Public Works, Bureau of Yards and Docks.

Stations, etc.	As reported to and as passed House.	Increases made by Senate committee.	Total.	Estimates for 1910, under these stations only.
Portsmouth	$96,500		$96,500	$346,500
Boston	210,000		210,000	267,500
New York	366,000	$26,330	392,330	693,830
Philadelphia	417,600	50,000	467,600	721,500
Washington, D. C.	60,000		60,000	341,000
Norfolk	300,000		300,000	811,000
Charleston	95,000	40,500	135,500	442,500
Pensacola	15,000	5,000	20,000	35,000
Key West	30,000	15,000	45,000	30,000
Mare Island	348,500	224,000	572,500	1,776,500
Puget Sound	418,000	237,000	655,000	1,391,000
Guam	44,000		44,000	44,000
Pearl Harbor	900,000		900,000	1,300,000
Cavite	15,900		15,900	15,900
Tutuila	5,500		5,500	5,500
Plans and specifications	30,000		30,000	40,000
Repairs and preservations	700,000		700,000	750,000
Floating derricks	150,000		150,000	150,000
New Orleans		45,000	45,000	
Total	4,202,000	642,830	4,844,830	9,161,730

The naval bill, as reported to the Senate, provides the following amounts for the pay of clerks, draftsmen, inspectors, messengers, and other classified employees at navy-yards:

Number of classified employees in the naval establishment and in the department at Washington.

	Amount.	Number of classified employees now paid from lump appropriations.	Number of classified employees now paid from "Civil establishment."
Pay, miscellaneous	$249,054.25	144	28
Naval Training Station, Newport, R. I.	5,701.60	4	
Naval Training Station, Great Lakes	48,139.36	18	
Naval War College	6,375.76	6	
Ordnance and ordnance stores	398,890.28	322	28
Equipment of vessels	226,193.60	162	24
Maintenance	425,000.00	253	72
Provisions, navy	447,544.88	315	88
Construction and repair	808,039.00	426	36
Steam machinery	350,063.02	271	17
Total	2,965,001.75	1,921	293
Grand total			2,214

Under the provisions of an executive order issued May 6, 1896, all employees of this character paid from lump appropriations, as well as those paid from "Civil establishment," were placed in the classified civil service, subject to appointment after competitive examination.

In the Navy Department proper at Washington there are 566 classified employees provided for in the legislative, executive, and judicial act.

Total number of employees in both classes, 2,780.

Mr. HALE. Now, I wish further to say, as a personal matter, that I think yesterday I did an injustice to the powder-manufacturing concerns in stating what I heard and believed to be true that they had heretofore in emergencies put up the price of their product and had made the Government pay undue prices. I have reason to believe that the statement which I made was incorrect. I regret that I made it, and I make this statement now in order to show that I do not now believe the statement which I made was justified by the facts.

Mr. GALLINGER. Mr. President——

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from New Hampshire?

Mr. HALE. Certainly.

NAVY-YARDS AND NAVAL STATIONS.

Mr. GALLINGER. A few days ago I was given permission to print hydrographic data relating to United States navy-yards and naval stations. There were some mistakes in it, and I now ask unanimous consent to have a reprint, with corrections, of the document, and that 1,000 additional copies be printed for the use of the document room.

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

PAROLE OF UNITED STATES PRISONERS.

Mr. BACON. Mr. President, I desire to ask for a reprint of the bill (S. 4027) to parole United States prisoners, and for other purposes. This bill was partially considered by the Senate and certain amendments were agreed to. Pending that it passed from the consideration of the Senate. I now ask that the bill may be reprinted as it has been amended in the Senate.

The VICE-PRESIDENT. Does the Senator want the amendments to be printed in the same lettering as the body of the bill?

Mr. BACON. I presume so. Certain sections have been stricken out and others have been amended. I wish the bill to be reprinted, so that we may see it as it is.

The VICE-PRESIDENT. In the absence of objection, it is so ordered.

Mr. HALE. I move that the Senate adjourn.

The motion was agreed to; and (at 10 o'clock and 35 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, February 17, 1909, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February 16, 1909.*

[*Continuation of legislative day of Monday, February 15, 1909.*]

The recess having expired, the House was called to order by the Speaker at 11 o'clock a. m.

ADDITIONAL JUDGE FOR WESTERN DISTRICT OF PENNSYLVANIA.

Mr. DALZELL. Mr. Speaker, I ask unanimous consent to discharge the Committee of the Whole House on the state of the Union from the consideration of the bill H. R. 26068, and consider the same at this time.

The bill was read, as follows:

A bill (H. R. 26068) providing for an additional judge for the western district of Pennsylvania, and for other purposes.

Be it enacted, etc., That the President of the United States be, and he is hereby, authorized and directed, by and with the advice and consent of the Senate, to appoint an additional judge for the western district of Pennsylvania, whose length of term, compensation, duties, and powers shall be the same as now provided by law for the judges of said district.

Mr. CLARK of Missouri. I reserve the right to object, and would like to interrogate the gentleman from Pennsylvania.

Mr. DALZELL. I will explain the bill. This bill is unanimously reported by the Committee on the Judiciary. I was told by three or four members of the committee, gentlemen of long service, that the case made out for this bill was the best case that had been made in years before the committee. The western district of Pennsylvania includes something over 20 counties in Pennsylvania, reaching to both sides of the Allegheny Mountains. As the gentleman from Missouri knows, it is full of industries of varied and very important character—manufactories of iron and steel, glass, coal, petroleum, lumber, and all the industries that pertain both to rail and river transportation. We only have one district judge in that district, and the figures presented to the committee show that during the last nine years the increase in civil cases in the district has amounted to 906 per cent, the increase in equity cases amounted to 29 per cent, and the increase in the cases on the trial list amounted to 350 per cent; in other words, there was an average increase in all branches of the business of the circuit court from the year 1899 to 1908 of 428 per cent. The circuit court was in session and transacted business during three hundred and four days of last year. Our circuit judge, who constitutes one-third of the court of appeals, Judge Buffington, was delayed in Philadelphia by the business of that court over four months of the year. We had four judges from outside districts to aid the local judges: Judge Dayton, of West Virginia; Judge Archbald, of the middle district; Judge Lanning, from New Jersey; and Judge Bradford, who came in and held court. The district court was open every day in the year, except Sundays and holidays, and transacted business.

Mr. CLARK of Missouri. How many district judges are there in Pennsylvania?

Mr. DALZELL. There are four district judges—two judges in Philadelphia, a district judge of the middle district, and one district judge in western Pennsylvania. I want to call attention to this fact: In Philadelphia, where they have two district judges and a circuit judge, their record of cases last year was 806 cases, as against 1,044 cases in the western district. I want to say to the gentleman from Missouri that a refusal to create an additional judge in this district means, in my judgment, a substantial denial of justice, and I trust there will be no objection.

Mr. CLARK of Missouri. Why not detail one of the Philadelphia judges to go down there and hold court?

Mr. DALZELL. We have detailed at times four different judges from outside. The Philadelphia people have enough to do to take care of themselves. We have had Judge Dayton, of West Virginia, Judge Archbald, of the middle district, Judge Bradford and Judge Lanning, from New Jersey.

Mr. CLARK of Missouri. While we are at this thing, I

would like to ask the gentleman's opinion about this proposition: What is the reason we could not remodel the whole judicial system and abolish the district judges, and have them all circuit judges?

Mr. DALZELL. I think you are dead right about that.

Mr. CLARK of Missouri. They are eternally acting as circuit judges.

Mr. DALZELL. I think you are right about it.

Mr. CLARK of Missouri. I do not like the number now to be increased, but I will not object.

Mr. MACON. Reserving the right to object, I desire to say that I do not think there is any greater demand in the western district of Pennsylvania for a judge than there is a demand for additional revenue in the Treasury at this time; and being in part a representative of the whole people, and interested in the revenues of the people, I must exercise for the people the power I have as their representative to protect them against an increase of expenditures, and inasmuch as the passage of this bill will take at least $6,000 out of the revenues of the country, out of the Treasury annually, I object.

The SPEAKER. The gentleman from Arkansas objects.

Mr. DALZELL. Mr. Speaker, I move to discharge the Committee of the Whole House on the state of the Union from the consideration of the bill, to suspend the rules, and pass the bill.

The SPEAKER. The gentleman from Pennsylvania moves to discharge the Committee of the Whole House on the state of the Union from the consideration of the bill, suspend the rules, and pass the bill. Is a second demanded? If not, the second will be considered as ordered.

A second was not demanded.

The question was taken; and, in the opinion of the Chair, two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

ADDITIONAL DISTRICT JUDGE FOR WESTERN DISTRICT OF WASHINGTON.

Mr. CUSHMAN. Mr. Speaker, I move to discharge the Committee of the Whole House on the state of the Union from the consideration of the bill H. R. 27061, suspend the rules, and pass the bill.

The SPEAKER. The gentleman from Washington moves to discharge the Committee of the Whole House on the state of the Union, suspend the rules, and pass the following bill with committee amendments.

The bill was read, as follows:

A bill (H. R. 27061) to provide for the appointment of an additional district judge in and for the western district of Washington.

Be it enacted, etc., That the President of the United States, by and with the advice and consent of the Senate, shall appoint a resident of the western division of the western district of Washington as an additional judge of the district court of the United States for the western district of Washington, who shall reside in said division, whose length of term, compensation, duties, and powers shall be the same as now provided by law for the judge of said district.

SEC. 2. That the present district judge in said district and the one appointed under this act shall agree between themselves upon the division of business and assignment of cases for trial in said district: *Provided, however*, That in case the said two district judges do not agree the senior circuit judge of the ninth circuit shall make all necessary orders for the division of business and the assignment of cases for trial in said district.

The amendments recommended by the committee were read, as follows:

Strike out, in lines 4, 5, and 6, the following: "a resident of the western division of the western district of Washington as."

Strike out, in lines 7 and 8, the following: "who shall reside in said division."

The SPEAKER. Is a second demanded?

Mr. GAINES of Tennessee. I demand a second.

Mr. CUSHMAN. I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. The gentleman from Washington asks unanimous consent that a second may be considered as ordered. [After a pause.] The Chair hears no objection, and it is so ordered. The gentleman from Washington [Mr. CUSHMAN] is entitled to twenty minutes, and the gentleman from Tennessee [Mr. GAINES] is entitled to twenty minutes.

Mr. CUSHMAN. Mr. Speaker, this measure is the same bill I had up for consideration a few days ago in this House. I hope for favorable action on this bill by the House to-day. This bill does not provide for the creation of a new or additional judicial district in the State of Washington, but it does provide for one additional judge to serve in the existing western Washington district—making two judges in that district instead of one, as now.

This bill has been heartily recommended by the Attorney-General of the United States, as disclosed by his letter in the printed report upon this bill, and the bill has been unanimously recommended by the House Judiciary Committee. There is no judicial district in the United States that needs relief more than this district does.

With the permission of the House, I should like to call attention to and incorporate into my remarks upon this subject a statement showing in detail the necessity for the passage of this bill. This statement was prepared by my brother, Edward E. Cushman, of Tacoma, Wash., a leading member of the bar of the judicial district of western Washington:

REASONS WHY THE WESTERN DISTRICT OF WASHINGTON SHOULD EITHER BE DIVIDED INTO TWO DISTRICTS OR AN ADDITIONAL DISTRICT JUDGE CREATED THEREFOR.

The western district of Washington extends entirely across the State from north to south on the Pacific side, and is bounded on the south by the Columbia River, a great navigable highway throughout such boundary, and across which, in the State of Oregon, is the city of Portland, the metropolis of that State and the center of trade extending throughout the southern part of said district. The district is bounded on the west by the Pacific Ocean, with a shore line of more than a thousand miles with its indentations, and a great number of harbors put to important commercial uses, including those of Willapa, Grays Harbor, Port Angeles, Port Townsend, Bellingham, Everett, Seattle, Tacoma, and Olympia. A great part of the northern boundary of the district is also an ocean boundary, with harbors and ports. Immediately across the northern boundary are the largest cities of western Canada—Victoria and Vancouver. In the eastern part of the district are government reserves, large timber interests, and mines, the two latter largely controlled by foreign corporations.

It will be at once seen that all of these conditions especially tend to create business in the federal courts, both by reason of the exclusive jurisdiction of those courts over the subject-matter in admiralty cases, customs cases, and immigrant cases, and on account of the diverse citizenship of the litigants.

This district is divided into two divisions, legally the northern and western divisions, sometimes called the northern and southern divisions. The present court is held at Seattle in the northern division, and at Tacoma in the western division, there being nine counties in each of these divisions, and the railroads and other means of transportation centering at these two cities.

Another thing that adds to the burden of this litigation is the fact that almost all of the large industrial corporations engaged in business in Alaska either are located with their principal offices in these cities or have branch establishments there.

Another reason that such litigation has increased immensely recently is on account of the railroad construction and development in the limits of the district and State within the last three years, during that time being greater than any other State in the Union, and with the lines constructed during that time and those now in process of construction almost doubling its railroad mileage. While this of itself has greatly increased the business, it is only a small part of what that increase will be when these roads are operated, as they are integral parts of the Pacific railroads, sometimes called "transcontinental lines," including the Canadian Pacific, the Northern Pacific, the Great Northern, the Union Pacific, and other lines.

As showing the needs of this district as based on population alone, as compared with the eastern district of Washington, without any harbors or water frontier, or the litigation growing out of the same, probably the latest figures obtainable would be at the last national election. The First and Second Congressional districts in Washington lie within the western district, excepting one small, sparsely settled county. The Third Congressional District lies entirely within the eastern district. For Congressmen in the First and Second Congressional districts there were cast 104,336 votes at the last election, while in the third district there were cast but 62,488, showing a preponderance of population in the western district of almost two to one.

It is possible in other circuits often to relieve an overworked district judge by sending in a judge from another district to assist in the disposal of cases. This is practicable, because of the smaller sizes of the districts, consequently the lesser distances, and the fact of the other circuits having extra district judges in certain of their districts, as well as a number of resident circuit judges. The ninth circuit is differently situated. Its court of appeals has a great and varied jurisdiction, not only including the ordinary appellate jurisdiction over the districts of California, Nevada, Oregon, Idaho, Washington, and Montana in the strictly federal appellate jurisdictional sense, but also over the three courts of Alaska and that of the Hawaiian Islands, and also a general appellate jurisdiction in all controversies in Alaska, the Hawaiian Islands, and the ministerial courts of Asia. The inevitable result of this, not only occasioned by the great bulk of cases, but by their intricate diversity, is that the circuit judges of the ninth circuit can not and do not try or consider any cases in either the circuit or district courts in that circuit. They are constantly at work with the appealed cases brought before them in the court of appeals. In the entire circuit there is no district other than the northern district of California which has more than a single district judge. This fact and the great size and distance apart of the various districts render it so impracticable as to substantially prevent the judges of other districts rendering relief. They are not only retarded by the loss of time, effort, and embarrassment, but with no judge left during their absence in their own districts they are constantly haunted with the dread of the interests in their home district being neglected and prejudiced in some of those many emergency matters that are constantly arising.

A visiting judge is not fair, either to the attorneys of the district or the litigants, for in many cases there must be motions for new trials, some of which are bound to be granted, although part of the law of the case may have been settled by the first trial. This renders necessary the return of the identical visiting judge who tried such cases, and experience shows that it may be years before this can be accomplished.

There is an especial hardship being worked on the attorneys of litigants in the southern division of this district. The present judge is a resident of Seattle, and has been doing all in his power to dispose of the work in that division, which has been occupying almost his entire time, and leaving the work in the southern division largely to visiting judges, there being long intervals between their visits. During the year just past half of the court in the southern division was held by visiting judges. There have been in that division begun in the last half of the year just past 117 cases, but only terminated during the entire year 55; that is, during the entire year less than half of the number of cases begun in six months were tried—that is, less than 1 in 4 for the year—and of these the resident judge tried only about half—that is, 1 in 8.

Although it has been said that comparisons are odious, tables are herewith appended showing the volume of business done in such district and that in other districts, the bar committee intrusted with this matter feeling justified in so doing, as the same show, not the absence of necessity in other districts, but the greatness of the need in the west-

ern district. In these tables, which are compiled from the report of the Attorney-General of the United States covering all the districts of the United States for the years 1908 and 1907, the statistics regarding criminal cases and bankruptcy cases are omitted. There is a natural reluctance on the part of this committee to contest with other districts for supremacy either in criminal or bankruptcy records; but that is not the only reason they are omitted. It is felt that the volume of general civil business is a safer and surer guide to determine the amount of the work done and the needs. As is well known, the greater part of the work in bankruptcy cases is done by referees in bankruptcy, and furnishes no safe criterion as to the actual work done by a judge. In the criminal cases the different parts of the United States appear to have their favorite forms of crime, which throw the tables all out of balance in this particular. For instance, the internal-revenue cases in many of the Southern States are little more than police cases, many of which may be disposed of in a day. For example, as shown by the Attorney-General's report for 1908, page 117, in the western district of Virginia there were terminated 225 criminal cases of this class during the year, but of these it appears that 109 were terminated by pleas of guilty, 43 nolle prossed or discontinued, and only 29 tried. It has therefore been thought the surer guide would be a table showing the number of civil cases in which the United States was a party, the total amounts of the judgments therein, the number of all other cases, excluding criminal and bankruptcy cases, and the amounts of the judgments rendered therein.

In the following table where in any district the amounts are equal to or exceed those in the western district of Washington, the same are underscored.

In the following table the item in the Attorney-General's report headed "Pending cases" has been discarded as in no way tending to show the amount of work the court is doing or the rate at which the work is accumulating.

Name of district.	United States civil cases.		Amounts judgments in United States civil cases.	Suits in which United States was not a party.		Judgments in cases United States not a party.
	Commenced.	Terminated.		Commenced.	Terminated.	
Washington, western	60	51	$77,556.75	272	249	$694,752.96
Alabama, middle	11	3	737.35	12	7	[a]
Alabama, northern [b]						
Alabama, southern	18	11	2,154.64	52	50	105,731.00
Arkansas, eastern	18	18	5,722.46	119	204	689,482.31
Arkansas, western	11	21	6,125.75	41	30	160,433.19
California, northern	83	48	108,861.07	1,143	576	1,081,787.04
California, southern	20	17	746.66	105	76	572,701.22
Colorado	40	58	4,282.12	121	140	93,923.92
Connecticut	6	7	10.00	89	62	11,152.27
Delaware	5			113	111	181,564.75
Florida, southern	43	21		123	106	42,317.29
Florida, northern	5	3	541.60	42	23	2,202.89
Georgia, southern	7	5	1,400.00	63	53	525,586.29
Georgia, northern	129	58	1,972.60	70	74	36,672.89
Idaho	20	9	2,511.75	42	29	7,671.23
Illinois, northern	400	312	36,525.37	421	427	259,817.92
Illinois, eastern	41	38	24,278.42	420	362	84,754.19
Illinois, southern	16	10	1,321.14	74	97	28,916.63
Indiana	12	10	1,887.80	128	106	2,600,519.94
Iowa, northern	8	2	1,100.00	58	36	75,584.36
Iowa, southern	8	4	1,410.00	105	95	12,694.00
Kansas	53	18	567.50	194	216	584,369.66
Kentucky, eastern	36	25	40,483.39	130	128	215,755.60
Kentucky, western	32	53	3,000.00	84	101	56,572.10
Louisiana, eastern	13	25	7,170.62	148	162	713,661.29
Louisiana, western	25	10	8,547.60	34	21	[b]
Maine	5	5	642.50	62	51	19,209.65
Maryland	13	7	151,672.44	146	100	161,343.73
Massachusetts	38	38	8,884.43	325	238	186,009.87
Michigan, eastern	25	7		142	68	58,465.90
Michigan, western	15	3	4,248.00	22	46	26,302.25
Minnesota	43	34	6,714.48	217	194	114,675.43
Mississippi, northern	18	18	3,174.06	16	25	28,381.00
Mississippi, southern	31	10	6,998.68	118	75	104,022.04
Missouri, eastern	80	26	2,550.00	175	154	126,166.91
Missouri, western	70	90	7,000.00	278	259	3,565,936.23
Montana	17	11	5,113.56	55	72	32,282.20
Nebraska	26	32	800.00	160	119	114,073.32
Nevada				47	26	189,963.94
New Hampshire				26	27	87,563.33
New Jersey	32	25	2,795.73	351	298	152,415.71
New York, northern	6	3	237.25			
New York, southern	469	551	37,425.82	1,402	986	1,011,161.81
New York, eastern	86	62	1,104.81	447	297	88,345.11
New York, western	35	42	9,824.07	79	53	55,338.35
North Carolina, western	101	94	7,857.48	41	45	36,491.00
North Carolina, eastern	19	11	3,448.36	32	47	19,981.23
North Dakota	9	7	3,896.98	30	23	27,092.27
Ohio, northern	19	21	3,500.00	332	309	3,129,681.07
Ohio, southern	54	30	3,649.68	129	99	77,746.00
Oregon	55	16	14,912.80	139	60	163,956.17
Pennsylvania, eastern	163	125	73,563.20	359	378	1,806,255.75
Pennsylvania, middle	10	1	100.00			
Pennsylvania, western	27	31	2,045.38	325	218	732,518.02
Rhode Island	2	8	5,000.00	111	99	68,768.00
South Carolina	16	13	2,700.00	88	86	242,063.60
South Dakota	22	14	1,308.16	50	35	68,940.07
Tennessee, eastern	23	8	1,372.78	86	53	16,113.24
Tennessee, middle	10	9	122.60	41	36	21,971.90
Tennessee, western	9	12	1,522.63	62	76	38,559.47
Texas, northern	15	7	1,100.00	131	86	311,649.50
Texas, southern	13	15	1,621.62	21	25	12,461.98
Texas, eastern	18	10	2,015.54	102	111	62,878.57
Texas, western	51	18	4,950.98	72	84	88,926.63
Utah	15	14	2,999.60	64	79	48,891.00
Vermont	4	8	$2,229.98	11	14	$19,001.82
Virginia, eastern	19	7	3,073.67	121	92	57,173.53
Virginia, western	55	40	1,730.33	42	63	7,881.74
Washington, eastern	22	29	25,461.45	69	62	80,361.76
West Virginia, northern	4	4	500.00	80	67	149,135.06
West Virginia, southern	5	1	200.00	52	11	
Wisconsin, eastern	4	17				
Wisconsin, western	3	3	436.85	36	22	7,207.45
Wyoming	24	37	7,207.50	14	23	21,711.41

[a] No data.

[b] Not complete.

It would appear that if the number of cases in the above classes commenced and terminated were added together it would give a composite number, tending both to show the amount of work being done and that accumulating. If this is done in the first class of cases—that is, in which the United States is a party—a comparison of the western district of Washington with the other districts will show that the number is only equaled or exceeded by that in the northern district of California, the southern district of New York, the eastern district of Pennsylvania, the northern district of Illinois, the eastern district of New York, the northern district of Georgia, and the western district of North Carolina. In each of the first five districts named there are already two or more district judges. In the remaining an examination of the Attorney-General's report will show an abnormal condition, throwing those districts out of balance in this particular, as for example, in the northern district of California, out of a total number of 131 cases of the above class, as against 111 in the western district of Washington, it will be found that the chief items of that total were cases under the 28-hour law, 33 begun and 21 terminated, while in the western district of Washington the chief item making up the total consists of miscellaneous cases. It would appear from the report that the United States in the northern district of California and the northern district of Illinois were bringing a number of test cases under this statute. It will also be observed that in the great majority of districts there was not a single case of this character. In the eastern, southern, and northern districts of New York there was not a single case. Again, in the eastern district of New York, with a total of 148 cases of this class commenced and terminated, as against 111 in the western district of Washington an examination of the report will show that 94 of the cases in that district were to cancel naturalization certificates, and a very few general cases. There was not an equal number of cases to cancel naturalization certificates, excepting in one district—the northern district of Illinois—in all the other districts of the United States put together, and in the southern district of New York there was not a single case of this character. So that it will be seen on this point that the excess in number is occasioned in these districts by temporarily abnormal conditions. In the northern district of Illinois, with a total of 712 civil cases in which the United States was a party, 580 of these were of the two foregoing kinds—that is, under the 28-hour law and for the cancellation of naturalization certificates. Something of the same kind is true in the two remaining districts, in which the total number of cases equals or exceeds that in the western district of Washington—that is, in the northern district of Georgia and the western district of North Carolina—for in the former of these two districts in these cases there were only judgments recovered amounting to $1,972.60, and in the latter district to the amount of $7,857.48, as against $77,556.75 recovered in the same cases in the western district of Washington. It is submitted that under this classification the needs of the western district of Washington are shown to be more pressing than of any other district with one district judge, and greater than some with two.

Passing now to the second column in the above table—that is, the amounts of the judgments recovered—as has been stated, the total amount of judgments in the western district of Washington aggregates for that year $77,556.75. This is greater than the totals of either the southern district of New York, the eastern district of Pennsylvania, or the northern district of Illinois, and is only exceeded in two districts, the northern district of California (where there are two district judges and one resident circuit judge) and the district of Maryland. An examination of the table will show that in these two districts there were exceptional conditions to destroy the value of the figures therefrom, for in Maryland, with only three customs cases in the entire year, there were judgments therein rendered of $150,000, and in the northern district of California in six cases under the land laws there were judgments rendered to the amount of $73,025.05. In miscellaneous cases of this class the judgments recovered in the western district of Washington were more than twice as much as those in both the latter States. It is submitted that the figures under this heading show the needs of the western district to be greater than those of any other district.

Passing to the third column or heading in the above table, covering the number of cases in which the United States is not a party, excepting bankruptcy, commenced and terminated during such year, the Attorney-General's report and the above table show the total number for the western district of Washington to be 521. The only districts in which this number is exceeded are in the eastern district of Pennsylvania, the southern district of New York, the district of New Jersey, the northern district of Illinois, the northern district of California, the district of Massachusetts, the western district of Pennsylvania, the eastern district of Illinois, the northern district of Ohio, the eastern district of New York, and the western district of Missouri. The first five mentioned of the above districts have two or more district judges. Two of the remaining have not only a district judge, but a resident circuit judge, leaving only four other districts, all of which are exceeded by the western district of Washington under the other heads of such table.

Passing to the fourth column or heading of the table, covering the total amount of judgments recovered during the year in this general class of cases where the United States was not a party, excluding bankruptcy cases, it will be seen that in the western district of Washington such judgments amounted to $694,752.96. This amount was only exceeded in the following districts: The northern district of California,

the eastern district of Pennsylvania, the southern district of New York, the western district of Pennsylvania, the district of Indiana, the northern district of Ohio, and the eastern district of Louisiana. The first three named, as above stated, have two or more district judges. The two following each have a resident circuit judge in addition to a district judge, and the others are exceeded by the western district of Washington under the first two headings in the table.

It will be seen by the Attorney-General's report and the foregoing extracts therefrom that there is but one district in the entire United States which exceeds the western district of Washington on all of the foregoing heads and that is the northern district of California, where exceptional conditions have already been pointed out as concerning the first two heads. The same is true concerning that district as to the last two. The earthquake and fire in San Francisco, situated in the northern district of California, caused many suits to be recently brought against foreign insurance companies. This, under the last two heads in the above table, throws the report out of balance, as these conditions are transitory and not permanent.

At pages 185 and 186 of the Attorney-General's report will be found a summary of all the business of all the districts of the United States. In this table, under the above headings, it will be seen that the average number of cases terminated in each district during the year was 107.4, while there were terminated in the western district of Washington 249, more than twice as many as in the average of all the districts. And yet this showing is not fair to the western district of Washington, for the reason that many of the districts had more than one district judge, and many of them had resident circuit judges. The same table will show that the average number of cases begun in each district in such time was 161.21, while there was for the same time begun in the western district of Washington 272. As above pointed out, this is a showing unfair to the western district of Washington, for although there are 85 districts, including the three divisions of Alaska, yet there are about 100 judges, which would show a still greater discrepancy.

Statement showing number of cases (not including bankruptcy cases) commenced and terminated in United States circuit and district courts for the western division of the western district of Washington, holding courts at Tacoma in the half year from July 1 to December 31, 1908, and number of cases pending on the last date.

	Number commenced.	Terminated.	Number pending December 31.
United States civil	2	6	27
Criminal	11	11	
Admiralty	8	5	25
Other civil	105	36	141
Total	126	58	193
Number of cases pending July 1, 1908			126
Increase in six months			67

It will be seen from the above that in the western division of the western district of Washington in the last six months of the year just past there were considerably more than twice as many cases begun as there were terminated.

Statement showing number of cases (not including bankruptcy cases) commenced and terminated in United States circuit and district courts for the western district of Washington in the half year from July 1 to December 31, 1908, and number of cases pending on the last date.

	Number commenced.	Terminated.	Number pending December 31.
United States civil	22	32	70
Criminal	37	37	55
Admiralty	26	19	120
Other civil	142	70	363
Total	227	158	608
Number of cases pending July 1			529
Increase in six months			79

For comparison to show volume of business in other districts per Attorney-General's report for year ending June 30, 1907 (bankruptcy cases not included).

MASSACHUSETTS.

Has one resident circuit judge and one district judge.

	Number of cases commenced during the year.	Disposed of during the year.	Pending June 30, 1907.
United States civil	61	32	98
Criminal	168	98	138
Admiralty	28	31	36
Other civil	276	189	612
Total	533	350	884

SOUTHERN DISTRICT OF OHIO.

Has one resident circuit judge and two district judges.

	Number of cases commenced during the year.	Disposed of during the year.	Pending June 30, 1907.
United States civil	36	5	35
Criminal	42	40	44
Admiralty	1	2	15
Other civil	151	139	379
Total	230	186	473

EASTERN DISTRICT OF PENNSYLVANIA.

Has one resident circuit judge and two district judges.

	Number of cases commenced during the year.	Disposed of during the year.	Pending June 30, 1907.
United States civil	122	104	128
Criminal	153	136	98
Admiralty	76	78	113
Other civil	340	286	1,050
Total	691	604	1,389

INDIANA.

Has one resident circuit judge and one district judge.

	Number of cases commenced during the year.	Disposed of during the year.	Pending June 30, 1907.
United States civil	8	7	14
Criminal	49	56	28
Admiralty			3
Other civil	112	120	206
Total	169	183	251

MINNESOTA.

Has one resident circuit judge and two district judges.

	Number of cases commenced during the year.	Disposed of during the year.	Pending June 30, 1907.
United States civil	22	15	50
Criminal	88	84	42
Admiralty	7	30	24
Other civil	255	218	497
Total	372	347	613

There is one other reason that renders our needs in the foregoing particulars greater than in most other districts. With all the mass of business that is to be dispatched, the present judge is compelled to hold his court on wheels, having terms in both Tacoma and Seattle, which occupies much time going and coming, and necessarily separates the court from its records to a certain extent, greatly embarrassing the dispatch of work.

It is submitted that it is clearly shown by the foregoing that the needs of the district are imperative and urgent, and that the amount of business pending, let alone the great increase to be anticipated in the immediate future, is amply sufficient to warrant the division of the district and the creation of separate courts, and that to give the district an additional judge at this time is simply a makeshift, affording only temporary relief, to be ultimately followed by the creation of a new district.

Mr. Speaker, This House has just passed a bill providing for an additional district judge for the western district of Pennsylvania. I was impressed by the remarks of the gentleman from Pennsylvania [Mr. DALZELL], who preceded me, detailing to some extent the conditions that exist in that judicial district. I have no doubt but that relief is needed in the shape of an additional judge for that district in Pennsylvania. I know we need relief in our western district of Washington. The House having just passed a bill providing for an additional judge in the western district of Pennsylvania, I certainly trust the House will grant us similar relief in the State of Washington by passing this bill.

I am not here to impugn the figures of the gentleman from Pennsylvania [Mr. DALZELL], but his figures, as I understood them, showed the increase of business in his judicial district between the year 1889 and the present year of 1908——

Mr. DALZELL. No; the year 1899, not the year 1889.

Mr. CUSHMAN. I stand corrected, then; I did not understand the date correctly when the gentleman was speaking. I have prepared a brief table making a comparison between the amount of litigation for the fiscal year ending July 1, 1908, in the western district of Pennsylvania, and the amount of litigation in the western district of the State of Washington, as follows:

Name of district.	United States civil cases.		Amount of judgments United States civil cases.	Suits, United States not party.		Judgments in cases United States not party.
	Commenced.	Terminated.		Commenced.	Terminated.	
Western district Pennsylvania	27	31	$2,045.38	325	218	$732,518.02
Western district Washington	60	51	77,556.75	272	249	694,752.96

I submit that these figures show at least equal need for relief in the western district of Washington as in the western district of Pennsylvania.

Mr. Speaker, I reserve the balance of my time.

Mr. MANN. Will the gentleman yield for a question?

Mr. GAINES of Tennessee. Mr. Speaker, I now yield to the gentleman from Tennessee [Mr. SIMS].

Mr. SIMS. Mr. Speaker, I do not know anything about the merits of this bill, nor the one relating to the Pennsylvania judge, but I do feel that it is not improper to call attention to the fact that we sit here with one-third of a quorum and pass bills by unanimous consent, to create new judges for district courts of the United States, at a salary of $6,000 each during service, and then retired on a salary of $6,000 for life, putting a charge upon the Treasury of the United States in creating these new offices without the slightest protest from Republican or Democrat.

I am not on the committee that examines the bills and can not and will not speak with reference to their merits, but I see here every day when we have up private claims that nothing except bills by unanimous consent can be considered. Claims that have been due for many years, decided favorably by the Court of Claims, unpaid for years, get absolutely no consideration, or if passed must be passed over every technical objection that can be made. I do not question the motives of the gentlemen who make the objections, because they have a right to make them. But I want to call attention to the fact that we are loading down the Treasury of the United States with salaries for district judges of $6,000 for life. We have a bill now pending proposing to increase those salaries 50 per cent; still we sit here and pass bills creating new judges without any objection whatever. I do not question the merits of the bills, because I do not know anything about them, but I am satisfied that 90 per cent of the House knows no more about them than I do. It only shows the tendency and the direction in which we are going.

