepaid, properly addressed, and registered with the post office.

(3) In the form of notice of a parliamentary election set forth in the second schedule to the ballot act, 1872, the words "or any illegal practice" shall be inserted after the words "or other corrupt practices," and the words "the corrupt and illegal practices prevention act, 1883," shall be inserted after the words "corrupt-practices prevention act, 1854."

63. (1) In the corrupt-practices prevention acts, as amended by this act, the expression "candidate at an election" and the expression "candidate" respectively mean, unless the context otherwise requires, any person elected to serve in Parliament at such election, and any person who is nominated as a candidate at such election, or is declared by himself or by others to be a candidate, on or after the day of the issue of the writ for such election, or after the dissolution or vacancy in consequence of which such writ has been issued;

(2) Provided that where a person has been nominated as a candidate or declared to be a candidate by others, then—

(*a*) If he was so nominated or declared without his consent, nothing in this act shall be construed to impose any liability on such person, unless he has afterwards given his assent to such nomination or declaration or has been elected; and

(*b*) If he was so nominated or declared, either without his consent or in his absence and he takes no part in the election, he may, if he thinks fit, make the declaration respecting election expenses contained in the second part of the second schedule to this act, and the election agent shall, so far as circumstances admit, comply with the provisions of this act with respect to expenses incurred on account of or in respect of the conduct or management of the election in like manner as if the candidate had been nominated or declared with his consent.

As to when the candidature commences see notes to section 8.

I can not think that the period of candidature or the period of agency is to be limited by the date of the issuing of the writ or the day of nomination, but I think that when an election is contemplated as probable in the course of a few months, and it is well recognized that to secure the election of a particular candidate active steps must be taken and every exertion made at once to secure that object, it can not reasonably be said that there can be no agency to take such steps or make such exertion until the immediate approach of the election by the issue of the writ.—Mr. Justice Hawkins (Walsall, 4 O'M. & H., 125).

64. In this act, unless the context otherwise requires—

The expression "election" means the election of a member or members to serve in Parliament.

The expression "election petition" means a petition presented in pursuance of the parliamentary elections act, 1868, as amended by this act.

The expression "election court" means the judges presiding at the trial of an election petition, or, if the matter comes before the high court, that court.

The expression "election commissioners" means commissioners appointed in pursuance of the election commissioners act, 1852, and the enactments amending the same.

[The expression "high court" means Her Majesty's high court of justice in England.]

[The expressions "court of summary jurisdiction," "petty sessional court," and "summary jurisdiction acts" have the same meaning as in the summary jurisdiction act, 1879.]

The expression "the attorney general" includes the solicitor general in cases where the office of the attorney general is vacant or the attorney general is interested or otherwise unable to act.

The expression "registration officer" means the clerk of the peace in a county, and the town clerk in a borough, as respectively defined by the enactments relating to the registration of parliamentary electors.

The expression "elector" means any person whose name is for the time being on the register, roll, or book containing the names of the persons entitled to vote at the election with reference to which the expression is used.

The expression "register of electors" means the said register, roll, or book.

The expression "polling agent" means an agent of the candidate appointed to attend at a polling station in pursuance of the ballot act, 1872, or of the acts therein referred to or amending the same.

The expression "person" includes an association or body of persons, corporate or unincorporate, and where any act is done by any such association or body the members of such association or body who have taken part in the commission of such act shall be liable to any fine or punishment imposed for the same by this act.

The expression "committee room" shall not include any house or room occupied by a candidate at an election as a dwelling, by reason only of the candidate there transacting business with his agents in relation to such election; nor shall any room or building be deemed to be a committee room for the purposes of this act by reason only of the candidate or any agent of the candidate addressing therein electors, committeemen, or others.

The expression "public office" means any office under the Crown or under the charter of a city or municipal borough or under the acts relating to municipal corporations or to the poor law, or under the elementary education act, 1870, or under the public-health act, 1875, or under any acts amending the above-mentioned acts, or under any other acts for the time being in force (whether passed before or after the commencement of this act) relating to local government, whether the office is that of mayor, chairman, alderman, councilor, guardian, member of a board, commission, or other local authority in any county, city, borough, union, sanitary district, or other area, or is the office of clerk of the peace, town clerk, clerk or other officer under a council, board, commission, or other authority, or is any other office, to which a person is elected or appointed under any such charter or act as above mentioned and includes any other municipal or parochial office; and the expressions "election," "election petition," "election court," and "register of electors" shall, where expressed to refer to an election for any such public office, be construed accordingly.

A report by the election court or election commissioners of any offense committed under the act as to illegal or corrupt practice practically deprives the officeholder of his office, even though granted a certificate.

The expression "judicial office" includes the office of justice of the peace and revising barrister.

The expression "personal expenses," as used with respect to the expenditure of any candidate in relation to any election, includes the reasonable traveling expenses of such candidate and the reasonable expenses of his living at hotels or elsewhere for the purposes of and in relation to such election.

Here, again, the personal expenses have not been judicially interpreted. At Rochester Mr. Justice Cave suggested that the hire of a house for the residence of the candidate prior to the election might have to be returned as the personal expenses of the candidate.

The expression "indictment" includes information.

The expression "costs" includes costs, charges, and expenses.

The expression "payment" includes any pecuniary or other reward; and the expressions "pecuniary reward" and "money" shall be deemed to include any office, place, or employment, and any valuable security or other equivalent for money, and any valuable consideration, and expressions referring to money shall be construed accordingly.

The offer of "a place" in a free school (if it had been proved) was held to be a reward and within this section by the judges in the Montgomery Boroughs election petition.

The expression "licensing acts" means the licensing acts, 1872 to 1874.

Other expressions have the same meaning as in the corrupt practices prevention acts.

65. (1) The enactments described in the third schedule to this act are in this act referred to as the corrupt-practices prevention acts.

(2) [The acts mentioned in the fourth schedule to this act are in this act referred to and may be cited, respectively, by the short titles in that behalf in that schedule mentioned.]

(3) This act may be cited as "the corrupt and illegal practices prevention act, 1883."

(4) This act and the corrupt-practices prevention acts may be cited together as "the corrupt-practices prevention acts, 1854 to 1883."

66. [The acts set forth in the fifth schedule to this act are hereby repealed as from the commencement of this act to the extent in the third column of that schedule mentioned, provided that this repeal or the expiration of any enactment not continued by this act shall not revive any enactment which at the commencement of this act is repealed, and shall not affect anything duly done or suffered before the commencement of this act, or any right acquired or accrued or any incapacity incurred before the commencement of this act, and] any person subject to any incapacity under any enactment hereby repealed or not continued shall continue subject thereto, and this act shall apply to him as if he had become so subject in pursuance of the provisions of this act.

67. [This act shall come into operation on the 15th day of October, 1883, which day is in this act referred to as the commencement of this act.]

FIRST SCHEDULE.

PART I. PERSONS LEGALLY EMPLOYED FOR PAYMENT.

1. One election agent and no more.

This refers to both boroughs and counties.

2. In counties one deputy election agent (in this act referred to as a subagent), to act within each polling district, and no more.

No subagents allowed in boroughs; only clerks and messengers.

3. One polling agent in each polling station and no more.

4. In a borough one clerk and one messenger, or if the number of electors in the borough exceeds 500, a number of clerks and messengers not exceeding in number one clerk and one messenger for every complete 500 electors in the borough, and if there is a number of electors over and above any complete 500 or complete five hundreds of electors, then one clerk and one messenger may be employed for such number, although not amounting to a complete 500.

IN BOROUGHS.

No provision for a central committee room.

Of course one must exist, but the clerks and messengers there employed must be within the minimum—one clerk and one messenger for each 500 electors, and one each in addition for each complete or incomplete 500.

5. In a county for the central committee room one clerk and one messenger, or if the number of electors in the county exceeds 5,000, then a number of clerks and messengers not exceeding in number one clerk and one messenger for every complete 5,000 electors in the county; and if there is a number of electors over and above any complete 5,000 or complete five thousands of electors, then one clerk and one messenger may be employed for such number, although not amounting to a complete 5,000.

6. In a county a number of clerks and messengers not exceeding in number one clerk and one messenger for each polling district in the county, or where the number of electors in a polling district exceeds 500, one clerk and one messenger for every complete 500 electors in the polling district, and if there is a number of electors over and above any complete 500 or complete five hundreds of electors, then one clerk and one messenger may be employed for such number, although not amounting to a complete 500: *Provided always*, That the number of clerks and messengers so allowed in any county may be employed in any polling district where their services may be required.

IN COUNTIES, THEREFORE, AND ONLY.

In addition there may be at the central committee room one clerk and one messenger extra for each 5,000 electors, and one clerk and one messenger in addition for each complete and incomplete 5,000 in addition.

In the county one clerk and one messenger for each polling district, and when that polling district has over 500 electors, then one clerk and one messenger for each complete or incomplete 500 over and above the minimum.

The clerks and messengers may be used anywhere in the county district.

7. Any such paid election agent, subagent, polling agent, clerk, and messenger may or may not be an elector, but may not vote.

In the Stepney election petition the judges laid down the rule that it is the duty of the agent to instruct them that they must not vote at an election where they are acting for payment.

8. In the case of the boroughs of East Retford, Shoreham, Cricklade, Much Wenlock, and Aylesbury the provisions of this part of this schedule shall apply as if such borough were a county.

This section has now no bearing, as these ancient boroughs have been merged into county divisions.

PART II. LEGAL EXPENSES IN ADDITION TO EXPENSES UNDER PART I.

1. Sums paid to the returning officer for his charges, not exceeding the amount authorized by the acts 38 and 39 Victoria, chapter 84.

These are provided for by the ballot act.

They are liable to taxation, and they must be returned in the election expenses return as paid to the returning officer.

2. The personal expenses of the candidate.

These are defined by section 64. The "reasonable traveling expenses" include reasonable expenses of his living at hotels or elsewhere—e. g., horse hire, special trains, and hotel expenses for friends acting as volunteers if stopping with the candidate.

3. The expenses of printing, the expenses of advertising, and the expenses of publishing, issuing, and distributing addresses and notices.

There is a judicial decision that men may be employed for the purpose of distributing such addresses and notices in addition to the clerks and messengers mentioned in the first schedule.

4. The expenses of stationery, messages, postage, and telegrams.

5. The expenses of holding public meetings.

The list of such places and the amount paid for hire must be returned for identification.

6. In a borough the expenses of one committee room, and if the number of electors in the borough exceeds 500, then of a number of committee rooms not exceeding the number of one committee room for every complete 500 electors in the borough; and if there is a number of electors over and above any complete 500 or complete five hundreds of electors, then of one committee room for such number, although not amounting to a complete 500.

The same particulars apply to the vouchers for the hire of committee rooms. They must be capable of easy identification.