Mr. MACON. Will the gentleman yield?

Mr. SIMS. Yes.

Mr. MACON. I desire to state that I objected to unanimous consent a few moments ago to the consideration of the bill offered by the gentleman from Pennsylvania, but I was not given an opportunity to object to this bill by unanimous consent, for it was presented under a motion to suspend the rules. I am not one-third of the House, and for that reason I can not prevent the passage of bills when two-thirds only are necessary to pass them.

Mr. SIMS. But the gentleman did not demand a second, and nobody else would demand it after the gentleman from Arkansas had objected to unanimous consideration, supposing he would make the demand. I know the gentleman could not have prevented the passage of the bill, but I am calling attention to the fact that when a heavy load is to be laid upon the Treasury nobody objects. If a clerk's salary is to be raised a few dollars, or a small claim put through the House, then objection is made. I have no reference to the gentleman from Arkansas——

Mr. MACON. Will the gentleman yield?

Mr. SIMS. I will.

Mr. MACON. The gentleman must make a distinction between unanimous consent and demanding a second upon a motion to suspend the rules. The gentleman knows that it was a foregone conclusion that a second was going to be ordered by a majority, if demanded, and that the bill was going to be passed by a two-thirds vote on motion of the gentleman from Pennsylvania [Mr. DALZELL]. Therefore, does not the gentleman think it would have been an act of folly for me to ask for a second and thereby waste forty minutes' time of the House when he knows that the result was going to be the same in the end?

Mr. SIMS. I can not complain about the gentleman failing to act when he knew in advance that the action would amount to nothing. I think also that he knew when he objected to unanimous consent that it would amount to nothing because it is suspension day.

Mr. MACON. I did not know that the gentleman from Pennsylvania was going to ask for a suspension of the rules when I objected. He had asked for unanimous consent; I had a voice in that matter and I used it.

Mr. SIMS. I do not want the gentleman from Arkansas to understand that I am criticising him. I think he is a full-fledged and very useful Member of the House. I am only calling attention to the action of everybody in the House, the entire body.

Mr. GAINES of Tennessee. Mr. Speaker, I yield three minutes to the gentleman from Indiana [Mr. HOLLIDAY].

Mr. HOLLIDAY. Mr. Speaker, I know nothing about the conditions in the State of Washington. I desire to call the attention of this body to the fact that only a few weeks ago this House, by a very decided vote, refused to create an additional judicial district in a State that has four times the population and three times the wealth of the State of Washington. This circumstance simply emphasizes the fact that when an entire delegation of a State can get together it can have almost anything and that no State can expect to get much recognition at the hands of this House where there is a division of opinion among its Members. The people of the State of Indiana came to this House for relief, the people of a great State represented by 13 Congressmen on the floor of this House, and we were denied it on the theory that it might possibly cost thirty or forty dollars a month to pay the salary of an assistant clerk or an assistant marshal. Now we are asked, without any opportunity of investigation, to vote not merely for an assistant clerk or an assistant marshal, but to give a United States judge to a State represented by three Congressmen on the floor of this House, a State that can not possibly do the same business, either in a judicial way or in any other way, that the great Commonwealth which I have the honor in part to represent does. I am going to oppose and vote against every proposition to create a new judge of a district until this House gets ready to do justice to the State of Indiana.

Mr. GAINES of Tennessee. Mr. Speaker, I do not personally know whether this judgeship is needed or not. The gentleman who is proposing the bill says it is needed, and I have heard no one say it is not needed, nor have I heard anyone say that Judge Hanford, for whose relief it is given, is not constantly at work; but here is what I have in mind, and what I have had in mind, about creating all of these judgeships, and that is the record of the district judges as to the enforcement of the Sherman antitrust law—the records of the southern district of New York, the State of Pennsylvania, and the State of Washington, and you might say there are other States in the same fix. Section 4 of the Sherman antitrust law provides that—

> The several circuit courts of the United States are hereby invested with jurisdiction to prevent and restrain the violation of this act; and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney-General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition, the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises.

Mr. Speaker, I have read that section for the purpose of calling the attention of this House to the fact that that is the equity proposition that this Sherman antitrust law contains. It is the equity practice; it is not the practice in the enforcement of the criminal sections of the statute. It applies to the "circuit courts." There is not a word in the Sherman antitrust law that puts the district attorney or puts the district courts at the mercy or dictation of the Attorney-General of the United States—not a word. The district court enforces the criminal sections. Yet, Mr. Speaker, the Attorney-General's report for last year shows that there was not pending in the State of Washington a single solitary suit under the Sherman antitrust law on July 1, 1907, nor was there pending in the United States court July 1, 1908, a single solitary suit in the State of Washington under that law.

Turn over now to the State of Pennsylvania, who has just been given her additional judge, and you will find that on July 1, 1907, there was one suit pending under the Sherman antitrust law, and on July 1, 1908, there was one suit pending, possibly the same suit that had not been disposed of. Mr.

Speaker, I submit, and I resubmit for the purpose of accentuating, that the federal judges of these United States are not doing their duty in charging the grand juries to investigate the violations of the Sherman antitrust law. You need not lay it all on Attorney-General Bonaparte; you need not lay it on anybody except the district judges that are required by law to obey the law and see that it is faithfully executed. You need not lay it upon the President of the United States, who has great and additional machinery given him, together with more than $750,000 extra that we have given him, and who has great assistance in the officers we have given him, for he has caused more trust suits to be begun than any President. But I say of the judiciary of the United States, in my own State as well as yours, in every State and Territory of the United States, they have not done their duty in aiding Congress and in aiding the President of the United States to enforce the criminal sections of the Sherman antitrust law. In New York—I referred to the other day—I have the record by the Attorney-General for the last year of that court, and I find practically the same delinquency in all the districts of that State as I find in Pennsylvania and Washington and, I may say, in my own State.

Mr. Speaker, I desire to place in the RECORD the tables from the Attorney-General's report, dated December 18, 1908, to which I have alluded, covering the litigation for last year pending under the Sherman antitrust law in Pennsylvania, Washington, New York, and Tennessee.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. GAINES of Tennessee. Mr. Speaker, I do hope, I will say to my friend from the State of Washington [Mr. CUSHMAN], and I say it candidly and without the slightest idea of partisanship, that if he gets this new judge, and I take his word for it that a new judge is needed, the first thing that judge will do in the great State that bears such a distinguished name—Washington—is to see to it that the Sherman antitrust law is faithfully executed in that great State.

The tables referred to are as follows:

Eastern district of Washington.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman antitrust law.	Miscellaneous.	Total.
Pending July 1, 1907			10		14	4	3				5	36
Commenced during fiscal year				6	3	2	4				7	22
Terminated during same period			4	6	4	3	6				6	29
Judgments for United States			4	6		3	6				5	24
Judgments against United States					2						1	3
Dismissed or discontinued					2							2
Appealed to circuit court of appeals					2						1	3
Appealed to Supreme Court												
Pending in the United States courts July 1, 1908			6		13	3	1				6	29
Judgments obtained favor United States			$12,742.11	$6,175.61			$5,793.24				$750.49	$25,461.45
Realized from such judgments				$4,528.39			$5,519.88				$449.60	$10,497.87
Realized from old judgments, etc					$847.86	$1,228.02						$2,075.88

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907			4	2	2								2	10
Commenced during fiscal year			2	1	4	1							20	28
Terminated during same period			5	2	4								20	31
Convictions			3	1	3								16	23
Acquittals													5	5
Nol-pros, discontinued, or quashed			1	1	1									3
Pleas of guilty			1		3								12	16
Trials by jury			3										6	9
Pending July 1, 1908			1	1	2	1							2	7
Fines, etc., imposed during year			$1,408.70		$488.02								$6,272.80	$8,169.52
Realized on fines, etc				$5,000.00	$488.02								$100.00	$5,588.02

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.
Pending July 1, 1907		77	77
Commenced during fiscal year		69	69
Terminated during same period		62	62
Judgments for plaintiffs		19	19
Judgments for defendants		20	20
Dismissed or discontinued		23	23
Pending July 1, 1908		84	84
Judgments for plaintiffs		$23,783.58	$23,783.58
Judgments for defendants		$36,577.18	$36,577.18

Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907	40	5
Filed during fiscal year	53	7
Closed during fiscal year	15	
Pending June 30, 1908	78	12
Total liabilities of cases closed	$2,745.00	
Total assets realized from cases closed	$1,528.98	

Western district of Washington.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907	7		1		32	3	1				26	70
Commenced during fiscal year	7		1	5	1		1	13			32	60
Terminated during same period	4		1	5	2	3	2	6			28	51
Judgments for United States	4		1	3		2	2				17	29
Judgments against United States					1	1					5	7
Dismissed or discontinued				2	1			6			3	12
Appealed to circuit court of appeals											3	3
Appealed to Supreme Court												
Pending in the United States courts July 1, 1908	10		1		31			7			30	79
Judgments obtained in favor United States	$4,491.40		$369.94	$372.59			$174.34				$72,148.48	$77,556.75
Realized from such judgments	$2,562.40		$369.94	$372.59							$25,894.57	$29,199.50
Realized from old judgments, etc	$719.90											$719.90

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907	6	2	16										25	49
Commenced during fiscal year	9	2	15	1									39	66
Terminated during same period	5	2	16	1									39	63
Convictions	5		5	1									13	24
Acquittals			2										2	4
Nol-pros, discontinued, or quashed		2	9										24	35
Pleas of guilty	3		3										15	21
Trials by jury	3		4										4	11
Pending July 1, 1908	10	2	15										25	52
Fines, etc., imposed during year			$400.00										$3,875.59	$4,275.59
Realized on fines, etc			$142.07										$7,487.00	$7,629.07

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.
Pending July 1, 1907	110	271	381
Commenced during fiscal year	66	206	272
Terminated during same period	63	186	249
Judgments for plaintiffs	14	29	43
Judgments for defendants	1	30	31
Dismissed or discontinued	48	127	175
Pending July 1, 1908	113	291	404
Judgments for plaintiffs	$25,060.57	$89,211.00	$114,271.57
Judgments for defendants	$112.70	$580,368.69	$580,481.39

Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907	86	27
Filed during fiscal year	142	68
Closed during fiscal year	71	12
Pending June 30, 1908	157	83
Total liabilities of cases closed	$770,717.09	$397,290.03
Total assets realized from cases closed	$63,244.27	$147,497.03

Eastern district of Pennsylvania.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907	65	7								1	55	128
Commenced during fiscal year	75	6	3	6				3	2		68	163
Terminated during same period	87	5		4				2			27	125
Judgments for United States	69	3		4				2			20	98
Judgments against United States	2	1									4	7
Dismissed or discontinued	16	1									3	20
Appealed to circuit court of appeals	24	3		2							12	41
Appealed to Supreme Court	5											5
Pending in the United States courts July 1, 1908	53	8	3	2				1	2	1	96	166
Judgments obtained in favor United States	$47,256.00	$7,847.20		$600.00							$17,860.00	$73,563.20
Realized from such judgments	$32,601.00	$956.30		$400.00							$12,201.00	$46,158.30
Realized from old judgments, etc	$187.00										$16,027.00	$16,234.00

Eastern district of Pennsylvania—Continued.

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907		12	28				6	12					40	98
Commenced during fiscal year	16	8	58	1			8	9					68	168
Terminated during same period	15	14	64				11	19					67	190
Convictions	12	12	48				10	14					56	152
Acquittals	2	2	9				1	2					6	22
Nol-pros, discontinued, or quashed	1		7					3					5	16
Pleas of guilty		3	16				3	6					12	40
Trials by jury	14	11	41				8	10					50	134
Pending July 1, 1908	1	6	22	1			3	2					41	76
Fines, etc., imposed during year	$1,525.00	$2,150.40	$12,872.00				$980.00	$470.00					$2,370.00	$20,367.40
Realized on fines, etc.	$800.00	$967.18	$179.28				$675.00	$285.00					$19,468.00	$22,374.46

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.
Pending July 1, 1907	113	1,050	1,163
Commenced during fiscal year	63	296	359
Terminated during same period	84	294	378
Judgments for plaintiffs	19	91	110
Judgments for defendants	11	72	83
Dismissed or discontinued	54	131	185
Pending July 1, 1908	92	1,052	1,144
Judgments for plaintiffs	$21,519.56	$1,784,736.19	$1,806,255.75
Judgments for defendants			

Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907	249	281
Filed during fiscal year	138	146
Closed during fiscal year	125	110
Pending June 30, 1908	262	317
Total liabilities of cases closed	$2,615,688.90	$4,343,771.09
Total assets realized from cases closed	$420,663.56	$1,354,094.37

Western district of Pennsylvania.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907	2	5	1	3				3			60	74
Commenced during fiscal year	1	2	2	11			3	6	1		1	27
Terminated during same period			1	4			1				25	31
Judgments for United States				1							9	10
Judgments against States												
Dismissed or discontinued			1	3			1				16	21
Appealed to circuit court of appeals												
Appealed to Supreme Court												
Pending in the United States courts July 1, 1908	3	7	2	10			2	9	1		36	70
Judgments obtained in favor United States												
Realized from such judgments												
Realized from old judgments, etc.		$62.33	$1,983.05									$2,045.38

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907		21	29	15				4					29	89
Commenced during fiscal year		6	52	7				5		20			22	112
Terminated during same period		7	63	15				4		12			27	128
Convictions		5	51	10									21	87
Acquittals		2	1	2				1		5			1	12
Nol-pros, discontinued, or quashed			11	3				3		7			5	29
Pleas of guilty		2	39	5									13	59
Trials by jury		5	13	7				1					9	35
Pending July 1, 1908		20	18	7				5		8			15	73
Fines, etc., imposed during year		$1,148.44	$5,396.61	$383.52						$263.59			$2,086.00	$9,278.16
Realized on fines, etc.		$123.44	$4,678.61	$382.52						$263.59			$1.00	$5,449.16

Western district of Pennsylvania—Continued.

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.	Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907	136	767	903	Pending July 1, 1907	304	158
Commenced during fiscal year	28	297	325	Filed during fiscal year	304	276
Terminated during same period	24	194	218	Closed during fiscal year	186	98
Judgments for plaintiffs	11	72	83	Pending June 30, 1908	422	336
Judgments for defendants	1	43	44	Total liabilities of cases closed	$2,101,616.66	$1,699,002.95
Dismissed or discontinued	12	79	91	Total assets realized from cases closed	$201,058.82	$299,434.24
Pending July 1, 1908	140	870	1,010			
Judgments for plaintiffs	$2,299.16	$730,218.86	$732,518.02			
Judgments for defendants						

Middle district of Pennsylvania.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907												
Commenced during fiscal year				10								10
Terminated during same period				1								1
Judgments for United States				1								1
Judgments against United States												
Dismissed or discontinued												
Appealed to circuit court of appeals												
Appealed to Supreme Court												
Pending in the United States courts July 1, 1908.				9								9
Judgments obtained in favor United States				$100.00								$100.00
Realized from such judgments				$100.00								$100.00
Realized from old judgments, etc												

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907			18	2									5	25
Commenced during fiscal year			28	1			5		3				5	42
Terminated during same period			36	3			5		3				8	55
Convictions			30	3			2		3				5	43
Acquittals			1				3						1	5
Nol - pros, discontinued, or quashed			5										2	7
Pleas of guilty			30	3			2		3				5	43
Trials by jury			1				3						1	5
Pending July 1, 1908			10										2	12
Fines, etc., imposed during year			$382.00	$2,500.00			$35.00		$30.00				$77.00	$3,024.00
Realized on fines, etc.			$239.00	$1,500.00			$35.00		$30.00				$75.00	$1,879.00

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.	Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907				Pending July 1, 1907	32	45
Commenced during fiscal year				Filed during fiscal year	162	90
Terminated during same period				Closed during fiscal year	105	46
Judgments for plaintiffs				Pending June 30, 1908	89	89
Judgments for defendants				Total liabilities of cases closed	$720,979.54	$310,380.04
Dismissed or discontinued				Total assets realized from cases closed	$138,570.57	$80,255.91
Pending July 1, 1908						
Judgments for plaintiffs						
Judgments for defendants						

Southern district of New York.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907	946	57	6								103	1,112
Commenced during fiscal year	424	18	4						5		18	469
Terminated during same period	515	11	3								22	551
Judgments for United States	150	1	1								10	162
Judgments against United States	329	3									4	336
Dismissed or discontinued	36	7	2								8	53
Appealed to circuit court of appeals	53	3										56
Appealed to Supreme Court											4	4
Pending in United States courts July 1, 1908	855	64	7						5		99	1,030
Judgments obtained in favor United States	$1,297.98	$219.86									$35,907.98	$37,425.82
Realized from such judgments	$1,010.98	$2,561.56									$557.22	$4,129.76
Realized from old judgments, etc	$75,942.53			$600.00							$10,809.88	$87,352.41

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907	7	6	21				1	69			8		54	166
Commenced during fiscal year	11	5	70	6			3	33			1	2	60	191
Terminated during same period	11	6	55	1			3	49			4		48	177
Convictions	3	3	47				3	24			2		28	110
Acquittals			1	1				1					1	4
Nol-pros, discontinued, or quashed	8	3	7					24			2		19	63
Pleas of guilty	6	4	48				3	22					50	133
Trials by jury	2	1	10					6					24	43
Pending July 1, 1908	7	5	36	5			1	53			5	2	66	180
Fines, etc., imposed during year	$1,500.00	$500.00	$3,180.29				$400.00	$1,075.00			$56,000.00		$2,310.00	$64,965.29
Realized on fines, etc.	$1,500.00		$1,910.00				$150.00	$725.00			$49,000.00		$300.00	$53,585.00

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.
Pending July 1, 1907	1,172	12,238	13,410
Commenced during fiscal year	734	668	1,402
Terminated during same period	431	555	986
Judgments for plaintiffs	142	130	272
Judgments for defendants	73	174	247
Dismissed or discontinued	216	83	299
Pending July 1, 1908	1,475	12,351	13,826
Judgments for plaintiffs	$386,992.00	$606,667.11	$993,659.11
Judgments for defendants	$6,398.73	$11,103.97	$17,502.70

Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907	452	590
Filed during the fiscal year	466	461
Closed during fiscal year	345	205
Pending June 30, 1908	573	846
Total liabilities of cases closed	$10,333,709.63	$10,144,794.36
Total assets realized from cases closed	$334,679.13	$1,165,691.06

Northern district of New York.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	Twenty-eight-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907	3	10	1								7	21
Commenced during fiscal year	1	1		4								6
Terminated during same period	1	1		1								3
Judgments for United States	1	1		1								3
Judgments against United States												
Dismissed or discontinued												
Appealed to circuit court of appeals												1
Appealed to Supreme Court												
Pending in the United States courts July 1, 1908	3	10	1	3							7	24
Judgments obtained favor United States		$32.70		$204.55								$237.25
Realized from such judgments		$32.70		$204.55								$237.25
Realized from old judgments, etc												

Northern district of New York—Continued.

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts).	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907..	5	2	21	3	.....	.....	8	.....	.....	.....	.....	.....	9	48
Commenced during fiscal year	6	2	12	.....	.....	.....	1	.....	.....	.....	2	4	7	34
Terminated during same period	3	4	21	2	.....	.....	8	.....	.....	.....	.....	.....	5	43
Convictions.....	3	3	9	.....	.....	.....	2	.....	.....	.....	.....	.....	4	21
Acquittals	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	1
Nol-pros, discontinued, or quashed	.....	1	12	2	.....	.....	6	.....	.....	.....	.....	.....	.....	21
Pleas of guilty....	3	1	6	.....	.....	.....	2	.....	.....	.....	.....	.....	4	16
Trials by jury.....	.....	2	3	.....	.....	.....	.....	.....	.....	.....	.....	.....	1	6
Pending July 1, 1908..	8	.....	12	1	.....	.....	1	.....	.....	.....	2	4	11	39
Fines, etc., imposed during year.....	$125.00	$1,088.66	$631.27	.....	.....	.....	$250.00	.....	.....	.....	.....	.....	$1,700.00	$3,794.93
Realized on fines, etc.	$125.00	$838.66	$130.27	.....	.....	.....	$250.00	.....	.....	.....	.....	.....	$500.00	$1,843.93

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.
Pending July 1, 1907.....	.....	1	1
Commenced during fiscal year	.....	.....	.....
Terminated during same period	.....	1	1
Judgments for plaintiffs.....	.....	.....	.....
Judgments for defendants.....	.....	1	1
Dismissed or discontinued	.....	.....	.....
Pending July 1, 1908.....	.....	.....	.....
Judgments for plaintiffs.....	.....	.....	.....
Judgments for defendants.....	.....	.....	.....

Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907	191	61
Filed during fiscal year.....	250	39
Closed during fiscal year.....	194	25
Pending June 30, 1908.....	247	75
Total liabilities of cases closed.....	$1,234,654.34	$620,406.36
Total assets realized from cases closed.....	$179,739.84	$242,887.92

Western district of New York.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907.....	1	1	2	1	.....	.....	32	.....	.....	.....	16	53
Commenced during fiscal year	2	.....	2	5	.....	.....	16	1	1	.....	8	35
Terminated during same period	2	.....	3	3	.....	.....	30	1	.....	.....	3	42
Judgments for United States.....	1	.....	2	3	.....	.....	30	1	.....	.....	3	40
Judgments against United States.....	1	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	2
Dismissed or discontinued.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Appealed to circuit court of appeals.....	.....	.....	1	.....	.....	.....	9	.....	.....	.....	1	11
Appealed to Supreme Court.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Pending in the United States courts July 1, 1908.	1	1	1	3	.....	.....	18	.....	1	.....	21	46
Judgments obtained in favor United States.....	$425.00	.....	$2,924.08	$1,257.43	.....	.....	$4,109.89	.....	.....	.....	$1,107.67	$9,824.07
Realized from such judgments	$425.00	.....	$3,038.65	$1,257.43	.....	.....	$2,379.41	.....	.....	.....	$1,033.66	$8,134.15
Realized from old judgments, etc.....	$2,333.13	$100.63	.....	.....	.....	.....	.....	.....	.....	.....	$1,505.33	$3,939.09

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907..	1	5	10	1	.....	1	1	.....	.....	7	7	.....	12	45
Commenced during fiscal year	6	2	18	2	.....	.....	.....	.....	3	.....	14	.....	16	61
Terminated during same period	3	6	11	.....	.....	.....	1	.....	3	7	2	.....	14	47
Convictions	2	3	9	.....	.....	.....	1	.....	3	.....	2	.....	13	33
Acquittals.....	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1
Nol-pros, discontinued, or quashed.....	.....	3	2	.....	.....	.....	.....	.....	.....	7	.....	.....	1	13
Pleas of guilty....	2	3	6	.....	.....	.....	1	.....	3	.....	.....	.....	10	25
Trials by jury.....	1	.....	3	.....	.....	.....	.....	.....	.....	.....	2	.....	3	9
Pending July 1, 1908..	4	1	17	3	.....	1	.....	.....	.....	.....	19	.....	14	59
Fines, etc., imposed during year	$200.00	$1,250.00	$1,100.00	.....	.....	.....	.....	.....	$100.00	.....	$5,000.00	.....	$650.00	$8,300.00
Realized on fines, etc.	$200.00	$1,100.00	$350.00	.....	.....	.....	.....	.....	$100.00	.....	.....	.....	$1,250.00	$3,000.00

Western district of New York—Continued.

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.	Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907	176	308	484	Pending July 1, 1907	178	5
Commenced during fiscal year	20	59	79	Filed during fiscal year	205	71
Terminated during same period	28	25	53	Closed during fiscal year	131	31
Judgments for plaintiffs	12	6	18	Pending June 30, 1908	252	45
Judgments for defendants	6	2	8	Total liabilities of cases closed	$1,608,229.21	$1,363,621.69
Dismissed or discontinued	10	17	27	Total assets realized from cases closed	$204,555.53	$340,432.66
Pending July 1, 1908	168	342	510			
Judgments for plaintiffs	$38,339.89	$16,970.86	$55,310.75			
Judgments for defendants		$27.60	$27.60			

Eastern district of New York.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907	22	4	2								15	43
Commenced during fiscal year	23	8	1					47	1		6	86
Terminated during same period	4	5	2					47			4	62
Judgments for United States	1	3	1					47				52
Judgments against United States		2									2	4
Dismissed or discontinued	3		1								2	6
Appealed to circuit court of appeals												
Appealed to Supreme Court												
Pending in the United States courts July 1, 1908	41	7	1						1		17	67
Judgments obtained in favor United States		$61.10	$1,043.71									$1,104.81
Realized from such judgments			$1,043.71									$1,043.71
Realized from old judgments, etc	$2,867.04		$15.57									$2,832.61

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907		7	22				2						31	62
Commenced during fiscal year	19	7	31	1			1	16				1	58	134
Terminated during same period	4	6	23	1			3	5				1	33	76
Convictions	3	4	20	1			1	5				1	25	60
Acquittals	1	2	3										2	8
Nol-pros, discontinued, or quashed							2						6	8
Pleas of guilty	3	4	19	1			1	5				1	23	57
Trials by jury	1	2	4										6	13
Pending July 1, 1908	15	8	30					11					56	120
Fines, etc., imposed during year	$200.00	$1,150.00						$75.00				$100.00	$1,848.00	$3,373.00
Realized on fines, etc	$200.00	$150.00	$500.00					$75.00				$100.00	$1,495.00	$2,520.00

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.	Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907	1,622	1,533	3,155	Pending July 1, 1907	219	74
Commenced during the fiscal year	304	143	447	Filed during fiscal year	184	171
Terminated during the same period	210	87	297	Closed during fiscal year	132	32
Judgments for plaintiffs	142	15	157	Pending June 30, 1908	271	213
Judgments for defendants	7	12	19	Total liabilities of cases closed	$1,082,631.84	$2,515,124.64
Dismissed or discontinued	61	60	121	Total assets realized from cases closed	$126,941.81	$213,307.51
Pending July 1, 1908	1,716	1,589	3,305			
Judgments for plaintiffs	$57,305.98	$27,986.72	$85,292.70			
Judgments for defendants	$762.28	$2,290.13	$3,052.41			

Western district of Tennessee.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907		1		3							1	5
Commenced during fiscal year			1	5				1	1		1	9
Terminated during same period		1	1	8				1	1			12
Judgments for United States		1		6				1	1			9
Judgments against United States			1									1
Dismissed or discontinued				2								2
Appealed to circuit court of appeals												
Appealed to Supreme Court												
Pending in the United States courts July 1, 1908											2	2
Judgments obtained in favor United States		$81.83		$1,410.80					$30.00			$1,522.63
Realized from such judgments		$81.83		$1,410.80					$30.00			$1,522.63
Realized from old judgments, etc				$1,202.35								$1,202.35

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907		35	12										5	52
Commenced during fiscal year		22	9										7	38
Terminated during same period		28	9										2	39
Convictions		9	5										2	16
Acquittals		9	2											11
Nol-pros, discontinued, or quashed		10	2											12
Pleas of guilty		2	3										2	7
Trials by jury		16	4											20
Pending July 1, 1908		29	12										10	51
Fines, etc., imposed during year		$5,894.97	$1,465.49										$213.91	$7,574.37
Realized on fines, etc		$947.17	$561.50											$1,508.67

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.
Pending July 1, 1907		47	47
Commenced during fiscal year	5	57	62
Terminated during same period	3	73	76
Judgments for plaintiffs	3	24	27
Judgments for defendants		25	25
Dismissed or discontinued		24	24
Pending July 1, 1908	2	31	33
Judgments for plaintiffs	$976.35	$37,583.12	$38,559.47
Judgments for defendants			

Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907	55	15
Filed during fiscal year	138	28
Closed during fiscal year	158	9
Pending June 30, 1908	35	34
Total liabilities of cases closed	$285,076.36	$231,729.13
Total assets realized from cases closed	$56,420.14	$80,147.67

Eastern district of Tennessee.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907			3								10	13
Commenced during fiscal year		3									20	23
Terminated during same period											8	8
Judgments for United States											8	8
Judgments against United States												
Dismissed or discontinued												
Appealed to circuit court of appeals												
Appealed to Supreme Court												
Pending in the United States courts July 1, 1908		3	3								22	28
Judgments obtained in favor United States											$1,372.78	$1,372.78
Realized from such judgments											$422.78	$422.78
Realized from old judgments, etc												

Eastern district of Tennessee—Continued.

Criminal prosecutions to which United States was a party. (Incudes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907		23					4						4	31
Commenced during fiscal year		131	19				1			1			5	157
Terminated during same period		108	15				2						5	130
Convictions		97	13				2						3	115
Acquittals		9	2										2	13
Nol. pros., discontinued, or quashed		2												2
Pleas of guilty		87	11				2							100
Trials by jury		18	4										5	27
Pending July 1, 1908		46	4				3			1			4	58
Fines, etc., imposed during year		$20,911.85	$2,250.00				$100.00						$300.00	$23,561.85
Realized on fines, etc.														

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.
Pending July 1, 1907		156	156
Commenced during fiscal year		86	86
Terminated during same period		53	53
Judgments for plaintiffs		7	7
Judgments for defendants		10	10
Dismissed or discontinued		36	36
Pending July 1, 1908		189	189
Judgments for plaintiffs		$16,113.24	$16,113.24
Judgments for defendants			

Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907	59	22
Filed during fiscal year	153	26
Closed during fiscal year	155	21
Pending June 30, 1908	57	27
Total liabilities of cases closed	$493,013.55	$453,375.20
Total assets realized from cases closed	$41,659.65	$95,542.74

Middle district of Tennessee.

Civil cases to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Safety-appliance acts.	Land laws.	Timber and turpentine trespass.	28-hour law.	Cancellation naturalization certificates.	Forfeiture proceedings, food and drugs act.	Sherman anti-trust law.	Miscellaneous.	Total.
Pending July 1, 1907		1									1	2
Commenced during fiscal year		1	1						2		6	10
Terminated during same period		2	1						2		4	9
Judgments for United States									1		2	3
Judgments against United States			1								1	2
Dismissed or discontinued		2							1		1	4
Appealed to circuit court of appeals											1	1
Appealed to Supreme Court												
Pending in the United States courts July 1, 1908											3	3
Judgments obtained in favor United States											$122.60	$122.60
Realized from such judgments											$122.60	$122.60
Realized from old judgments, etc											$1,045.60	$1,045.60

Criminal prosecutions to which United States was a party. (Includes business of both the circuit and district courts.)	Customs.	Internal revenue.	Post-office.	Banking acts.	Land laws.	Timber and turpentine trespass.	Pension laws.	Naturalization laws.	Food and drugs act.	Eight-hour law.	Interstate commerce.	Meat-inspection act.	Miscellaneous.	Total.
Pending July 1, 1907		10	1										4	15
Commenced during fiscal year		60	14	1									4	79
Terminated during same period		35	14	1									6	56
Convictions		23	13	1									1	38
Acquittals		7	1											8
Nol pros, discontinued, or quashed		5											5	10
Pleas of guilty		20	13	1										34
Trials by jury		10												10
Pending July 1, 1908		35	1										2	38
Fines, etc., imposed during year		$2,809.00	$2,410.00										$150.00	$5,360.00
Realized on fines, etc.		$190.00	$639.80										$150.00	$979.80

Middle district of Tennessee—Continued.

Suits to which United States was not a party. (Includes business of both the circuit and district courts.)	Admiralty.	All other suits except bankruptcy.	Total.	Bankruptcy cases.	Voluntary.	Involuntary.
Pending July 1, 1907		97	97	Pending July 1, 1907	181	8
Commenced during fiscal year		41	41	Filed during fiscal year	225	44
Terminated during same period		36	36	Closed during fiscal year	77	4
Judgments for plaintiffs		22	22	Pending June 30, 1908	329	48
Judgments for defendants		10	10	Total liabilities of cases closed	$82,100.00	$104,000.00
Dismissed or discontinued		4	4	Total assets realized from cases closed	$25,988.29	$61,499.93
Pending July 1, 1908		102	102			
Judgments for plaintiffs		$21,921.90	$21,921.90			
Judgments for defendants		$50.00	$50.00			

Mr. CUSHMAN. Mr. Speaker, I yield five minutes to the gentleman from New York [Mr. ALEXANDER] if I have that much time remaining.

Mr. ALEXANDER of New York. Mr. Speaker, it has been my fortune, or perhaps misfortune, to have been chairman of the subcommittee of the Judiciary Committee to which this bill and others of similar character have been referred for the past five or six years, and I think it due to gentlemen in the House, especially after some of the remarks that have been made, to explain why this bill is reported to the House at this time. At the last session of the last Congress the Senate passed a bill creating two additional circuit judges for the ninth circuit. It came to the House, was referred to the Committee on Judiciary and to the subcommittee of which I had the honor to be chairman.

We then declined to report it, because of insufficient evidence in the Department of Justice to warrant it, although at the time one of the circuit judges was reported ill. In order to assist the committee in its work, however, the Attorney-General agreed to make a thorough investigation of the conditions in the ninth circuit, so that the Judiciary Committee and the House itself might act intelligently if the bill again came before them. That investigation, made by one of the intelligent experts of the department, resulted in a voluminous report, many pages long, showing the absolute necessity that relief be given at least to the western district of Washington.

Mr. MANN. Will the gentleman yield for a question?

Mr. ALEXANDER of New York. Certainly.

Mr. MANN. Does the gentleman remember that last year the gentleman's committee, I think, or some other committee, reported a bill into the House to transfer Alaska cases so that they might be heard in Washington——

Mr. ALEXANDER of New York. Yes.