7. In a county the expenses of a central committee room, and in addition of a number of committee rooms not exceeding in number one committee room for each polling district in the county, and where the number of electors in a polling district exceeds 500, one additional committee room may be hired for every complete 500 electors in such polling district over and above the first 500.

It is therefore only in a county that a central committee room can be hired in addition to those limited by the number of the electorate in each ward. Sir Richard Webster has given an opinion that the traveling expenses of volunteer speakers may be paid, but they must be returned under the head of "Miscellaneous" or "Member's personal expenses."

PART III. MAXIMUM FOR MISCELLANEOUS MATTERS.

Expenses in respect of miscellaneous matters other than those mentioned in Part I and Part II of this schedule not exceeding in the whole the maximum amount of £200, so nevertheless that such expenses are not incurred in respect of any matter or in any manner constituting an offense under this or any other act, or in respect of any matter or thing, payment for which is expressly prohibited by this or any other act.

The maximum for miscellaneous expenses is therefore £200 no matter how large or how small the electorate.

Under "Miscellaneous" should be returned the traveling and hotel expenses of any volunteer speakers who may visit the constituency, but where they are entertained by the candidate at the hotel where he is stopping such hotel expenses would be returned in his own personal expenses.

PART IV. MAXIMUM SCALE.

1. In a borough the expenses mentioned above in Parts I, II, and III of this schedule other than personal expenses and sums paid to the returning officer for his charges shall not exceed in the whole the maximum amount in the scale following:

If the number of electors on the register does not exceed 2,000, the maximum amount shall be £350; if they exceed 2,000, the maximum amount shall be £380, and an additional £30 for every complete 1,000 electors above 2,000.

Provided, That in Ireland if the number of electors on the register does not exceed 500, the maximum amount shall be £200; if they exceed 500, but do not exceed 1,000, the maximum amount shall be £250; if they exceed 1,000, but do not exceed 1,500, the maximum amount shall be £275.

2. In a county the expenses mentioned above in Parts I, II, and III of this schedule, other than personal expenses and sums paid to the returning officer for his charges, shall not exceed in the whole the maximum amount in the scale following:

If the number of electors on the register does not exceed 2,000, the maximum amount shall be £650 in England and Scotland and £500 in Ireland; if they exceed 2,000, £710 in England and Scotland and £540 in Ireland, and an additional £60 in England and Scotland and £40 in Ireland for every complete 1,000 electors above 2,000.

PART V. GENERAL.

1. In the case of the boroughs of East Retford, Shoreham, Cricklade, Much Wenlock, and Aylesbury the provisions of Parts II, III, and IV of this schedule shall apply as if such borough were a county.

This section has now no bearing, as these ancient boroughs have been merged into county divisions.

2. For the purposes of this schedule the number of electors shall be taken according to the enumeration of the electors in the register of electors.

3. Where there are two or more joint candidates at an election the maximum amount of expenses mentioned in Parts III and IV of this schedule shall, for each of such joint candidates, be reduced by one-fourth, or if there are more than two joint candidates by one-third.

4. Where the same election agent is appointed by or on behalf of two or more candidates at an election, or where two or more candidates, by themselves or any agent or agents, hire or use the same committee rooms for such election, or employ or use the services of the same subagents, clerks, messengers, or polling agents at such election, or publish a joint address or joint circular or notice at such election, those candidates shall be deemed for the purposes of this enactment to be joint candidates at such election.

Provided, That—

(*a*) The employment and use of the same committee room, subagent, clerk, messenger, or polling agent, if accidental or casual, or of a trivial and unimportant character, shall not be deemed of itself to constitute persons joint candidates.

(*b*) Nothing in this enactment shall prevent candidates from ceasing to be joint candidates.

(*c*) Where any excess of expenses above the maximum allowed for one of two or more joint candidates has arisen owing to his having ceased to be a joint candidate, or to his having become a joint candidate after having begun to conduct his election as a separate candidate, and such ceasing or beginning was in good faith, and such excess is not more than under the circumstances is reasonable, and the total expenses of such candidate do not exceed the maximum amount allowed for a separate candidate, such excess shall be deemed to have arisen from a reasonable cause within the meaning of the enactments respecting the allowance by the high court or election court of an exception from the provisions of this act which would otherwise make an act an illegal practice, and the candidate and his election agent may be relieved accordingly from the consequences of having incurred such excess of expenses.

SECOND SCHEDULE.

PART I. FORM OF DECLARATION AS TO EXPENSES.

FORM FOR CANDIDATE.

I, ———, having been a candidate at the election for the county [or borough] of ——— on the —— day of ———, do hereby solemnly and sincerely declare that I have examined the return of election expenses [about to be] transmitted by my election agent [or if the candidate is his own election agent, "by me"] to the returning officer at the said election, a copy of which is now shown to me and marked ——, and to the best of my knowledge and belief that return is correct;

And I further solemnly and sincerely declare that, except as appears from that return, I have not, and to the best of my knowledge and belief no person, nor any club, society, or association has, on my behalf, made any payment, or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability, on account of or in respect of the conduct or management of the said election;

(It is perfectly clear that when the money is found by any political club or association after the contest has begun, or the bills are settled by the agent on their behalf, it ought to be so returned; but where the candidate has had a lump sum given him before the election, which he in turn gives to the agent, such disclosure may be avoided.)

And I further solemnly and sincerely declare that I have paid to my election agent [if the candidate is also his own election agent, leave out "to my election agent"] the sum of £———, and no more, for the purpose of the said election, and that, except as specified in the said return, no money, security, or equivalent for money has to my knowledge or belief been paid, advanced, given, or deposited by anyone to or in the hands of my election agent [or if the candidate is his own election agent, "myself"] or any other person for the purpose of defraying any expenses incurred on my behalf on account of, or in respect of the conduct or management of, the said election;

And I further solemnly and sincerely declare that I will not, except so far as I may be permitted by law, at any future time make or be a party to the making or giving of any payment, reward, office, employment, or valuable consideration for the purpose of defraying any such expenses as last mentioned, or provide or be party to the providing of any money, security, or equivalent for money for the purpose of defraying any such expenses.

(Signature of declarant.) C. D.

Signed and declared by the above-named declarant on the ——— day of ———, before me.

(Signed.) E. F.,
Justice of the Peace for ———.

FORM FOR ELECTION AGENT.

I, ———, being election agent to ———, candidate at the election for the county [or borough] of ———, on the —— day of ———, do hereby solemnly and sincerely declare that I have examined the return of election expenses about to be transmitted by me to the returning officer at the said election, and now shown to me and marked ——, and to the best of my knowledge and belief that return is correct;

And I hereby further solemnly and sincerely declare that, except as appears from that return, I have not, and to the best of my knowledge and belief no other person, nor any club, society, or association has, on behalf of the said candidate, made any payment, or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said election;

And I further solemnly and sincerely declare that I have received from the said candidate £——, and no more [or nothing], for the purpose of the said election, and that, except as specified in the said return sent by me, no money, security, or equivalent for money has been paid, advanced, given, or deposited by any one to me or in my hands, or, to the best of my knowledge and belief, to or in the hands of any other person for the purpose of defraying any expenses incurred on behalf of the said candidate on account of or in respect of the conduct or management of the said election.

(Signature of declarant.) A. D.

Signed and declared by the above-named declarant on the ——— day of ——— before me.

(Signed.) E. F.,
Justice of the Peace for ———.

FORM OF RETURN OF ELECTION EXPENSES.

I, A. B., being election agent to C. D., candidate at the election for the county [or borough] of ———, on the ——— day of ———, make the following return respecting election expenses of the said candidate at the said election [or where the candidate has named himself as election agent, "I, C. D., candidate at the election for the county [or borough] of ———, on the ——— day of ———, acting as my own election agent, make the following return respecting my election expenses at the said election"].

Receipts.

Received of [the above-named candidate or where the candidate is his own election agent, "paid by me"]———— £———
Received of J. K———— £———
[Here set out the name and description of every person, club, society, or association, whether the candidate or not, from whom any money, securities, or equivalent of money was received in respect of expenses incurred on account of or in connection with or incidental to the above election, and the amount received from each person, club, society, or association separately.]

Expenditure.

Paid to E. F., the returning officer for the said county [or borough], for his charges at the said election———— £———
Personal expenses of the said C. D., paid by himself [or if the candidate is his own election agent, "paid by me as candidate"]———— £———
Personal expenses of the said C. D., paid by me [or if the candidate is his own election agent, add "acting as election agent"] £———
Received by me for my services as election agent at the said election [or if the candidate is his own election agent, leave out this item]———— £———
Paid to G. H., as subagent of the polling district of———— £———
[The name and description of each subagent and the sum paid to him must be set out separately.]
Paid to ——— as polling agent———— £———
Paid to ——— as clerk for ——— days' services———— £———
Paid to ——— as messenger for ——— days' services———— £———
[The names and descriptions of every polling agent, clerk, and messenger, and the sum paid to each, must bet set out separately either in the account or in a separate list annexed to and referred to in the account, thus, "paid to polling agent (or as the case may be) as per annexed list £———."]

Paid to the following persons in respect of goods supplied or work and labor done:
To P. Q. (printing)..... £____
To M. N. (advertising)..... £____
To R. S. (stationery)..... £____
[The name and description of each person, and the nature of the goods supplied, or the work and labor done by each, must be set out separately either in the account or in a separate list annexed to and referred to in the account.]
Paid for postage..... £____
Paid for telegrams..... £____
Paid for the hire of rooms as follows:
For holding public meetings..... £____
For committee rooms..... £____
[A room hired for a public meeting or for a committee room must be named or described so as to identify it, and the name and description of every person to whom any payment was made for each such room, together with the amount paid, must be set out seperately either in the account or in a separate list annexed to and referred to in the account.]
Paid for miscellaneous matters, namely..... £____
[The name and description of each person to whom any sum is paid, and the reason for which it was paid to him, must be set out separately either in the account or in a separate list annexed to and referred to in the account.]
In addition to the above, I am aware, as election agent for C. D. [or if the candidate is his own election agent, leave out "as election agent for C. D."] of the following disputed and unpaid claims, namely:
Disputed claims.
By T. U. for..... £____
[Here set out the name and description of each person whose claim is disputed, the amount of the claim, and the goods, work, or other matter on the ground of which the claim is based.]
Unpaid claims allowed by the high court to be paid after the proper time or in respect of which application has been or is about to be made to the high court:
By M. O. for..... £____
[Here state the name and description of each person to whom any such claim is due, and the amount of the claim, and the goods, work, and labor or other matter on account of which the claim is due.]

A. B.

PART II. FORM OF DECLARATION AS TO EXPENSES.

FORM FOR CANDIDATE WHERE DECLARED A CANDIDATE OR NOMINATED IN HIS ABSENCE AND TAKING NO PART IN THE ELECTION.