Mr. MANN (continuing). And not require them to go to San Francisco, and it was then stated that the judges were amply able to take care of this additional business?

Mr. HUMPHREY of Washington. May I state to the gentleman that he is talking about the wrong court?

Mr. MANN. I am talking about the same judges.

Mr. HUMPHREY of Washington. But the gentleman is not talking about the same judges. I know, because that was my bill.

Mr. MANN. The circuit court of appeals consists in part of the circuit judge of Washington——

Mr. HUMPHREY of Washington. Yes; but not the district courts.

Mr. MANN. This district judge does circuit business.

Mr. ALEXANDER of New York. The bill to which the gentleman from Illinois refers had to do with the circuit court; this deals with the district court. That bill affected the whole ninth circuit, including California and territory west of the Rocky Mountains. The pending bill has simply to do with the congested condition in the western district of Washington.

Now, then, Mr. Speaker, after the investigation and report were made, of which I was speaking, the Attorney-General addressed a letter to the chairman of the Judiciary Committee, recommending the creation of an additional district judge because of the conditions existing in that district. It ought to make no difference whether he is paid $6,000 or $9,000, or whether there are 37 circuit judges and 85 United States district judges in the country. Here is a great and growing community the business of whose courts is congested, and the question for this House to settle is, whether, after an investigation has established that fact, proper relief shall be given.

I do not recall, Mr. Speaker, that two more worthy measures have ever been presented to this House by the Judiciary Committee than the one just passed for the western district of Pennsylvania and the one now before the House, presented by the gentleman from Washington. If a new district judge was ever needed anywhere, it is in the western district of Washington.

Mr. MACON. Will the gentleman allow me to ask a question?

The SPEAKER. The time of the gentleman from New York has expired.

Mr. CUSHMAN. Does the gentleman desire to use any more time?

Mr. MACON. I desire to use a minute to ask the gentleman one question.

The SPEAKER. The gentleman from New York is recognized for one minute.

Mr. MACON. I desire to ask the gentleman from New York if he will not qualify his remarks concerning this bill by saying, "and the bill which is to be presented to the House in a few moments by the gentleman from New York [Mr. PARSONS]."

Mr. ALEXANDER of New York. Yes; I will include that because of congested conditions in the southern district of New York.

Mr. FERRIS. If the gentleman will yield, I would like to make inquiry about the necessity for the judge in the western district. Is the court occupied by the litigation affecting those timber grants, and to what extent?

Mr. CUSHMAN. In the western district of Washington we have litigation of all kinds. There has not been an exceptional number of cases regarding the timber grants. Does the gentleman refer to the railroad grants?

Mr. FERRIS. I refer more particularly to the resolution that was passed last year touching the cancellation and the forfeiture of those grants by reason of noncompliance with the terms.

Mr. CUSHMAN. There have been very few of those cases started in our State. There has been a considerable number started in Oregon and a considerable number started in California.

Mr. Speaker, I ask for a vote.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

ADDITIONAL JUDGE, SOUTHERN DISTRICT OF NEW YORK.

Mr. PARSONS. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 19655) providing for an additional judge for the southern district of New York, and for other purposes.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the President of the United States be, and he is hereby, authorized and directed, by and with the advice and consent of the Senate, to appoint an additional judge for the southern district of New York, whose length of term, compensation, duties, and powers shall be the same as now provided by law for the judges of said district.

SEC. 2. That that part of section 613 of the Revised Statutes which reads as follows: "and at every such term held by said judge of said eastern district he shall receive the sum of $300, the same to be paid in the manner now prescribed by law for the payment of the expenses of another district judge while holding court in said district," is hereby repealed.

The SPEAKER. Is a second demanded?

Mr. GAINES of Tennessee. Mr. Speaker, I demand a second.

Mr. PARSONS. Mr. Speaker, I ask unanimous consent that the second may be considered as ordered.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The gentleman from New York [Mr. PARSONS] is entitled to twenty minutes, and the gentleman from Tennessee [Mr. GAINES] to twenty minutes.

Mr. PARSONS. Mr. Speaker, I have here a comparative statement of the work done by, or rather the apportionment of it to, the district judge in the western district of Pennsylvania, for which district you have just passed a bill for an additional judge; the district judge of the western district of Washington, for which you have just passed a bill for an additional judge; and each of the three district judges of the southern district of New York. Of civil cases to which the United States was a

party there were terminated last year in the western district of Pennsylvania, 31; in the western district of Washington, 51; in the southern district of New York, 551—an average of 187 per judge; that is, for each district judge of the southern district of New York, three times as many as either of the others. There were left pending in the Pennsylvania district, 70; in the Washington district, 79; in the southern district of New York, 1,030; or an average per district judge for the southern district of New York of 343, more than three times as many per judge as in either of the other districts.

In the criminal cases in the western district of Pennsylvania there were 35 jury trials; in the western district of Washington, 11 jury trials; and in the southern district of New York, 43 jury trials—an average in the southern district of 14 per judge, less than in the western district of Pennsylvania, but more than in the western district of Washington per judge. And there were left pending in the western district of Pennsylvania 73 criminal cases; in the Washington district, 52; and in the southern district of New York, 180—an average of 60 per judge in New York.

Of suits to which the United States was not a party there were disposed of in the western district of Pennsylvania, 218; in the western district of Washington, 249; in the southern district of New York, per judge, 332.

Therefore, in both civil cases to which the United States was a party and in civil cases to which the United States was not a party more cases were disposed of per district judge in the southern district of New York than in either the western district of Pennsylvania or the western district of Washington. And of criminal cases, the southern district of New York disposed of more per district judge than the western district of Washington, although not as many as the western district of Pennsylvania. And I think these statistics prove what I think my friend from Arkansas [Mr. MACON] will agree with, that the need in the southern district of New York is greater than it is in either of the other districts. Those judges were needed——

Mr. MACON. I will agree with the gentleman. I believe his bill is the best bill of the three that have been presented here on this subject this morning.

Mr. PARSONS. It could have no higher encomium.

Mr. Speaker, I reserve the balance of my time.

Mr. GAINES of Tennessee. Mr. Speaker, somewhere this report—I have not been able to find it this morning, and I believe the gentleman from New York [Mr. PARSONS] wrote it—alludes to the burden the Sherman antitrust law imposes upon the courts up there in New York. I want to call your attention to this language. Here it is, and I believe the gentleman wrote:

> So, too, the average time for trial grows longer as the issues become more complicated, as, for instance, cases arising under the Sherman law.

Now, gentlemen, I again call your attention to the fact that the Attorney-General in his last report, dated December, 1908, showed that not a single, solitary suit under the Sherman antitrust law had been brought in the southern district of the State of New York for the past year covered by that report. Now, I want to know, is it harder to do nothing than something in the State of New York in the execution of the Sherman antitrust law?

Mr. GOLDFOGLE. Will the gentleman permit me to interrupt him?

Mr. GAINES of Tennessee. Certainly.

Mr. GOLDFOGLE. Does the gentleman from Tennessee urge that as a reason to oppose this bill?

Mr. GAINES of Tennessee. Not particularly; but I just want to remind these district judges that there is such a law on the statute books as the Sherman antitrust law.

Mr. GOLDFOGLE. But I will remind the gentleman that the judges do not bring cases before themselves.

Mr. GAINES of Tennessee. That is not what I am talking about. I want them to bring them before the grand jury. They are there to hold court, and I am trying to compel your judge to charge the grand jury about crying evils that have appealed to me and have appealed to Congress. We have given money to the Department of Justice and given additional officers; we have given everything they need and all the courts need [applause], and yet, Mr. Speaker, the district judges of this country are so far removed from the people that they can not be and are not reached by the people. [Renewed applause.]

Mr. GOLDFOGLE. Notwithstanding all the gentleman has said, we need an additional judge down there in the southern district of New York, the litigation and bankruptcy business are increasing, and I am heartily in favor of the bill.

Mr. GAINES of Tennessee. If that judge would enforce the Sherman antitrust law, you would need more than one judge where this great menagerie of trusts feeds and fattens.

The gentleman, Mr. Parsons, in this report which he told me he made, alludes to the tobacco-trust case. That was tried by "circuit" judges, and you had to bring some of them from foreign sections. They took that case after argument along in April or May last year, and they did not decide it until November last. I asked some lawyers about this delay the question, What in the world was the matter, with four circuit judges, they could not dispose of that case, with every authority of law put before their eyes and splendidly argued, where the law and the facts were plain, and yet they did not act until November?

Why, they said that the regular vacation, it is stated in the gentleman's report, was two months and two weeks. I say I asked one of the counsel in that case, as I was greatly interested for the people, what was the matter with four circuit judges that they did not decide the case from April until November, and he said one would take his vacation and another would take a vacation, then all would take a vacation, and that was what was the matter. And even when they brought in the report the last judge that they put on the bench up there decided that the tobacco trust, that everybody in the United States but that judge had decided was a monopoly under that old battered-to-death Knight case, was not a monopoly.

Mr. Speaker, what I am doing is exceedingly disagreeable. I dislike to criticise my brother lawyers or the courts. I want to say that I appeal in the interest of the people of your State and my State, who are scourged by monopoly. I appeal for the upbuild of the morale of the district courts of this country. I appeal for the mighty ocean of law and order and of justice and a righteous condemnation of monopoly that Christ himself would have denounced, and I ask it in the people's interest that monopoly shall not rest upon the people's shoulders and filch from the mouths of wife and child the bread that is their due.

Mr. GILLESPIE. Will the gentleman permit me to interrupt him?

Mr. GAINES of Tennessee. Certainly.

Mr. GILLESPIE. I want to call your attention to the report of the Commissioner of Corporations on the question of monopoly in this country:

> There is an irresistible movement toward concentration in business. We must definitely recognize this as an inevitable economic law. We must also recognize the fact that industrial concentration is already largely accomplished in spite of general statutory prohibition.

Mr. GAINES of Tennessee. Exactly. Surrender, never. Monopoly exists in New York and elsewhere and is digging under the corner stone of society and the States and the Republic. These courts do not enforce the law, but let them run over the people, and this officer says we can not help it. I say, Charge the grand juries all over the country each session of court, and we will see if we must surrender.

Ah, Mr. Speaker, the statement of the corporation commissioner reminds me of a piece of poetry I learned to parse when at school:

> Wherever God's people erect a house of prayer,
> The devil always erects one there,
> And 'twill be found on examination
> That the latter has the largest congregation.

[Applause.]

Because the devil has the biggest crowd, because he has the largest audience, because he brings about desecration of the law of your country, is it any reason why we should stop printing the Bible or reading the Lord's Prayer or teaching the Ten Commandments, or for the court to omit to enforce this law? Shall we surrender? Never. I stand, Mr. Speaker, for the laws of my country, for even and exact justice. I stand for the Sherman law, and I condemn any judge, whether in Tennessee or elsewhere, or any Member of this House who does not stand the same way and see that the laws are enforced and the people protected from these creatures that flop around in the loins of the law, and who gather that in which is not theirs, but to have which makes the people poor indeed. [Applause.]

Mr. PARSONS. I now yield three minutes to the gentleman from New York [Mr. SULZER].

Mr. SULZER. Mr. Speaker, just a few words in favor of this bill. And, by the way, I desire to say in reply to my friend from Tennessee [Mr. GAINES] that no one is more in favor of the strict enforcement of the antitrust laws, and for that matter of all laws, than myself; and in order that these laws may be enforced in the federal district having the largest population and doing the most business in the United States, the southern district of New York, it is absolutely necessary, in my opinion, that this bill should pass and that an additional district-court judge be appointed for the southern district of New York. Let me also say that I am in favor of what my friend from Tennessee [Mr. GAINES] has so eloquently stated, of trying to live up to the precepts of the Bible—the grandest book, as Lincoln said, ever given to man. I heartily concur in that, and I want to say to my friend from Tennessee that

there is no place in the world where there are so many Bibles printed and read as in the good city of New York; and in my judgment there is no city where the people, take them all in all, endeavor more earnestly to live up to the teachings of the Great Book than the city of New York. [Applause.]

But, Mr. Speaker, no more about that now. Suffice it for me to say in conclusion that this is an important bill, and I hope it will pass this House unanimously. The southern district of New York urgently needs an additional judge, and in the interest of the due and speedy administration of justice it ought to have it. [Applause.]

The SPEAKER. The time of the gentleman from New York has expired.

Mr. PARSONS. Mr. Speaker, I now yield three minutes to the gentleman from New York [Mr. GOLDFOGLE].

Mr. GOLDFOGLE. Mr. Speaker, the southern district of New York needs an additional judge. As one who has had a large experience in legal matters in that State, I want to say to this House that the judges of the southern district of New York have worked faithfully and well and the calendars are crowded. The people are entitled to have the litigation disposed of speedily and as rapidly as can be done consistent with fairness and justice. The bar of the State of New York are heartily in favor of this measure. The merchants and business men of New York who are interested in general litigation, as well as in bankrupt matters, of which there are a great many, demand that there should be an adequate and sufficient force of judges in the southern district of New York.

I would not stand upon this floor and urge the passage of the bill if I did not, through experience and observation, realize the absolute necessity for the measure, and because of such necessity I advocate the passage of the bill.

The gentleman from Tennessee [Mr. GAINES] has undertaken to treat us to a dissertation upon the Sherman antitrust law. I will say to him that if there be crime committed in the southern district of New York and such crime is brought to the attention of the grand jury in a proper way, the judges there, who are able and painstaking and willing to work, will discharge their duties to the satisfaction of the people and the country. [Applause.]

Mr. GAINES of Tennessee. Mr. Speaker, I now yield five minutes to the gentleman from New York [Mr. COCKRAN].

Mr. COCKRAN. Mr. Speaker, I take it from what he has said that the gentleman from Tennessee [Mr. GAINES] is in no way opposed to the passage of this bill. I am in hearty sympathy with much that he has stated concerning the failure of our courts to deal effectively with a certain class of crime. I do not agree with the gentleman from New York, my colleague [Mr. GOLDFOGLE], that it is the duty of a judge to wait for an accusation by or against anyone before putting the criminal law in motion. It is his business to initiate proceedings when necessary to the vindication of justice and full enforcement of law by charging the grand jury to investigate any conditions likely to show the commission of crime in the territory over which he has jurisdiction. Even though a district attorney be derelict, there is power left in the courts to force action by directing the grand jury to proceed and make investigation on its own motion where there is reason to suspect that the law of the land has been violated.

Mr. GOLDFOGLE. Will the gentleman yield?

Mr. COCKRAN. Certainly.

Mr. GOLDFOGLE. I want to say to my colleague that I do not wish to be understood as meaning that the judge should not charge the grand jury on the subject of crime. Of course it is the duty of the judge to charge the grand juries as to their duty to find indictments against violators of the law, and to point out laws said to have been violated, and to insist upon a rigid investigation into alleged commission of crime.

Mr. COCKRAN. I hope, Mr. Speaker, this is not to be taken out of my time.

Mr. GAINES of Tennessee. Why, then, do not the judges do it?

Mr. COCKRAN. Mr. Speaker, I do not differ at all from the statement of the gentleman from New York as to his own position as he defines it now, but he criticised the gentleman from Tennessee [Mr. GAINES], as I understood him, for finding grave fault with the failure of our judicial establishment to deal with a certain class of crime. In everything the gentleman from Tennessee said on that head I concur unreservedly.

Now, Mr. Speaker, it is largely because I believe there have been many failures by the courts to enforce certain provisions of law that I am perfectly ready to concede the necessity of an additional judge in the southern district of New York. Indeed, I think we want many more than one additional judge. In any political society where adjudication of controversies between its members must be delayed for years, or even for months, I do not think the condition of such a community can be considered fully civilized.

Mr. GAINES of Tennessee. Will the gentleman yield? Does the gentleman think that the district judges in the city of New York should charge the grand juries to investigate the Tennessee Coal and Iron merger?

Mr. COCKRAN. Mr. Speaker, I think they should charge the grand jury to investigate violations of every law on the statute books, including that particular law the gentleman mentions. [Applause.] I think that the first business of a court when it impanels a grand jury is to charge that grand body to investigate every violation of any criminal statute. If there be reason to suspect the existence of a crime, such as was established in the case mentioned by the gentleman from Tennessee, according to the conclusions of the circuit court itself, the grand jury should be charged to investigate those facts. If the district attorney fail to take the initiative, the grand jury should be directed to act under guidance of the court. That is a familiar principle in the administration of criminal law.

Mr. GAINES of Tennessee. Will the gentleman tell the House and the country why the judges have not charged the grand juries as to the Tennessee Coal and Iron merger?

Mr. COCKRAN. Mr. Speaker, I can not explain why the judges have failed——

Mr. GAINES of Tennessee. Did they not know it up there?

Mr. COCKRAN. I can not explain why the judges have failed to take certain action; but this much I do know, that the pressure of business might be assigned as an excuse for it, and I am anxious that this ground of excuse be reduced, even if it can not be entirely removed. Given the most industrious judges in the world they could not dispose of the business on that calendar now without a delay of many months—indeed, of many years—and that delay is, in my judgment, not merely an injury to litigants—it is a blot on our political system, a stain on our civilization. I repeat, Mr. Speaker, no country can be counted entirely civilized where the adjudication of controversies must be delayed over several years. I say there is only a very slight degree of difference between justice sold and justice long delayed. Here we have justice delayed over months and years, and the only prospect of relief in any form lies in adopting this proposal now before the House. It is not a complete remedy, it is not an adequate remedy, but I welcome it for what it is worth, and therefore I echo the hope expressed by my colleague from New York [Mr. SULZER], that this bill will pass without a single dissenting voice. At the same time I venture to express an earnest hope that this House or the next House will take effective measures to establish some form of judicial procedure which will enable every controversy begun in a court of the United States to be heard and finally determined within a specified and reasonable limit of time. [Applause.]

Mr. GAINES of Tennessee. Mr. Speaker, I want just to make a little statement, and then I am through. It is the duty of the district judge when he knows that there is "probable cause to believe" that a violation of law has been committed to charge his grand jury to investigate it. Is there a man in this House that challenges me in that statement? It is laid down by the Supreme Court of the United States in the Licorice Trust case (201 U. S. R., p. 43, Hull *v.* Hinkle), and that has always been the law in this country. Yet they have not charged the grand jury in New York as to the tobacco trust matter, though already enjoined by the federal circuit court—three judges out of four deciding it was a violation of this law, of dangerous capacity and action. They have not charged the jury on the Tennessee Coal and Iron merger, and that occurred in November, 1907. The New York district courts have been silent in these cases—have failed to do their duty—though there is more than "probable cause to believe." The gentleman asks me if I am criticising the judge for not charging the grand jury, and I say that I am; and I now ask him, the gentleman from New York [Mr. GOLDFOGLE], why his great judges have not charged the grand jury as to the tobacco trust case and as to the Tennessee Coal and Iron merger, and I yield the gentleman one minute to tell the House why they have not done so.

Mr. SULZER. Get up and tell him they are too busy.

Mr. GAINES of Tennessee. Now, Mr. Speaker, if they had charged the jury under this law as they should have done and the federal judges all over this country, I would have been glad to have remained silent and not have brought to the attention of this country these delinquencies about which this Congress is complaining, and about which the people of this country are wondering. So far as I am concerned, Mr. Speaker, I take it that when this New York judge is

appointed he will be one of four to charge the grand jury to make these investigations, and if the district attorney and these judges do not do their duty they ought to be impeached. Why has not the grand jury itself acted? The grand jury can do so, whether the court charges it or not, and the Federal Supreme Court so held in the Henkle case I already cited. The grand juries have been silent and seem to be dominated by the district attorneys. The district attorney has been silent, and the district judges have been silent. My God, why such silence in New York City, the great hatchery of monopoly? Why silent anywhere, for unlawful trusts are in the saddle all over the land. [Applause.]

The SPEAKER. The question is on the motion of the gentleman from New York to suspend the rules and pass the bill.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

REGULATION OF COMMERCE.

Mr. TOWNSEND. Mr. Speaker, by direction of the Committee on Interstate and Foreign Commerce, I move to suspend the rules and pass the bill (H. R. 27894) amending an act to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission, approved June 29, 1906, which I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That paragraph 7 of section 20 of an act entitled "An act to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission," approved June 29, 1906, be amended so that said paragraph as so amended will read as follows:

"PAR. 7. Any person who shall willfully make any false entry in the accounts of any book of accounts or in any record or memoranda kept by a carrier, or who shall willfully destroy, mutilate, alter, or by any other means or device falsify the record of any such account, record, or memoranda, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the carrier's business, or shall keep any other accounts, records, or memoranda than those prescribed or approved by the commission, shall be deemed guilty of a misdemeanor, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than $1,000 nor more than $5,000 or imprisonment for a term not less than one year nor more than three years, or both such fine and imprisonment: *Provided*, That the commission may in its discretion issue orders specifying such operating, accounting, or financial papers, records, books, blanks, tickets, stubs, or documents of carriers which may, after a reasonable time, be destroyed, and prescribing the length of time such books, papers, or documents shall be preserved."

The SPEAKER. Is a second demanded?

Mr. RYAN. Mr. Speaker, I demand a second.

Mr. TOWNSEND. Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. The gentleman from Michigan asks unanimous consent that a second may be considered as ordered. Is there objection? [After a pause.] The Chair hears none. The gentleman from Michigan is entitled to twenty minutes and the gentleman from New York to twenty minutes.

Mr. TOWNSEND. Mr. Speaker, under the interstate-commerce law the railroads are forbidden to destroy any record, paper, or memoranda of any kind whatever. It was not thought at the time of the passage of the law that there might come a time when these immaterial papers, those no longer useful to the Government, would accumulate in such large quantities as to be an actual burden to the railroads and without any possible advantage to the people. Therefore the commission have asked that they be given authority to permit the destruction of certain papers or memoranda and other records which, in their judgment, are no longer needed and prescribe a time during which the railroad companies must keep all records. I can not better illustrate the need of this measure than to ask the Clerk to read Commissioner Harlan's letter to Congressman MANN, which sets forth the case in full.

The SPEAKER. The Clerk will read.

The Clerk read as follows:

INTERSTATE COMMERCE COMMISSION,
Washington, February 6, 1909.

DEAR MR. MANN: I address this letter to you in the hope that you may find the matter of interest and that it may enlist your aid. It is certainly one that demands prompt attention.

The twentieth section of the act to regulate commerce contains a paragraph making it a misdemeanor for any person, among other things, to destroy any account, record, or memoranda of the facts and transactions kept by a common carrier. For your convenience I inclose a copy of the paragraph in question. The result of the provision has been to impose a very great hardship upon the railroads. As you will observe, it is both peremptory and comprehensive, and under its terms the carriers have felt that they could not destroy any of their records of any kind. We have been appealed to for relief. Railroad documents and papers accumulate in almost inconceivable numbers in short periods of time. If I am not mistaken, it was stated by an official of the Pennsylvania Railroad that its waybills accumulate to the extent of several millions a month. And it has been compelled to rent warehouses in which to store such documents in order to comply with the requirements of the paragraph to which I refer. The same is true of other carriers; all are finding it most burdensome to comply with that provision in the law.

The commission, in its last annual report, as you will see at page 87, recommends that authority be given it to issue orders from time to time prescribing the documents that may be destroyed after a given period and also prescribing the period of time during which documents shall be retained. And we very much hope that some amendatory act will give us the power to relieve the carriers of this unnecessary burden. We would, of course, act only after a very careful consideration of the matter, and would prescribe a definite period of years—in some cases as much as twenty years—for the preservation of documents that ought to be available for such periods of time. There are many documents, however, the force and effect of which is carried into books of account or otherwise recorded and become useless after one year, or even shorter periods of time. There are many duplicates that could be destroyed after a period, even, of six months.

I venture to inclose a draft of a bill covering my personal view of the amendment that should be made, and although I understand that it is not likely that any special legislation will be enacted at this session, it would, in my judgment, be a real public service if some such measure could be put through.

I shall be in conference on Monday and Tuesday, and leave on Tuesday night for the West. But should you care to have further information and will write me to that effect here, Mr. Adams or some one else who is familiar with the matter will call upon you.

Very sincerely, yours,

JAS. S. HARLAN, *Commissioner.*

Hon. JAMES R. MANN, M. C.,
House of Representatives, Washington.

Mr. TOWNSEND. Mr. Speaker, unless some one desires to ask a question, I reserve the balance of my time.

Mr. RYAN. Mr. Speaker, I do not desire to have anything to say on this bill, except this: That it is a unanimous report from the Committee on Interstate and Foreign Commerce. There is no appropriation carried with it; it is simply to permit the railroads of the country to destroy useless papers under the direction of the Interstate Commerce Commission, papers that they now are required by law to retain in their possession. The bill is entirely proper, in my opinion, and there should be no opposition to it.

Mr. TOWNSEND. Mr. Speaker, I ask for a vote.

The question was taken; and in the opinion of the Chair two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 1574) to create the Calaveras Bigtree National Forest, and for other purposes.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 8510) to extend the time of payments on certain homestead entries in Oklahoma.

The message also announced that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. 8899) granting pensions and increase of pensions to soldiers and sailors of wars other than the civil war and to certain widows and dependent relatives of such soldiers and sailors, and asked for a conference with the House on the amendments, and had appointed Mr. MCCUMBER, Mr. SCOTT, and Mr. TALIAFERRO as the conferees on the part of the Senate.

The message also announced that the Senate had agreed to the amendments of the House to the amendment of the Senate to the bill (H. R. 21926) for the reorganization of the militia in the District of Columbia.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 19662. An act to amend an act entitled "An act to establish the Foundation for the Promotion of Industrial Peace;

H. R. 18487. An act for the relief of Charles H. Dunning;

H. R. 17214. An act for the relief of Harry Kimmell, a commander on the retired list of the United States Navy;

H. R. 26216. An act to extend the provisions of section 4 of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1895, and for other purposes," approved August 18, 1894, to the Territories of New Mexico and Arizona;

H. R. 25805. An act to reenact and to amend sections 3646 and 3647 of the Revised Statutes;

H. R. 16274. An act to amend section 10 of chapter 252, volume 29, of Public Statutes at Large; and

H. R. 25552. An act to amend an act entitled "An act to authorize the construction of a bridge across the Monongahela River, in the State of Pennsylvania, by the Liberty Bridge Company," approved March 2, 1907.

The message also announced that the Senate had passed bills and resolutions of the following titles, in which the concurrence of the House of Representatives was requested:

S. 8441. An act to authorize the Secretary of the Interior to cause to be surveyed any unsurveyed lands belonging to the Five Civilized Tribes, and for other purposes;

S. R. 127. Joint resolution authorizing an extension of the tracks of the Atchison, Topeka and Santa Fe Railroad on the military reservation at Fort Leavenworth, Kans.;

S. R. 128. Joint resolution authorizing the Secretary of War to donate four condemned cannon to the county of Warrick, in the State of Indiana;

S. 6971. An act authorizing the acceptance by the United States Government from the Woman's Relief Corps, auxiliary to the Grand Army of the Republic, of a proposed gift of Andersonville prison land, in the State of Georgia; and

S. 6935. An act for the relief of the Merritt & Chapman Wrecking Company.

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

S. 8898. An act granting pensions and increase of pensions to certain soldiers and sailors of the late civil war and to certain widows and dependent relatives of such soldiers and sailors;

S. 8254. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain dependent relatives of such soldiers and sailors; and

S. 8422. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and to widows and dependent relatives of such soldiers and sailors.

The message also announced that the Senate had passed the following resolutions:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. DANIEL L. D. GRANGER, late a Representative from the State of Rhode Island.

Resolved, That a committee of seven Senators be appointed by the presiding officer, to join a committee appointed on the part of the House of Representatives, to attend the funeral of the deceased at Providence, R. I.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the deceased the Senate do now adjourn.

And that in compliance with the foregoing resolutions the Vice-President had appointed Mr. ALDRICH, Mr. WETMORE, Mr. BURROWS, Mr. MONEY, Mr. CLARKE of Arkansas, Mr. TALIAFERRO, and Mr. TAYLOR members of the committee on the part of the Senate.

The message also announced that the Senate had passed, with amendments, bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 27311. An act amending chapter 591 of the United States Statutes at Large, Fifty-sixth Congress, approved May 26, 1900, entitled "An act to provide for the holding of a term of the circuit and district courts of the United States at Superior, Wis."

ENLARGING INTERSTATE COMMERCE COMMISSION.

Mr. STEVENS of Minnesota. Mr. Speaker, by direction of the Committee on Interstate and Foreign Commerce I ask that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill H. R. 28072, the rules be suspended, and the bill be put upon its passage.

The SPEAKER. The gentleman from Minnesota, by direction of the Committee on Interstate and Foreign Commerce, moves that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the following bill and that the same do pass. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 28072) to enlarge the Interstate Commerce Commission.

Be it enacted, etc., That section 24 of the act to regulate commerce, approved June 29, 1906, be, and is hereby, amended so as to read as follows:

"SEC. 24. That the Interstate Commerce Commission is hereby enlarged so as to consist of nine members with terms of seven years, and each shall receive $10,000 compensation annually. The qualifications of the commissioners and the manner of the payment of their salaries shall be as already provided by law. Such enlargement of the commission shall be accomplished through appointment by the President, by and with the advice and consent of the Senate, of two additional Interstate Commerce Commissioners, one for a term expiring December 31, 1915; one for a term expiring December 31, 1916. The terms of the present commissioners, or of any successor appointed to fill a vacancy caused by the death or resignation of any of the present commissioners, shall expire as heretofore provided by law. Their successors and the successors of the additional commissioners herein provided for shall be appointed for the full term of seven years, except that any person appointed to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. Not more than five commissioners shall be appointed from the same political party."

The SPEAKER. Is a second demanded?

Mr. ADAMSON. Mr. Speaker, I demand a second.

Mr. STEVENS of Minnesota. Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The gentleman from Minnesota is entitled to twenty minutes and the gentleman from Georgia to twenty minutes.

Mr. STEVENS of Minnesota. Mr. Speaker, this is a bill to enlarge the Interstate Commerce Commission by adding to it two members. In the railroad rate bill which passed this House in 1906, known as the "Hepburn bill," there was a provision for 9 commissioners. The Senate insisted that the number be reduced to 7. That opinion prevailed, but the subsequent course of business before the commission has shown the wisdom of the action of the House. The report of the commission filed on the 24th day of December last showed that during the last year there was an increase of business over the year before in formal complaints of about 33 per cent; of informal complaints, over 100 per cent. That proportion of increase of business, important and unimportant, will probably continue so far as we can foresee into the future. In addition to that most important and, indeed, main business of the commission, Congress has placed upon the Interstate Commerce Commission a great deal of responsibility in addition to the administration and enforcement of the rate law, such as laws regulating traffic in interstate commerce, laws regulating the enforcement of safety appliances and the experiments upon safety appliances, the law regulating the hours of labor in transportation known as the "sixteen-hour law," the law governing the transportation of explosives, the law regulating the street-car business in the District of Columbia, and various miscellaneous matters.

Also Congress has ordered, from time to time, investigations of various sorts, and sometimes of great importance, by the Interstate Commerce Commission. Some are pending now. Many investigations are ordered by the commission itself, upon its own initiative, which are always liable to involve matters of very great importance and to require a large amount of time. In addition to these classes of public business, the commission is obliged, from time to time, to take up other matters of great importance, like that of uniform bills of lading, which involve the vast commerce of the country and where a great deal of time and attention are necessarily given by the commission. Then, the commission is seeking to bring about a uniform classification of freight and a physical valuation of all railroad property. Now, all of these things require a great deal of work by the commission, and every subject is of tremendous importance, present and future, to our people. Now, those of you who have watched the business of the commission during the last year will know that a great many of these investigations and examinations have not been able to be made by members of the commission themselves.

The commissioners have been obliged, owing to the great pressure of business, to have many of these important investigations conducted by examiners employed by the commission, who are not responsible to the Congress at all, who are mere employees and subordinates of the commission, and we deem it necessary that these investigations, that these great questions before that commission, be examined and personally determined in the proper way by the proper officials, whom we designate and who are accountable to us, and that the commission should have sufficient force to do that very work, however much may accumulate through pressure of business or may be ordered by Congress.

Now, I will yield to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. Will the gentleman explain what an informal complaint is?

Mr. STEVENS of Minnesota. It is a complaint filed orally or by letter, and not in the form that is usually presented to the commissioner by trained lawyers, and upon forms prescribed by practice or the commission.

Mr. MADDEN. As to an overcharge in freight?

Mr. STEVENS of Minnesota. Anything of that kind.

Mr. MADDEN. Will the gentleman tell the House how many corrections have been made in the rates of freight fixed by the railroad companies on complaint to the commission during the last year?

Mr. STEVENS of Minnesota. The report shows that during the last year 4,640 were filed. There were 3,515 of these adjusted by the commission and 27 transferred to the formal docket and there are 1,288 yet pending.

Mr. MADDEN. Will the gentleman tell the House what good could come from the increase in the number of the commissioners until the commission is given sufficient power to fix the freight rates before they go into force and are obliged to wait for the complaint?

Mr. STEVENS of Minnesota. Mr. Speaker, I thought I made

that clear. The commission has this great variety of work to do that is now prescribed by law. This vast mass of complaints, concerning all sorts of subjects, is forwarded to the commission, very many every day. It is necessary for the vast business of the country to be properly transacted that these complaints be acted upon at once. The commission has done the very best it could, and is handling rapidly and satisfactorily this vast mass of business. In the meantime there is the enforcement of this great variety of other laws that must be looked after at once, in order to make them of any use to and properly protect the people. Now, this enforcement must be supervised by the commissioners themselves. It will not do to have the enforcement of a bill like the bills regulating the hours of labor, regulating safety appliances, or the carriage of explosives, by subordinates. These matters are of great importance, and people want that work done by men of character and ability, nominated by the President, confirmed by the Senate, and responsible to Congress. And for that reason the business can not be well done in the future unless this number of commissioners be increased.

Mr. MADDEN. Is it not a fact that the most important duty intended to be imposed upon the commission was the regulation of railroad freight rates, in which every citizen of the country is interested?

Mr. STEVENS of Minnesota. Yes, Mr. Speaker, that is the bulk of their work.

Mr. MADDEN. Do they regulate the freight rates?

Mr. STEVENS of Minnesota. Why, yes. They regulate them as well as they can.

Mr. MADDEN. Can they regulate them?

Mr. STEVENS of Minnesota. Yes. They are giving very good satisfaction within the scope of the duties that they have impressed upon them.

Mr. MADDEN. Have they any power to regulate them under the law?

Mr. STEVENS of Minnesota. Why, yes.

Mr. MADDEN. What are the powers?

Mr. STEVENS of Minnesota. Mr. Speaker, that does not come within the scope of this bill, but I will be glad to tell the gentleman. When a complaint comes before the commission involving the reasonableness of the rate, they have a right to fix the rate. That was the essence of the Hepburn bill passed by Congress in 1906.

Mr. MADDEN. Have they any power except when a complaint is filed?

Mr. STEVENS of Minnesota. Certainly. Complaint must be filed preliminary to a hearing.

Mr. MADDEN. It takes generally about a year or two before the case is tried, and conditions have all changed before the case is heard.

Mr. STEVENS of Minnesota. The report of the commission does not show that, but just the contrary stated by the gentleman. The commission is doing the best it can with the facilities at hand, and it has heard the cases and has decided the great bulk of them.

Mr. SIMS rose.

Mr. STEVENS of Minnesota. I yield to the gentleman from Tennessee [Mr. SIMS].

Mr. SIMS. Is there any limit as to the age of gentlemen who may be appointed on this commission?

Mr. STEVENS of Minnesota. No; not in the law.

Mr. SIMS. Does not the gentleman think there ought to be a limit? If the work is so great it can not now be discharged by the seven men there, that there should be a limit, and no one should be appointed on the commission who is over 50 years old?

Mr. STEVENS of Minnesota. Some of the best men on that commission are over that age, and we would not undertake to place that arbitrary limit. I think that has been one of the chief objections in the civil-service regulations that have been effective throughout the country—the arbitrary age limit, excluding some of the very best obtainable talent in the country.

Mr. SIMS. The gentleman has made an argument here in support of his bill based upon the statement that they are physically and mentally incapable of doing the vast amount of work.

Mr. STEVENS of Minnesota. Oh, I dislike to have the gentleman quote me unfairly.

Mr. SIMS. Why not have a limit upon the age which will guarantee to the public vitality, physical and mental, so that they may discharge the duties of the position.

Mr. STEVENS of Minnesota. There has been absolutely no complaint about the personnel of this commission. They are good men—able, competent, hard-working men. They are doing the tremendous work imposed upon them, and they are doing it well, as satisfactorily as can be expected considering the great difficulties of that work. The only relief that is possible is to give them a sufficient number, so that the work can be properly done.

I yield two minutes to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. Mr. Speaker, I think that before any bill is enacted into law creating additional Interstate Commerce Commissioners the commission which is now in existence ought to be given the power to do the things for which it was originally created, namely, to decide what a reasonable rate is before the railroads of the country are allowed to put that rate into force. Until that is done, any addition to the membership of the commission will simply be an addition to an already useless expense. The most important thing to-day before the American people is the question of whether the railroads are to be permitted to tax the people to the extent of their desires. The purpose of the establishment of the Interstate Commerce Commission originally was to prevent the railroad companies from exacting unjust railroad rates. Since the enactment of the so-called "Hepburn law" the railroad companies have increased indiscriminately, unjustly, and unjustifiably the railroad rates throughout every section of the Union, and the Interstate Commerce Commission as at present constituted is powerless to regulate these rates before they become effective.

Mr. STEVENS of Minnesota. Will the gentleman from Georgia use some of his time?

Mr. ADAMSON. Mr. Speaker, the purpose of this bill is to add two members to the Interstate Commerce Commission, making the number nine instead of seven. Ordinarily I am not in favor of enlarging the size of commissions nor increasing the number of officers nor their salaries. When the number was increased to seven I opposed it, believing that five competent men would form an efficient and satisfactory commission, but increasing the powers of the Interstate Commerce Commission has very materially increased their work. They are compelled to make numerous investigations of very important and laborious character. Their hearings are numerous, requiring much time and considerable study. Of course enlarging the number would not operate to relieve the situation if the commission were required to sit together in all hearings and investigations, but that is not necessary. On the contrary, the members divide up into sections, and often have different hearings going on at the same time in different parts of the United States. The enlargement proposed in this bill will enable the commission to separate itself into three subdivisions of three members each, so as to conduct three hearings and investigations at the same time. The large majority of the matters coming before them will not demand the united attention of the entire commission, but only matters involving differences of opinion need be referred to the full commission, so the different subdivisions of three members, each disposing finally of the consideration of numbers of matters, will leave a much smaller number involving such difficulties and disputes as to require consideration by the entire commission. Much more work can thus be done, and it is absolutely necessary that much more should be done in order that the benefits hoped for may be realized from our rate legislation.

We hear and read a great deal of late about the defects in that regulation. Of course the particular corporations whose conspicuous misdeeds contributed most to make rate regulation necessary objected most strenuously to that or any other regulation, and they did not set out to be satisfied with that or any other regulation. They deny their public capacity, they deny that they have any reciprocal obligations to the public in turn for the franchises and monopolistic privileges which they enjoy. In effect, they claim that the transportation of freight or passengers is an insensate commodity, to be disposed of on the market like other merchandise, combating flatly the well-established and fundemental doctrine that their relationship to the public is practically the same as that of any other officer charged with the responsibility of performing service for the public. I do not think that all corporations profess these opinions, nor do I believe that all corporations render such legislation necessary. As corporations are owned and conducted by mortal men, they are good or bad according to the character of the men who control them. Of course different men expected to accomplish different things by the attempted rate regulation. Different reformers desired different reforms to remedy different evils. I did not pose as a professional rate reformer myself, but sought correction of specific evils. I have always believed that all the people of this country were alike fellow-citizens, with the right to live and move and have their being, and own any kind of legitimate property that they were able to own, carry on any

kind of lawful business, and not only be protected in their holdings and operations but also enjoy the right to participate in the Government, and vote and petition, and speak and write, and exercise their influence in all legitimate ways in the consideration of all legislation affecting their own property or the property of their fellow-citizens without regard to kind or character, whether real, personal, mixed, rolling, stationary, on paper, or on the ground. There were some practical questions of vital importance to a great many local communities. For some reasons, possibly one of them being the consolidation and remoteness of ownership, which rendered it impossible for the owners and bondholders to see far enough to discover local trouble, local injustice, and inconvenience were inflicted on many communities.

Good towns, with large commerce and intelligent population, having much business abroad and often visited by many people from abroad, were unjustly discriminated against. Some of them by consolidation were bottled up, deprived of necessary passenger and mail facilities, and charged a higher freight rate than was charged to haul the same goods in the same direction through those towns and on to more distant points. Those were the main difficulties that fell under my observation and moved me to support an amendment authorizing the Interstate Commerce Commission to correct those evils. The evil as to passenger and mail connections was partially due to the effort to make fast schedules for through trains. Of course that is important to people who want to hurry across the country for long distances with as much haste and as little discomfort as possible, but they are not the people who control the legislative and legal and judicial and commercial weather for the railroads. The Boston drummer or the California or Florida tourist have very little influence with that local sentiment which must exist in whatever humor in a thousand localities between Boston and San Francisco. To that local sentiment the carriers are beholden in many ways. If their managers were wise enough to take notice of it and show a little intelligent consideration for the wishes and conveniences of the people living around those local stations a mere trifle in expense or apparent loss of revenue would produce a degree of popularity and prosperity all along the line that would be pleasing and profitable to the carrier, decrease the number and the character of complaints, minimize the amount of regulation demanded, greatly reduce the amount of litigation, and reverse the character of the verdicts. It is a matter of constant wonder to me that some of the carriers are so stupid or obstinate as to fail to see the facts here referred to.

There is one great mistake, in my judgment, the railroads make that adds to the difficulty and discontent about freight rates. When they pretend to operate on a mileage basis they do not make the initial charge large enough to permit of proper gradations in the charges to successive stations on long routes. They fail to take into consideration and charge enough for the initial care and handling and the terminal care and unloading. Those items are substantially the same for all distances and make up really the most troublesome part of the carrier's duty in handling freight. If a proper charge were made to begin with—for instance, to the first station on the line—then an infinitesimal addition in the rate to all successive stations would aid very materially in solving the problem of fair rates to all stations and minimize the danger of complaints against that evil, always obnoxious—discrimination in rates between two neighboring stations. Nothing in my mind can make a jobber lose his temper quicker or more justifiably than for a train of cars coming from the same point to leave for him a carload of goods and then run on to a station 40 miles farther in the same direction and leave another car at a rate of freight so much less that the latter consignee is able to ship back on a local train and undersell the first-named jobber in his own town. There is only one other thing that approximates it in wrath-producing efficiency, and that is for a number of good towns, who care more for communication with their county seats, their state capitals, or their immediate markets than they do for mail from Boston or passenger connections across the continent, to have to wait half the day or half the night, often without certain knowledge of the exact time to be lost, for a train either to take them home or to bring them their mail, or pay them, laid out on a side track.

A little intelligent good sense would have relieved all of these troubles and helped the carriers in every respect in proportion as they benefited and pleased their local patrons. "There is that that scattereth abroad and yet maketh rich; there is that withholdeth more than is meet, yet tendeth to poverty." There were other reformers who saw a great many other evils and sought to correct them. Well, I have no disposition to oppose any of those reforms, but I did not think it proper to devote time and attention to them at the expense of those that I considered more important. For instance, there is a great outcry about watered stocks and bonds and overcapitalization. The law undoubtedly ought to provide ample means for punishing surely, swiftly, and severely all the malefactors who swindle their fellow-men in that or any other way.

It is undoubtedly an outrage utterly inexcusable to burden legitimate traffic with exactions to pay unearned returns on entirely fictitious capital. Of course the doctrine of selfishness, coupled with power, alone supports the outrage, as in the case of some other vicious practices conspicuous of late years in this Government where certain people are permitted by law to destroy for their own benefit the business and opportunity of their fellow-citizens. A striking instance is the case of robber protective tariff which prostitutes the taxing function of the Government so as, without putting one dollar into the Treasury of the country, to compel honest industry to pay enormous tribute to government favorites or go out of business, or pay enormously higher for the necessaries of life than in the natural course of honest trade they would have to pay but for the dishonest and unnatural scheme foisted upon them to force them to pay unjust prices to such special beneficiaries.

There are other reformers who devote attention to seeking physical valuation of railroad properties. That is all right for some purposes. When you know how much a road is worth you are in possession of one important circumstance to enable those charged with that duty to pass on the proper rate and facilities that should be required on that road; but that fact in itself does not alone furnish an infallible basis, because one road running directly between two points which are connected by another road over a more circuitous route may not have cost near so much as the longer road, and yet, by its facility to transact business more rapidly and cheaply, it may be more valuable than the other, if judged by its net income, which would appear to me to be a more proper criterion. It is also valuable to have such valuation for the purposes of just and fair taxation. It is darkly insinuated that some railroad men are as bad as other folks about dodging their taxes. That is another place where the same kind of human nature crops out, and a man who cultivates a studied reserve about extravagantly pricing his property is as liable to withhold from the Government taxes due on railroad property as are other people in case of land, jewelry, or any other property.

There is another noticeable matter. When the Hepburn rate bill was under consideration, for several years violently opposed by various railroad authorities, it was denied that the Federal Government had anything to do with them, and they were the most patriotic, democratic, local self-government, liberty-loving, state-rights advocates I ever heard talk. We understood that if they were rid of free passes a 2-cent passenger rate would afford satisfactory returns; that counting out the deadheads they hardly realized 2 cents a mile on their passengers; that even as it was, hauling deadheads, many passenger trains ran through the country with only a small per cent of the seats occupied. When we adopted the Hepburn bill, we did not merely authorize the railroads to abolish free passes, but actually did it for them, and the States began to provide for the reduction of passenger rates.

Then those self-same railroad magnates became the most violent federalists and resisted in the federal courts the action of the very state sovereignties which they had formerly lauded, and when it was proposed in Congress to provide for uniformity as to lower rates those same magnates appeared with the most lugubrious countenances to make prolonged and wailing protestations as to the utter ruin facing carriers if compelled to adopt a lower rate. Yet, strange to say, the strong roads running through populous communities did not stress their own inability, but argued the inability of other weaker roads in more remote and sparsely settled regions to stand the reduction in rates. Yet one fact stood out prominent through it all—that those roads which permitted lower rates carried their trains loaded with passengers and realized handsome returns from their business, and that the roads which did put the reductions in force, even over their protest in regions where they claimed that they could not stand it, found their passenger receipts were increased. It is not insisted, however, that Congressmen can be dogmatic or arbitrary about fixing rates. Yet there is one thing that we ought to insist on: Transportation, being a public service, uniformly rendered alike to all, ought to be rendered at the same price to all comers, high, low, rich, or poor, where the same facilities are furnished, whether the ride is for a hundred miles or a thousand, and I for one will never consent to any other arrangement. Some of the railroads have acted very foolishly in making ill-tempered efforts at reprisal on the people for the agitation of the rate legislation. Where they have issued

mileage books, even at a rate discriminatory in price as against the local travel by ticket or cash fare, some of them have put unnecessary conditions and inconveniences upon the scheme.

They have ceased to allow a man in a hurry to get on a car and have his mileage book pay his fare to the conductor. He must go into the depot and exchange his mileage coupons for a ticket, and look after his baggage check, with as much detail and particularity and trouble as if he paid cash each time for his ticket. Those are the very things that travelers desire to avoid, and for that reason would buy mileage books at the same price or even higher than charged for local travel. I have never understood any reason for this, except the pretense that dishonest passengers may juggle with conductors to knock down fares more easily than they can with ticket agents. I do not know whether ticket agents are more honest than conductors or not. I doubt it. If they are, they are good men, for in the last forty years I have seen and ridden with hundreds of conductors, and I do not believe that in any walk of life or avenue of business I have ever known a higher class of men—uniformly polite, honorable, and vigilant.

Another defect that is not only without excuse, but subjects the carriers to criticism and ill will sometimes out of proportion to any consideration on which they may base it; that is, their refusal, in some instances, to sell through tickets and check baggage beyond connecting points. I have never seen nor heard a reason for it that the carrier could not have obviated by proper diligence in making joint rates and filing the same. It has been resented by the people as an effort by the railroads to hit back for adverse agitation, and the popular resentment, as in some other cases, may have exceeded the provocation.

These observations are meant in good will, in the hope that some of the erring corporation men may see proper to join others who are already doing right in trying to please and accommodate the people, thereby reducing the necessities for litigation or legislation and making the mutual transactions of the railroads and the people at once more profitable and more satisfactory to all concerned. There is no use for railroad authorities to try to fool anybody or themselves by remarking that points are not on their lines, and therefore they have no jurisdiction to make arrangements about them, nor by claiming that they are restricted by any laws or regulations from promoting the convenience of the people and rendering them fair treatment. Everybody knows that all the railroad interests are in a manner allied, not only from financial conditions in this country, but owing to the nature of their property and the peculiar business in which they are engaged. While they have no power to make unrighteous pools and combinations to destroy commercial points or rival lines, yet they can mutually consider the convenience and interest of the people, promote their own convenient and prompt connections, and arrange for joint routes of travel and freight to all points, in all directions, anywhere. A proper manifestation of a desire in that direction expressed in honest effort will go far to improve their standing before the commission, before the courts, with Congress and the state legislatures, and above all, with the people, who are at last, in their local communities, the final arbiters of the prosperity or adversity of the railroads, which are in position to turn to serve or to ruin their patrons.

Whatever their grievances may be, it behooves the people to take notice that legislation, however wise, specific, and comprehensive, will not alone suffice to redress their wrongs. The strong point about railroads is, they prepare to back up their policies by the most able counsel the country affords. In every judicial circuit the very ablest lawyers are engaged by the railroads and educated in their service for their benefit. All the people together are richer than all the railroads. The people support all the railroads; the law is, and should be, impartially administered between the people regardless of the character of their property or vocations, but no law will enforce itself. It must be invoked before the courts can administer it. If other people will stand the trouble and expense, as railroad managers do, to employ and pay good lawyers, it will be found that most of the trouble can be adjusted or avoided with very little additional legislation. The principles of right and justice are eternal. The law should be, and generally is, based upon those principles. People litigate about everything else under the sun, but think only of legislation when it comes to dealing with the railroads. The truth is, I have known few instances of injustice that could not have been redressed in the courthouse if the same legal talent had been engaged against the railroads that was employed in their favor. So, while I admonish the railroads to avoid the necessity of legislation or litigation by such fair treatment as will conciliate the favor of the public, I, at the same time, exhort all the other people to devote a little of their money and energy to compelling the railroads to do right by employing some of the good lawyers themselves, and invoking the justice and the power of the courts and commissions, both state and federal. Valuable amendments have recently provided for expediting proceedings in courts and before the commission in rate cases, of which injured communities should avail themselves by retaining lawyers and instituting proceedings.

I yield to the gentleman from Texas [Mr. HARDY] five minutes.

Mr. HARDY. Mr. Speaker, I listened with entire accord to the remarks of the gentleman from Illinois a moment ago, and I wish to add something to them. I believe if we increase this commission, there ought to be a restriction providing that the new members placed upon it shall not at the very outside be over 50 years of age. As a member of the Committee on Reform in the Civil Service I have discovered that we are up against the proposition now of providing a civil pension list for employees of the Government who have grown old in the service of the Government. The other day we ran across a proposition for a retirement pension for our circuit judges, or district judges raised one grade in order to retire them. That question—the question of a civil pension list—is growing in magnitude and menace, and increases in size as the Government increases in its own magnitude, and we are coming face to face with the proposition whether this Government shall have a retired list of civil pensioners so large that it would stand comparison with our army pensions. So it seems to me that in increasing this commission there ought to be a provision limiting the age at which appointments shall be made, for the effectiveness of the service to which they are devoted. Not only that; I doubt the wisdom of increasing the body called the Interstate Commerce Commission until we have made some law to render their action effective. It has been well said by the gentleman from Illinois that since the passage of the last noted, almost notorious, railroad act, the act of 1906, the railroads, instead of being held down to lower rates of freight, have gradually and generally increased their rates of freight, and there has been no power in the Interstate Commerce Commission to prevent it. When the commission undertakes to reduce those rates upon complaint of citizens, it takes not a week or a year but sometimes years and years in order to accomplish a reduction in a single schedule; and, then, under the law as it stands now, after three weeks' application of the schedule fixed by the commission under a hearing, the railroads may raise that rate without notice, notification to, or consent of the commission. We ought to have a law providing that no rate now in existence shall be raised without the consent of the commission.

But we can get no law requiring the valuation of railroad properties. We can get no law requiring the consent of the railroad commission to any raising of rates. What good does it do to fix a rate to-day if it may be raised without the consent of the commission to-morrow? What good does it do to have nine members of a commission to regulate this thing, when the railroads may, in utter disregard of the findings to-day, raise those rates to-morrow? It seems to me we have been like children playing with machinery they did not know anything about. We should have adopted some great principles and made them applicable to railroad rates, but we have left the maelstrom of multitudinous rates to be fixed by the railroads and regulated by the commission; and no commission, though it consisted of a hundred men, can ever be able to investigate the multitude of rates that the roads promulgate. They have no principles by which to be guided. They can charge twice as much for a hundred-mile haul as they do for a thousand-mile haul, and it is not illegal. We have refused or failed to adopt great principles to regulate and restrict that would hold down the railroad rates or prevent discrimination between places; and we want to commit the subject to an enlarged commission, for them to look over a field of vast area and attempt to enforce an utterly impossible law. That is the way we have handled the question. Now, I shall oppose the addition of more members, unless those members are required to be at least moderately strong in health as well as in mind, and of a reasonable age, not ready to be retired. They should not be over 50 years old, and they should be active intellectually and physically, and their number should not be increased until their labors can be made effectual when once performed.

Mr. ADAMSON. If any other gentleman desires to be recognized in opposition to the bill, I will be glad to yield time.

Mr. HITCHCOCK. I should like one minute.

Mr. ADAMSON. I yield one minute to the gentleman from Nebraska.

Mr. HITCHCOCK. Mr. Speaker, it seems to me that, with the whole country clamoring for an enlargement of the law, it is giving them worse than a stone when they ask for bread for

this Congress merely to enlarge the commission. Therefore I am opposed to the bill.

Mr. ADAMSON. I yield to the gentleman from Tennessee [Mr. SIMS] for five minutes.

Mr. SIMS. Mr. Speaker, if the commissioners are not able to do the work on account of its volume, the number ought to be increased. I for one have no objection to adding any useful powers to the commission that it does not now have; but if an increase is demanded on account of the inability of the present number to do the work, why, then, in all reason, there ought to be some age limit to the members to be added that will guarantee that that argument is a sincere one, and that the statement is a true one and really the cause of the legislation proposed by this bill.

Mr. MANN. Will the gentleman yield for a question?

Mr. SIMS. Certainly.

Mr. MANN. Does the gentleman understand that the work of the commission—the most of the work—is not done by the commission sitting as one body, but by different members of the commission having hearings, like an ordinary nisi prius judge, and making recommendations to the commission, and that they are all engaged in that work?

Mr. SIMS. I so understand; and that reenforces my argument, that each member of the commission should be able of himself to perform in the highest degree of efficiency all the work required of him.

Mr. MANN. They are. Each member of the commission is so qualified now.

Mr. SIMS. I understand that. The bill seeks to add new members to the commission, increasing it. Now, why not have an age limit that will guarantee a reasonable number of years of service of the highest order, both with reference to mental and physical endurance. I do not know who are going to be applicants for these positions. I do not know whether anybody is staked out or not; but if the object of this bill is to make a place for some man, I do not care who he is, or how great his efficiency, we should put on a limitation of age of some kind, whether it be 50, 55, or 60 years. I understand in appointing members of the federal judiciary there is a rule by which the President nominates no man exceeding 60 years of age.

Mr. MANN. Will the gentleman permit one suggestion there?

Mr. SIMS. Certainly.

Mr. MANN. This is different from the judiciary, where they retire them on full pay. That certainly has no application when we have no retirement in connection with the commission.

Mr. SIMS. I understand that. Why should not the great committee, of which the gentleman is so able and shining a member, agree to an amendment making 50 years as the age limit; and, if that is too low, 55; or, if that is too low, make it 60 years, so that it may be effective in the legislation as to the two commissioners created hereby.

Mr. MANN. They might want to put the gentleman on the commission.

Mr. SIMS. There is no probability of that. However, I am over 50, but under 60 years of age.

Mr. MANN. The gentleman will never be 60, if he lives one hundred years.

Mr. CAMPBELL. Can the gentleman think of a man of 50 or 55 years who can excel the work that Francis M. Cockrell, of Missouri, is doing on that commission?

Mr. SIMS. Now, Mr. Speaker, there is no necessity for bringing up a personal case. If my argument fits Francis M. Cockrell, let it fit him, or any other man.

Mr. CAMPBELL. He is doing as good and as much work on that commission as any other member of the commission.

Mr. SIMS. I do not question that for a moment, and the gentleman need not bring up his name because he is a Democrat. Sometimes a man of 80 years of age will do as much or more work than another who is 50 years; but why not have an age limit to this thing, guaranteeing physical and mental fitness to discharge the duties of the office? The very fact that gentlemen are not willing to accept a reasonable age limit seems to carry with it the suggestion that the idea of fitness of the highest order is not to be regarded; and after this discussion with reference to such an amendment, an adverse action of the House will indicate to the appointing power that these positions were made by Congress without reference to age. We know as a rule that increasing old age tends to inefficiency; that there ought to be an age limit put in this bill which will insure a high degree of physical and mental efficiency.

Mr. MANN. Does the gentleman think there ought to be an age limit of Members of Congress?

Mr. SIMS. The people put that on; and the term is for only two years, anyway.

Mr. MANN. There is no age limit, except their opinion.

Mr. ADAMSON. Mr. Speaker, how much time have I remaining?

The SPEAKER. The gentleman has seven minutes.

Mr. ADAMSON. Mr. Speaker, it may be impolite for me to endeavor to reply to gentlemen to whom I have yielded time, but when they talk about an age limit they touch upon a tender subject to sensitive Members of this House. [Laughter.] There is nothing in this bill about age qualifications for membership on the Interstate Commerce Commission, and I am glad of it. I should certainly object to the limit being placed as low as fifty years, for that would shut me out, and I shall never admit the suggestion of my incompetency from age or decrepitude for that or any other public service. [Laughter.] How calamitous to even contemplate; God save the mark and avert the dread possibility; but after his able and distinguished services here, if ten or fifteen years hence the distinguished gentleman from Tennessee [Mr. SIMS] should happen by unaccountable error, carelessness, or hallucination of his constituents to fall outside the breastworks in a congressional election and the President should patriotically endeavor to make restitution for the mistake of his constituents by offering to restore his eminent talents to the public service by appointing him on this commission, would anybody say that he was too old? I would indignantly deny the allegation and fiercely defy the alligator. Yea, verily, I would fight him with cannon and gatling guns and everything else for such a vile assault on my young, vigorous, and virile friend. [Laughter and applause.]

It is said that some boys are prone to think themselves smart and regard old men as foolish fogies. It has even been said that no boy, until he reaches the age of 40 years, ever comes to believe that his father had any sense at all. I regard this as an exaggeration, because I know a good many boys who are really sensible, practical, and tractable. On sufficient authority I believe that we need "old men for counsel and young men for war." I utterly scout that old cynical stanza—

> Unless it also means growing wise and good,
> I can not respect you for growing old;
> It is a path you fain would avoid if you could,
> And it means growing ugly, crabid, and cold.

I believe some old men are right good citizens, still very useful in a great many ways and worthy to be respected and preserved among us a little while longer. In fact, I know some men 75 years old who are really smarter, abler, and physically more active than some younger men who do not talk like they believe it. I shall vote for this bill and shall not regard it as any mistake or calamity if some of my old friends in this House should be appointed to the new positions created. [Applause.]

Mr. Speaker, I reserve the balance of my time.

Mr. STEVENS of Minnesota. Mr. Speaker, how much time have I remaining?

The SPEAKER. The gentleman has nine minutes.

Mr. STEVENS of Minnesota. I now yield five minutes to the gentleman from Michigan [Mr. TOWNSEND].

Mr. TOWNSEND. Mr. Speaker, I had not expected to say anything on this subject at all until I heard the argument of several gentlemen in opposition to the interstate-commerce law. Most of the discussion has been against the general law rather than against the proposed amendment. Of course, if it is conceded that the interstate-commerce law is a failure, it is nonsense to think of increasing the number of commissioners. But I deny that the interstate-commerce law is a failure or that it has failed in any important or material particular. I am ready to admit that that bill is not perfect.

The original proponents of the interstate-commerce law did not claim perfection for it. They knew it was aimed at giant evils intrenched in power. They were fearful that every obstacle would be thrown in the way of its enforcement; they somewhat understood the magnitude of the work that would devolve upon the commission; they realized that it was a compromise between those who would do nothing and those who would go too far, but they felt that it was a step in the direction of justice to the people in their relations to common carriers, and their faith in this particular has been realized. About this there can be no intelligent doubt.

Gentlemen say that rates have been raised since the passage of the law. True, but they were being raised before, and the law did not encourage higher rates. It has been the only barrier against them. Before the act of 1906 only a ten days' notice of raise was required; since then it has required thirty days' notice. Before there was no opportunity for an aggrieved shipper to attack unjust rates through a commission. Now

complaint can be made to the commission and it can hear and determine; and if a raised rate is found unjust, reparation to the shipper is ordered. Hundreds of complaints have been made and many rates have been reduced. Hundreds more have been reduced on the advice of the commission without formal order.

The commission can only act on complaint. This was expressly provided in the law after full and long discussion before the committee and the Congress. It was thought best that this should be so, and I still think it is wise.

I have no doubt some rates have been improperly raised, the carriers having taken advantage of the panic as an excuse to raise them; but some raises have been found necessary to meet cost of improvements and operation and some for the purpose of adjustment. But what would have happened if the commission had not been empowered to reduce rates on complaint and after hearing?

Mr. Speaker, the law is imperfect, and I have no doubt a revision of it will be made during the next Congress. Many amendments have already been proposed; I myself have offered three, and I have others in mind. One would reach the complaint which gentlemen make. I would permit any shipper to complain against a proposed higher rate, notice of which having been given by the carrier, and at any time after such notice is given. Thus opportunity would be afforded for a determination of the reasonableness of the rate before it took effect.

Mr. Speaker, it has seemed the part of wisdom for Congress to allow this law to remain unchanged long enough to discover its real defects, and thus afford information for intelligent revision. It has been a statute about two years, during which the commission has been organizing its work and perfecting its plans. In the meanwhile Congress has been piling new and difficult duties upon it. The law will be perfected and the great benefits already enjoyed will be thereby increased.

Mr. HARDY. Will the gentleman yield?

Mr. TOWNSEND. Certainly.

Mr. HARDY. Does the gentleman's bill to which he refers permit any party to make complaint against the rates when the roads propose to raise them? Does it provide that the commission may enjoin the raise until they hear and decide the question?

Mr. TOWNSEND. It may on a prima facie showing.

Mr. HARDY. Without going to the trouble of getting an injunction?

Mr. TOWNSEND. The commission can enjoin the rate from going into effect.

Mr. HARDY. You give them by the bill the power to enjoin the raise until it is decided?

Mr. TOWNSEND. It gives the commission the right to enjoin the rate.

Mr. STEVENS of Minnesota. Mr. Speaker, just one word more. The objection that is made that there should be an age limit is met by the terms of the bill itself. The law provides that these terms shall be for seven years. At the end of that term of seven years the power is left to the President and to the Senate to determine whether that officeholder or another appointee shall be best fitted to discharge the duties of the office. The situation is entirely different from that of our federal courts. There is no provision for retirement. There is a fixed tenure of seven years, and it is not changed by this bill. If any member of the commission be unable, for any cause, to properly perform the duties of his office, it will lie with the President and the Senate, at the end of his term, to secure a man who can do the work properly. The argument that is made by the gentleman from Tennessee [Mr. SIMS] and the gentleman from Illinois [Mr. MADDEN], that the powers of the commission should be extended, is the very reason why we should provide machinery for the commission to do the work they ask and properly do the very work now at hand. The machinery can be best extended by having able men sufficient in number, in character, and in caliber to perform the work. This bill does not change the tenure of office or the compensation or the political affiliations of the commission. It leaves it just exactly as it is now. It adds two new members to do the proper work that is demanded by the people should be done by the Interstate Commerce Commission itself. I ask for a vote.

The SPEAKER. The question is on the motion of the gentleman from Minnesota to suspend the rules and pass the bill.

The question was taken; and on a division (demanded by Mr. HARDY and Mr. MADDEN) there were—ayes 141, noes 51.

Mr. MADDEN. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The gentleman from Illinois demands the yeas and nays. All in favor thereof will rise and stand until counted. [After counting.] Thirty-three gentlemen have arisen, not a sufficient number, and the yeas and nays are refused.

Mr. MACON. Give us the other side, Mr. Speaker.

The SPEAKER. We just had the other side. The yeas and nays are refused, and two-thirds having voted in favor thereof, the rules are suspended and the bill is passed.

INSPECTION OF NURSERY STOCK AT PORTS OF ENTRY.

Mr. SCOTT. Mr. Speaker, I ask unanimous consent to discharge the Committee of the Whole House from the further consideration of the bill (H. R. 27367) to provide for the inspection of nursery stock at ports of entry of the United States, to authorize the Secretary of Agriculture to establish a quarantine against the importation and against the transportation in interstate commerce of diseased nursery stock or nursery stock infested with injurious insects, and making an appropriation to carry the same into effect, and to consider the same in the House at this time, which bill I send to the desk and ask to have read.

The Clerk read as follows:

Be it enacted, etc., That all nursery stock, including field-grown florists' stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or other seeds, shall be subject to inspection by official experts of the Department of Agriculture at such ports of entry as shall, from time to time, be designated by the Secretary of Agriculture, with the approval of the Secretary of the Treasury, and published in the regulations provided for in this act: *Provided, however*, That the Secretary of Agriculture may, at his discretion, dispense with such inspection if he deems the certificate, provided for in section 2, of the official expert of the country from which the importation is made to be a sufficient guaranty of freedom from injurious insects or plant diseases. The Secretary of Agriculture may, at any time, extend the provisions of this act to fruits and vegetables or bulbs or other plants not specified in this act and imported from foreign countries whenever he shall deem such action necessary to prevent the entry with such products or stock of dangerous insects or plant diseases.

SEC. 2. That it shall be unlawful for any transportation company, person, or persons, after July 1, 1909, to offer for entry at any port in the United States any nursery stock, including field-grown florists' stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or other seeds, unless accompanied by a certificate of inspection by an official expert of the country from which the importation is made, which certificate shall be made in the manner and form prescribed by the Secretary of Agriculture, certifying that the contents have been examined and found to be apparently free from all dangerously injurious insect pests or plant diseases: *Provided*, That any nursery stock or other described articles offered for entry without such certificate shall be held in quarantine, and not admitted until its or their freedom from dangerous insect pests or plant diseases shall have been fully established.