I, ———, having been nominated [or having been declared by others] in my absence [to be] a candidate at the election for the county [or borough] of ———, held on the —— day of ———, do hereby solemnly and sincerely declare that I have taken no part whatever in the said election.

And I further solemnly and sincerely declare that [or with the exception of ———] I have not, and no person, club, society, or association at my expense has, made any payment or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability, on account of or in respect of the conduct or management of the said election.

And I further solemnly and sincerely declare that [or with the exception of ———] I have not paid any money or given any security or equivalent for money to the person acting as my election agent at the said election, or to any other person, club, society, or association, on account of or in respect of the conduct or management of the said election, and that [or with the exception of ———] I am entirely ignorant of any money, security, or equivalent for money having been paid, advanced, given, or deposited by anyone for the purpose of defraying any expenses incurred on account of or in respect of the conduct or management of the said election.

And I further solemnly and sincerely declare that I will not, except so far as I may be permitted by law, at any future time make or be party to the making or giving of any payment, reward, office, employment, or valuable consideration for the purpose of defraying any such expenses as last mentioned, or provide or be party to the providing of any money, *security*, or equivalent of money for the purpose of defraying any such expenses.

(Signature of declarant.) C. D.

Signed and declared by the above-named declarant on the —— day of ———, before me.

E. F.,
Justice of the Peace for ———.

PART III. ENACTMENTS DEFINING THE OFFENSES OF BRIBERY AND PERSONATION.

The corrupt-practices prevention act, 1854, 17 and 18 Vict., c. 102, ss. 2, 3.

SEC. 2. The following persons shall be deemed guilty of bribery, and shall be punishable accordingly:

(1) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, give, lend, or agree to give or lend, or shall offer, promise, or promise to procure or to endeavor to procure, any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce any voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of such voter having voted or refrained from voting at any election.

(2) Every person who shall, directly or indirectly, by himself, or by any other person on his behalf, give or procure, or agree to give or procure, or offer, promise, or promise to procure or to endeavor to procure, any office, place, or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce such voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of any voter having voted or refrained from voting at any election.

(3) Every person who shall, directly or indirectly, by himself, or by any other person on his behalf, make any such gift, loan, offer, promise, procurement, or agreement as aforesaid to or for any person, in order to induce such person to procure or endeavor to procure the return of any person to serve in Parliament, or the vote of any voter at any election.

(4) Every person who shall, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procure or engage, promise, or endeavor to procure the return of any person to serve in Parliament, or the vote of any voter at any election.

(5) Every person who shall advance or pay, or cause to be paid, any money to or to the use of any other person with the intent that such money or any part thereof shall be expended in bribery at any election, or who shall knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election: *Provided always*, That the aforesaid enactment shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses bona fide incurred at or concerning any election.

SEC. 3. The following persons shall also be deemed guilty of bribery, and shall be punishable accordingly:

(1) Every voter who shall, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receive, agree, or contract for any money, gift, loan, or valuable consideration, office, place, or employment, for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election.

(2) Every person who shall, after any election, directly or indirectly, by himself or by any other person on his behalf, receive any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election.

The representation of the people act, 1867, 30 and 31 Vict., c. 102, s. 49.

Any person, either directly or indirectly, corruptly paying any rate on behalf of any ratepayer for the purpose of enabling him to be registered as a voter, thereby to influence his vote at any future election, and any candidate or other person, either directly or indirectly, paying any rate on behalf of any voter for the purpose of inducing him to vote or refrain from voting, shall be guilty of bribery, and be punishable accordingly; and any person on whose behalf and with whose privity any such payment as in this section is mentioned is made shall also be guilty of bribery, and punishable accordingly.

The representation of the people (Scotland) act, 1868, 31 and 32 Vict., c. 48, s. 49.

Any person, either directly or indirectly, corruptly paying any rate on behalf of any ratepayer for the purpose of enabling him to be registered as a voter, thereby to influence his vote at any future election, and any candidate or other person, either directly or indirectly, paying any rate on behalf of any voter for the purpose of inducing him to vote or refrain from voting, shall be guilty of bribery, and be punishable accordingly; and any person on whose behalf and with whose privity any such payment as in this section mentioned is made shall also be guilty of bribery, and punishable accordingly.

The universities elections amendment (Scotland) act, 1881, 44 and 45 Vict., c. 40, s. 2.

17. Any person, either directly or indirectly, corruptly paying any fee for the purpose of enabling any person to be registered as a member of the general council, and thereby to influence his vote at any future election; and any candidate or other person, either directly or indirectly, paying such fee on behalf of any person for the purpose of inducing him to vote or to refrain from voting, shall be guilty of bribery, and shall be punishable accordingly; and any person on whose behalf and with whose privity any such payment as in this section mentioned is made shall also be guilty of bribery, and punishable accordingly.

The ballot act, 1872, 35 and 36 Vict., c. 33, s. 24.

A person shall for all purposes of the laws relating to parliamentary and municipal elections be deemed to be guilty of the offense of personation who at an election for a county or borough, or at a municipal election, applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead or of a fictitious person, or who, having voted once at any such election, applies at the same election for a ballot paper in his own name.

THE PARLIAMENTARY ELECTIONS CORRUPT-PRACTICES ACT, 1885.
(48 and 49 Vict., ch. 46.)

An act to amend the law with respect to corrupt practices at parliamentary elections. (6th Aug., 1885.)

Whereas doubts have arisen as to whether or not it be lawful for an employer of labor to permit electors in his regular employ to absent themselves from their employment for the purpose of recording their votes at any parliamentary election without making any deduction from the salary or wages of such electors for the time reasonably occupied in recording their votes;

And whereas it is expedient to remove such doubts:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

The doubts referred to in the preamble arose in such cases as Truscott *v.* Bevan (44 L. T., 64). In that case the respondent's agent gave a holiday to the respondent's work people on the polling day, and they were paid their wages as usual. Many were voters and were supplied with colors and driven to the poll in carriages. On previous occasions, when the respondent was not a candidate, a holiday had been given, but wages withheld. On these facts the respondent's return was held void for bribery by his agent.

1. Nothing in the law relating to parliamentary elections shall make it illegal for an employer to permit parliamentary electors in his employment to absent themselves from such employment for a reasonable time for the purpose of voting at the poll at a parliamentary election, without having any deduction from their salaries or wages on account of such absence, if such permission is, so far as practicable without injury to the business of the employer, given equally to all persons alike who are at the time in his employment, and if such permission is not given with a view of inducing any person to record his vote for any particular candidate at such election, and is not refused to any person for the purpose of preventing such person from recording his vote for any particular candidate at such election.

Section 1 of the act of 1885 merely enacts that the giving to the workmen of a reasonable leave of absence without deduction in wages to enable them to vote shall not by itself alone be illegal, if such permission is given, so far as practicable, to all alike and is not given with a view to influencing any workman's vote.

It would still, therefore, be a question of fact, looking at all the circumstances of the case, whether such permission was given bona fide or with the intention of influencing the workman's vote, and in the latter case would still constitute bribery.

2. This act shall not be construed to make illegal any act which would not have been illegal if this act had not passed.

3. This act may be cited as "The parliamentary elections corrupt-practices act, 1885."

Section 2 shows that the act is not intended in any way to strengthen the act of 1883.

THE CORRUPT AND ILLEGAL PRACTICES PREVENTION ACT, 1895.

(58 and 59 Vict., chap. 40.)

An act to amend the corrupt and illegal practices prevention act, 1883.

(6th July, 1895.)

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. Any person who, or the directors of any body or association corporate which, before or during any parliamentary election shall, for the purpose of affecting the return of any candidate at such election, make or publish any false statement of fact in relation to the personal character or conduct of such candidate, shall be guilty of an illegal practice within the meaning of the provisions of the corrupt and illegal practices prevention act, 1883, and shall be subject to all the penalties for and consequences of committing an illegal practice in the said act mentioned, and the said act shall be taken to be amended as if the illegal practice defined by this act had been contained therein.

The words "or the directors of any body or association corporate" are added to cover the case of a false statement made by a newspaper owned by a registered and limited liability company, in which case it would be extremely difficult to ascertain the person actually responsible for publishing the false statement.

In the Sunderland case (5 O'M. & H., 53) Mr. Baron Pollock laid down that a statement, "if it be a false statement of fact, and it be in relation to the election and to the personal character and conduct of the candidate," comes within the act, and the court "has nothing whatever to do with the question which arises in cases of libel as to whether there was malice. Any false statement, whether charging dishonesty, or merely bringing a man into contempt, if it affects or is calculated to affect the election, comes within this act." Dealing with what constitutes a statement of fact, the judgment goes on to say that a mere adjective or adverb may carry such a statement, but an "argumentative statement of the conduct of a public man, although it may be in respect to his private life, is not always, and in many cases certainly would not be, a false statement of fact. * * * There is one other thing which I am very clear upon, and that is this: That if you quote an article from another paper, you make any absolute facts stated in that article a part of your own statement; that is to say, a man can not shield himself, if he has charged a man with forgery, by saying, 'Oh, but if you look at any newspaper you will find we read in the evening paper that Mr. So-and-so had committed forgery.' A man has no right to do that." But "a statement of a course of conduct which is alleged on the one side and contradicted on the other by the persons of whom it is written * * * is not to my mind a 'statement of fact' in the sense in which it is intended in this act of Parliament."

As to the penalty for an illegal practice see sections 10 and 54 of the corrupt and illegal practices prevention act, 1883.

2. No person shall be deemed to be guilty of such illegal practice if he can show that he had reasonable grounds for believing, and did believe, the statement made by him to be true.

Any person charged with an offense under this act, and the husband or wife of such person, as the case may be, shall be competent to give evidence in answer to such charge.

In the Sunderland case (supra) Mr. Baron Pollock, dealing with section 2, says: "If a man procure from some stranger in the street a statement that some person he knew had committed a murder or robbery, and he went and promulgated it without any further inquiry, no one could doubt that he would * * * not be protected. If, on the other hand, he heard that from two or three highly respectable persons who must know the truth of it, he would be protected." He goes on to say that in minor matters evidence of a more slender character might suffice to create a belief so as to give protection than in more serious matters, and that an election agent can not be expected to have "quite the same careful discrimination as to the language he uses as the candidate himself."

This is the nearest approach we have to a definition of what constitutes reasonable grounds for belief.

Section 2 was again considered with regard to what constitutes belief in a case stated by a magistrate and reported as Silver *v.* Benn (12 T. L. R., 199). The facts were as follows: B having made certain allegations against M, a newspaper of which the appellant (who was also respondent in other proceedings to be mentioned under sec. 4) was editor, subsequently published a passage headed "Foul play" and "Hitting below the belt," asserting that there was a very dark passage in B's own life, and that there was a skeleton in his cupboard which might be exposed. Proceedings having been taken against him in the police court, the magistrate found as a fact that the newspaper article had alluded to a misfortune which had actually occurred in B's family, but also that he wrote the words maliciously, intending them to be defamatory and to impute discreditable matter to B. On a case stated by the magistrate, the court decided that a breach of the act had been committed, although he believed to be true that which he intended to say. Another court, however, on the trial of an election petition on the same facts, exonerated him from liability for illegal practice. (See note to sec. 4.)