SEC. 3. That any transportation company, person, or persons who shall receive, bring, or cause to be brought into the United States any nursery stock, including field-grown florists' stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or other seeds, shall, within twenty-four hours after the arrival thereof, notify the official expert of their arrival, and hold the same, without unnecessarily moving or placing such articles where they may be harmful, for the immediate inspection of such official expert. The official expert or his representative is hereby authorized and empowered to enter into any warehouse, depot, or upon any dock, wharf, or any other place where such nursery stock or other described articles are received for the purpose of making the inspection or examination herein provided for.

SEC. 4. That each case, box, package, crate, bale, or bundle of nursery stock, including field-grown florists' stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or other seeds, imported or brought into the United States shall have plainly and legibly marked thereon the name and address of the shipper, owner, or person forwarding or shipping the same, and also the name of the person, firm, or corporation to whom the same is forwarded or shipped, or his or its responsible agent; also the name of the country and district where the contents were grown.

SEC. 5. That when any shipment of nursery stock, including field-grown florists' stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or other seeds, imported or brought into the United States is found infested with injurious insects or their eggs, larvæ, or pupæ, or reason to presume that they may be infested or are so infested with tree, plant, or fruit disease or diseases, the entire shipment shall be disinfected at the expense of the owner, owners, or agent. After such disinfection it shall be detained in quarantine a necessary time to determine the result of such disinfection. If the disinfection has been so performed as to destroy all insects or their eggs, and so as to eradicate all disease and prevent contagion, and in a manner satisfactory to the official expert, the trees, vines, or other articles shall then be released. If it be not practicable to fully disinfect such stock, it or such portion of it as shall remain infested shall be denied entry or destroyed, at the option of the owner.

SEC. 6. That when any shipment of nursery stock, including field-grown florists' stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or other seeds, imported or brought into the United States is infested with injurious insects or their eggs, larvæ, or pupæ, or any tree, plant, or fruit disease not known to exist in the United States or confined to limited districts thereof, such infested shipment shall be refused entry and returned to the consignor or destroyed, at the option of the owner, owners, or agent and at his or their expense.

SEC. 7. That whenever it shall appear to the Secretary of Agriculture that any nursery stock or other described articles or variety of fruit grown in an infested district outside of the United States is being, or is about to be, imported into the United States or the District of Columbia, and such nursery stock or such variety of fruit is infested by any seriously injurious insect or disease, and which insect or disease is liable to become established in the United States, he shall have authority to quarantine against any importations from said district and prevent the same until such time as it may appear to him that any such insect or disease has become exterminated in the country or district from which such nursery stock, etc., or variety of fruit is being or is about to be, imported, when he may withdraw the quarantine; and this shall operate to relieve all such nursery stock or fruit from further

quarantine or restrictions, save the inspection regulations at port of entry, so long as the conditions of freedom from seriously injurious insect or disease shall continue.

SEC. 8. That upon complaint or reasonable ground on the part of the Secretary of Agriculture to believe that any nursery stock, including field-grown florists' stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or other seeds, grown within the United States, are infested with injurious insects or diseases new to the United States and likely to become subjects of interstate commerce, the Secretary of Agriculture shall cause the same to be inspected by a qualified expert, and, if need be, placed under quarantine until such infestation is removed. This inspection shall be made, so far as possible, prior to November 1 of each year in the manner provided for and prescribed by the Secretary of Agriculture; and if such nursery stock is found to be apparently free from dangerously injurious insects or diseases the certificate of the officer making such examination and finding shall be issued to the owner or owners of such nursery stock, a copy of which certificate shall be attached to and accompany each carload, box, bale, or package, and when so attached and accompanying shall operate to release all such nursery stock from further inspection, quarantine, or restriction in interstate commerce.

SEC. 9. That it shall be unlawful for any person, persons, or corporation to deliver to any other person, persons, or corporation, or to the postal service of the United States (except for scientific purposes, and by permission of the Secretary of Agriculture), for transportation from one State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, or for exportation to any foreign country, any trees, plants, shrubs, vines, or other nursery stock which are under quarantine in accordance with the provisions of section 8 of this act, or which on such examination have been declared by the inspector to be infested with dangerously injurious insects or diseases. Any person, persons, firm, or corporation who shall forge, counterfeit, or knowingly alter, deface, or destroy any certificate or copy thereof, as provided for in this act and in the regulations of the Secretary of Agriculture, or shall in any way violate the provisions of this act, shall be deemed guilty of a misdemeanor, and on a conviction thereof shall be punished by a fine not to exceed $500 nor less than $200 or by imprisonment not to exceed one year, or both, at the discretion of the court.

SEC. 10. That the rules and regulations herein provided for shall be promulgated on or before the 1st day of July of each year.

SEC. 11. That the sum of $100,000, to be available on the 1st day of May, 1909, or so much thereof as may be necessary, is hereby appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated, to carry into effect the provisions of this act.

SEC. 12. That this act shall take effect on and after the 30th day of June, 1909.

SEC. 13. That the provisions of this act shall not prevent the inspection of any nursery stock or other described articles by the authorized inspector of any State or Territory at the final point of destination in accordance with the laws of such State or Territory.

With the following amendment:

Page 7, line 19, strike out "one hundred" and substitute therefor "twenty-five."

The SPEAKER. Is there objection?

Mr. HARRISON. Mr. Speaker, reserving the right to object, I would like to ask the gentleman whether this bill creates any new officers or new salaries; and if so, what is the necessity for it?

Mr. SCOTT. Mr. Speaker, if the amendment which is recommended by the Committee on Agriculture prevails, the bill carries an appropriation of $25,000, to be available during the coming fiscal year, to carry it into effect; and necessarily, if that $25,000 is used, it will mean the employment of certain persons who are perhaps not now in the employ of the Government.

The necessity for it is found in the fact that we now have no law to provide for the inspection of nursery stock coming from abroad, or to exclude it from admission if it is found to be either infected by disease or infested by injurious insects. The immediate cause of the introduction of this bill is found in the fact that very recently in the shipment of nursery stock coming into the port of New York upward of fifteen hundred nests of the brown-tailed moth were found. That is an insect which is committing very serious depredation, as the gentleman doubtless knows, throughout New England, and yet we have no law on the statute books by which we can exclude a shipment of goods in which it is carried.

Mr. HARRISON. Will the gentleman state how those moths were found? Is not there some machinery now for doing that?

Mr. SCOTT. They were found by inspectors of the department of horticulture of the State of New York.

Mr. HARRISON. State officials?

Mr. SCOTT. State officials. And it is true, as the gentleman suggests, that several of the state officials in States having ports of entry have organized state boards for the inspection of these goods in an attempt to exclude them from the country. But this work is not always effective, as is shown by the fact that of the 73 varieties of injurious insects which the entomologists of our country put into the first class, more than half of them are known to have been imported from abroad.

Mr. HARRISON. Will the gentleman state that in his opinion the employment of this new appropriation will stop the importation and the spread of noxious insects for the extermination of which we are annually appropriating large sums of money? In other words, will it effect an economy in the long run?

Mr. SCOTT. I am very much of the opinion it will do so. We are proposing to expend only $25,000 for the exclusion of these insects, but we are appropriating $300,000 this year alone to limit the ravages of just one insect which has been imported.

Mr. BURLESON. As a matter of fact, then, the bill has in contemplation the appointment of a scientific horticulturist and a scientific entomologist at every port of entry where nursery stock is brought in.

Mr. SCOTT. The bill is intended to do with nursery stock that which has already been attempted in the protection of domestic animals in this country.

Mr. BURLESON. Well, you can not enforce it unless you have a scientific horticulturist and a scientific entomologist at each port of entry.

Mr. SCOTT. Undoubtedly it contemplates, and in fact by its terms, an inspection of all nursery stock seeking to come into this country, but it provides also that nursery stock that comes with proper certificates from recognized authorities abroad may be admitted without inspection.

Mr. DRISCOLL. If the Secretary of Agriculture recommended $100,000 for the administration of this law, why is it that the committee cut it down to $25,000?

Mr. SCOTT. The committee cut it down to $25,000 because it was a new departure, and the committee believed that the work could be done for $25,000. It is thought a beginning could be made with that amount.

Mr. DRISCOLL. I presume the committee thinks after they once get this law started and made a part of the business of the Department of Agriculture it will be easy to increase it from year to year?

Mr. SCOTT. Well, the committee thought even if it did cost $100,000 a year to keep these insects out it will be an economy, in view of the fact that the insects which have come in in the absence of this law are now actually causing millions of dollars' worth of loss to our country, and we are expending many hundreds of thousands of dollars in an attempt to exterminate them or limit their ravages.

Mr. DRISCOLL. Has the committee any information whatever what it would cost, or simply put on $25,000 and seek to get the law enacted and later on get more money? Have they any information as to what it would cost?

Mr. SCOTT. Until the law has been enforced a reasonable length of time it is impossible for us to tell what it will cost.

The SPEAKER. It seems to the Chair the gentleman had better make the motion. Is there objection?

Mr. COX of Indiana. Mr. Speaker, I reserve the right to object to get some information.

The SPEAKER. Well, what is in the mind of the Chair is the gentleman asked unanimous consent and——

Mr. SCOTT. Mr. Speaker, if objection is to be made, in order to save time I will move that the rules be suspended and the bill as amended be passed.

The SPEAKER. The gentleman from Kansas moves to suspend the rules, discharge the Committee of the Whole House on the state of the Union from the further discussion of the bill, and agree to the amendments and pass the bill. Is a second demanded?

Mr. PERKINS. Mr. Speaker, I do not know that I object to the bill, but it is a bill that may affect very largely the interests of our country, and I would at least like to understand what it is, and I would demand a second for the purpose of having an explanation of it.

Mr. SCOTT. Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The gentleman from Kansas is entitled to twenty minutes and the gentleman from New York to twenty minutes.

Mr. SCOTT. Mr. Speaker, I do not care to use any of my time except to answer such questions as may be asked.

Mr. PERKINS. I would like, Mr. Speaker, to ask the gentleman from Kansas with reference to the bill, because I do not quite understand the connection between the statement made by the gentleman and the form of the bill. As I understand it, it is desired to keep from importation into this country by proper examination insects that may be dangerous.

To that there can be no objection; but the bill also provides not merely for an examination of goods coming from other countries—and to what extent it provides I wish the gentleman would state—but for an examination of any nursery goods sent from any one of the 46 States into any other one of the 46 States. Now, if that is so, that provides that every package of nursery stock that goes from New York to Pennsylvania may be examined and inspected, which is a pretty serious proposition.

Mr. KENNEDY of Iowa. I think I can answer the gentleman.

Mr. PERKINS. I am asking for information. I have not read the bill.

Mr. KENNEDY of Iowa. Each State has provided an inspection law for nursery stock. The inspection is made by the state entomologist some time during the summer, and he gives a certificate, a copy of which certificate must accompany each shipment of stock. Now, I apprehend if this bill passes, this Government will adopt the same plan—that any inspection that is to be made must be made before shipment between the States. But any inspection to be made will be made before the shipment takes place.

Mr. SCOTT. I think the question of the gentleman from New York [Mr. PERKINS] is fully answered by the terms of section 8, as follows:

That upon complaint or reasonable ground on the part of the Secretary of Agriculture to believe that any nursery stock, including field-grown florists' stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or other seeds, grown within the United States are infested with injurious insects or diseases new to the United States and likely to become subjects of interstate commerce, the Secretary of Agriculture shall cause the same to be inspected by a qualified expert, and, if need be, placed under quarantine until such infection is removed.

It would appear from this that no broad general inspection of every interstate shipment of nursery stock is contemplated, such as the gentleman suggests, but merely that when complaint is made that any particular district of the United States is infested with injurious insects an inspection may be made, and if it is found that the injurious insects exist there the district may be quarantined, just as a portion of the United States may now be quarantined when it is infected with diseases injurious to domestic animals.

Mr. MANN. Like the foot-and-mouth disease now.

Mr. PERKINS. What I would like to ask is this, in order to find out whether or not the bill is too drastic: Suppose tomorrow a dealer in nursery stock in western New York has an order for the delivery of goods to California; in compliance with the order he packs his goods, he takes them to the railroad, and they are shipped to California; has he got to have any examination or have any certificate, or be subject to any formality any more than if he was shipping a lot of cotton goods?

Mr. SCOTT. Not unless his nursery is in a district against which complaint has been made. If that is the case, then the Department of Agriculture, under this bill, is authorized to send an expert to inspect the district and to inspect his nursery. If his particular nursery is found to be apparently free from dangerous and injurious insects or diseases—I am quoting now from the bill:

And if such nursery stock is found to be apparently free from dangerously injurious insects or diseases the certificate of the officer making such examination and finding shall be issued to the owner or owners of such nursery stock, a copy of which certificate shall be attached to and accompany each carload, box, bale, or package, and when so attached and accompanying shall operate to release all such nursery stock from further inspection, quarantine, or restriction in interstate commerce.

Mr. PERKINS. Then the law provides for quarantine of a certain district?

Mr. SCOTT. The law provides for a quarantine of the district which, upon inspection, may be found to be infected or infested.

Mr. PERKINS. Then you can not ship out of that district without certificate that your stock is all right and that the quarantine has been raised as to you?

Mr. SCOTT. That is the intention of the bill.

Mr. PERKINS. If no quarantine has been declared, he ships his nursery goods just as he ships his dry goods?

Mr. SCOTT. Just as a man, when no quarantine has been declared, ships his cattle.

Mr. MANN. Ship just as freely as he does now.

Mr. PERKINS. The bill provides that all nursery stock shipped from a port must be examined or a certificate made on the other side?

Mr. LAMB. This is chiefly to reach imported stock?

Mr. BURLESON. What powers are conferred upon the Secretary of Agriculture to designate ports of entry for nursery stock?

Mr. SCOTT. There is not any power in this bill to designate any particular port of entry. I refer to section 2, which declares:

That it shall be unlawful for any transportation company, person, or persons, after July 1, 1909, to offer for entry at any port in the United States any nursery stock, including field-grown florists' stock, trees, shrubs, plants, vines, cuttings, grafts, scions, buds, fruit pits, or other seeds, unless accompanied by a certificate of inspection by an official expert of the country from which the importation is made, which certificate shall be made in the manner and form prescribed by the Secretary of Agriculture, certifying that the contents have been examined and found to be apparently free from all dangerously injurious insect pests or plant diseases: *Provided*, That any nursery stock or other described articles offered for entry without such certificate shall be held in quarantine, and not admitted until its or their freedom from dangerous insect pests or plant diseases shall have been fully established.

Mr. KENNEDY of Iowa. I would like to ask the gentleman a question. A large part of the nursery stock that is imported into this country is seedling stock, and a very large part of it comes from France. Now, it is nothing uncommon to have 20,000 of those packed in a box, and they are packed loosely; that is, they are not tied in bunches. Now, is it practicable to undertake to inspect nursery stock packed that way? You would have to open the box, surely.

Mr. MANN. It does not require inspection when it comes with a certificate.

Mr. KENNEDY of Iowa. I think not. But it looks to me like the inspection at the port of entry would be impracticable.

Mr. MANN. It would, unless they had some other information.

Mr. KENNEDY of Iowa. As a matter of fact, I think it has to be governed largely by the certificate that accompanies the stock. It is like the state laws, where they have to have a certificate by the state entomologist after an examination of the stock as it leaves the nursery.

Mr. SCOTT. I do not think it would be any more difficult to enforce than the present law against the importation of adulterated or misbranded foods and drugs.

Mr. BURLESON. Would it be as expensive?

Mr. SCOTT. I have no idea it would be as expensive.

Mr. MANN. Upon the face of it, it would not.

Mr. SCOTT. The Secretary of Agriculture would doubtless prescribe as a regulation that the nursery stock coming in from abroad must have a certificate of good health.

Mr. KENNEDY of Iowa. That is the only way.

Mr. BURLESON. Why I ask that question is that Texas is now importing orange plants from Japan. Do I understand under the operation of this law every box of orange plants that should be shipped from Japan to Texas must be opened at San Francisco?

Mr. SCOTT. I understand there is an inspection under the direction of the state board of horticulture of that State.

Mr. BURLESON. Where there is a through bill of lading?

Mr. SCOTT. Well, I can not answer as to that.

Mr. SMITH of California. I think it is to be applied to stock to be used in the State. The gentleman's State would have to be very cautious about what stock it imported.

Mr. BURLESON. We do not want anything in the way of an obstruction to our getting the stock, nor anything to delay us.

Mr. SMITH of California. I think you would find it a good deal better to exclude injurious insects that you might get, and any little delay that might be suffered would be better than to have the pest.

Mr. SCOTT. I yield five minutes to the gentleman from California.

Mr. SMITH of California. Mr. Speaker, I only want to emphasize what the chairman of the committee has been saying, namely, that the gentleman from Texas wants to be very careful about doing anything that would allow the shipping in of diseased nursery stock in establishing an orange business. It is the most valuable nursery stock, and leads to exceedingly high-priced orchards when you get an orange grove. A few years ago there was introduced into the orchards of California the white fly. If it had not been attacked and stamped out, and that at very considerable expense, right at its incipiency, the damage would have run into the millions of dollars to the citrus orchards of California, and at a cost for extermination of many hundreds of thousands of dollars.

I think, as the chairman of the committee has said, we have a pretty severe law in California with reference to nursery stock, but I think we should also have some such general law as this to guard the character of stock that is brought in from foreign countries, as well as that which goes from State to State. There is no bill before this Congress, I think, that will give greater pleasure to the orchardists of California than this measure now before the House, and I earnestly hope that the House will give it careful consideration.

Mr. BURLESON. I would like to ask the gentleman from California a question.

Mr. SMITH of California. Certainly.

Mr. BURLESON. Has the gentleman read this bill with sufficient care to be able to state that no provision in it will interfere with the introduction of those plants that I have spoken of?

Mr. SMITH of California. I have not studied all the provisions of the bill in detail, but I am certain that the Agricultural Department in its management of the matter under this

bill will interpose no obstruction to bringing in proper nursery stock; and you do not want any other kind in Texas.

Mr. BURLESON. Certainly.

Mr. SMITH of California. I have no doubt the law will be administered wisely.

Mr. SCOTT. I now yield two minutes to the gentleman from Virginia.

Mr. LAMB. Mr. Speaker and fellow-Members, the State of Virginia is very much interested in this legislation. I had a letter from the state entomologist recently stating that some gypsy moths had been imported from a foreign State. The Committee on Agriculture has very carefully considered this measure and recommend the passage of the bill. It is in the interest of the people, and it will prevent, probably, in the future spending an immense amount of money in other States as we are now spending in the New England States in eradicating this pest. I hope it will be the pleasure of the House to pass this bill.

Mr. SCOTT. Mr. Speaker, I ask for a vote.

The question was taken; and, in the opinion of the Chair, two-thirds having voted in favor thereof, the rules were suspended, and the bill as amended was passed.

RADIO-TELEGRAPHY ON CERTAIN OCEAN STEAMERS.

Mr. GREENE. Mr. Speaker, by direction of the Committee on the Merchant Marine and Fisheries, I move to suspend the rules, discharge the Committee of the Whole House from the further consideration of the bill (H. R. 27672) as amended, to require radio-telegraphic installations and radio-telegraphers on certain ocean steamers, and pass the bill.

The SPEAKER. Is a second demanded?

Mr. COCKRAN. I demand a second.

The SPEAKER. The Clerk will read the substitute.

The Clerk read as follows:

Strike out all after the enacting clause and insert:

"That it shall be unlawful for any ocean-going steamer certified to carry, or carrying, 50 passengers or more, to engage in the business of carrying passengers, or to carry passengers, between ports 200 miles or more apart by sea, unless on leaving her port of departure such steamer shall be equipped with an efficient radio-telegraphic apparatus in good working order, and in charge of a person skilled in the use of such radio-telegraphic apparatus.

"SEC. 2. Any owner, agent, or master of any such steamer described in section 1 of this act, who shall carry, or permit to be carried, any passenger upon any such steamer not equipped with an efficient radio-telegraphic apparatus, in good working order, and in charge of a person skilled in the use of such radio-telegraphic apparatus, shall, upon conviction thereof, be fined not more than $3,000, or imprisoned not more than one year, or both.

"SEC. 3. That this act shall take effect and be in force one year after the date of its approval."

Mr. COCKRAN. I withdraw the demand for a second.

Mr. HUMPHREY of Washington. I demand a second.

Mr. GREENE. I ask unanimous consent that a second be considered as ordered.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The gentleman from Massachusetts [Mr. GREENE] is entitled to twenty minutes and the gentleman from Washington [Mr. HUMPHREY] is entitled to twenty minutes.

Mr. GREENE. Mr. Speaker, there have been many hearings held before the committee regarding this bill, and there was no opposition before the committee to the bill as now presented. I do not care to occupy more time at this moment, and reserve the balance of my time.

Mr. HUMPHREY of Washington. Mr. Speaker, with the general ideas of this legislation I am in accord, but there are one or two points that I think ought to defeat its passage.

In the first place, there is no provision that will permit these vessels to escape compliance with the law, even if there should be a combination between these wireless companies to raise the price to any point, however unreasonable. As gentlemen of the House know, this wireless system is a patented system, and this bill compels all seagoing vessels running between ports 200 miles or more apart to equip themselves within a year with a wireless system. They are compelled to comply with that provision, and there is no way for them to escape it. I do not believe that is wise legislation. I think some provision should be made so that if it was discovered that there was a monopoly existing between these wireless companies, and there was an attempt to hold up these vessels and charge them exorbitant prices, they should not be compelled to equip within a year. Some latitude should be given.

Mr. GOULDEN. Can the gentleman tell me how many of these companies there are?

Mr. HUMPHREY of Washington. No; I can not.

Mr. GOULDEN. How many companies are there that now equip vessels?

Mr. HUMPHREY of Washington. There are quite a number, but only two or three of them are actually doing much work.

Mr. GOULDEN. I have a list here of 76.

Mr. BURLESON. Does this require equipment with any particular system?

Mr. GOULDEN. No. And I have a list here of 76 separate companies.

Mr. HUMPHREY of Washington. There is one other objection that I want to call to the attention of the House, and that is the inequality of this bill. It shows that it is hasty legislation, and that it should not have been reported in the shape in which it is. For instance, the committee in their report set forth the fact that the Great Lakes are excluded, and I think that was a wise conclusion. I think the Great Lakes should be excluded.

Mr. SULZER. Why should the Great Lakes be excluded?

Mr. HUMPHREY of Washington. Wait until I get through my statement, and I will answer the question. At the same time they include vessels running along the coast of Florida inside of the keys, where the water is always quiet and there is no occasion for wireless telegraphy, because they are never out of sight of land. They also include the vessels that run on the inside passage to Alaska, where they are always near the shore, where the water is never rough, where they never have any storms that will interfere with them, and if a vessel did not sink in a few minutes they could get ashore. Yet they exclude the Great Lakes, where the vessels do encounter great storms, and where there would be some use for the wireless system. As I have said, I am in sympathy with this legislation, but not in sympathy with this bill, the way it is drawn. It is not the right kind of legislation, in my judgment, for us to enact.

Mr. SULZER. Then you are in favor of including the Great Lakes?

Mr. HUMPHREY of Washington. No; I am not. Neither am I in favor of including these other vessels along the Florida coast and on the inside passage to Alaska. You might as well include vessels on the Mississippi River as vessels that run on the inside passage to Alaska, as my friend knows. I am simply calling attention to the defects of the bill. I do not think in the shape it is it ought to pass.

Mr. COX of Indiana. Does the gentleman base his sole objection to the passage of the bill upon the ground that he is afraid that the owners of these wireless-telegraph instruments will combine for the purpose of raising the price, or does the gentleman in addition to that have some other objection; and if so, what?

Mr. HUMPHREY of Washington. I have just tried to state that one objection is because there is nothing to prevent combination of the wireless companies, and the other is that it compels vessels on several different routes to be equipped with wireless telegraphy where there is no need for it.

Mr. COCKRAN. What is the alternative to adopting this bill? Would it leave these ocean-going vessels carrying passengers without any wireless system at all being required of them?

Mr. HUMPHREY of Washington. If this is not adopted, as I understand, there is no law now to compel them to use it.

Mr. COCKRAN. The gentleman is opposed to this because the measure is defective in some particulars. Would he be willing to defeat all legislation of this character and leave the ocean-going public without the safeguards provided by this measure because the bill is not perfect?

Mr. HUMPHREY of Washington. No; I would perfect the bill. I would have a bill reported that covers the situation and pass it.

Mr. COCKRAN. The gentleman does not think that there is any chance of doing that, does he?

Mr. HUMPHREY of Washington. I do not know why.

Mr. COCKRAN. There is a why and a wherefore.

Mr. HUMPHREY of Washington. I do not understand why we can not pass a bill correctly drawn, as well as one that does not contain what the House desires.

Mr. HOLLIDAY. I would like to ask the gentleman if it is true that there are ships that ply along the Alaskan coast and the Florida coast and do not go outside.

Mr. HUMPHREY of Washington. Yes; there are several such vessels. Mr. Speaker, I now reserve the balance of my time, and I will yield to the gentleman from Illinois.

Mr. MANN. The gentleman in favor of the bill is entitled to explain it, I think.

Mr. GREENE. Mr. Speaker, I yield three minutes to the gentleman from Ohio.

Mr. DOUGLAS. Mr. Speaker, while I am to some extent responsible rather for the form of this bill than for its general

policy, I have no doubt whatever in my own mind that the time has come in the development of radio or wireless telegraphy when Congress should require such vessels as are described in this bill to be equipped for its use. The whole coast of the Atlantic and the Gulf, as well as our Pacific coast, is now equipped with radio-telegraphic stations, which makes it possible for ships during the whole of any coastwise trip to communicate with the shore if they are equipped with this radio-telegraphic apparatus.

So I believe that the time has come when the Congress of the United States should require, as this bill does, vessels certified for carrying 50 passengers or more and running 200 miles (which, by the way, would exclude vessels in the inner key routes of Florida spoken of by the gentleman from Washington) to be equipped with this apparatus.

It will be seen that the bill is purely a penal bill; that its first section substantially defines the duty of equipping the vessels with this telegraphic apparatus and rendering it unlawful if they do not, while the second section defines the penalty. The penalty, it will be observed, is not more than $3,000 and not more than one year, leaving the minimum amount of fine or imprisonment entirely at the discretion of the judge.

But there is one thing more I do want to call attention to in the time allotted me, and that is that the committee left out section 3 of the old bill, which gives the Secretary of Commerce and Labor the right to remit or mitigate the penalty. I hope that that provision will not be carried any longer in any bills relating to navigation. I believe it is an absolutely vicious provision, and the penalty ought to be so arranged as to do without it. With the general provisions of this bill I am in hearty accord.

Mr. GREENE. Mr. Speaker, I now yield to the gentleman from New York [Mr. GOULDEN] three minutes.

Mr. GOULDEN. Mr. Speaker, I think no one questions for a moment the necessity for some legislation of this character. Our committee had many hearings and numerous sessions, and this bill, after careful deliberation, is the result. The objection that my friend from Washington [Mr. HUMPHREY] makes simply applies to some few vessels plying along the Pacific coast north of Seattle.

Mr. DAWSON. Will the gentleman yield?

Mr. GOULDEN. I will yield to the gentleman.

Mr. DAWSON. Would the terms of this bill, "if vessels engaged in intercontinental traffic," go to the greyhounds of the ocean that travel between the United States and foreign countries?

Mr. GOULDEN. Yes; certainly. Out of the foreign vessels, 110 of them, about one-half, are now equipped with proper apparatus and are able to communicate. There are a great many foreign vessels, however, bringing steerage passengers here that have no equipment of that character. They should be compelled to do so to protect human lives aboard. Among American vessels we find 127 equipped with this apparatus, 4 being on the Great Lakes. The reason that the latter are not included in this bill is because there are no stations, or very few, on the shores of the Great Lakes, so that a system of this character would be almost useless. At any rate, the committee thought it not so necessary there as on the ocean.

There is no doubt but that it is necessary to compel vessel owners who are guilty of indifference or negligence in this matter to equip their vessels with the necessary radio-telegraphic instruments and a competent operator. There are first-class seagoing vessels and coastwise steamers that are now properly equipped, but there are a number of others that have been neglected, either through carelessness or indifference. The case with the *General Slocum*, in New York Harbor, where the equipment in other ways was bad and inadequate, was simply that the law was not sufficient or well enough administered to compel them to use the required equipment for the safety of its passengers. As a result, more than 1,000 lives were lost on that terrible June day, 1904. In this connection, I find that the question of monopoly or combine was thoroughly thrashed out by the committee.

Mr. Wilson, of New York, the president of the United Wireless Telegraph Company, a well-established and efficient institution, at the hearings said:

> There are the Massie people, the International Company, the so-called "Slaby-Arco," and the Stone people. I do not know but there are more than that. Here is a list of them: Marconi, the United Wireless, the Fessenden, the Massie, and the Colliers.

All efficient and ready for use.

He further stated that there was no combination, either actual or contemplated, among these companies.

On this subject I ask unanimous consent to insert as a part of my brief remarks the message of the President, and to express the hope that the pending bill (H. R. 27672) will pass, as it is in the interest of human life.

The SPEAKER. Is there objection?

There was no objection.

THE PRESIDENT'S MESSAGE.

To the Senate and House of Representatives:

Your attention is invited to recent events which have conclusively demonstrated the great value of radio-telegraphy, popularly known as "wireless" telegraphy, as an instrumentality for the preservation of life at sea.

While the honor of the first practical application of the scientific principles involved may belong to another country, it is gratifying to know that our inventors have been quick to seize upon and develop the idea, and that several systems of approved scientific merit and commercial practicability have been put into operation in the United States.

Furthermore, through the liberality of Congress and the intelligence and industry of the Navy Department, our Atlantic, Gulf, and Pacific coasts are equipped with a chain of shore stations, designed primarily for the national defense, but capable of receiving and transmitting messages by any of the systems of wireless telegraphy now in general use. Even our distant insular territories and Alaska are so equipped.

So far as our own country is concerned, steps have thus been taken effectually to prevent the establishment of a monopoly in the practical use of the new applied art.

I deem it highly desirable that the Congress, before adjournment, should enact a law requiring within reasonable limitations, as determined by what the Government of the United States has already done, and by what prudent and progressive shipowners have already found practicable, that all ocean-going steamships, carrying considerable numbers of passengers on routes where wireless installations would be useful, should be required to carry efficient radio-telegraphic installations and competent operators. The subject is now under consideration by the Congress, and I am advised that legislation to effect the same general purpose is also under consideration abroad.

Our interest in its enactment is keen on account of the great number of steerage as well as cabin passengers who annually arrive at and depart from our ports. What we have already done along practical lines warrants the United States in being first among nations to enact a statute requiring the use of this safeguard of human life.

THEODORE ROOSEVELT.

THE WHITE HOUSE, *February 8, 1909.*

Mr. HUMPHREY of Washington. Mr. Speaker, how much time have I left?

The SPEAKER. The gentleman has fourteen minutes.

Mr. HUMPHREY of Washington. I yield to the gentleman from Illinois five minutes.

Mr. MANN. Mr. Speaker, sympathetic legislation is often dangerous. Everybody sympathizes with the desire to save human life, and if the various steamship companies are not now in the main equipped with wireless telegraph apparatus, it might be proper to pass this bill. But the large steamers are already equipped with wireless telegraphy. Now, here is a proposition to require every steamer which carriers 50 passengers, whether it be a freight steamer or a passenger steamer, to equip itself with wireless telegraph apparatus.

There are only two or three companies that can be utilized. It is the easiest thing in the world to make a combination. There is absolutely no restriction as to the cost to which vessels shall be put and no restriction as to the cost of messages when they are to be transmitted. It seems to me that when we pass a bill covering this subject we ought to cover the wireless telegraph subject. We ought to provide in reference to the use of the wireless telegraph on shore which now prevents the catching up of half the messages that are sent. We ought to limit the cost which these companies can charge a freight steamer or a passenger steamer, and then we ought to limit the cost which they can charge to a passenger when transmitting for him a message. Here we require certain things to be done, a patented device to be used, with no limitation on the power to combine and to make a charge. It seems to me preposterous.

Mr. DOUGLAS. Will the gentleman yield for a question?

Mr. MANN. Yes; for a question.

Mr. DOUGLAS. Does not the gentleman think that without regard to whether a vessel is called a passenger or a freight steamer, if it is certified to carry 50 passengers and does carry them, as this bill says, it ought to be equipped without regard to whether it is nominally freight or passenger?

Mr. MANN. I think that every vessel that sails the sea ought in some way to be equipped with some wireless instrument. I do not think that this bill accomplishes it in the proper way, nor do I think the bill is sufficiently considered. I have no criticism of the committee. The matter is a new proposition, and the Committee on the Merchant Marine and Fisheries promptly and properly considered the bill and reported it in. The committee of which I happen to be a member is still giving consideration to other bills on the subject. We had not thought we had learned enough of it to report in the bill. It seems to me that when we cover the cost we ought to make provision for these things. For instance, on a passenger steamer they now maintain the wireless telegraph for $1,000 a year after installation and furnish the operator. On a freight steamer they require the steamship to furnish the operator and still charge a considerable sum, so that it costs a freight steamer

now more to maintain the wireless telegraph for 50 passengers than it does the great big steamships with a thousand or more passengers. They can raise the rate just as high as they please, because when we provide that the steamship shall be fined if it does not make the installation, then they can put up a combination. Will they do it? Do the gentlemen know of any concerns in the country with power to combine that do not combine? Do the gentlemen know any two or three concerns in the country where Congress requires their instruments to be used who do not put up the price unless they are restrained from doing so by a limitation put upon the cost? There is no limitation here at all upon the cost, absolutely none, nor is there any limitation upon the cost of sending messages, and we all know that while these wireless companies are now asking for the passage of this bill the moment it is a law they will resist any desire or effort to regulate their charges.

The SPEAKER. The time of the gentleman has expired.

Mr. HUMPHREY of Washington. I yield the gentleman two minutes more.

Mr. MANN. While we are requiring the use of their instruments, we ought to limit the amount of their charges. Why should we require a man wanting to send a message to pay the rate which these people choose to ask? To-day they furnish the messages to the ships free—that is, messages for the use of the ships—but does anyone think that the messages to the ships will be furnished free when the law puts a penalty on the ship if it does not have an instrument? This bill will put the shipping industry of the country absolutely at the mercy of two or three gentlemen, who may be very public-spirited, who may be exceedingly philanthropic and humane, but who will undoubtedly use every opportunity to make money for themselves. The bill ought to be recommitted to the committee; it ought to come back from it now, or at a future session of Congress, covering these points, restricting the amount that can be charged for the installation of the machinery, restricting the amount that can be charged for the maintenance and operation of it, and restricting and limiting the amount that may be charged for the use of it or for messages sent by passengers on the steamships.

Mr. HINSHAW. Mr. Chairman, even without this bill a large number of ocean-going steamers would finally be equipped with wireless telegraph. The competition among the greyhounds of the ocean is such that the great traveling public that pays good transportation rates would not travel on any other kind of a vessel, but there are a great many vessels that are not of this high class and character carrying steerage passengers for very low transportation rates that are not equipped and would not be equipped with these instruments, and it is necessary to compel them by law to be so supplied.

Now, as to the suggestion made by the gentleman from Illinois: The very thing that he says is not done by this bill is not done by the railroad rate bill, the appliance law we passed yesterday providing that certain kinds of appliances shall be used, and other laws that have been passed relating to the railroads of this country, and there is no place——

Mr. MANN. The gentleman is mistaken about that.

Mr. HINSHAW. And there is no place that we compel these companies to furnish railroad appliances of various kinds at any given price. I believe there would be objection to any form of bill that undertakes to force upon these vessels this kind of wireless telegraph, but if injustice occurs, if exorbitant charges are made and combinations appear within the next year, the Congress is fully able to take care of that matter when that situation arises. There are seven or eight different companies which engage in this business, and they are competitors. If by any chance they should combine and force up prices unduly, the Congress can meet the situation when it comes. I think it is a meritorious measure. We could not avoid all pitfalls and all troubles and objection that have been suggested. We could only suggest here a bill that will carry relief to most of the situations that occur in seagoing traffic.

Mr. GILL. Will the gentleman yield for a question?

Mr. HINSHAW. I will yield for a question.

Mr. GILL. I would like to ask the gentleman if this bill covers the radio-telephone?

Mr. HINSHAW. No; it does not, for the reason——

Mr. GILL. I would like to ask the gentleman if that should not also be taken in?

Mr. HINSHAW. I was one of those in favor of including the radio-telephone, but the evidence before the committee was almost overwhelming to the effect that the radio-telephone had not progressed sufficiently to make it proper or expedient to be included in this bill or to make it a vital proposition at the present time. When that system is perfected, as no doubt it will be, it can easily be taken care of by legislation. The radio-telegraph is in a present stage of efficiency so that it can be installed on all ocean-going vessels. General Uhler, Supervising Inspector-General of the Steamboat-Inspection Service, who appeared before the committee, advocated the putting of this upon every vessel—freight, passenger, steam, or sail vessels—whether they carried passengers or simply——

Mr. COCKRAN. Why did not they?

Mr. HINSHAW. Simply because at this stage of the proceeding it is almost impossible to reach a situation of that kind and compel every vessel, of small or large capacity, to put on this expensive service. It is almost impossible to compel every vessel now carrying no passengers to put up an installation that will cost a thousand dollars and initiate a service that will cost a thousand dollars a year to maintain.

The Members of the House, and the country, will understand that this is a new service, and that it was impossible for the committee preparing this bill to meet every possible case that will arise. No doubt further legislation will be necessary as the various systems of radio-communication are perfected. The startling disaster of the collision of the *Republic* and *Florida* has aroused not only this country, but other countries as well, to the necessity of having some efficient form of radio-communication on most vessels carrying passengers and eventually upon all.

This bill provides that a vessel carrying 50 or more passengers shall be provided with an efficient radio-telegraph. In navy and army circles the wireless telephone is now used to some extent with success, but the opinion of the naval officers indicates that the installation of this service on the fleet just now returning from around the world has not been such a success as to warrant us in compelling vessels to maintain it. When perfected the telephone will doubtless supersede the telegraph. It does not require an expert to operate; it is simpler and probably cheaper.

The Government of the United States has already established wireless stations along our seacoast. These stations receive messages from any and all of the various systems now in use. So far as your committee could ascertain, the seven or eight wireless systems now operating in this country are in competition for commercial business. If any combination shall hereafter be made by these various companies to raise prices of apparatus or charges for service, legislation can easily be enacted to protect the public, and it is probable that new systems would be so rapidly developed, because of the widespread use this marvelous system of communication is destined to enjoy, that prices of installation and maintenance are more likely to decrease than to rise.

There are at present in the United States, either partially or wholly equipped for services, five systems, to wit: The Fessenden, the United Wireless, the Massie, the Stone, and the Clark systems. In Germany the Telefunken system prevails. The Japanese vessels are equipped with the Teishinsho system. Denmark has the Poulsen. France the Branlypopp and the Rochfort. In England is the Lodge-Muirhead. In addition to these the United States Signal Corps has a system of its own, and there are various systems in embryo conducting experiments and perfecting appliances. Wireless telegraphy has already astonished the world, and yet we know it is but in its infancy. The possibilities of the development of wireless communication are limitless. The discoveries in new methods of communication and transportation are so marvelous that our imaginations can hardly conceive the changes that are destined in a few short years to take place, and which will affect the social, industrial, and political life of all the world.

Mr. COX of Indiana. Mr. Speaker, I regard this as one of the most important pieces of legislation offered for enactment by the Sixtieth Congress.

Mr. WALDO. Will the gentleman yield?

Mr. COX of Indiana. I would be very glad to, but I have only two minutes and I have not time to do so.

Mr. WALDO. I trust there will be some gentleman here who will yield to give us a little information on this subject——

Mr. COX of Indiana. There can scarcely be a bill presented upon the floor of the House but what there will be some objections urged against it. What are the objections waged against this bill this morning? For fear that the men who own the radio-telegraph instruments in the United States will unite and combine for the purpose of raising the price of these instruments. On one side that is an argument, placing the almighty dollar on one side of the ledger against the safety of human life on the other. I was one of the committee who firmly believed that this bill should provide that all steam vessels carrying passengers, or freight likewise, should be equipped with this kind of instrument, but, upon investigation, and particularly

from that stalwart gentleman who represents the city of Cleveland, I came to the conclusion it was premature at this time to incorporate a provision of that kind into this bill. The argument is further made that this is an inopportune time to legislate, for the reason that it is not well considered. Aye, Mr. Speaker, the very gentleman who is now opposing this bill upon this ground, I can refer him to the great Iroquois Theater fire, which occurred a few years ago in the city of Chicago, where 600 lives were lost, largely, if not entirely, as a result of the dereliction of duty of the people in power in the city of Chicago. Had the city authorities in the city of Chicago looked to the hanging of the doors before that direful calamity, and seen that the doors were hung so as to swing outward, the chances are largely in favor of the proposition that the many hundreds of women and children who were burned up in that holocaust would have been saved an untimely and unfortunate death. Again, I recall, and no doubt every Member here does the same, last winter when the city of Cleveland was overwhelmed by grief in the loss of more than 100 school children, brought about largely because of the fact that the doors to said school again swung inward instead of outward. The happening of these two catastrophes called attention everywhere to the existence of conditions, and no doubt led to sound and healthy legislation along these lines to improve conditions in the safety of human life. Shall we wait until thousands of human lives are actually lost at sea because vessels carrying passengers are not equipped with a proper radio-telegraphic instrument?

All because for fear if we pass this bill the owners of these instruments may raise their price to the shipowners. I say no. Humanity says no. Now is the time for us to act, and act at once, without delay, to the end that we may do something for the countless millions of passengers who annually cross and recross the great oceans and land at the various ports of the United States. Should an attempt be made to increase the price of these instruments our worthy Committee on Interstate and Foreign Commerce can easily take charge of the situation when this condition arises, if it ever does arise. The use of these instruments on passenger steamers has been going on for some time, with no evidence of any combination upon their part to increase the cost of the instruments to the shipowners. So far as I am concerned, I do not care if it does increase the cost to the shipowners. When I am called upon to decide between the safety and preservation of human life, on the one hand, and the distant fear of increase of cost on the other, I unhesitatingly cast my lot on the side of humanity. I hope the bill will pass and that it may become a law, and when it does it will be a monument of glory to the Congress enacting it.

Mr. GREENE. I would like to have the gentleman from Washington yield some of his time.

Mr. HUMPHREY of Washington. I yield two minutes to the gentleman from Ohio [Mr. KENNEDY].

Mr. KENNEDY of Ohio. Mr. Speaker, the object of this bill is all right, but I fully concur with the gentleman from Illinois [Mr. MANN] that hasty legislation of this character is apt to be ill-advised, and it seems to me that in one or two regards this bill is such. In the first place, I do not believe that the language limiting the appliances for communicating between vessels is well chosen. I do not know exactly what "radio-telegraphic apparatus" means; but in this age, when we are talking from one continent to another under the ocean, when crafts are sailing through the air, and when no man dare predict what may be or may not be in the near future, we certainly should not in a bill of this character limit and prescribe that ships should use any particular method of communication.

The telegraph is a wonderful thing. It may be better six months from now than anything known. So the committee in prescribing a particular appliance for communication has certainly closed the door against anything better that might be discovered in the near future. I am a believer in the doctrine that that government governs best which governs least, and I believe that all the ships carrying passengers will be compelled by the very circumstances that surround them to adopt some method of communication without compulsion and without criminal process.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. GREENE. Mr. Speaker, I yield one minute to the gentleman from West Virginia [Mr. STURGISS].

Mr. STURGISS. Mr. Speaker, the last quarter of the nineteenth century and the opening years of the twentieth century have demonstrated beyond all the other years of history the supremacy of mind over matter. The mighty and often most terrible forces of nature have been subdued and not only stripped of their power for evil, but subjugated and harnessed, and have become benign instruments for helping to make life easy, attractive, and safe.

The most striking and recent illustration of this assertion was witnessed when two great ocean-going steamers, loaded with hundreds of people, the one nearing the conclusion of a 3,000-mile voyage, the other just leaving New York Harbor with a thousand pleasure-seeking passengers for a season's travel in the Mediterranean and the Orient, each all unconscious of the proximity of the other, till with a mighty crash in the darkness they were hurled against each other, dealing a deathblow to one vessel and inflicting great damage to the other, killing some passengers, and putting the lives of all in great peril. But mind, dominant over sea and darkness and distance, called aloud for help with the still, small voice of the radio-telegraph and told the tale of disaster and impending death and brought helping hands and words of cheer from scores of listening watchers.

One has truthfully said "the undevout astronomer is mad," who, having contemplated the stupendous magnitude of the solar systems that light our midnight skies, the enormous numbers of revolving suns and satellites, and the perfect harmony that holds each in his orbit and place, can see no divine supernatural power and wisdom displayed in all this mighty creation.

But the power and wisdom and beneficence of that Being who holds the firmaments in the hollow of His hand are no less plainly shown in the adaptation of mind to matter in this workaday world as in the heavens above; and the scientist who thoughtfully studies the qualities and properties, often occult and mysterious, that are inherent in matter, and considers the powers of the mind of man to discover and reveal them and apply them to his everyday uses and can see no God in it all, is undevout and mad. There are 10,000 inventions and discoveries that have so long been used that we regard them as commonplace and no longer marvel at them that illustrate the truth just stated.

The magnetic needle, the steam engine, the ocean greyhound, the railway locomotive, the telegraph, the submarine cable, the telephone, the phonograph, electric lighting, heating, and power, the natural gases, noxious and highly explosive, piped into our homes, furnaces, and factories, to give light and heat and power, are but a few illustrations of the nine days' wonder grown commonplace and prosaic. But each is proof of the fact that the mind of man, when stimulated by cupidity, curiosity, benevolence, or necessity, finds every form of material things endowed with or possessing inherently the property, quality, or characteristic that man needs in his operations and which he would give to matter if he possessed the power.

He wanted the magnetic needle, and found the loadstone; he needed the transparent glass, and with opaque sand and alkali he made the crystal lens; he wanted mechanical power to do his work, and found it in the energy of expanding steam, and so built his engine and steamship and locomotive; he wanted the metals with all their differing qualities of ductility, malleability, hardness, and temper, and found them in the ores and stones; he needed fuel for light and heat, and found it in coal and oil and gas; he worshiped in fear the lightnings of heaven till he had measured this most terrible and apparently most refractory element, but when his brain had mastered it, he found it possessed of the most varied and valuable properties; it became his messenger, outstripping Mercury, the winged god of the ancients; on land and under sea instantaneously it responded to his thought and touch; from it he derived light for his home and shop and street, and electricity made night as bright as the noonday; he grew tired of steam as a motive power and harnessed the lightning to his car; and needing a heat more intense than any fuel could produce, found it in the electric arc. He found this element was all about him, harmless and unnoticed in equilibrium, like the air we breathe, but like the air, which disturbed in its equilibrium, becomes the mighty tornado, destroying life and property, only a thousandfold more terrible and quicker in its death-dealing and property-destroying power.

He devised the dynamo, like a great ventilating fan, gathering in the electric element, disturbing its equilibrium, and sending it out in mighty impulses over the wires to do his bidding. He found he must have a good conductor to transmit and control the electric current, and found in copper and aluminum just the quality or characteristic needed, but at the same time he found that absolute nonconductivity was just as essential in order to insulate his wires and handle this fearful genius with safety, and in glass, porcelain, and hard rubber he found or created from crude materials the most perfect nonconductor.

And so far as the mind has explored the realm of nature, man has found the former dominant over matter and natural forces,

and the latter everywhere responsive with the properties and qualities and characteristics that he needs.

Can it be that all this is chance, a mere fortuitous combination of elements, but always, when properly understood and applied, working for the good of humanity? Rather does it prove beyond all reasonable doubt that an all-wise, all-powerful, and always beneficent God reigns not alone in the invisible and visible heavens, but on and in the earth and the elements thereof and in the heart and brain of man.

What heart was not touched and eye moistened and love to man and praise to God stimulated when the account of the rescue of over sixty score passengers and half as many of the crews of the ill-fated *Republic* and *Florida* was first read a few days ago? Out of the darkness of fog and night came the sudden and awful collision that gave the death wound to one vessel and for a season paralyzed the other, giving promise of a fearful harvest of death. But here came a miracle of human genius and the application of the property of electricity and of the air to transmit for hundreds of miles the call of distress to all the listening ears on ship and shore that might be equipped with the newest device and discovery by man that wires are not needed to transmit thought and words, but that God's ether, ever around us, is ever ready to respond to man's call to his fellow-man in distress and in defeat, and in joy and in triumph.

Marconi, the inventor and discoverer, joined with Binns, the practical operator, in bringing speedy aid by friendly hands out of the darkness, from ship and shore, and in receiving words of cheer and encouragement for those waiting in suspense and dread. If man's inhumanity to man has caused countless thousands to mourn, nevertheless in these modern and, let us hope, better days, man's love of humanity and his dominion over the forces of nature have brought life and hope and happiness, as well as peace and prosperity, to millions in every land and every field of human activity. But let not our jubilation and emotions evaporate in speech, but let us give practical expression to them by voting for this bill, which requires every ocean passenger steamer embraced in the description in the bill to be equipped with efficient apparatus and a skilled operator that shall enable each vessel to keep in actual communication with every other like vessel and with each shore from the time she leaves port till she reaches her destination, and so diminish the dangers and lighten the solitude of those who sail the ocean and encounter the perils of the great deep.

Mr. GREENE. Mr. Speaker, I yield a half minute to my colleague from Massachusetts [Mr. PETERS].

Mr. PETERS. Mr. Speaker, the subject before the House is one of great interest to me, and I have introduced a bill which, in effect, is the same as the measure which we are considering to-day. Limited time for debate prevents my going into the reasons and prevents me from having the opportunity to answer some of the objections that have been made. In view of that fact, I do not care to go into the discussion, but I ask unanimous consent to print in the RECORD my remarks on this subject.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. STURGISS. Mr. Speaker, I make the same request.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. GREENE. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. The gentleman has six and one-half minutes remaining.

Mr. GREENE. Mr. Speaker, I desire to say just a few words and yield to the gentleman from Pennsylvania [Mr. BURKE] to close the debate. It has been said by different Members in opposition to the passage of this bill that we are forcing these companies to put the radio-telegraph system upon their vessels. I think we are doing right when we do so, and I desire to call attention to the facts concerning two steamers which arrived in Boston on the 9th instant, one of them having first-class passengers and being fully equipped with everything necessary to preserve human life, including a radio-telegraph system. The other steamer carried a very large number of steerage passengers, and had more than twice as many passengers as the steamer first referred to, and it had no equipment such as is required by the terms of this bill. There is no reason why steerage passengers should not be supplied with every possible accommodation, and certainly with every modern improvement for the preservation of human life. Everyone knows that steerage passengers are profitable to the steamship owners. They occupy but very little space, they eat but very little food, and they come in large numbers. Owners of passenger steamers can not be excused on account of the question of the expense required by this bill from making the necessary provision for the preservation of human life.

Mr. HUMPHREY of Washington. Mr. Speaker, I shall say but a few words more. This bill strikingly illustrates what the gentleman from Illinois has said—that it is dangerous to legislate out of sympathy. And I think enough has been shown to the House that they agree with the gentleman from Illinois [Mr. MANN] that this bill should go back to the committee and a proper bill reported. We reported this bill which provides that every steam vessel within a year shall be equipped with wireless apparatus. We do not limit the companies as to what they shall charge for the equipment; we do not limit them to what they shall charge the public for sending messages. The only answer to the gentlemen who are in favor of this bill have made to these statements is that we can correct it by legislation hereafter. Now, it seems to me that when we are granting this power, when we are compelling vessels to equip themselves with wireless apparatus, is the time to make these restrictions. As the gentleman from Illinois has well said, pass this legislation, and the very moment we attempt to restrict them in any way these companies will be here opposing it. We have no assurance that the present prices will continue.

Mr. STEPHENS of Texas. Will the gentleman permit me to ask him a question?

Mr. HUMPHREY of Washington. I yield to the gentleman.

Mr. STEPHENS of Texas. Is it not a fact that this legislation is on all fours with the legislation for this city and a great many others, requiring fire escapes to be placed on hotels?

Mr. HUMPHREY of Washington. I do not think so.

Mr. STEPHENS of Texas. Can not you pass legislation of this kind in that way?

Mr. HUMPHREY of Washington. It is not the same as a law compelling equipment with fire escapes. This allows the companies owning these vessels to be charged by the wireless companies so much by the year, and there is no limit as to the charge the vessels may have to pay.

Mr. STEPHENS of Texas. There are a great many patents on fire escapes and railroad appliances, and it is made the duty of railroads, under the law, to select the best appliances. Why should not the railroads select the best appliances?

Mr. HUMPHREY of Washington. A fire escape is not a patented arrangement and not under the control of two or three companies.

Mr. HUBBARD of West Virginia. Is it not true that instead of the arrangement that the wireless company, at its expense, furnish the operator to passenger steamers that this bill transfers that burden to the ship, without any relief?

Mr. HUMPHREY of Washington. So far as this bill is concerned, the company furnishing the apparatus can do as they please. The only restriction is to compel every vessel to equip itself with this apparatus within a year.

Mr. HUBBARD of West Virginia. And also provide its own operator, which now the ship is not required to do.

Mr. WILSON of Illinois. Does the gentleman from Washington know of any law that has been passed through Congress which provides that the company selling a certain article for such consumption as this has to put a price upon it? Does he know of any railroad safety-appliance law which Congress has passed since the gentleman has been a Member in which it ever put any price on the appliance of any company supplying it?

Mr. HUMPHREY of Washington. I do not know. I am not qualified to answer that question. But I do know in this particular case where the power to fix the price rests. It rests with these wireless companies. I think there are seven reported, but only two or three, in fact, can furnish the equipment.

Mr. WILSON of Illinois. I want to know if the gentleman knows any law passed by Congress restricting the price of any product that should be consumed under that law.

Mr. MANN. What has the gentleman to say about the gas proposition?

Mr. WILSON of Illinois. I am talking about patented appliances.

Mr. GREENE. I yield the balance of my time to the gentleman from Pennsylvania [Mr. BURKE].

Mr. BURKE. I yield to the gentleman from Missouri [Mr. ALEXANDER].

Mr. ALEXANDER of Missouri. Mr. Speaker, the bill H. R. 27672 is very simple and easily understood. It provides that it shall be unlawful for any ocean-going steamer certified to carry, or carrying, 50 passengers or more, to engage in the business of carrying passengers or to carry passengers between

ports 200 miles or more apart unless equipped with an efficient radio-telegraphic apparatus, in charge of a person skilled in the use of such apparatus, with suitable penalties for the violation of the law. It was necessary to place some limitation in the law as to the steamers to which it should apply. The committee, in view of the fact that this is a new invention, and not wishing to impose any hardship on the shipping interests, thought it wise to limit the law to those vessels carrying 50 passengers or more. Then, again, the question came up for consideration as to whether or not the law should apply only to seagoing vessels or should include traffic on the Great Lakes. The committee were also called upon to consider whether or not the radio-telephone as well as radio-telegraph should be included in the bill. The bill was not made to apply to radio-telephone communication for the reason that the hearings disclosed that the radio-telephone is not of proven efficiency at greater distances than 25 miles. Indeed, there was testimony that 12 miles is the present limit. Hence it became apparent that it would have been unwise for the bill to provide for radio-communication, as it would have left it to the vessel owner to install the radio-telegraph or radio-telephone, and in the opinion of the committee the radio-telephone under its present limitations would not meet the needs of the service.

The committee had in view primarily the trans-Atlantic service, although the bill applies as well to steamers engaged in the coastwise trade. It was our purpose to provide for a service that would be effective on the high seas and at great distances. The wireless telephone would be of little or no value if an accident should occur to a vessel more than 25 miles distant from another vessel, although the other vessel should be provided with radio apparatus, or at a greater distance than 25 miles from a wireless station on shore. In the case of the recent disaster to the steamer *Republic*, radio-telephones would have been of little or no value, and having in mind the limited area in which the radio-telephone now has any possible value, the committee wisely, I think, excluded its use from the provisions of the bill. Science and invention are making rapid strides in the development of the radio-telephone, and the time may come in the near future when its efficiency may be as great as the wireless telegraph service. When that time comes it will be an easy matter to extend the law to include the radio-telephone, and we will welcome that time, as it will not then be necessary to keep an expert operator aboard ship to operate it, as is true of the radio-telegraph.

Radio-telephones were installed on our battle ships prior to their departure on their world voyage. We took particular pains to inquire of a representative of the Navy Department who appeared before the committee if the service had proven satisfactory even as a means of communication for short distances, and he stated that it had not, and this was an additional reason why we did not include this service in the bill.

The bill was not made to apply to the Great Lakes for several reasons, the main one being that there are now only three or four wireless stations on the Great Lakes, and they are under private control, whereas the Atlantic and Gulf and Pacific coasts are provided with government wireless stations, and hence are free from private control.

Again, the need is not pressing. The trips on the Great Lakes are short, we are told, and the steamers rarely out of sight of land except for brief intervals, and relief generally near at hand and within call by the distress signals now in use.

Great emphasis has been given by some to the objections that the bill does not safeguard the vessel owner and the public against extortionate charges for the service, and that the bill should limit the cost of installation and the rates to be charged for wireless messages.

It is enough to say that this method of communication is yet in its infancy; it is scarcely more than 8 years old, and it is only recently that the service has been reduced to a commercial basis. New discoveries and inventions are occurring rapidly, which tend to cheapen the cost of the apparatus as well as of the service, and it would be impracticable now to frame a law to regulate the price that manufacturers should charge for the apparatus or the cost of the service.

Although the Interstate Commerce Commission was created more than twenty years ago, it has not yet been given the power to regulate the rates that may be charged by railroad, telegraph, and express companies engaged in interstate business, and it was not thought sufficient reason why the safety-appliance law should not be enacted that it did not limit the price that manufacturers might charge for the appliances, although the inducement offered to manufacturers to combine was as great or greater than is the inducement for manufacturers of radio apparatus to do so. It might be well enough to remind the gentlemen who have urged this objection with so much zeal that our antitrust laws apply with equal force to such a combination as they apprehend may be formed should this bill become a law as to any other trust or monopoly, and while the committee would have been glad to relieve the shipping interests of this danger, yet, for the reasons that I have stated, we do not regard it practicable to do so at this time. But the committee took a wider view of the matter than simply the one involving dollars and cents. We thought the safety of human life of paramount importance. When we contemplate the appalling loss of life on the high seas in the past, the committee should be excused if in our desire to mitigate the perils of the sea we do not present to the House a bill as perfect and comprehensive in its provisions as time and the future developments of science and invention may make necessary.

This bill was framed to better secure human life, and if its enactment into law results in greater safety to those who travel the seas our object in some measure will have been accomplished and the author of the bill will earn for himself the gratitude of mankind.

Mr. BURKE. Mr. Speaker, one astonishing feature of this discussion is the statement that comes from the gentleman from Illinois [Mr. MANN] with respect to the character of this legislation, the assertion that it is sympathetic. The very fact that the father of the pure-food bill, upon which rests his fame in this land, should rise in his place in the halls of Congress and suggest that it is proper to oppose legislation because it is of a "sympathetic" character is so preposterous that it furnishes its own answer.

Now, in the first place this is a humanitarian proposition. As to the statement that only two or three companies are engaged successfully in the operation of these instruments, I believe the gentlemen who make them are not correctly informed. There are at least seven companies now in existence successfully operating the instruments or appliances which would be within the province of this act.

The names and field of operations covered by them appear from the following table, furnished me by Commissioner Chamberlain, of the Bureau of Navigation:

RADIO-TELEGRAPHIC SYSTEMS.

MARCONI.

The first practical system in the field. The first Marconi British patent was applied for on the 2d of June, 1896, and accepted on the 2d of July, 1897.

DE FOREST.

American in origin; acquired in Great Britain, and it is said for all parts of the world except North America, by a British company.

FESSENDEN.

American.

LODGE-MUIRHEAD.

British, both as regards invention and ownership. First patent applied for 10th of May, 1897; accepted 10th of August, 1898.

TELEFUNKEN ("FAR SPEAKING").

German; an amalgamation of the systems of several different inventors (Slaby, Arco, Braun, Siemens).

ROCHFORT.

French.

BRANLY POPP.

French.

POULSEN.

Danish; a recent invention, the rights of which for all parts of the world have also been acquired by the Amalgamated Radiotelegraphic Company.

SHOEMAKER.

American.

MASSIE.

American.

COMPANIES OPERATING IN UNITED STATES.

Vessels in trade with the United States are now equipped with installations furnished by companies using the following systems:

1. Marconi.
2. United Wireless (which is a combination of the De Forest and Shoemaker systems).
3. Fessenden.
4. Massie.
5. Stone (relatively new company).
6. Colliers (a relatively new company).

It is also possible that some vessels in trade with the United States may be equipped with the Telefunken (German), Poulsen (Danish), or some of the other systems.

Mr. WALDO. I should like to ask whether the shipping interests of New York have been consulted on this?

Mr. BURKE. The shipping interests of New York have been consulted, and on the very day that the measure under discus-

sion was proposed the directors of the Produce Exchange of New York City, by a unanimous vote, indorsed the measure. Subsequently the president of the Maritime Association of New York, Mr. Norman, communicated with the committee through a New York Representative [Mr. BENNET], stating that he did not find on the floor of the exchange one dissenting voice, and he said: "I trust our entire New York delegation will lend their best endeavors to have the law enacted at this session."

Its expediency is also evidenced by the following letter written to the gentleman from Massachusetts [Mr. GREENE] after we had revised the bill:

DEPARTMENT OF COMMERCE AND LABOR,
BUREAU OF NAVIGATION,
Washington, February 4, 1909.

SIR: In view of the suggestion of your committee that Mr. BURKE of Pennsylvania confer with the Commissioner of Navigation and the Supervising Inspector-General, Steamboat-Inspection Service, for the purpose of suggesting such amendments or revision of the bill heretofore introduced by Mr. BURKE in order to make the same as practicable and as efficient as possible, all things being considered, we beg to state that the revision made and incorporated in the bill, which will be presented by Mr. BURKE in substitution, meets our hearty approval, and we believe it will accomplish more nearly than any other legislation suggested the purposes in view.

Respectfully,

GEO. UHLER,
Supervising Inspector-General Steamboat-Inspection Service.
E. T. CHAMBERLAIN,
Commissioner of Navigation.

To the Hon. WM. S. GREENE,
Chairman Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D. C.

Now, as to the necessity of this legislation, Mr. Speaker, there are now in round numbers practically one-half the vessels that would be affected by it already complying with it. During the last year there were coming into the United States ports from foreign countries 149 ships, with a capacity of 182,144 passengers, which ships were equipped with the wireless instruments. There were entering these ports from foreign countries 97 foreign ships not equipped and having a capacity of 135,749 passengers. There were also 19 American vessels which were equipped, mainly on the Pacific Ocean, and having a very large passenger capacity. There were also 33 American ships engaged in the foreign trade not equipped. So that, speaking generally, one-half the vessels to which this legislation would apply are already equipped, and one-half are not.

Now, as to the necessity of the legislation and the question of a possibility of a monopoly arising, that is completely answered by the legislation enacted by the last two Congresses, introduced by gentlemen on this floor. There is no more possibility or probability of monopoly in the wireless business than there is in any other, as the antitrust laws enacted by past Congresses would apply to it just the same as to other monopolies. Its importance to humanity is so great that I trust its enactment to-day will result in America leading the world in this commendable field of human endeavor, as she has always done since the establishment of the Republic.

Mr. McDERMOTT. Is it not a fact that the Western Union-Postal Telegraph Company did agree less than two years ago to raise its rates from 20 to 60 per cent, and is it not a fact that if you want to send a wireless message you will have to send it by this one combination, and did not Commissioner Neill to-day make the statement that the operators' wages are lower now than they were in 1883?

Mr. BURKE. That question is irrelevant.

The SPEAKER. The time of the gentleman has expired.

Mr. GREENE. I ask unanimous consent that Members who have spoken on the bill be given leave to extend their remarks in the RECORD.

There was no objection.

Mr. HITCHCOCK. I ask unanimous consent to present an amendment to be inserted on page 2, line 17, after the word "apparatus," "to cost no more than the prices now prevailing."

The SPEAKER. That amendment can be considered only by unanimous consent. Is there objection to the amendment?

Mr. FOSTER of Indiana. Reserving the right to object——

The SPEAKER. The time for debate has passed. The Clerk will again report the amendment.

The Clerk read the amendment again.

The SPEAKER. Is there objection?

There was no objection.

The question being taken on suspending the rules and passing the bill with the amendments, the Speaker announced that in his opinion two-thirds had voted in the affirmative.

Mr. COCKRAN. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. COCKRAN. What is the motion—to amend the bill or pass it?

The SPEAKER. The motion is to agree to all the amendments, including the last one, and pass the bill. It is all one motion.

Mr. MANN. Let us have a division.

The House divided; and there were—ayes 91, noes 23.

Accordingly (two-thirds voting in favor thereof) the rules were suspended and the bill was passed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following resolutions, in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution 95.

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return to the Senate the bill (S. 5989) authorizing the Department of State to deliver to Maj. C. De W. Wilcox decoration and diploma presented by Government of France.

Senate concurrent resolution 90.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause to be made an examination and survey, with the view to obtaining a uniform depth of 10 feet in the inland waterway between Fernandina (Fla.) Harbor and the St. Johns River, and to report, together with an estimate of the cost of the project.

Senate concurrent resolution 91.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause a survey to be made of the St. Johns River, Florida, between Jacksonville and the ocean, with a view to obtaining a depth of 30 feet at mean low water.

Senate concurrent resolution 93.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause an examination and survey to be made of Smiths Creek, North Carolina, with a view to the removal of obstructions and deepening the channel thereof from its confluence with the Neuse River to the head of navigation on said Smiths Creek.

Senate concurrent resolution 94.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause an examination and survey to be made of Swift Creek, North Carolina, with a view to removing obstructions and deepening the channel thereof from its confluence with the Neuse River to the head of navigation on said Swift Creek.

Senate concurrent resolution 92.

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return to the Senate the bill (S. 6891) for the relief of Maj. G. S. Bingham.