The second part of section 2 is now (since 61 Vict., c. 36) superfluous.

3. Any person who shall make or publish any false statement of fact as aforesaid may be restrained by interim or perpetual injunction by the high court of justice from any repetition of such false statement or any false statement of a similar character in relation to such candidate, and for the purpose of granting an interim injunction prima facie proof of the falsity of the statement shall be sufficient.

An example of an injunction being granted under section 3 is found in the case of Bayley *v.* Edmunds, reported in the Times, 23d July, 1895. In that case a paragraph taken from a newspaper and published as a leaflet for distribution among the electors alleged that the plaintiff had locked out his colliers from their pits for six weeks till stocks were cleared out and price of coal reached 22s. or 23s. per ton at the pits, and then the plaintiff found that "his conscience would not allow him to starve the poor miner any longer." This statement was unsubstantiated and false in fact, and, further, was held by the court of appeal to be derogatory to the plaintiff's personal character (in that it suggested that he had acted unconscientiously in order to make large profits), and intended to injure him in the election. He was accordingly held entitled to an injunction against any repetition of such false statement.

4. A candidate shall not be liable, nor shall be subject to any incapacity, nor shall his election be avoided, for any illegal practice under this act committed by his agent other than his election agent, unless it can be shown that the candidate or his election agent has authorized or consented to the committing of such illegal practice by such other agent, or has paid for the circulation of the false statement constituting the illegal practice, or unless upon the hearing of an election petition the election court shall find and report that the election of such candidate was procured or materially assisted in consequence of the making or publishing of such false statements.

In the St. George's division case (5 O'M. & H., 89, p. 102) a candidate was exonerated from a charge brought against him under the act by reason of section 4. The facts are those set out in the notes to section 2. (Silver *v.* Benn.) Neither candidate nor his election agent had authorized or consented to the illegal practice, and therefore the candidate was held entitled to the benefit of section 4. On the other hand, in the Sunderland case (in notes to sec. 1) the candidate was held liable in spite of section 4, because he had by his election agent invited assistance from the agent and therefore had authorized or consented to the committing of the illegal practice.

5. This act may be cited as "The corrupt and illegal practices prevention act, 1895," and shall be construed as one with the corrupt and illegal practices prevention act, 1883, and that act and this act may be cited together as "The corrupt and illegal practices prevention acts, 1883 and 1895."

EXHIBIT D.

POPULAR SELECTION OF PRESIDENTS.

The following amendment to the Oregon direct primary law was proposed by Senator JONATHAN BOURNE, Jr., and submitted to the people under the initiative at the general election November 8, 1910, and was adopted by the people:

"A bill for a law to further amend the direct-primary nominating elections law, which was proposed by initiative petition and approved by the people of Oregon at the general election in June, 1904, and printed in the volume of the General Laws of Oregon for the year 1905 at pages 7 to 50, and as amended by section 14 of Article II of the constitution of Oregon, approved at the general election in June, 1908, by inserting in said law, after section 2 and before section 3, sections 2a, 2b, 2c, 2d, and 2e, as herein written; to provide for the expression by the qualified voters of the several political parties, subject to the said direct-primary law, of their choice for nomination by their party for President and Vice President of the United States; to provide for and regulate direct-primary nominating election for the election of said political party's delegates to their respective national conventions, and for the payment of delegates' necessary expenses, not exceeding $200 each; for the nomination of party candidates for the office of presidential elector; for space in the party and State campaign books to set forth the merits of aspirants for nomination and candidates for the offices of President and Vice President of the United States, of candidates for offices to be voted for in the State at large, and of candidates for United States Senators and Representatives in Congress.

"Be it enacted by the people of the State of Oregon:

"SECTION 1. That the direct-primary nominating elections law, which was proposed by initiative petition and enacted by the people of Oregon at the general election in June, 1904, as the same is printed in the volume of General Laws of Oregon for the year 1905, at pages 7 to 50 thereof, and as the said law was amended by section 14 of Article II of the constitution of Oregon, as approved at the regular general election in June, 1908, shall be, and the same is hereby, further amended, by inserting, after section 2 and before section 3, the following sections, which shall be designated, respectively, as sections 2a, 2b, 2c, 2d, and 2e.

"SEC. 2a. Provided, in the years when a President and Vice President of the United States are to be elected, said primary nominating election shall take place on the forty-fifth day before the first Monday in June of said year; and all laws pertaining to the nomination of candidates, registration of voters, and all other things incident and pertaining to the holding of the regular biennial nominating election shall be enforced and effected the same number of days before the first Monday in June that they were under the said nominating election law immediately before the change in the date of the regular general election from the first Monday in June to the first Tuesday after the first Monday in November. In the years of the regular biennial general election when a President and Vice President of the United States are not to be elected all the aforesaid laws and purposes shall be enforced and be effected the same number of days before the first Tuesday after the first Monday in November as they shall be in the years of presidential elections before the first Monday in June.

SEC. 2b. In the presidential election years, in addition to the candidates heretofore required to be nominated at the regular nominating election, the qualified electors of the political parties subject to this law shall have opportunity to vote their preference on their party nominating ballots for their choice among those aspiring to be the candidates of their respective parties for President and also for Vice President of the United States, shall elect their party delegates to their national conventions, and shall nominate their party presidential electors. The names of the aspirants in each such party for its nomination to be its candidates for the office of President and for the office of Vice President of the United States shall be printed on the party nominating official ballot, and the ballots shall be marked and the votes shall be counted, canvassed, and returned under the same conditions, as to names, petitions, and other matters so far as the same are applicable, as the names and petitions of party aspirants for the party nominations for the office of governor and of the United States Senator in Congress are or may be by law required to be marked, filed, counted, canvassed, and returned: *Provided*, That aspirants for such presidential nominations need not file any personal petition nor signatures; that certificates of the number of votes received by each such candidate shall be issued to the delegates who are elected for said party to the party national convention; that petitions to place on the nominating ballot the names of aspirants for such office of delegate to said national convention to be chosen and elected at said nominating election shall be sufficient if they contain a number equal to 1 per cent of the party vote in the State at the next preceding election for Representatives in Congress, or 500 signatures of party voters. Every qualified voter shall have the right, at such nominating election, to vote for one candidate for national delegate for his party for the nomination of one candidate for presidential elector and no more. A number of such candidates equal to the number of delegates to be elected and the number of presidential electors to be nominated, receiving, respectively, each for himself, the highest number of votes for such office or nomination, shall be elected or nominated, as the case may be.

"SEC. 2c. Every delegate to a national convention of a political party recognized as such organization by the laws of Oregon shall receive from the State treasurer the amount of his actual necessary traveling expenses, as his account may be audited and allowed by the secretary of state or state auditor, for actual attendance upon said convention, but not in any case to exceed $200 for one delegate. The election of such national delegates for political parties not subject to the direct-primary law shall be certified in like manner as nominations of candidates of such parties for elective public office. Every such delegate to a na-

tional convention which nominated candidates for President and Vice President shall subscribe an oath of office that he will uphold the Constitution and laws of the United States and of Oregon, and that he will, as such officer and delegate, to the best of his judgment and ability, faithfully carry out the wishes of his political party as expressed by the voters at said nominating election.

"SEC. 2d. Every candidate whose name is placed on the nominating ballot as herein required as an aspirant for nomination by his party as its candidate for President or Vice President of the United States shall have the right, without expense to himself, to have four pages of printed space in his party campaign book, provided for by section 5 of the law proposed by initiative petition and enacted by the people of Oregon at the general election in June, 1908, entitled 'An act to propose by initiative petition a law to limit candidates' election expenses,' etc., as printed on pages 15 to 38 of the General Laws of Oregon for the year 1909. In this space shall be set forth by said aspirant, or his friends, with his written permission filed with the secretary of state for Oregon, a statement of the reasons why he should be chosen by the members of his party in Oregon and in the Nation for its candidate.

"SEC. 2e. Every person regularly nominated by a political party, recognized as such by the laws of Oregon, for President or Vice President of the United States, or for any office to be voted for by the electors of the State at large, or for Senator or Representative in Congress, shall be entitled to use four pages of printed space in the State campaign book, provided for by sections 6 and 7 of the above-entitled 'Law to limit candidates' expenses,' etc., as printed on pages 15 to 38 of the volume of the General Laws of Oregon for 1909. In this space the candidate or his friends, with his written permission filed with the secretary of state, may set forth the reasons why he should be elected. No charge shall be made against candidates for President and Vice President of the United States for this printed space. The other candidates above named shall pay at the rate of $100 per printed page for said space, and said payment shall not be counted as a part of the 10 per cent of one year's salary that said candidate is allowed to spend for campaign purposes. If this proposed law shall be approved by the people of Oregon, the title of this bill shall stand as the title of the law."

EXHIBIT E.

DIRECT PRIMARY SYSTEM DEFECTIVE BECAUSE IT ENABLES PETTY POLITICIANS TO WIN ELECTIONS BY MINORITY OF VOTES CAST—PROF. JOHNSON TELLS HOW TO REMEDY SYSTEM BY "PREFERENTIAL VOTING."

GRAND JUNCTION PLAN REQUIRES MAJORITY VOTE FOR NOMINATION.

The following article, prepared by Prof. Lewis Jerome Johnson, of Harvard University, is timely and appropriate, in view of the working out of Boston's direct primary system as exemplified in yesterday's election.

Prof. Johnson, who has given much attention to civic questions and is an active worker in many organizations for the betterment of politics, explains the "preferential voting" system as developed in Grand Junction, Colo., and Cambridge. This system makes it impossible for a candidate to receive the party nomination unless he has a majority of the votes cast, instead of a mere plurality, if there is a majority to be had for any.

The voter indicates a "first choice," a "second choice," and "additional choices." If there is no candidate with a clear majority among first choices, the first and second choices are added together.

See explanation in extract from charter.

It is interesting to apply this system to the results of yesterday's congressional nominations in the ninth and tenth districts.

Mr. Murray was nominated by 5,580 votes out of a total of 13,882. He had a slight plurality over Mr. KELIHER, but had nowhere near a majority of the votes cast. The vote was broken up among six candidates. It is not likely that anyone will credit Mr. Murray with being the candidate that most of the voters wanted. If the "preferential" system had been used, Mr. KELIHER would almost certainly have received enough "second-choice" votes to give him a majority of all the votes cast, and make him the party candidate.

Likewise, in the tenth district, Mr. Curley, one of three candidates, was nominated by a mere plurality vote of 6,838, out of a total vote of 16,363. It is not likely that the majority of the voters wanted Mr. Curley to run for Congress.

If the "preferential" vote had been used, probably Mr O'CONNELL, who was defeated, would have received enough "second choice" votes to give him a clear majority. Or the majority might even have gone to Mr. McNary, who received the smallest vote.

Obviously, the present "direct primary" system is defective. The suggestion made by Prof. Johnson is worth considering.—EDITOR.]

Direct nominations have come to stay!

There can be little doubt of that. The principle is correct, and thus far they seem to have worked finely.

They are still, however, defective in detail, particularly so in permitting a nomination by a mere plurality of the first-choice votes, regardless of whether it is a majority or not. This opens a danger perhaps worse than the justly discredited caucus and convention system—a danger which that system made a show, at least, of offsetting.

Under plurality rule, the larger the number of candidates—and the number ought to be large—the better the relative chances of the favorite or owner of a closely knit organization. With 10 candidates and 1,000 voters, for example, 200 voters might readily prevail over the other 800 and nominate a man entirely unacceptable to the overwhelming majority simply because the majority were much divided in what should be little more than an informal ballot, but which the present system makes a final ballot.

The machine voters have a great advantage in this system over the more independent and more thoughtful members of the party.

DISASTER IS LIKELY TO COME.

Of course, in Wisconsin, where LA FOLLETTE had a walkover, the system was not severely tested. But disaster is likely to come at any time and anywhere, and it ought to be effectively guarded against.

Preferential voting will do it, and do it far better than any scheme of repeated balloting, or even than any scheme of second elections. Preferential voting has now been reduced to a system both simple and fair, and has already saved one American city from a mere plurality mayor.

To work it, a ballot is used differing from our own only in having three columns for crosses at the right of the column of candidates' names. The voter puts his first choice cross in the first column, his second in the second, and in the third column he puts a cross after the names of all the rest of the candidates acceptable to him. Of course, only one choice can be counted for any one candidate.

The votes in the first column decide the result if some candidate polls in that column a majority (more than half) of all the votes cast. Failing that, and the first and second choice votes received by the others are assumed of equal worth and added together. The candidate now highest wins if he has a majority.

If no man can command a majority of the first and seconds, meaning that there are a number of nearly equally desirable candidates, and the choices in the third columns are brought into the count on equal terms with the rest. The highest man then wins—the man on the list behind whom the voters are found to have gathered after each has specified all whom he cares to support.

This will always result in a majority selection unless the list of candidates happens to contain no one on whom the majority can freely and automatically unite—a condition clearly not due to the system of voting.

This system of voting comes from Grand Junction, Colo., and, simplified by the omission of the practice of dropping the low man, it is a prominent feature of the new charter for Cambridge, now pending.

How it worked in Grand Junction in saving that city from a mere plurality mayor, who was really one of the weakest of the candidates, is shown by the following summary of the result:

Total number of ballots cast	1,847
Necessary for a majority	924

The votes for mayor.

	First choice.	Second choice.	Additional choices.	Combined firsts and seconds.	Combined firsts, seconds, and additional.
D. W. Aupperle	465	143	145	608	753
W. H. Bannister*	603	93	43	696	739
N. A. Lough (out on second)	99	231	328	330	(658)
E. M. Slocomb	229	357	326	586	912
E. B. Lutes (out on first)*	41	114	88	(155)	(243)
Thomas H. Todd (elected)	362	293	396	655	1,051
	1,799	1,231	1,326	.....	.....

*The starred men were the anticharter and minority candidates; the other the pro charter and majority candidates.

There being no majority in first choices, the low man, Lutes, was dropped and firsts and seconds were added together. Then the leading candidate, provided he had a majority, would have won.

There being no majority by combined firsts and seconds, the low man, Lough, was dropped, and first, second, and additional choices were added together, and Todd, the candidate then leading, won.

Under the usual system the minority would have beaten the majority and elected Bannister.

Under the Berkeley, Des Moines, or Haverhill plan, that of second elections, there would have resulted a bitter fight between Aupperle and Bannister, neither of whom had a majority of the people behind him.

THE BEST SYSTEM.

This system seems to be free from the objections to previous systems of preferential voting. They overdid the straining for "scientific" accuracy. They were too delicate, and the nature of the case really requires no such highly strung apparatus. They assume a precision of choice in the mind of the voters which can not possibly exist except in the rarest cases, and they have attracted no general favor.

The Grand Junction plan seems clearly the one for here and now. It fits the established habits of our voters under our Australian system and is undoubtedly as scientific as the nature of the case warrants. The most serious objection raised to it is that in a close election a voter might by his second or other choices contribute to the election of his second or other choice man over his first choice man.

But as an offset to this risk he has by the same means a greatly increased chance of getting some one acceptable to him instead of no one, supposing his first choice to have proved hopeless. In any case, a man of the type acceptable to the great body of voters is sure to be selected so far as this is humanly possible.

Moreover, the counting can be done in the precincts or districts and completed under the conditions most conducive to fairness and calmness. The final return is compiled from tally sheets and that—the final and most exciting part of the work—can readily be checked up by anybody.

The Grand Junction plan is admirably adapted to the support of all the clearly acceptable candidates as distinct from the objectionable or doubtful. It is assumed that a first choice may be clear in the voter's mind, and possibly a second, but beyond this niceties in the gradation of choices are illusory.

The voter is thus enabled quickly to make his crosses after all the names he cares to support, without need of facing the vexatious task of making up his mind whether this man is his sixth and that man his seventh choice, or vice versa. Rather than go through this process many would doubtless refrain from voting for these men at all—thus robbing them of support which they ought to have and which the Grand Junction system makes it easy to give them.

ONE OR MORE CHOICES.

If a voter wishes to express only one choice, he is, of course, free to do so. It is his duty to do so if there is only one acceptable candidate. But such voters are likely to be organization men, bound to some chief, or else supporters of a good nominee up for reelection.

In the former case they are almost sure to be a minority and likely to lose anyway; if not, they ought, of course, to win.

In the other case the probably preeminent claims of the candidate should make him an easy winner in the first column. If he has no such claims, the result ought to include the other columns, and the voter who expresses no second choice for fear of hurting his first one puts his candidate's interest ahead of the public interest, provided there are other good nominees.

The Grand Junction system, with the minimum of turmoil and expense, selects from a large number of nominees a safe choice in a manner far more likely to reflect the calm, candid judgment of the voters than either the second election system or such alleged majority selection as is arrived at in the pulling and hauling of repeated balloting at a nominating convention. The voter has only to make a few crosses on a ballot, put the ballot in the box, and await results. The result is known before the excitement can become very bitter. Contrast this with second elections or repeated balloting.

In short, direct nominations need not be left exposed to risks of discredit plurality rule. If the voters should prefer any of the earlier

systems than the Grand Junction they ought to have it. They should, however, welcome the simplest, safest scheme that will give a reasonable approach to majority rule, remembering that public good takes precedence over the wishes of scheming candidates and their machines.

USEFUL IN REGULAR ELECTIONS.

Primaries are not the only places where preferential voting would come in handy. Several Massachusetts cities beside Boston are under mere plurality mayors. In one city the present mayor has only one-fourth the votes cast.

It might be used as preventive or relief for deadlocks in legislatures trying to elect United States Senators—modified if desired to meet the unusual circumstances of that case.

Preferential voting practically eliminates the danger from a split ticket. The majority faction or interest in a community is almost certain to elect some one of its nominees, whatever the number up for a single office.

Massachusetts has a fine chance to join in the lead in utilizing preferential voting and perfecting the work she began in adopting the natural preliminary step, the Australian ballot.

EXHIBIT F.

BALLOT ILLUSTRATING PREFERENTIAL VOTING.

Instructions.—To vote for a candidate, make a cross (x) in the appropriate space.

Vote your first choice in the first column.

Vote your second choice in the second column.

Vote only one first choice and only one second choice for any one office.

Vote in the third column for all the other candidates whom you wish to support.

Do not vote more than one choice for one person, as only one choice will count for any candidate.

If you wrongly mark, tear, or deface this ballot, return it and obtain another.

One man to be elected for each office.

	First choice.	Second choice.	Other choices.
Supervisor of administration (mayor).			
Charles E. Hughes			
Champ Clark			
George B. McClellan			
Nelson W. Aldrich			
Richard Croker			
Tom L. Johnson			
Joseph W. Folk			
Robert M. La Follette			
Woodrow Wilson			
William J. Bryan			
Chauncey M. Depew			
Boies Penrose			
Theodore Roosevelt			
Supervisor of finance.			
Bourke Cockran			
Leslie M. Shaw			
John A. Sullivan			
Nathan Matthews			
Supervisor of public works.			
Guy C. Emerson			
John Mitchell			
Stephen O'Meara			
Supervisor of health.			
H. W. Wiley			
Supervisor of public property.			
Gifford Pinchot			
Richard A. Ballinger			

Mr. OWEN. I make the proposition that the Senate now pass this bill with regard to statehood, admitting Arizona and New Mexico together.

Mr. HALE. I object, Mr. President.

The VICE PRESIDENT. Objection is made.

Mr. OWEN. Now, I have done what I could. I should in that event have yielded the floor and made no further objection to the appropriation bills going through, but since I am not permitted to do that, I shall continue as I have done and as I had expected to do.

Mr. HALE. Mr. President, under the present condition, there is nothing that can be done. The Senator has the floor and will not yield unless he has his way about the Territories. Therefore I ask and I shall insist that nothing be laid before the Senate. Let the Senator go on.

Mr. OWEN. Mr. President, it seems that perhaps the matter was not clearly understood as I offered it.

Mr. YOUNG. I rise to a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. OWEN. I make this proposal: That the Senate now vote upon these propositions jointly, and if that is disposed of either one way or the other, I will yield the floor.

Mr. HALE. I object.

The VICE PRESIDENT. The Chair will put it. The Senator from Oklahoma asks unanimous consent that the Senate now vote upon the——

Mr. OWEN. Upon the joint resolution as amended.

The VICE PRESIDENT. It has not yet been amended.

Mr. OWEN. No; but an amendment——

The VICE PRESIDENT. The only way the Chair could put it would be that the Senate, by unanimous consent, agrees to vote upon the joint resolution as if amended.

Mr. OWEN. Yes; that would meet it.

Mr. HALE. Is it the understanding that if this measure is taken up and voted upon the Senator then——

The VICE PRESIDENT. Yields the floor.

Mr. HALE (continuing). Yields the floor and will not make any further opposition to the passage of the appropriation bills?

Mr. OWEN. I will make no further opposition, if that is disposed of.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the order is entered. The Secretary will report the joint resolution as originally presented with the amendment proposed by the Senator from Oklahoma, and upon the joint resolution thus amended the vote will be taken. The Secretary will read the joint resolution.

Mr. OWEN. I want the yeas and nays on the joint resolution, Mr. President.