ENROLLED BILLS SIGNED.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution and bills of the following titles, when the Speaker signed the same:

H. J. Res. 234. Joint resolution to authorize the Secretary of War to furnish two condemned bronze cannon and cannon balls to the city of Bedford, Ind.;

H. R. 21560. An act to provide for circuit and district courts of the United States at Gadsden, Ala.;

H. R. 23473. An act extending the time for final entry of mineral claims within the Shoshone or Wind River Reservation in Wyoming;

H. R. 7157. An act for the relief of W. P. Dukes, postmaster at Rowesville, S. C.

H. R. 21926. An act for the organization of the militia in the District of Columbia;

H. R. 19662. An act to amend an act entitled "An act to establish the Foundation for the Promotion of Industrial Peace;"

H. R. 16274. An act to amend section 10 of chapter 252, volume 29, of Public Statutes at Large;

H. R. 26216. An act to extend the provisions of section 4 of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1895, and for other purposes," approved August 18, 1894, to the Territories of New Mexico and Arizona;

H. R. 18487. An act for the relief of Charles H. Dunning;

H. R. 25552. An act to amend an act entitled "An act to authorize the construction of a bridge across the Monongahela River, in the State of Pennsylvania, by the Liberty Bridge Company," approved March 2, 1907; and

H. R. 25805. An act to reenact and to amend sections 3646 and 3647 of the Revised Statutes.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 3969. An act to amend the laws of the United States relating to the registration of trade-marks;

S. 8510. An act to extend the time of payments of certain homestead entries in Oklahoma;

S. 9295. An act in relation to the salary of the Secretary of State;

S. 8254. An act granting pensions and increase of pensions to certain soldiers and sailors of the civil war and certain dependent relatives of such soldiers and sailors;

S. 8898. An act granting pensions and increase of pensions to certain soldiers and sailors of the late civil war and to certain widows and dependent relatives of such soldiers and sailors; and

S. 1574. An act to create the Calaveras Bigtree National Forest, and for other purposes.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. J. Res. 234. Joint resolution to authorize the Secretary of War to furnish two condemned brass or bronze cannon and cannon balls to the city of Bedford, Ind.;

H. R. 7157. An act for the relief of W. P. Dukes, postmaster at Rowesville, S. C.;

H. R. 21560. An act to provide for circuit and district courts of the United States at Gadsden, Ala.;

H. R. 23473. An act extending the time for final entry of mineral claims within the Shoshone or Wind River Reservation in Wyoming;

H. R. 24831. 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;

H. R. 25391. 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;

H. R. 25806. 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; and

H. R. 26461. 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.

SENATE BILLS AND RESOLUTIONS REFERRED.

Under clause 2 of Rule XXIV, Senate bills and joint resolutions were taken from the Speaker's table and were referred to their appropriate committees, as indicated below:

S. 8441. An act to authorize the Secretary of the Interior to cause to be surveyed any unsurveyed lands belonging to the Five Civilized Tribes, and for other purposes—to the Committee on Indian Affairs.

S. 6971. An act authorizing the acceptance by the United States Government from the Woman's Relief Corps, auxiliary to the Grand Army of the Republic, of a proposed gift of Andersonville prison land, in the State of Georgia—to the Committee on Military Affairs.

S. 6935. An act for the relief of the Merritt & Chapman Wrecking Company—to the Committee on Claims.

S. R. 127. Joint resolution authorizing an extension of the tracks of the Atchison, Topeka and Santa Fe Railroad on the military reservation at Fort Leavenworth, Kans.—to the Committee on Military Affairs.

S. R. 128. Joint resolution authorizing the Secretary of War to donate four condemned cannon to the county of Warrick, in the State of Indiana—to the Committee on Military Affairs.

Senate concurrent resolution 94.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause an examination and survey to be made of Swift Creek, North Carolina, with a view to removing obstructions and deepening the channel thereof from its confluence with the Neuse River to the head of navigation on said Swift Creek—

to the Committee on Rivers and Harbors.

Senate concurrent resolution 93.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause an examination and survey to be made of Smiths Creek, North Carolina, with a view to the removal of obstructions and deepening the channel thereof from its confluence with the Neuse River to the head of navigation on said Smiths Creek—

to the Committee on Rivers and Harbors.

Senate concurrent resolution 91.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause a survey to be made of the St. Johns River, Florida, between Jacksonville and the ocean with a view to obtaining a depth of 30 feet at mean low water—

to the Committee on Rivers and Harbors.

Senate concurrent resolution 90.

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause to be made an examination and survey with the view to obtaining a uniform depth of 10 feet in the inland waterway between Fernandina (Fla.) Harbor and the St. Johns River, and to report, together with an estimate of the cost of the project—

to the Committee on Rivers and Harbors.

ADDITIONAL COTTON STATISTICS.

Mr. LEVER. Mr. Speaker, I ask unanimous consent for the present consideration of House joint resolution 231, authorizing the Director of the Census to collect and publish additional statistics.

The Clerk read the joint resolution, as follows:

Resolved, etc., That the Director of the Census be, and he is hereby, authorized and directed to collect and publish, in addition to the cotton reports now being made by him, statistics of stocks of baled cotton in the United States, to be summarized as of November 1, December 1, January 1, and March 1.

The following committee amendment was read:

In line 7 strike out the words "December first."

The SPEAKER. Is there objection to present consideration?

There was no objection.

The amendment was agreed to.

The joint resolution as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. LEVER, a motion to reconsider the vote whereby the joint resolution was passed was laid on the table.

PROTECTION OF RIGHTS OF SURFACE ENTRYMEN.

Mr. MONDELL. Mr. Speaker, I move to discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill (H. R. 24834) for the protection of the rights of surface entrymen, as amended by the committee amendments, and, with an amendment which I send to the desk, to suspend the rules and the bill be passed.

The SPEAKER. The gentleman from Wyoming moves that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill which the Clerk will report, with the committee amendments and the amendment as a substitute, and the bill be passed.

The Clerk read the bill, as follows:

Be it enacted, etc., That any person who has in good faith heretofore located, selected, or entered under the nonmineral land laws of the United States any lands which subsequently are classified, claimed, or reported as being valuable for coal, may, if he shall so elect, and upon making satisfactory proof of compliance with the laws under which such lands are claimed, receive a patent therefor, which shall contain a reservation to the United States of all coal in said lands, and the right to prospect for, mine, and remove the same. The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal-land laws in force at the time of such disposal, but no person shall enter upon said lands to prospect for, or mine and remove coal therefrom, without previous consent of the owner under such patent, except upon such conditions as to security for and payment of all damages to such owner caused thereby as may be determined by a court of competent jurisdiction: *Provided*, That the owner under such patent shall have the right to mine coal for use on the land for domestic purposes prior to the disposal by the United States of the coal deposit: *Provided further*, That nothing herein contained shall be held to affect or abridge the right of any locator, selector, or entryman to a hearing for the purpose of determining the character of the land located, selected, or entered by him, and to a patent without reservation if the land shall be determined not to be chiefly valuable for coal, or to abridge or deny the right of any entryman who has earned a title to the land covered by his entry to a patent without reservation.

The SPEAKER. Is a second demanded?

Mr. GRONNA. I demand a second.

Mr. MONDELL. I ask unanimous consent that a second be considered as ordered.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The gentleman from Wyoming is entitled to twenty minutes and the gentleman from North Dakota to twenty minutes.

Mr. MONDELL. Mr. Speaker, I think I can best explain the purposes of this bill by reading from the report which I made on the bill:

"The necessity for this legislation arises from the fact that it is often difficult for an entryman, settler, or locator under the nonmineral laws to determine at the time of his location or entry as to the coal or noncoal character of the lands he locates, because the occurrence of thin strata of coal or of considerable bodies of low-grade lignites on land does not necessarily take it out of the class of lands that can be located and acquired for agricultural purposes or under the nonmineral, land laws, and, further, because coal may occur in quantities at a considerable depth beneath the surface of the land without there being anything on the surface or in the locality to indicate the presence of such a deposit.

"Therefore, nonmineral entrymen have in many cases, in perfect good faith, gone on lands which contain thin veins of coal, or coal of low grade and not of merchantable quality, or which was, unknown to him, underlaid at some depth by considerable coal veins, and in many cases lands of this character have been patented under the agricultural-land laws.

"In various parts of the West, particularly in western North Dakota and eastern Montana, and to a lesser extent in South Dakota and elsewhere, there are very large areas of very low-grade lignites. These, particularly in certain portions of the areas, are of but very little value, except for fuel for domestic purposes on or in the immediate vicinity of the lands, and for years these lands have been homesteaded and patented without a thought on the part of anyone that they contained valuable coal. Some portions of these fields, however, contain coal that is of somewhat better quality, and in several Western States, notably Colorado, Wyoming, Utah, and Montana, are coal areas where the coal is of a better quality, but where the surface indications do not point to coal deposits of value and nonmineral entrymen have in many cases in good faith made locations.

"In July, 1906, and later, very large areas of land were withdrawn from entry on the theory that they contained coal or that they were within known coal areas. Later these orders of withdrawal were modified so that such of the lands as were in fact noncoal lands might be entered, and in 1907 the Geological Survey began an investigation of the coal area in various Western States for the purpose of determining the character and extent of the deposits, and of classifying the coal lands for the purpose of fixing a schedule of prices for the same.

"About the same time the General Land Office adopted the policy of placing under suspension all nonmineral final certificates which had been issued on lands within areas believed to contain coal, and has declined to issue patents on the same pending the ascertainment whether such lands were known to contain coal prior to the issuance of final certificate. Two thousand seven hundred and seventy-one such tracts entered under the homestead and desert land laws are now held in suspension. Since the coal land withdrawals no final certificates in the regular form have been issued on final proof on homesteads and desert entries within areas embraced in coal withdrawals or reported as coal lands, a special form of receipt for the money paid being the only evidence of title given to the entryman.

"A search of the public-land records indicates that 11,688 original homestead and desert entries are of record within known or reported coal areas, or areas which have been withdrawn as coal land. Since the investigation and classification of coal lands began and up to January 9, 1909, the special agents of the General Land Office had made investigation and submitted report on 3,240 entries and selections of all kinds reported as coal lands, and they have reported 943 of these as coal lands and 2,297 as having no coal, or as not having coal of a quality or value sufficient to prevent entry under the nonmineral-land laws.

"From the above it will be seen that there are in the neighborhood of 19,000 cases which might eventually be somewhat affected by this legislation. However, as the final entries are only about one in five of the original entries, the number of original entries which might be affected is probably much less than the total of such entries. Further, in the case of the first class of entries mentioned the question being not as to the coal character of the land, but as to whether the land was known to contain coal at the time of or prior to final proof, the number of these cases which would be affected might be comparatively small, and in cases where proof has been made and no certificate issued, many entrymen will no doubt be able to prove the noncoal character of their land; but, making due allowances for all these exceptions, it is clear that a large number of entries must be directly affected by the legislation, and that if no legislation is had the entryman will in many cases lose all his rights in the land claimed and improved by him.

"In a large number of cases a hearing would probably result in the land being declared by the government officials noncoal land, for it is notorious that many suspended entries are in regions that contain no coal at all or no coal of any value. Many of the entries have been suspended simply because they are located within a township in which a coal declaratory statement has at some time been made. Many other entries, as in the case of North Dakota and eastern Montana, are suspended because in a general region of inferior lignite coals, and the probability is that in the majority of cases it would not be held upon a hearing that these lands were valuable for coal. In many cases unnecessary hardship and expense has been laid upon the entryman by reporting as coal lands large areas which contain no coal at all, or veins of such character or quality as to exclude them from what may properly be classed as coal lands. Such entrymen must defend their claims at very considerable cost, or, as matters now stand, lose their land.

"It is undoubtedly true, however, that in some of the coal-land States, at least, homesteads and other classes of nonmineral entries have in good faith been placed upon lands which do contain valuable coal, though in most cases of this kind it would probably require drilling or sinking to definitely establish that fact.

"In this condition of affairs some legislation seems to be necessary. It has been suggested that a law be passed granting to all homestead settlers who have settled upon land in good faith prior to this time a title to their lands in fee without regard to whether the land contains coal or not. Such legislation would relieve entrymen from the necessity of defending at hearings, and the probability is that in a large majority of the cases now pending all lands thus patented would contain little coal of any considerable value. But since 1873, when Congress passed the coal-land law and first began to place a price on coal land above that charged for agricultural lands, Congress has not attempted to determine as to the coal or noncoal character of any particular tract, and it is quite certain that a law granting all who have heretofore made nonmineral entries in good faith a fee title to their land would enable some to secure land which may ultimately, if it is not at the present time, be of some considerable value for the coal which it contains.

"This being true, the legislation in question has been adopted. It takes no right from the nonmineral entryman which he now has, but it does give him the opportunity to elect, if he sees fit to do so, to take a patent to his land with a reservation in the United States of the coal in all cases where the character of the land has been called into question.

"Should this bill become a law, the probability is that a considerable number of entrymen, the character of whose lands has been or may hereafter be challenged, would immediately elect to take a title with a reservation, rather than demand and pay the expense of a hearing before the register and receiver of the land office to determine the character of the land. These hearings involve an expense of all the way from $50 to as high as $200 or $300 or possibly $500 for each entry of 160 acres of land. In many cases the entryman's financial condition precludes the possibility of his making a defense at such a hearing. In other cases the entryman would consider that his land was not sufficiently valuable to warrant the expenditure necessary, or a condition of poverty joined with one of small value in the claim would often exist, and in such cases the entryman would take his patent with a reservation.

"Your committee realizes that the Government ought not to compel an entryman to defend his entry for any slight or trivial cause. It is unfortunately true that the coal withdrawals have been so sweeping, and the boundaries within which the entries have been held up on a claim of coal value by the Government have been so wide, that many entrymen have been called upon to defend their entries where, as a matter of fact, there is but little, if any, foundation for the claim that the land contains coal of value. However, it is undoubtedly true, as has already been stated, that some lands taken under the nonmineral land laws do contain valuable deposits of coal, though the probability is that such lands are but a small percentage of the lands the character of which has been called in question.

"While a certain class of entrymen would take their limited title rather than demand a hearing, the probability is that the majority of entrymen would insist upon a hearing, and in some of such cases the land would no doubt be held by the department to be valuable for coal. These men, if we have no legislation, would ultimately lose their lands and improvements, and it is imperative that legislation for their relief be had.

"As the bill is drawn the entryman can exercise his right to elect to take his patent with a reservation at any time prior to the cancellation of his entry. For instance, if the entryman is notified that his land is claimed to be valuable for coal and that it will be held for cancellation, pending which he may ask for a hearing to determine the character of the land, he may thereupon elect to accept his title with a reservation, or he may demand a hearing, and if the final decision in his case be in favor of the contention that the land is chiefly valuable for coal, then he may exercise his right to take a patent with a reservation of the coal.

"Should any considerable number of the entrymen as to whose land the question of its coal character has been raised conclude to take a patent without trying the matter out at a hearing, the probability is that but a limited portion of the lands so patented would contain any considerable quantity of coal; but in view of the fact that some of the lands covered by these limited patents would contain coal which sometime would be valuable, it is important that there be some method whereby these deposits may be disposed of, and therefore provision is made that they shall be disposed of in accordance with the coal-land laws in force at the time of such disposal.

"Care has been exercised to protect the surface rights of the entrymen from any damage which might arise in connection with the prospecting, mining, or removal of the coal, and it is believed that the rights of the owner under the patent will be amply protected.

"The first proviso of the bill accords the owner under the patent the right to mine coal upon his land for domestic purposes thereon. This was believed to be a wise and just provision and will probably incline some entrymen to accept the limited fee rather than go to the expense of defending at a hearing.

"The second proviso of the bill is to the effect that nothing in the legislation shall be held to affect or abridge the right of an entryman to a hearing to determine the character of his land and to a patent in fee if it shall be held that the land is not chiefly valuable for coal, or to abridge or deny the right of any entryman to a fee title who has earned the same. This proviso was believed to be necessary to make it clear that there is no intent to coerce anyone into taking a limited patent or to take from anyone who has earned a title, by residence or otherwise, his right to a patent now clearly recognized."

Mr. MANN. Will the gentleman yield for a question?

Mr. MONDELL. I should be glad to.

Mr. MANN. Based upon two statements in the report, one of which is:

In a large number of cases a hearing would probably result in the land being declared by the government officials noncoal land, for it is notorious that many suspended entries are in regions that contain no coal at all or no coal of any value. Many of the entries have been suspended simply because they are located within a township in which a coal declaratory statement has at some time been made.

Again:

It is unfortunately true that the coal withdrawals have been so sweeping, and the boundaries within which the entries have been held up on a claim of coal value by the Government have been so wide, that many entrymen have been called upon to defend their entries where, as a matter of fact, there is but little, if any, foundation for the claim that the land contains coal of value.

Now, what I want to ask is, Why does not the department itself correct this difficulty?

Mr. MONDELL. Mr. Speaker, it is difficult for the department, having made a serious mistake, to fully correct that mistake. All the statements made in that report are absolutely true and borne out by the facts, the withdrawals have been too general, but, as the gentleman from Illinois will recall, the report goes on to say that of all the cases that have been suspended on the five-year proof or on proof upon which final certificate was issued and of cases where the final certificate has been withheld and of cases yet to come before the department within these withdrawals, there will be some cases unquestionably where the Government will be able to prove its contention that the land contains coal of value.

Mr. MARSHALL. Will the gentleman yield?

Mr. MONDELL. I will.

Mr. MARSHALL. Will the gentleman state in what percentage of cases, in his judgment, the Government will be enabled to make their claim good?

Mr. MONDELL. Mr. Speaker, it is asking one to take a good deal of responsibility to answer a question of that kind. It is a matter of opinion. I know of one territory where over 100,000 acres was withdrawn as coal land in which there is no question at all in the mind of anyone who knows the situation that there is no coal of any sort or kind within that 100,000 acres.

Mr. MANN. When the gentleman says there is no question in the mind of anyone at all, that is all right, but how can the department justify itself in declaring that there is coal there, suspending entries, if it does not believe that there is coal there?

Mr. MONDELL. In my opinion the department can not justify itself, and I do not believe that anyone can justify the action of calling on entrymen to defend at a hearing in regions where there is no good ground for believing the land is valuable for coal.

Mr. MANN. That is a pretty sweeping indictment against our officials in the Land Department.

Mr. MONDELL. Mr. Speaker, I have made quite as sweeping statements on the same subject in the House before.

Mr. MANN. Yes; but the gentleman has never been sustained by the House before.

Mr. MONDELL. Well, I want the gentleman to remember that my view as to the number of cases that would be affected does not affect this legislation at all. Assuming that there was only 1 per cent of these cases in which the entryman would be finally unable to prove the noncoal character of his land, you must do something for that entryman or say to him that he shall not retain his improvements.

It was not my intent, Mr. Speaker, in connection with this legislation to go into any criticism of the department in the matter of withdrawals. I have voiced that criticism heretofore and in the day of the original withdrawals, when I called attention to the very difficulties that were bound to occur, and which have occurred.

Mr. STEPHENS of Texas. Will the gentleman yield for a question?

Mr. MONDELL. Yes.

Mr. STEPHENS of Texas. I desire to know the difference between this law which the gentleman proposes and the law as it now exists. What change is proposed, and why?

Mr. MONDELL. Mr. Speaker, at present if the department can prove in the case of any one of the 2,000 entrymen, who have made final proof and to whom certificates have been issued, but patent withheld, that there was good reason to believe that the land was valuable for coal before final proof, then the department can entirely dispossess that entryman. In the cases where proof has been offered and final certificate withheld, in the cases upon which proof is yet to be offered, if the entryman is unable to disprove the department's contention that the land is chiefly valuable for coal, then he loses all right to the land and his improvement. This bill simply provides that in any case where, subsequent to the location or the entry, the character of the land has been called into question the entryman may, if he so elect, accept a limited patent. It is the first legislation before Congress providing for a limited patent, or a patent reserving the mineral. It is necessary in the opinion of our committee by reason of the conditions that exist. In some instances the entryman will accept the limited patent without making an effort to disprove the department's allegation that his land is valuable for coal, because in some cases the entryman will not feel he can afford to pay the expense of contesting the case; but should the entryman in any particular case contest with the Government and the Government sustain its contention, he may still accept his limited patent.

Mr. STEPHENS of Texas. Is it not a fact that valuable minerals are reserved now to the Government?

Mr. MONDELL. No; that is not true. The patent having issued, the patent carries everything in the land with it, and the Supreme Court has decided in a number of cases that if the law be complied with in good faith and the entryman makes payment and final proof, thereafter the Government is barred from raising the question as to any mineral that may occur in the land.

Mr. STEPHENS of Texas. That applies also to oil and coal?

Mr. MONDELL. It applies to all kinds of minerals. In other words, the patents issued by the Government of the United States heretofore have been patents in fee.

Mr. STEPHENS of Texas. Could the gentleman better arrive at what he desires by only patenting the surface of the land and reserving all minerals, precious and otherwise?

Mr. MONDELL. That has been discussed at some length, and the Committee on Public Lands is not of the opinion that that ought to be done. We believe this is quite a sufficient departure from the past practice of the Government. The lands which this legislation will affect are lands which the department has claimed contain some coals of value.

Mr. STEPHENS of Texas. Is not this a step in that direction of issuing limited patents?

Mr. MONDELL. It is; and I trust it is as far as we will go in that direction.

Mr. STEPHENS of Texas. If it is a good law, why not go the full length and declare nothing passes except the surface?

Mr. MONDELL. Mr. Speaker, it is a good law for this reason: Coal occurs oftentimes under conditions that render it impossible for the settler to know in advance with regard to the presence of coal beneath the surface of the ground.

But if the Government clearly demonstrates before the entryman has earned a patent that the land is more valuable for coal than for agricultural purposes, the agricultural entryman can scarcely expect to secure a patent in fee, and in order that these coal lands, some of which will not, perhaps, be mined for hundreds of years, may not be reserved that length of time from settlement or cultivation or improvement when their surface is such as to make cultivation and improvement possible, in order that the development of the country may go on, in order that the entryman who in good faith has gone upon the land may not lose the improvements, the committee brought in this bill. It has been very carefully considered. We had some five or six meetings of considerable length in which every phase and feature of the question was discussed, and, in my opinion and in the opinion of a majority of the committee, the legislation is wise and ought to be passed. Mr. Speaker, I reserve the balance of my time.

Mr. GRONNA. Mr. Speaker, I yield five minutes to the gentleman from Minnesota [Mr. HAMMOND].

Mr. HAMMOND. Mr. Speaker, one of the provisions of this bill I think merits rather careful consideration, and that is that part of it referring to the damages that are to be paid to the

owner of the surface in case any attempt is made to prospect on the land for coal or to undertake mining operations afterwards thereon. I want to read the lines referring to the payment of damages:

The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal-land laws in force at the time of such disposal, but no person shall enter upon said lands to prospect for, or mine and remove coal therefrom, without previous consent of the owner under such patent, except upon such conditions as to security for and payment of all damages to such owner caused thereby as may be determined by a court of competent jurisdiction.

Now, I would ask the lawyers of this body just what is meant by the language that I have read. A reservation is made here and a right given to enable the holder of the reservation to obtain its beneficial use. The United States Government, or anyone under its direction, may go upon this land to do these several things: Prospect for coal, mine coal, remove coal from the land; but all damages caused thereby, to wit, by the prospecting, by the mining, by the removal of coal—all damages caused thereby must be paid, and before any attempt is made to do any one of these things such payment must be secured. Now, of course, it is not intended, and can not be intended, to reserve the right to take coal from the land, but to render the person taking such coal liable to damages for its removal and for mining it. The language is not well chosen. It is not a good piece of legislation. It is ambiguous and it is uncertain. If passed, in my opinion, the language will not express the intent of Congress. I am opposed to this bill. I think it should be clearly stated for just what these damages shall be paid—damages for injuries to the land affecting its use for agricultural purposes; damages for injuries to any improvements that may be upon the land. I do not think this criticism is too fine or too technical. It is better to define the things for which damages shall be paid than to use the broad general statement which gives rise to uncertainty.

The SPEAKER. The time of the gentleman has expired.

Mr. MARSHALL. Mr. Speaker, this measure has been undoubtedly thought out and worked out carefully by the committee, and it affords partial relief to a small percentage of our people; and, in view of that, there are some of us, perhaps, who will accept it as being the only thing that we can get at this time. The condition is this in my State, and I think it is in no wise different in other States affected by this legislation, except that, perhaps, a larger percentage of coal in North Dakota is not more valuable for commercial purposes than in the other States: Under the direction of the Geological Survey there have been withdrawn in North Dakota something over 100 townships. Patents are withheld where final receipts were issued before withdrawal, and proofs offered after the withdrawal are also held up. These 100 townships have not been classified; they are withdrawn pending classification; and where in a township there is a single quarter section supposed to contain coal, the whole township has been withdrawn, and patents and proofs within that township are all held up until each individual case can be investigated by the coal-land inspector.

And in every instance where proof is ordered a fraud charge is entered against the entryman, and in all several thousand of these cases are listed among the so-called "fraud-charge cases." I have the figures for my State, taken from the reports of the coal-land inspectors, which show that 80 per cent of them are found not to contain coal. Twenty per cent are reported by the inspectors as containing coal, and under existing law these entrymen are given a chance for a hearing, the burden of proof being put upon the settlers to show that there is no coal of commercial value under those lands. And I want to say to you, gentlemen—and I believe I make an absolutely conservative statement—that when all of this process has been gone through, not in 5 per cent of the cases will the Government be able to maintain their claims. I think 2 per cent is nearer right. Eighty per cent are put to serious inconvenience and annoyance and damage of waiting a year or more. Twenty per cent of them are put to the expense of a hearing that is almost intolerable. *And what is the result of all this? In 2, or at the most 5, per cent of the cases the Government may be able to show that there is coal of commercial value, and even in those cases the homesteader will in all probability have entered in good faith and is entitled to a full patent. I want to tell you this is a case of bad faith on the part of the Government with the honest homesteader that is well-nigh unbearable. If the Members of this House understood the conditions as I do, they would agree with me that every man who has entered his land in good faith, having complied with the law, is entitled to a full patent for these lands instead of a surface patent.*

Mr. PARSONS. Will the gentleman yield for a question?

Mr. MARSHALL. With pleasure.

Mr. PARSONS. Assuming that the coal under the lands is good, merchantable coal, then does the gentleman think the entryman ought to be entitled to get the coal as well as the surface of the land?

Mr. MARSHALL. Not if he knew there was coal there; but if his neighbors who entered before him got patents alongside of him, and he entered his land believing there was no coal, then there is no excuse for this Government (not having classified those lands) to take a home away from the man who has rightly earned it. Such cases as the gentleman from New York describes are very rare in North Dakota. I do not believe in the State there are 5 per cent of them. They are so few that there is no excuse for the withdrawal of this great body of land and thereby causing untold worry, inconvenience, and loss, and sometimes suffering to so many honest homesteaders.

Mr. MONDELL. I realize that the department has laid this obligation of defending their entries upon more people than they should have laid that obligation upon in the gentleman's State, but if the legislation does not pass, what is going to happen to your entryman who can not disprove the allegation?

Mr. MARSHALL. He will certainly lose his land, but I will reach that in a minute. Now, under the workings of this bill if it becomes a law, a report having come from the coal inspector holding that there is coal under the land, the entryman can take two courses. First, if he feels satisfied there is no coal under his land, or is too poor to pay the expense of a hearing, he can take a surface patent; second, he can have a hearing, and in the end, if it is held at the hearing that coal underlies his land, then this bill will save the land to that entryman, who would otherwise lose it; and if that were not the case, I certainly would not consider the bill with any favor whatever.

It will help a few people, and, so far as I am able to judge, the rights of those who accept surface patents are fully protected, as they are fully insured against damages of all kinds. *If I had an opportunity to offer an amendment to this bill under our rules, I would offer one in the words of the bill which I introduced and which has been pending before the Committee on Public Lands, providing that where entries had been made in good faith, and after full compliance with the law, full patents should issue.* I would also provide, if I had an opportunity to amend this bill, that the settlers should have the perpetual use of the coal for domestic purposes instead of during the time that the Government owns it, as the bill provides. This coal in our State amounts to nothing more than a little timber lot. I would rather have 5 acres of good timber than the coal on one of these average quarters in North Dakota.

I have always maintained that the Government committed a grave error when it did not classify these lands before entries were permitted, and it is doing a very great wrong in undertaking to classify them after so many entries have been made and gone to patent, and thereby discriminating between neighbors. It is a matter of common knowledge that practically all of these lands in North Dakota are very much more valuable right now for agriculture than for coal, and the department should so classify them and relieve the distressful condition.

I am thoroughly in accord with the great movement looking to the conservation of our national resources, but to undertake to classify lands with a view of reserving the coal after homesteaders have entered upon them in perfect good faith and complied with the law in every respect, and thereby acquired sacred rights to them, is a preposterous thing and, in view of all that has gone before, is, to put it plainly, bad faith. There are numberless cases where men have filed in good faith, say, five or six years ago, some having commuted in fourteen months and received their patents, while others adjoining them are now refused patents after five or more years of faithful residence and the expenditure of everything they could earn to make improvements. Can anybody justify this or cite a more flagrant case of bad faith on the part of the Government, whose business it is to protect and care for our homesteaders rather than to harass them or break faith with them?

If the department fails to relieve the situation, then it is the plain duty of Congress to pass my bill granting everyone who has entered in good faith a full patent after having complied with the homestead laws. *Our homesteaders demand full patents; they have rightly earned them, and they should have them. They are entitled to a square deal and expect the Government to carry out its part of the agreement in good faith, and that, too, without subjecting them to the annoyance, serious loss, long delays, and the heavy expense of unnecessary hearings.*

Mr. Chairman, I regret exceedingly that the short time allotted to me will not permit the presentation of the rights of our homesteaders more fully. In the absence of relief from

the department or from Congress there is only one thing for them to do, and that is to fight. My advice is for them to unite and make one or more test cases in each township, and, having won these, possibly the Government may withdraw its charges in the other case, or, at least, it will be easier to try them out. These cases will throw light on the subject and do much to bring the Secretary of the Interior to a full realization of our conditions, and, having this, I am confident the Secretary will do everything in his power to relieve our conditions.

The question of the legal status of a surface patent, which is raised by this bill, is so entirely new in North Dakota that I desire to print in the RECORD a letter from Hon. George Otis Smith, Director of the Geological Survey, but in doing so I do not desire to assume responsibility for or sympathy with any statement in the letter, but am simply submitting it for what it is worth to those who might be interested:

DEPARTMENT OF THE INTERIOR,
UNITED STATES GEOLOGICAL SURVEY,
Washington, February 6, 1909.

Hon. THOMAS F. MARSHALL,
United States House of Representatives.

MY DEAR MR. MARSHALL: Continuing a recent conversation with you regarding the separation of surface and mineral rights, in which you expressed the opinion that if only the surface rights were given to the settler, banks and others loaning money would not consider this sufficient security on which to advance the funds which the settler needs for his improvements, for the reason that the reservation of coal or other minerals would be a cloud on his title.

It is my opinion, after a careful consideration of the law and of the practice in this and other countries, that this danger is fanciful rather than real. The apprehension that a reservation of minerals is a cloud on the title arises from the consideration of certain mining agreements, which include both surface and mineral rights; in these cases the mining company acquires not only the mineral but so much of the surface as may be needed in connection with mining operations. This is clearly a cloud on the title of the surface owner, for the simple reason that he has parted with a portion of his surface rights. This question is entirely apart from the fact that he has parted with mineral rights. It is not essentially different from permission to erect a factory on a piece of land. This right to erect a factory is clearly a disposal of certain rights in the surface, which can not be disposed of again so long as the right of the factory owner to occupy the ground exists. The right "to use so much of the surface as may be needed for mining" is a great cloud on the surface title, so great that it may extend to the extinguishment of the right to any of the land, and a property so encumbered would naturally not be considered as of any value as a security by a carefully managed loan company.

The case is entirely different when the ownership of the minerals is entirely separated from the ownership of the surface. The owner of the surface has no right to the minerals; the owner of the minerals has, on the other hand, no right to the surface. Under this condition the mineral is, according to numerous court decisions, a separate piece of real estate. Commenting on this, Barrows & Adams, in the Law of Mines and Mining of the United States, state.

"Although minerals undisturbed * * * usually belong to the owner of the soil, they are capable of separate ownership and distinct possession. When there is such a severance of estates, the minerals are *real estate*, constituting a separate corporeal hereditament capable of distinct inheritance and conveyance. *There may be a further separation of the different strata, or of minerals of different kinds, each of which may have a different owner and constitute a distinct estate in land.*"

Among the court decisions are the following:

Adams *v.* Briggs Iron Company (7 Cush., 366, Mass.): "It is well settled that there may be a separate estate in mines and ores distinct from that of the land. There may be a severance of mines and a distinct estate and interest in them by grant or reservation. *When so severed, and thus are constituted a distinct estate, mines are regarded as real estate, and the general laws regarding real estate will apply to them.*"

In Caldwell *v.* Fulton (31 Penn., 475) the court held that "coal and minerals in place are land and may be conveyed as such."

In Caldwell *v.* Copeland (37 Penn., 427) the court stated that "mines are land and subject to the same laws of possession and conveyance."

In Logan *v.* Washington Co. (29 Penn., 373) the rule was laid down that "where the owner of the coal land has sold the coal under his land to another, *the owner of the land and the owner of the coal are each subject to a tax on real estate;*" and in Brown *v.* Corey (43 Penn., 495) the court laid down the rule that "proceedings may be had against the owner of a stratum of coal as contradistinguished from the owner of the surface to obtain an underground right of way."

In Powell *v.* Lantzey (173 Penn., 543) the court further adds: "*The owner of the mineral estate is neither a tenant in common nor a joint tenant with the owner of the surface; each has a separate estate.*"

I cite particularly from the Pennsylvania cases, for the reason that they involve matters of separation of coal from the surface and refer to a region where the separation of surface and mineral rights has been fully tried.

You can see the correctness of my position and the force of these rulings by considering the well-known fact that the owner of one piece of real estate may not injure an adjoining piece of real estate by undermining the wall along the common property line without being liable for damages. The fact that a piece of property is on a hillside and the retaining wall surrounding it may some time be undermined by the adjoining property owner is not considered by a loan company in the nature of a cloud on the title. The loan company knows, and everyone else knows, that while the owner of the lower property may so grade his land that he may undermine the retaining wall on the line between the two properties, the law requires that the lower property owner make good the damages to the man higher up the hill; so, if the law in the case of separation of surface and mineral rights provides that the owner of the mineral rights may only work them on payment of full compensation for damages to the owner of the surface, the interests of everyone are fully protected, and it can not be considered, even with the greatest stretch of the imagination, that there is any cloud upon the title of the surface owner.

The right of the mineral owner to develop his property (the mineral estate) on payment of compensation for damages to his adjoining property owner (the surface owner) to be determined by proper authority, is no greater cloud on a title than the right which to-day exists throughout the United States under which a railroad may appropriate private land for its own use on payment of full damages. A loan company would not refuse to accept a piece of property as security for the reason that it might some day be condemned for public use. This fact would really increase the value of the security.