The VICE PRESIDENT. The Senator from Oklahoma asks for the yeas and nays on the joint resolution.

The yeas and nays were ordered.

The VICE PRESIDENT. The Secretary will first read the joint resolution.

The Secretary read the joint resolution (H. J. Res. 295) approving the constitution formed by the constitutional convention of the Territory of New Mexico, as follows:

Resolved, etc., That the constitution formed by the constitutional convention of the Territory of New Mexico, elected in accordance with the terms of the act of Congress entitled "An act to enable the people of New Mexico to form a constitution and State government and be admitted into the Union on an equal footing with the original States," etc., approved June 20, A. D. 1910, which said constitutional convention met at Santa Fe, N. Mex., on the 3d day of October, A. D. 1910, and adjourned November 21, A. D. 1910, and which constitution was subsequently ratified and adopted by the duly qualified electors of the Territory of New Mexico, at an election held according to law, on the 21st day of January, A. D. 1911, being republican in form, and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence, and complying with the terms of said enabling act, be, and the same is hereby, approved, subject to the terms and conditions of the joint resolution entitled "Joint resolution reaffirming the boundary line between Texas and the Territory of New Mexico," approved on the 16th day of February, A. D. 1911.

The amendment of Mr. OWEN was to add as a new section the following:

SEC. 2. That the constitution formed by the constitutional convention of the Territory of Arizona, elected in accordance with the terms of the act of Congress entitled "An act to enable the people of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States," etc., approved June 20, A. D. 1910, which said constitutional convention met at Phoenix, Ariz., on the 10th day of October, A. D. 1910, and adjourned December 9, A. D. 1910, and which constitution was subsequently ratified and adopted by the duly qualified electors of the Territory of Arizona, at an election held according to law, on the 9th day of February, A. D. 1911, being republican in form, and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence, and complying with the terms of said enabling act, be, and the same is hereby, approved.

Mr. BAILEY. Mr. President, I rise to make a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Texas will state it.

Mr. BAILEY. I desire to know if there is first to be a vote on the amendment and then a vote on the joint resolution.

The VICE PRESIDENT. Under the agreement the vote is to be upon the matter which has just been read by the Secretary in full.

Mr. BAILEY. Mr. President, I regret that I was not on the floor when that unanimous consent was obtained, because I should have objected to it. I intend to vote against the joint resolution as amended.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and Mr. BACON responded to his name.

Mr. DU PONT. I should like to have the joint resolution read.

The VICE PRESIDENT. The joint resolution has just been read.

Mr. DU PONT. I withdraw the request.

The VICE PRESIDENT. Nothing can interrupt the roll call after it has begun, and it has begun.

The roll call having been concluded, the result was announced—yeas 39, nays 45, as follows:

YEAS—39.

Bacon	Brown	Culberson	Gore
Beveridge	Burkett	Cummins	Gronna
Borah	Chamberlain	Dixon	Johnston
Bourne	Clapp	Fletcher	Jones
Bristow	Clarke, Ark.	Frazier	La Follette

McCumber	Owen	Simmons	Taylor
Martin	Paynter	Smith, Md.	Thornton
Money	Percy	Smith, S. C.	Tillman
Newlands	Rayner	Stone	Watson
Nixon	Shively	Swanson	

NAYS—45.

Bailey	Depew	Lodge	Smith, Mich.
Bradley	Dick	Lorimer	Smoot
Brandegee	Dillingham	Nelson	Stephenson
Briggs	du Pont	Oliver	Sutherland
Bulkeley	Flint	Overman	Taliaferro
Burnham	Frye	Page	Warner
Burrows	Gallinger	Penrose	Warren
Burton	Gamble	Perkins	Wetmore
Carter	Guggenheim	Piles	Young
Clark, Wyo.	Hale	Richardson	
Crane	Heyburn	Root	
Cullom	Kean	Scott	

NOT VOTING—7.

Aldrich	Crawford	Davis	Terrell
Bankhead	Curtis	Foster	

So the joint resolution was rejected.

SUNDRY CIVIL APPROPRIATION BILL.

The VICE PRESIDENT. The question is on agreeing to the report of the committee of conference on the sundry civil appropriation bill.

The report was agreed to.

POST OFFICE APPROPRIATION BILL.

Mr. PENROSE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 31539) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1912, and for other purposes, 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 amendments numbered 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, 16, 20, 24, 27, 29, 30, 31, 32, 43, 49, 51, 52, and 53.

That the House recede from its disagreement to the amendments of the Senate numbered 7, 8, 17, 18, 19, 21, 25, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 44, 45, 46, 47, 48, 50, 54, 55, 56, 57, 58, 59, 60, and 61, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment as follows: Page 16, in second line of said amendment strike out "five" and insert "four"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with amendments as follows: Page 4, line 18, after the word "transportation" insert "and handling"; page 4, line 22, after the word "transporting" insert "and handling"; page 5, line 3, after the word "transportation" insert "and handling"; page 5, line 4, after the word "first" insert "1911"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment as follows:

Page 20, lines 22, 23, and 24 of said amendment, strike out all after "construction."

In lines 1, 2, and 3, page 7 of said amendment, strike out all the language; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment as follows:

Page 21, in line 6 of said amendment, strike out "eight" and insert "ten"; and the Senate agree to the same.

BOIES PENROSE,
THOS. H. CARTER,
J. H. BANKHEAD,
Managers on the part of the Senate.

JOHN W. WEEKS,
JOHN J. GARDNER,

I agree except as to postal commission—No. 23.

JOHN A. MOON,
Managers on the part of the House.

The report was agreed to.

SECOND-CLASS MAIL.

Mr. PENROSE. Mr. President, the only subject in controversy in the second conference between the two Houses was the failure of the House to agree to the Senate amendment providing for a commission to investigate the rates upon second-class mail matter. Subsequent to the Senate receding in the second conference a joint resolution was agreed on which may possibly secure passage in the House of Representatives. In view of the great interest which the President and the Postmaster General take in the proposition and the favorable action of the Senate yesterday in acceding to the committee amendment, I ask present consideration of the joint resolution, which I send to the desk, which may, as I say, possibly succeed in passing the House of Representatives.

The VICE PRESIDENT. The Senator from Pennsylvania asks unanimous consent for the present consideration of a joint resolution, which the Secretary will read for the information of the Senate.

The joint resolution (S. J. Res. 147) providing for commission to investigate cost of transporting and handling second-class mail was read, the first time by its title and the second time at length, as follows:

Resolved, etc., That the President shall appoint three competent and impartial persons, one of whom shall be a Judge of the Supreme Court of the United States and the other two of whom shall hold no office, and no one of whom shall be connected with the Post Office Department or have any interest in any business directly or indirectly affected by the publishing of magazines or newspapers using the mails of the United States, to examine the reports of the Post Office Department and any of its officers, agents, or employees, and the existing evidence taken in respect to the cost to the Government of the transportation and handling of all classes of second-class mail matter which may be submitted to them, and such evidence as may be presented to them by persons having an interest in the rates to be fixed for second-class mail matter, to make a finding of what the cost of transporting and handling different classes of such second-class mail matter is to the Government, and what, in their judgment, should be the rate for the different classes of second-class postal matter in order to meet and reimburse the Government for the expense to which it is put in the transportation and handling of such matter, and on or before December 1 to make report of their proceedings and findings to the President for transmission to Congress: *Provided,* That the sum of $25,000 is hereby appropriated to pay the expenses of such commission, including compensation to the members thereof, to the necessary secretaries, stenographers, and other incidental expenses, and such compensation may be awarded to the Federal official member of the commission, anything in the existing law to the contrary notwithstanding.

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

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

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

COMMISSIONS FOR RETIRED OFFICERS.

The VICE PRESIDENT laid before the Senate the bill (H. R. 24256) to authorize commissions to issue in the case of officers retired or advanced on the retired list with increased rank, which was read the first time by its title and the second time at length, as follows:

Be it enacted, etc., That commissioned officers of the Army, Navy, and Marine Corps on the retired list whose rank has been or shall hereafter be advanced by operation of or in accordance with law shall be entitled to and shall receive commissions in accordance with such advanced rank.

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

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

Mr. STONE. Mr. President, I desire to ask the Senator from Wyoming how much will this increase the pay of officers?

Mr. WARREN. It does not cost a penny. It is merely to give a paper commission to those who by law are placed on the retired list; but, unfortunately, the original law did not provide for the giving of a commission.

Mr. STONE. It will not increase the cost to the Treasury?

Mr. WARREN. Not a cent.

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

DAVID R. LANE.

The VICE PRESIDENT laid before the Senate the bill (H. R. 32980) to remove the charge of desertion against David R. Lane, which was read the first time by its title and the second time at length, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and directed to correct the military record of David R. Lane, late a member of the Sixteenth Regiment Maine Volunteer Infantry, and to grant him an honorable discharge as of date September 24, 1864, from Company M, First Regiment District of Columbia Volunteer Cavalry: *Provided,* That no pay, bounty, or allowance shall be allowed by reason of this act: *And provided further,* That an act to remove the charge of desertion against David R. Lane, approved May 3, 1902, be, and the same is hereby, repealed.

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

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

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

INCREASE OF PENSIONS.

Mr. SCOTT. I ask unanimous consent to proceed to the consideration of the bill (H. R. 29346) granting pensions to certain

enlisted men, soldiers and officers, who served in the Civil War and the War with Mexico.

The VICE PRESIDENT. Is there objection?

Mr. GORE. Mr. President, is that the so-called Sulloway bill?

The VICE PRESIDENT. The Chair so understands.

Mr. GORE. I object.

Mr. SCOTT. I move that the Senate proceed to the consideration of the bill, notwithstanding the objection.

The VICE PRESIDENT. The Senator from West Virginia moves that the Senate proceed to consider the bill, notwithstanding the objection of the Senator from Oklahoma. The question is on that motion.

Mr. SCOTT. I ask for the yeas and nays.

Mr. CULBERSON. Let us have the yeas and nays.

Mr. OVERMAN. Mr. President, before the vote is taken on this bill, I merely want to give notice that the Senate clock has been put back half an hour. I want that on record.

The VICE PRESIDENT. The yeas and nays are demanded.

The yeas and nays were ordered; and, being taken, resulted—yeas 44, nays 37, as follows:

YEAS—44.

Beveridge	Clapp	Gamble	Page
Borah	Clark, Wyo.	Gronna	Penrose
Bourne	Crawford	Guggenheim	Perkins
Bradley	Cullom	Heyburn	Piles
Bristow	Cummins	Jones	Scott
Brown	Curtis	La Follette	Shively
Burkett	Dick	Lorimer	Smith, Mich.
Burnham	Dixon	McCumber	Stephenson
Burrows	Flint	Nelson	Sutherland
Carter	Frye	Nixon	Warner
Chamberlain	Gallinger	Oliver	Young

NAYS—37.

Bacon	Fletcher	Owen	Swanson
Bankhead	Frazier	Paynter	Taliaferro
Brandegee	Gore	Percy	Taylor
Bulkeley	Johnston	Rayner	Thornton
Burton	Kean	Richardson	Tillman
Clarke, Ark.	Lodge	Root	Watson
Crane	Martin	Simmons	Wetmore
Culberson	Money	Smith, Md.	
Dillingham	Newlands	Smith, S. C.	
Du Pont	Overman	Stone	

NOT VOTING—10.

Aldrich	Davis	Hale	Warren
Bailey	Depew	Smoot	
Briggs	Foster	Terrell	

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

Mr. LODGE. I desire to ask if the amendment of the Senator from North Dakota [Mr. McCUMBER], the chairman of the committee, is pending?

Mr. SCOTT. I will say there is an amendment to this bill.

The VICE PRESIDENT. There is a committee amendment pending, but not the amendment, the Chair understands——

Mr. LODGE. There is a minority report which has not been read, and I ask for its reading.

The VICE PRESIDENT. The Chair desires to make a correction. The amendment of the Senator from North Dakota is pending.

Mr. LODGE. I ask for the reading of the minority report, which has not yet been read.

The VICE PRESIDENT. The Secretary will read the report.

The Secretary proceeded to read from the views of the minority submitted by Mr. McCUMBER February 14, 1911.

Mr. CURTIS. I ask the Senator from Massachusetts to withdraw that request.

Mr. LODGE. I will read it myself.

Mr. CURTIS. It was fully explained by the Senator.

Mr. LODGE. I ask for the reading of the minority report. I am entitled to it.

The VICE PRESIDENT. The Secretary will continue the reading.

The Secretary resumed the reading.

Mr. SCOTT. I object to the reading of it. If the Senator from Massachusetts wants it read, let him read it.

Mr. LODGE. I think I have a right to ask for its reading.

Mr. SCOTT. I object to its reading by the Clerk.

The VICE PRESIDENT. The Chair thinks the reading of the report can be called for, but the Chair will submit the question to the Senate. Shall the views of the minority be read? [Putting the question.] The ayes have it, and the paper will be read.

The Secretary resumed the reading of the views of the minority, and read as follows:

The minority of the Committee on Pensions of the Senate, to which was referred the bill (H. R. 29346) granting pensions to certain enlisted men, soldiers and officers, who served in the Civil War and the War with Mexico, submit reasons governing them in supporting an amendment to this bill.

At the last encampment of the Grand Army of the Republic, that organization, through resolution, voiced its sentiment on the matter of amending the present service-pension law. The amendment proposed by them, which related solely to the matter of service pension, provided that soldiers who had served 90 days in the Civil War should, on arriving at the following ages, be entitled to receive the following pensions per month, namely:

Age.	Pension.
62 years	$12
66 years	15
70 years	20
75 years	25

The bill which passed the House (H. R. 29346), known as the Sulloway bill, allowed pensions per month for the respective ages, as follows:

Age.	Pension.
62 years	$15
65 years	20
70 years	25
75 years	36

An amendment was carried in the Senate committee reducing the $36 rate to $30 per month. An amendment was then offered which adopted a double statement, both age and length of service, as a basis for computing the amount of pension the soldiers should receive, as follows:

Age.	90 days' service.	1 year's service.	2 years' service.	3 years' service.	4 years' service.
62 years	$12	$13	$14	$15	$16
66 years	13	14	15	16	17
70 years	15	16	17	18	19
75 years	21	22	23	24	25

It is proper here to show the estimate made by the Secretary of the Interior of the amount that would be required to be appropriated to carry each of these propositions into effect for the first, second, and succeeding years of their operation.

Mr. SCOTT. I rise for the purpose of asking a question of the Senator from Massachusetts [Mr. LODGE]. If it is his purpose that this bill shall not be passed, of course I am not going to delay the Senate by having this committee report read or going any further with the bill. I have gone up to my limit, and I had hoped that I could get the bill through. But if it is his determination to defeat it, I shall not take the time of the Senate further.

Mr. LODGE. This is a bill which, if the Senate amendment is adopted, will cause an increased expenditure of $25,000,000 for the fiscal year 1912 and $50,000,000 for the fiscal year 1913. If it passes as it came from the House, it will add $440,000,000—and I am quoting the estimates of the Secretary of the Interior—in the next 10 years. If it passes in the Senate form, it will add $385,000,000 for the next 10 years. It will necessitate the immediate imposition of new taxes. A bill that involves such enormous expenditures deserves more discussion and more consideration by the Senate than can be given to it in the last moments of a dying Congress.

Mr. SCOTT. The Senator from Massachusetts [Mr. LODGE] has refused to allow it to be discussed, by preventing it from being taken up. I have been trying for over three weeks to get consideration of this bill and have it discussed intelligently.

It does not matter if it is $400,000,000. You are spending that for a ditch to connect two oceans that may be of very little use to this country, and here these old soldiers who saved this country, and made the digging of that ditch possible, are denied the right to which they are entitled in their old age. It is a shame and an outrage.

Mr. PENROSE. I would ask the Senator from West Virginia if he would have any objection to my asking unanimous consent that the Senate proceed to the consideration of another military proposition known as the naval militia bill, a bill of widespread interest.

Mr. SCOTT. In view of the fact that there is a disposition on the part of my colleagues on this side of the Chamber to defeat this bill and deny the right to these old soldiers, I yield to the Senator from Pennsylvania.

Mr. PENROSE. Mr. President——

The VICE PRESIDENT. One moment.

Mr. LODGE. I ask permission——

The VICE PRESIDENT. Wait a moment. The Senator from West Virginia asks unanimous consent that the business before the Senate be laid aside. Is there objection? The Chair hears none.

Mr. LODGE. I ask permission to insert in the RECORD a letter from the Secretary of the Interior giving an estimate of the expenditures.

The VICE PRESIDENT. Without objection, permission is granted.

The letter is as follows:

DEPARTMENT OF THE INTERIOR,
Washington, February 20, 1911.

Hon. H. C. LODGE,
United States Senate.

SIR: Replying to your personal inquiry relative to the annual increase in the disbursement for pensions for the next year, and for the next 10 years, should the bill H. R. 29346 become a law as it passed the House of Representatives, and also the increased cost if amended to reduce the rate at 75 years of age from $36 to $30 per month, the annual cost of

the bill S. 4183, for the creation of a Civil War volunteer officers' retired list, and the annual cost if the limitation as to the date of marriage of Civil War widows should be removed, I have the honor to advise you as follows:

Q. What would be the increased disbursements for pensions for the fiscal years 1912 and 1913 should the bill H. R. 29346 become a law as it passed the House of Representatives?—A. It is estimated that the increased disbursement for pensions for the fiscal year 1912 would be $30,000,000, and for 1913, $60,000,000.

Q. What would be the increase in the disbursements for pensions for the fiscal years 1912 and 1913 should the bill H. R. 29346 be amended to reduce the rate at 75 years of age from $36 to $30 per month?—A. The increase in the disbursement for pensions is estimated at $25,000,000 for the fiscal year 1912 and at $50,000,000 for 1913.

Q. What is the estimated appropriation required for the payment of pensions under the laws as they now exist for each of the next 10 fiscal years; what would be the increase in the disbursements for pensions should the bill H. R. 29346 become a law as it passed the House of Representatives; and what would be the increase in the disbursements should this bill (H. R. 29346) be amended to reduce the rate at 75 years of age from $36 to $30 per month?—A.—

Fiscal years.	Estimated appropriation for pensions under existing laws.	Estimated cost of H. R. 29346 without Senate amendment.	Estimated cost of H. R. 29346 with Senate amendment.
1912	$153,000,000	$183,000,000	$178,000,000
1913	150,000,000	210,000,000	200,000,000
1914	147,500,000	200,000,000	195,000,000
1915	145,000,000	195,000,000	190,000,000
1916	142,500,000	190,000,000	185,000,000
1917	140,000,000	185,000,000	180,000,000
1918	137,500,000	180,000,000	175,000,000
1919	135,000,000	175,000,000	170,000,000
1920	132,500,000	170,000,000	165,000,000
1921	130,000,000	165,000,000	160,000,000
	1,413,000,000	1,853,000,000	1,798,000,000

It is therefore estimated that the total increased cost of the bill, as it passed the House of Representatives, would be, for the first 10 years, $440,000,000; and, if amended, $385,000,000.

The increased cost in the disbursements for pensions for the first year under such a bill would be limited to the number of certificates which the Bureau of Pensions would be able to issue during that period. The full force of the bill would not be felt, however, until the second year after its enactment. It is believed that it would require about two years to adjudicate the claims which would be immediately filed after the passage of such a bill. A large percentage of the certificates issued in the second year would carry on an average one year's arrears of pension, as the bill provides that the increased rates shall commence from the date of filing the application. While the death rate of the beneficiaries under such a bill would be high—something over 6 per cent per annum the first year and an increasing rate thereafter—the reduction in the disbursements would be largely overcome by the increased rates to which those remaining on the rolls would be entitled on account of having attained the next higher age specified in the bill.

Q. What is the estimated cost for the first year of the bill (S. 4183) for the creation of a Civil War volunteer officers' retired list?—A. The estimated cost of this bill, with the proposed amendment making the maximum retired pay $900 per year and the minimum $450 per year, is $8,170,500. The amount of pension per year received by the officers who would be entitled to retirement under the proposed bill is estimated at $3,208,170. The pension of an officer would terminate when his name was placed upon the retired list, and this would make the cost of the bill over and above the pensions now received by such officers for the first year about $4,962,300. This estimate is based upon the pensions recieved under the laws as they now exist and not the amounts to which the officers would be entitled should the bill H. R. 29346 become a law.

Q. What would be the increased cost if the limitation as to the date of marriage of Civil War widows should be removed?—A. It is estimated that the removal of the limitation as to the date of marriage of Civil War widows would add about 25,000 pensioners to the roll, which would make the increase cost due thereto for the first year, $3,600,000.

Very respectfully, R. A. BALLINGER, *Secretary.*

CIVIL WAR OFFICERS' RETIRED LIST.

Mr. PENROSE. I ask unanimous consent for the present consideration of the bill (S. 4183) to create in the War Department and the Navy Department, respectively, a roll designated as "The Civil War volunteer officers' retired list," to authorize placing thereon with retired pay certain surviving officers who served in the Army, Navy, or Marine Corps of the United States in the Civil War, and for other purposes.

It is a bill in which there is very widespread interest all over the country.

The Secretary proceeded to read the bill.

Mr. OVERMAN. I object.

The VICE PRESIDENT. Objection is made.

CONSTITUTION OF ARIZONA.

Mr. BACON. I ask permission to say a word, somewhat personal to myself, which will not occupy two minutes, and that is that I do not want my vote in favor of the admission of the two Territories of Arizona and New Mexico to be considered as in any manner approving of the Arizona constitution. I utterly disapprove of it, but I voted for the admission, feeling that the people of the Territory are the arbiters of their own destiny. Even if we excluded the Territory on this ground, they could afterwards make a constitution containing those provisions, but I do not wish to be understood as approving in any manner the peculiar features of that constitution, and I am sure that I reflect the sentiments of other Senators as well as my own.

NOMINATION OF WILLIAM WARNER.

Mr. WARREN. Mr. President, the Senate has before it the nomination to an important position of a Senator, a distinguished Member of this body whose term expires at noon to-day. I desire to ask unanimous consent that we now proceed to consider the nomination as in executive session. I make this request in order to prevent confusion and loss of time and to avoid disturbing the harmony of the present course of events.

The VICE PRESIDENT. Is there objection to the request of the Senator from Wyoming? The Chair hears none.

Will the Senator from Wyoming send up the nomination?

Mr. STONE. May I inquire who it is the Senator from Wyoming refers to?

Mr. KEAN. It is the colleague of the Senator from Missouri.

Mr. WARREN. It is the nomination of the Senator from Missouri [Mr. WARNER] to be civilian member of the Board of Ordnance and Fortification, vice Thomas J. Henderson, deceased.

Mr. STONE. When I made the inquiry I thought possibly the Senator had already stated it, and that I had overlooked it.

Mr. WARREN. If I have consent, I wish to move the confirmation of the nomination.

The VICE PRESIDENT. The consent has been granted.

The Secretary will report the nomination.

The Secretary read as follows:

THE WHITE HOUSE, *March 4, 1911.*

I nominate WILLIAM WARNER, of Missouri, for appointment as civilian member of the Board of Ordnance and Fortification, vice Thomas J. Henderson, deceased.

WM. H. TAFT.

The VICE PRESIDENT. The Senator from Wyoming moves that the Senate agree and concur in the nomination and confirm the same.

Mr. STONE. May I have just a moment to make a statement?

The VICE PRESIDENT. Certainly.

Mr. STONE. I have served here in the Senate six years with my colleague whose term is about to expire. For many years we have been warm personal friends. Though our political affiliations are different, that harmony of personal intercourse has never been in the least disturbed. Our official relations have been as agreeable as they could be. I am delighted that this honor has been conferred upon my colleague, and I hope the confirmation of the appointment will be made without—as I have no doubt it will be—the thought of an objection from any source. He will be an ornament and an efficient incumbent of the office to which he has been nominated.

The VICE PRESIDENT. The question is, Will the Senate advise and consent to the confirmation of Senator WILLIAM WARNER? [Putting the question.] It is unanimously carried.

NOTIFICATION TO THE PRESIDENT.

Mr. HALE submitted the following resolution (S. Res. 388), which was considered by unanimous consent and agreed to:

Resolved, That a committee of two Senators be appointed by the Vice President to join a similar committee appointed by the House of Representatives to wait upon the President of the United States and inform him that the two Houses, having completed the business of the present session, are ready to adjourn unless the President has some other communication to make to them.

Mr. HALE. I am called from the Chamber and will not be able to act. I ask the Chair in making up the committee not to appoint me.

The VICE PRESIDENT. The Chair appoints the Senator from New Hampshire [Mr. GALLINGER] and the Senator from Mississippi [Mr. MONEY] as the committee on the part of the Senate.

THANKS TO THE VICE PRESIDENT.

Mr. MONEY. Mr. President, I send to the desk, to be read, a resolution to which I call attention.

The PRESIDING OFFICER (Mr. BACON in the chair). The Secretary will read the resolution.

The Secretary read the resolution (S. Res. 386), as follows:

Resolved, That the thanks of the Senate are hereby tendered to Hon. JAMES S. SHERMAN, Vice President of the United States and President of the Senate, for the dignified, impartial, and courteous manner in which he has presided over its deliberations during the present session.

The PRESIDING OFFICER. The question is upon agreeing to the resolution which has been read from the desk.

Mr. GORE. Mr. President, I wish to say that if I could be actuated by a feeling of resentment, a justified resentment, I should interpose an objection to the resolution just submitted, but I hope, sir, that I am incapable of being influenced by motives and considerations of that character. If the ruling which was directed at myself this morning had related to any other Senator, I should have resisted this resolution, but inso-

much as it relates to me alone I shall indulge the hope, and shall endeavor to indulge the belief, that there were reasons, unknown to myself and unknown to this Senate, which reconcile the Presiding Officer to the ruling which he rendered. In the opinion of many American citizens arbitrary rules and a personal despotism obtain in another legislative body. Those rules and that despotism have never been introduced into the Senate of the United States. It has heretofore been immune against that spirit of despotism.

I myself have waged war against rules and against rulers that have reigned in another legislative body. I did so not on account of personal reasons, but, I trust, sir, out of a sense of patriotic duty. I shall continue to wage war against that sort of despotism, whether in the Senate of the United States or out of the Senate of the United States. If, hereafter, rulings shall be made by the Presiding Officer of this body which in my opinion are contrary to the rules of the Senate or which do violence to the spirit of justice, and if those rulings do not appertain to myself alone, I shall interpose an objection to a resolution of this kind. But insomuch, sir, as the incident to which I refer was personal to myself, I interpose no objection.

The PRESIDING OFFICER. The question is upon agreeing to the resolution submitted by the Senator from Mississippi [Mr. MONEY].

The resolution was unanimously agreed to.

THANKS TO THE PRESIDENT PRO TEMPORE.

Mr. MONEY. I also offer the following resolution.

The PRESIDING OFFICER. The resolution will be read.

The Secretary read the resolution (S. Res. 387), as follows:

Resolved, That the thanks of the Senate are hereby tendered to Hon. WILLIAM P. FRYE, President pro tempore of the Senate, for the courtesy, dignity, and impartiality with which he has presided over its deliberations during the present session.

The PRESIDING OFFICER. The question is on agreeing to the resolution submitted by the Senator from Mississippi.

The resolution was unanimously agreed to.

NOTIFICATION TO THE PRESIDENT.

Mr. GALLINGER and Mr. MONEY appeared, and

Mr. GALLINGER said: Mr. President, the committee of the Senate acting in conjunction with a similar committee of the House, appointed to wait upon the President and to inform him that the business of the Congress had closed and to ask him if he had any further communication to make, performed that duty, and the President informed the committee that he had no further communication to make to the Congress.

ADDRESS OF THE VICE PRESIDENT.

The hour of noon having arrived,

The VICE PRESIDENT said: Senators, the Senator from Georgia [Mr. BACON] has advised the occupant of the Chair of the unanimous action the Senate has just taken.

I prefer, Senators, to think the action you have just taken is a sincere expression of your honest judgment rather than a perfunctory compliance with custom. My gratitude for this recorded declaration of your beliefs and your feelings is keen, and I am happy in the thought, Senators, that the respect and the regard I entertain for each of you is in some measure, at least, reciprocated.

I do not entertain the belief, Senators, that during the two years I have acted as your Presiding Officer I have committed no error, because, like yourselves, I am human; but if at any time I have seemed to manifest a rapidity which to some of you seemed undue, that action was based upon a desire to accomplish that which Senators wished. I have at all times, Senators, striven to be both impartial and courteous. I have striven to conform to the mandate of the Senate as expressed in the standing rules of this body and in the unanimous agreements entered into.

I can not, Senators, dismiss the thought, which indeed is freighted with sadness, that we shall all never meet officially again. Nor can I—and I think I may voice the sentiment of those of us who remain—refrain from expressing the belief that not alone we, but the country, the cause of good government, of economy in the expenditure of public funds, of care in the framing of public statutes, feel the departure of Senators, some of whom have for half a lifetime served here with ability, tireless industry, and patriotic devotion.

I know, Senators, that I voice your sentiments in expressing the feelings, in expressing the hope that each of them will carry with him to retirement or to other fields of activity our regard, our good will, and our good wishes, our affection.

In the immense task undertaken and accomplished by the Sixty-first Congress some have fallen by the way. Their fellows have expressed their opinion of the value of their services and the beauty of their lives. Their unfinished work has been taken up by others. When next we meet we shall see new forms and new faces. While integrity, patriotism, the good of all the people shall be their controlling motives, the United States will continue to prosper, grow in population and in power, and will deserve and retain the respect and the friendship of all the peoples of the world.

With the hope, Senators, that the recess will bring to each of you health and pleasure, I bid you au revoir, but not good bye, and declare this session of the Senate adjourned without day.

[Applause on the floor and in the galleries.]

HOUSE OF REPRESENTATIVES.

SATURDAY, *March 4, 1911.*

(*Continuation of proceedings of legislative day of March 2, 1911.*)

The recess having expired, the House, at 7.15 o'clock a. m., Saturday, March 4, 1911, resumed its session.

CONSERVATION OF NAVIGABLE STREAMS.

The SPEAKER announced the appointment of Mr. HAWLEY, of Oregon, and Mr. LEE, of Georgia, under the provisions of section 4 of an act entitled "An act to enable any State to cooperate with any other State or States, or with the United States, for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of land for the purpose of conserving the navigability of navigable rivers."

SUNDRY CIVIL APPROPRIATION BILL.

Mr. TAWNEY. Mr. Speaker, I present a conference report on the sundry civil appropriation bill (H. R. 32909), and ask unanimous consent that the filing of the statement may be waived. The report is very short.

The SPEAKER. The gentleman from Minnesota calls up the conference report on the sundry civil bill and asks unanimous consent that the filing of the statement may be waived. Is there objection? [After a pause.] The Chair hears no objection.

The Clerk will read the report.

The Clerk read the report, as follows:

SECOND CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on certain amendments of the Senate to the bill (H. R. 32909) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1912, and for other purposes, 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 amendments numbered 19, 20, 49, 78, and 92.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 3, and 109, and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "$225,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "including salaries of commissioners, and salaries of clerks appointed by the commissioners on the part of the United States with the approval solely of the Secretary of State"; and the Senate agree to the same.

Amendment numbered 69: That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert "$10,000"; and the Senate agree to the same.

JAMES A. TAWNEY,
WALTER I. SMITH,
JOHN J. FITZGERALD,
Managers on the part of the House.
EUGENE HALE,
C. A. CULBERSON,
Managers on the part of the Senate.

Mr. GARRETT. Mr. Speaker, of course that report does not amount to much to the House.

Mr. HUGHES of New Jersey. There is not much of a House. [Laughter.]

Mr. TAWNEY. I will say to the gentleman from Tennessee that the first amendment is in relation to the tariff board. The agreement between the two Houses is that the bill will carry $225,000 for the tariff board for the fiscal year 1912.

The next item was the post office in Lancaster, Ky., a Senate amendment. The House appropriated the money for the purchase of the site and the Senate amended that provision by