A law which provides that patents shall be granted reserving to the Government all minerals and the right to use so much of the surface as is necessary to mine the same is clearly a cloud on the title of the surface owner, for the reason that it reserves not only the minerals but also a portion of the surface. Such a law should be strenuously opposed by you, for the reason that it will harm your constituents, and in objecting to a general law in this matter they evidently have such a law in mind. *But a law which gives the surface entirely to the agriculturalist and provides for full compensation for any damages resulting from mining, simply creates two pieces of real property without a cloud on the title of either.*

This is fully recognized throughout the eastern United States, particularly in the coal fields, where 90 per cent of the production comes from land where there is such a separation of surface and mineral rights. No question is here raised as to the suitability of a piece of property as a security for a loan when the complete ownership of the surface rests with the man seeking the loan. The fact that a new piece of real estate has been created by a division beneath the surface instead of upon the surface, as is more ordinarily the case, does not cloud the title of the absolute owner of either piece of real property.

I was just on the point of writing you, urging that, in my opinion, the only point needed to fully protect the interests of the citizens of North Dakota in the then pending Mondell bill was a provision that the owner of the surface should have the right to mine coal for use on the land for domestic and farm purposes, when I received the amended draft of the Mondell bill containing this provision, and I, therefore, delayed my letter until I could fully advise you on this matter of separate estates in the surface and minerals beneath it.

Yours, very truly,

GEO. OTIS SMITH, *Director.*

Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. GRONNA. Mr. Speaker, I now yield two minutes to the gentleman from Colorado [Mr. BONYNGE].

Mr. BONYNGE. Mr. Speaker, it is with a great deal of reluctance that I oppose the passage of this bill. It is with reluctance, because the situation described by the chairman of the Committee on Public Lands is one crying aloud for relief, and for the further reason that I realize that the Committee on Public Lands has given to this question very careful consideration. I, however, am so firmly and thoroughly opposed to the new policy that is intended to be inaugurated by the passage of this bill, namely, the segregation of the surface from the other rights in the land, that I can not give the bill my support. It is said by gentlemen here that in not more than 5 per cent of these cases will the Government be able to sustain its contention that the land is coal land. Mr. Speaker, under such circumstances I think we ought not, in order to reach these few cases, to enter upon this new policy. I do not know just what relief ought to be given to these people, but it does seem to me there ought to be some way found by which when the entryman makes his final proof he can have it at once for all determined whether it is coal or agricultural land. If it is agricultural land, the entryman ought to get full patent for the land, and if coal land and known to be coal land, he ought not to get a patent at all to the coal land under an agricultural entry.

Mr. MONDELL. I want to ask the gentleman as to the suggestion made that a considerable number of entrymen would lose all their personal rights in homesteads.

Mr. BONYNGE. It would be so in a small number of cases. I agree with the gentleman in the statement that in not more than 5 per cent of these cases will the Government be able to prove that it is coal land and not agricultural land that has been entered, and to cover those few cases I do not think it would be wise to enter upon such a new and untried policy.

Mr. MONDELL. Then the gentleman misstates me.

Mr. MANN. He carefully refrained from giving that information.

Mr. BONYNGE. I may have been mistaken. It may have been the gentleman from North Dakota who made the statement that in not more than 5 per cent, and perhaps not in more than 2 or 3 per cent, of the cases would the Government be able to support its contention that it was coal land that was entered and not agricultural land, but I understood the statement to be made.

Mr. GRONNA. In my State. I yield one minute to the gentleman from California [Mr. SMITH].

Mr. SMITH of California. Mr. Speaker, in the space of one minute, of course, I can make no argument, but I invite the attention of the House to the very serious proposition presented in a case where the land contains coal. Neither the interests of the Government in the coal nor the interests of the farmer in

the surface are protected in this bill in the least degree. It is a very difficult matter to provide a law for the invasion of a farm by one who is not going in for a public purpose. If one man owned the coal and another man owned the surface, it requires much more legal machinery than is set out in this bill to allow a man to invade his neighbor's farm for a private purpose.

Mr. MANN. If that be the case, he can not invade it. That may be what this bill means.

Mr. SMITH of California. If one man owns the coal and mines for it, there would be no relief for the farmer, and no means of relief for any injustice that would be done him are to be found in the terms of this bill.

Mr. GRONNA. Mr. Speaker, I do not object so much to the provisions of this bill as I do to what it omits. In our State it does not give us the relief sought. There are to-day nearly 2,000 cases pending where the entrymen have, by complying with the law, earned title to lands that have afterwards been classified as coal lands. Mr. Speaker, I do not want to criticise or say anything against the system adopted or the methods pursued by the Government, because I realize fully as much as any Member of this House that we are living in an age when we want to conserve the mineral resources of our country. I am heartily in favor of reserving the coal where it is found in such quantities and of such a character as to have commercial value.

Now, Mr. Speaker, this bill provides, among other things:

That nothing herein contained shall be held to affect or abridge the right of any locator, selector, or entryman to a hearing for the purpose of determining the character of the land located, selected, or entered by him, and to a patent without reservation if the land shall be determined not to be chiefly valuable for coal.

Now, what does this mean? It simply means this: The Government has practically challenged every entry in certain parts of our State. Every homesteader or entryman must go to the expense of a contest before he can make final proof of his entry. The burden of proof is wholly on the entryman. There are thousands of acres of land in our State that are underlaid with low-grade lignite coal, coal of such low grade that it has no commercial value; a grade of coal that no man of any business ability would undertake to mine for commercial purposes, although it may be worth something to the settler as fuel for domestic purposes. As I said, no man with ordinary business sagacity would undertake to mine this coal for commercial purposes; wherever such attempts have been made they have failed.

As the law now stands the burden of proof is upon the entryman, and it will cost every entryman from $300 to $400 to carry on a contest against the Government and establish that the land does not contain any coal of commercial value. This law contains these same provisions.

Mr. MONDELL. The gentleman refers to the expense of the contest. The gentleman, of course, understands that that expense is now laid upon the entryman by the department, that it is not laid on him by this legislation; that so far as the legislation affects this situation the effect is in the nature of a release.

Mr. GRONNA. Yes; that is true.

Now, Mr. Speaker, it is not surprising that the homesteader of to-day, who feels that he is being prosecuted as a perpetrator of fraud, no matter how honest his intentions may be, looks back to the good old days when the homestead settler in the States farther east made his entry in the fertile valleys of those States, with forests above the surface and valuable mines underneath; mines valuable for both iron and coal, mines containing the best grade of coal, worth millions upon millions of dollars. The coal and other minerals were not reserved by the Government then; the entryman was given everything above and beneath the surface. In my opinion no objection should be raised now to giving bona fide settlers, who have located on 160 acres of land that is clearly agricultural land, full title to all that the land contains, although it may contain a substratum of lignite coal. I introduced a bill in this House (H. R. 27423) which provides—

That where public lands in the State of North Dakota have been entered in good faith for agricultural purposes under the homestead laws of the United States, and where full compliance with the requirements of the homestead laws is shown, final proof of such entries shall, when made in compliance with law, be accepted at the local land offices, and the Secretary of the Interior shall be required to issue patents for such lands, notwithstanding the fact that they may contain lignite coal.

Mr. Speaker, so far as my State is concerned there would be no danger of creating a monopoly in coal. It is true that lignite coal of a low grade has been found there and is being mined to-day. It is true that we have a few mines containing workable coal, but in most of the cases where homestead entries have been suspended, I will say that, in my judgment, in 90 per cent of the cases where the entries have been suspended patent will ultimately issue without any reservation whatever. In my opinion, the entryman has a right to the land in cases like these, because he earned a patent by entering the land and fulfilling all the requirements of the law before the land was classified as coal land.

The man with limited means, the homestead settler, has been the pioneer; he has paved the way for those more fortunate as regards means and money and made it possible for them to follow. Not only that, but these sturdy pioneers have always been found to be as patriotic and willing to make sacrifices for their country as any other class of citizens. And there is no valid reason why the homesteader of the present day should be discriminated against any more than there was in former days.

Mr. Speaker, I want to say that I tried to have this bill that is now pending amended in the committee so that it would give the entryman preference right to purchase the coal where the land proved to be coal land. I also offered another amendment, as follows:

That unless the Government shall have established within five years from the date of issuing patent to the surface that the land is chiefly valuable for coal, a patent in fee, without any reservation, should issue to the entryman.

I realize, Mr. Speaker, that I can not be permitted, under the rules, to offer these amendments at this time; and while I feel that the bill does not contain what in my judgment it should, nor give the settlers in our State the relief that they should receive, I shall vote for it, as at least it takes nothing from them, but will permit them to take patent to the surface provided they may so elect, which I would not advise the entrymen of my State to do, because I believe they are entitled to a full patent of fee title, without any reservation whatever, and I presume that a contest to establish the agricultural character of the land will have to be carried on at the settler's expense.

Mr. MONDELL. Mr. Speaker, how much time have I remaining?

The SPEAKER. Four minutes.

Mr. MONDELL. I yield two minutes to the gentleman from Oklahoma [Mr. FERRIS].

Mr. FERRIS. Mr. Speaker, the measure under consideration is not a bill that affects the people of my State in any way, but it is a matter that received careful consideration at the hands of the Public Lands Committee.

I very much dislike to differ in any manner from my colleagues on the committee, but it is my honest and faithful impression that they have a wrong conception of what this bill does. I favor the majority report and the passage of this bill for two reasons. First, I believe it helps the settler; second, I believe it reserves the right in the Government of the United States to save the coal and mineral deposits that they now possess. The difficulty that necessitates this legislation comes by reason of departmental withdrawal of lands from the public domain. The department, in their judgment, from time to time have withdrawn large tracts of land and denominated them mineral, coal, or asphalt lands, as the case might be.

In some instances they have reserved land that is not in truth and fact coal or mineral land. This bill reserves to the Government of the United States the mineral wealth where it does exist and permits the agricultural entryman to obtain and perfect his right to the surface, and it is my belief when an agricultural entryman enters land for agricultural purposes and it is found to be in truth mineral land, that is all he is rightfully entitled to. It never has been the province or intent of the public land law that an agricultural entryman going upon land to secure a home for himself should at the same time acquire mineral rights thereunder.

The measure in the event of conflict of rights enables the settler to acquire the surface and thereby carry on agriculture, and at the same time reserves inviolate to the Government the minerals, coal, or asphalt, as the case may be. It is not too much for an agricultural entryman to concede. It is not too much caution and prudence for the Government to exert. I hope the rule may be suspended and the bill passed.

Mr. MONDELL. I yield one minute to the gentleman from Alabama [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, undoubtedly this bill ought to become a law. As I understand it, there are some 2,000 applications on file now upon which proof can be made; but if this bill is not passed, and the man who has made his proof is not financially able to maintain a contest with the Government as to whether there is coal under his land or not, then he must lose his land, because it has been classified as coal land.

Now, to the objection made by the gentleman from Minnesota [Mr. HAMMOND], I say that if a third party goes in upon the

surface of land which has been granted to an applicant under this bill, and wants to prospect for, mine, or remove coal from that land, he ought to pay all damages done by him to the surface and improvements in such prospecting, mining, or removal. The bill provides that the party wanting to go in and prospect for, mine, or remove the coal must get the consent of the owner of the surface. If he does not succeed in getting that consent, then either party, as I take it from the language of this bill, may go into a court of competent jurisdiction and leave it to the court to say what damage will be done by the operations which are to be begun and carried out and what security is necessary under the circumstances of the case to protect the owner of the surface of the land. I say it is eminently just and right that it should be so.

Mr. MARTIN. I should like to ask a question of the gentleman from Wyoming. Has the gentleman considered the propriety of changing the burden of proof, in the latter part of the paragraph? At present it would give the patent without reservation if the land shall be determined not to be chiefly valuable for coal. Would it not be better, instead of requiring him to prove a negative, to change the word "if" to "unless" and strike out the word "not," so that it would read "and to a patent without reservation unless the land shall be determined chiefly valuable for coal?" In other words, to put the burden where the law always puts it—upon the one seeking to establish the existence of the fact. It seems to me you now put the burden of proving a negative upon the entryman.

Mr. MONDELL. Mr. Speaker, I am rather of the opinion that the bill as it reads does not throw the burden of proof upon the entryman. Under the amendment as suggested by the gentleman it would perhaps throw the burden of proof rather more definitely on the Government, and I doubt whether it would be wise to do that in view of the fact that except by expensive drilling it would not be possible in some instances to absolutely determine the fact.

The SPEAKER. The gentleman's time has expired, and all time has expired.

Mr. MONDELL. I wish to call attention to the amendment that I offered in line 19.

The SPEAKER. The amendment was incorporated in the gentleman's motion. The question is on the passage of the bill.

The question was taken; and two-thirds having voted in favor thereof, the bill was passed.

The title was amended.

UNITED STATES NAVAL ACADEMY BAND.

Mr. DAWSON. Mr. Speaker, I ask unanimous consent that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill (H. R. 4521) to reorganize and enlist the members of the United States Naval Academy Band, and that the same be now considered.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Naval Academy Band shall consist of one leader, who shall have the rank, pay, and allowance of a second lieutenant in the Marine Corps; one second leader, with pay at the rate of $50 per month; 29 musicians, first class, and 11 musicians, second class; and shall be paid from pay of the navy.

SEC. 2. That the members of the Naval Academy Band as now organized shall be enlisted in the navy and credited with all prior service of whatever nature as members of said band, as shown by the records of the Naval Academy and the pay rolls of the ships and academy; and the said leader and the enlisted musicians of the band shall be entitled to the same benefits in respect to pay, emoluments, and retirement arising from longevity, reenlistment, and length of service as are, or may hereafter become, applicable to other enlisted men of the navy.

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, I would like to ask the gentleman if this bill recognizes the existing band at Annapolis?

Mr. DAWSON. Yes.

Mr. MANN. I notice in the bill in one place it provides for a leader who shall have the rank of a second lieutenant.

Mr. DAWSON. I intend to offer an amendment striking out the word "rank." The leader of the band at West Point is without rank, although he has the pay and allowance of a second lieutenant, and the same is true of the Marine Band. It is my intention to offer an amendment striking out the word "rank."

Mr. MACON. Will the gentleman yield?

Mr. DAWSON. Certainly.

Mr. MACON. Does this bill entail any increase of salary?

Mr. DAWSON. Very slight. The bill increases the number of enlisted men in the navy. It provides that the band at Annapolis shall be made up of enlisted men, the same as other bands, both in the army and the navy. For some reason that band has stood alone and occupied an anomalous position for a number of years.

I will put into the RECORD the report of the committee on the bill, and also a recent letter from the Secretary of the Navy. They are as follows:

The Committee on Naval Affairs, to whom was referred the bill (H. R. 4521) to reorganize and enlist the members of the United States Naval Academy Band, having had the same under consideration, report the same to the House with the recommendation that it do pass with the following amendment:

Strike out all after the enacting clause and insert in lieu thereof the following substitute:

"That the Naval Academy Band shall consist of 1 leader, who shall have the rank, pay, and allowance of a second lieutenant in the Marine Corps; 1 second leader, with pay at the rate of $50 per month; 29 musicians, first class, and 11 musicians, second class, and shall be paid from pay of the navy.

"That the members of the Naval Academy Band as now organized shall be enlisted in the navy and credited with all prior service of whatever nature as members of said band, as shown by the records of the Naval Academy and the pay rolls of the ships and academy; and the said leader and the enlisted musicians of the band shall be entitled to the same benefits in respect to pay, emoluments, and retirement arising from longevity, reenlistment, and length of service as are or may hereafter become applicable to other enlisted men of the navy."

This bill places the Navai Academy Band on the same footing, as near as may be, with the Military Academy Band at West Point. A similar measure was favorably reported to the House last year as a part of the naval appropriation bill, the same having been favorably recommended by the Secretary of the Navy.

The reorganization of the Naval Academy Band is strongly recommended by the Board of Visitors to the Naval Academy for the years 1906 and 1907, as will be seen by the following extracts from the reports of the Board of Visitors, as follows:

"The band of the academy is the only one in the service, and in fact in either service, which is not composed of regularly enlisted men. It is not known how this anomalous situation grew up, but it ought no longer to continue. The musicians are employed under civil-service rules, and their pay is insufficient. It has accordingly to be supplemented by contributions from officers and midshipmen which is a condition of affairs not at all creditable to the Government. Some of the musicians are of advanced age, and are now barely able to perform their duties. The entire band should be put on a proper basis. It should be composed of enlisted men and there should be as many enlisted men in the band at Annapolis as there are in the band at West Point. The leader of the band should receive sufficient compensation to secure and hold a man equal at least to the present incumbent. (Extract from Report of the Board of Visitors to the United States Naval Academy, 1906, p. 11.)

"The following recommendations are also unanimously made by the board for the reasons given: * * *

"That authority be given to enlist the Naval Academy band and make such changes in its size and in the compensation paid to the musicians and the bandmaster as may be required to put it on the same basis as the band at the United States Military Academy." (Extracts from the Report of the Board of Visitors to the United States Naval Academy, 1907, pp. 2, 4.)

NAVY DEPARTMENT,
Washington, January 5, 1909.

SIR: Referring to your letter of the 12th ultimo, requesting the views and recommendations of the department regarding the bill (H. R. 20389) "to equalize the rank, pay, and allowances of the bandmaster and sword master at the Naval Academy with corresponding positions at the Military Academy," you are informed that the department recommends that the pay and allowances of the sword master and the bandmaster at the Naval Academy be made to equalize those received by the sword master and bandmaster at the Military Academy, but does not recommend that rank be conferred upon them. The efficiency of these men would in no way be affected by conferring rank upon them. It should be noted that the leader of the Marine Band has the pay and allowances of a first lieutenant, United States Marine Corps, while the leader of the Military Academy band has the pay and allowances of a second lieutenant in the army; but at present they have not the rank of those grades. The sword master at the Military Academy, however, has, by act of March 3, 1905, the relative rank, pay, and allowances of a captain mounted.

Very respectfully,
TRUMAN H. NEWBERRY,
Secretary.

Hon. GEORGE EDMUND FOSS,
Chairman Committee on Naval Affairs,
House of Representatives.

The SPEAKER. Is there objection?

There was no objection.

Mr. DAWSON. Mr. Speaker, I offer the following amendment.

The Clerk read as follows:

On page 2, line 9, strike out the word "rank."

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

TRACHOMA AMONG THE INDIANS.

Mr. SHERMAN. Mr. Speaker, by direction of the Committee on Indian Affairs, I move to suspend the rules and pass the following House bill.

The Clerk read the bill, as follows:

A bill (H. R. 28164) for the investigation, treatment, and prevention of trachoma among the Indians.

Be it enacted, etc., That there be, and hereby is, appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated, the sum of $12,000, to be immediately available to enable the Commissioner of Indian Affairs to investigate, treat, and prevent the spread of the disease of trachoma among the Indians.

The SPEAKER. Is a second demanded?

Mr. MANN. I ask for a second.

Mr. SHERMAN. I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. Is there objection?

There was no objection.

Mr. SHERMAN. Mr. Speaker, it has recently been discovered that the disease of trachoma, a very serious disease of the eye and which is exceedingly contagious, frequently leading to blindness, is very prevalent among the Indians, particularly in some schools of the Southwest, and more particularly in the school at Phoenix, Ariz., where out of a total school population of 557 the specialist who has been called in consultation has discovered that 400 pupils are affected with the disease, and of the 54 employees 21 have the disease.

A cursory examination discloses the fact that the disease is also prevalent in certain other schools of the Southwest, and also on the reservations. It is a disease for the prevention of which in the immigrant service we are spending a great deal of money and exercising the utmost care for its prevention; and it seems that it is necessary with the Indian children to take special precaution against the further spread of the disease.

Mr. CLARK of Missouri. Will the gentleman allow an interruption?

Mr. SHERMAN. Certainly.

Mr. CLARK of Missouri. Is the disease indigenous to this country?

Mr. SHERMAN. No; it is not indigenous to any particular country.

Mr. CLARK of Missouri. Is not it an oriental disease that the Chinese brought in here?

Mr. SHERMAN. I do not know where it originated. It has been known in this country for some little time, but has been more prevalent during the recent years. Frankly, I can not answer the gentleman's question whether it originated with the Chinese or not. My impression is it did not.

Mr. BURLESON. And frequently occurs in public schools in the city of New York.

Mr. SHERMAN. Oh, yes; it occurs all over. I have known of acquaintances becoming infected with this disease from touching a doorknob, for instance, where one who had had the disease has passed through and touched it after rubbing the eye.

I have known of people taking it in street cars. It is a very virulent disease, contagious to an extreme degree, and frequently leads to blindness, and requires the utmost care to prevent contagion, and in a very large number of cases requires operation. It requires very great care in the way of nursing after the operation to prevent even more serious results.

Mr. STEPHENS of Texas. It is very prevalent among the Indians of the Southwest and among the lower class of Mexicans, and it is presumable that this is so on account of want of cleanliness.

Mr. SHERMAN. Of course, want of cleanliness aggravates any disease, particularly a disease of the eye.

Mr. MANN. If any gentleman desires time in opposition to the bill, I will be glad to yield it. Otherwise I do not care to consume any time.

The SPEAKER. The question is on the motion of the gentleman from New York to suspend the rules and pass the bill.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

INDIAN APPROPRIATION BILL.

Mr. SHERMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26916, the Indian appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the Indian appropriation bill, with Mr. LAWRENCE in the chair.

The CHAIRMAN. The Chair understands the time for general debate has expired. The Clerk will read the bill under the five-minute rule.

The Clerk read as follows:

To enable the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, to make investigations on Indian reservations and take measures for the purpose of preserving living and growing timber, and removing dead timber, standing or fallen; to advise the Indians as to the proper care of forests, and to conduct such timber operations and sales of timber as may be deemed advisable and provided for by law, $100,000, of which $10,000 shall be immediately available.

Mr. MANN. Mr. Chairman, I reserve a point of order on that. I would ask the gentleman how far it is intended under this provision for a Commissioner of Indian Affairs to enter into the business of lumbering.

Mr. SHERMAN. It is not intended for lumbering purposes. It is intended for the purpose of preserving the timber.

Mr. MANN. "And to conduct such timber operations and sales of timber as may be deemed advisable and provided for by law." Is it only intended to sell the timber itself?

Mr. SHERMAN. If I may, I will read what the commissioner says in that respect. He says:

I would say generally that it has been the effort of the Indian Bureau ever since I have been in there to try to cooperate with the other big bureaus of the Government, which bureaus the Government is maintaining at its expense, in order to get their particular expert knowledge to help us with reference to the various matters under their charge. The only alternative from that was for us to have a little forestry division and a little irrigation force and a little agricultural force, and so on. In that way we would have all little wheels within wheels, and a much more economical method would be, as we thought, to refer these questions to the different bureaus, and thus effect the same thing by turning the work of the bureaus to the larger ones which have been established by the Government for that purpose. We would simply take our service and place it in the hands of some bureau which had been established for the purpose of handling that particular thing. This method would put the Indian on a basis where, when he became qualified, he would be on the same footing with other citizens, receiving assistance from the same source.

In the case of forest reservations we found that we were continually in hot water over lumbering contracts in the administration of Indian forest lands. We considered, in view of the much more economical way in which that could be handled by a bureau having the proper machinery with which to do it in the fields, by saving in the details and in the expense of getting up the expert knowledge that would otherwise have to be done by the Forest Bureau, which we are now handling in a rather blundering sort of way. In order to do that we would have to increase in a considerable way the expenses of the Forestry Service by getting an increase of this appropriation. By this change we can keep our men on Indian work proper and have the Forest Service do this essential work.

Mr. MANN. It is intended, I take it, to have this work done through the Forestry Service?

Mr. SHERMAN. That is as I understand the commissioner.

Mr. MANN. I withdraw the point of order.

The Clerk read as follows:

That any moneys appropriated in this act for the general incidental expenses of the Indian service in certain States and Territories, including traveling expenses of agents, which are not needed in the particular States or Territories for which provided may be used for the same kind of expenses elsewhere, in the discretion of the Secretary of the Interior.

Mr. MANN. Mr. Chairman, I reserve the point of order on that paragraph. Just what is the object in making appropriations for specific States and Territories? It means nothing.

Mr. SHERMAN. It does mean something. In each individual case an appropriation is made about what it is thought is necessary to cover the expenses of that case. Every now and again it will occur that in a particular State quite a portion of the appropriation is not used. In another State it will occur that the full appropriation is not quite adequate to meet the requirements, and it will differ from year to year because of unforeseen exigencies that might arise, and this provision makes possible——

Mr. MANN. Does not the gentleman think there ought to be some limitation in the amount——

Mr. SHERMAN. I do not thnk so.

Mr. MANN. It is customary where we provide for transference to say not over 10 per cent, or some per cent.

Mr. SHERMAN. These are small appropriations, anyhow, that are for general incidental expenses. It is not a large sum appropriated for gratuities, for support and civilization, and that sort of thing. These are small amounts appropriated for incidental expenses in the several States, and the whole thing together amounts to less than $100,000.

The CHAIRMAN. The Chair understands the point of order is withdrawn, and the Clerk will read.

The Clerk read as follows:

INSPECTORS.

For pay of two Indian inspectors, who shall be engineers, one to be designated as chief, competent in the location, construction, and maintenance of irrigation works, one at $2,500 per annum and one at $3,500 per annum; in all, $6,000. For traveling expenses of two Indian inspectors, at $3 per day when actually employed on duty in the field, exclusive of transportation and sleeping-car fare, in lieu of all other expenses now authorized by law, for incidental expenses of negotiation, inspection, and investigation, including telegraphing and expense of going to and coming from the seat of government, and while remaining there under orders and direction of the Secretary of the Interior, for a period not to exceed twenty days, $3,800.

Mr. MANN. Mr. Chairman, I move to strike out the last word. The bill carries two Indian inspectors as against eight of last year, as I understand the other six are transferred to the legislative, executive, and judicial appropriation bill.

Mr. SHERMAN. That is correct.

Mr. MANN. This bill has never provided that these Indian inspectors should be appointed by and with the advice and consent of the Senate, although I believe that has been at times, if not always, done, whereas the distinguished gentleman from

Massachusetts, whose absence I regret, the chairman of my beloved Committee on Reform in the Civil Service, a member of the conference committee, has brought into the House a conference report, which, violating all the principles of the civil-service law, proposes to have these six new Indian inspectors, or six new inspectors, appointed by and with the advice and consent of the Senate, making them absolutely the patronage of certain distinguished gentlemen, citizens of the United States, holding official positions in this Capitol. When that conference report comes before the House I hope I will have the opportunity to call attention to this violation to what seems to me the proper ethics of the situation, together with some other violations also in the conference report. I withdraw the amendment.

The Clerk read as follows:

TRUXTON CANYON SCHOOL.

For support and education of 100 pupils at the Indian school at Truxton Canyon, Ariz., and for pay of superintendent, $18,200; General repairs and improvements, $3,000.

Mr. McLACHLAN of California. Mr. Chairman, at the end of line 6, page 13, I desire to offer an amendment.

Mr. SHERMAN. Following what line?

Mr. McLACHLAN of California. Line 6; I desire to increase the amount. The amendment I suggest is: "Balance due James H. Owen on contract for erecting buildings, etc., $930."

The CHAIRMAN. The gentleman from California offers an amendment, which the Clerk will report.

The Clerk read as follows:

After line 6, page 13, insert:
"Balance due James H. Owen on contract for erecting buildings, etc., $930."

Mr. MANN. Mr. Chairman, I reserve the point of order.

Mr. SHERMAN. Mr. Chairman, the gentleman from Illinois was good enough to reserve the point of order. I would be glad for the gentleman from California to give some explanation of his amendment.

Mr. McLACHLAN of California. This amendment is for the balance due on a contract for the erection of some buildings by Mr. Owen. In 1906 he erected certain buildings at this school and constructed certain irrigation works there. The contract amounted, I believe, to $23,000 for all this work. In the contract which he took with the schools there was a provision that if the work was not completed within a specified time there should be a penalty of $30 a day for every day over the specified time.

Mr. SHERMAN. May I interrupt the gentleman right there? Is this the contract under which the Indian Office attempted to hold a penalty and found that they were unable to do so?

Mr. McLACHLAN of California. That is right; on a technicality.

Mr. SHERMAN. Is this a contract where the Indian Office in a report to the committee states that the man performed his contract in good faith, rendered good service, but that owing to some delay of the railroad he was unable to get his material there in time, and therefore attempted to waive it?

Mr. McLACHLAN of California. Yes. The facts are that he was not able to complete his contract within the specified time, for the reason that this was in 1906, when we all know the railroads were glutted with business and it was impossible to deliver goods on time. All the facts show that this contractor did his work faithfully according to contract; that the delay was caused not by his own acts, but it was impossible to avoid. And the Department of the Interior, realizing that he had done his work properly and faithfully, tried to find some way of paying this man, but concluded that technically they could not do it, inasmuch as the $30 a day was considered as liquidated damages, and the department claimed on that technicality that they had no right to waive that provision.

Mr. STEPHENS of Texas. This is a penalty for failing to comply with a contract at a certain date?

Mr. McLACHLAN of California. Yes, sir.

Mr. STEPHENS of Texas. And the penalty amounts to the sum that the gentleman has stated there? Did the Government collect that amount?

Mr. McLACHLAN of California. It retained that amount out of the contract price, and I am asking now that the Government pay this.

Mr. STEPHENS of Texas. I had a case of this character. In fencing the forest reserve in the Comanche country there was quite a hard contract made with the individuals who made the contract, and they lost quite a lot of money on it. They put in their claim for reimbursement in the shape of a bill which I introduced for them in this Congress, and it was sent to the Committee on Claims, and I have been unable to get a report thereon. I thought at first that it was on all fours with the claimants' case in my bill, but I find that it is not.

Mr. McLACHLAN of California. This bill has been before the Senate, and has passed that body. There is also a bill pending here in the House that has not yet been acted upon. It is a just claim, long since overdue.

Mr. COX of Indiana. What work was this contractor engaged in?

Mr. McLACHLAN of California. To erect buildings for this school and to build certain irrigating works connected with the school.

Mr. COX of Indiana. Build a schoolhouse?

Mr. McLACHLAN of California. I do not know whether it was a schoolhouse or not, but it was some building connected with the school.

Mr. MANN. Mr. Chairman, I think the item is subject to a point of order. It seems that under an appropriation the Interior Department advertised for bids for the construction of buildings at this Truxton Canyon school, requiring that the work should be completed by some time—I think the 1st of December of the year in which the advertisement was made, several years ago. The contract was to be some $23,000. It was entered into for that amount, providing for the completion of the work by the date named in the contract—I think December 1, or thereabouts—with the stipulation that $30 liquidated damages, and not as penalty, should be deducted for each day that there was delay. Now, the gentleman claims that delay was made because the railroad did not furnish the material in time, and I have no reason to doubt the claim. If the gentleman had completed his work in time, he probably would have made a very large profit, because it is evident, I think, from the facts in the case, that he has suffered by reason of delay a considerable loss in excess of the $900 which was retained by the Government. So that he took his chances on making a large profit on his contract, or making no profit, or on making a loss. If the gentleman had made a profit he would not have offered to return any of it to the Government.

Now, such cases are familiar. Perhaps under the rules laid down by the Committee on Claims they would allow a case like this. I do not undertake to say. A number of these cases have been reported into the House and a number of them passed, but the rule adopted in reference to such a case should be uniformly applied to all contractors under similar conditions.

Mr. STEPHENS of Texas. Does the gentleman yield? Does not he think that there is a difference in a contract, where time is the essence of the contract, for a building to be completed in a specified time?

Mr. MANN. That is this case. Time was the essence of the contract.

Mr. STEPHENS of Texas. In what respect was the United States damaged?

Mr. MANN. The United States was damaged in this respect——

Mr. STEPHENS of Texas. You have a quid pro quo for services? The fact that they advertise for bids for this work to be completed within a very limited period of time, much more limited than is usual to take, they knew they had to pay a higher price to get the work done than they would have if they had given more time. Whenever a contractor has a very limited time to complete his job we know he must pay higher prices than when the work is leisurely done. I think the item is subject to the point of order because the auditor and comptroller have ruled that it can not be paid under existing law, and hence there is no authority of law; and I must insist upon the point of order.

The CHAIRMAN. The amendment proposed by the gentleman from California provides for an appropriation to pay what appears to be a claim against the Government. It seems to the Chair it is clearly a deficiency item, and not in order upon the Indian appropriation bill. The Chair therefore sustains the point of order.

The Clerk read as follows:

SHERMAN INSTITUTE.

For support and education of 500 Indian pupils at the Sherman Institute, Riverside, Cal., and for pay of superintendent, $86,000.

Mr. SHERMAN. Mr. Chairman, I offer the following amendment:

The Clerk read as follows:

Page 13, line 24, strike out the words "five hundred" and insert in lieu thereof the words "five hundred and fifty;" and page 13, line 26, strike out the words "eighty-six thousand dollars" and insert in lieu thereof the words "ninety-four thousand three hundred and fifty-seven."

Mr. SHERMAN. Mr. Chairman, this is an increase in the number of pupils appropriated for at that school by 50. The

average number in attendance last year was 577, although but 500 were appropriated for. At this time there are over 600 students, and the students are largely from California. More than half of them are full-blood Indians. It is a very popular school; it could not be otherwise, considering its name, let me say, anticipating the gentleman from Illinois. [Laughter.]

Mr. MANN. I would like to ask the gentleman whether this rapid increase would keep up as long as it bore the name of the gentleman who so highly honors the school by its having his name?

Mr. SHERMAN. I assume, if I were as modest as the gentleman, I would answer the gentleman untruthfully; but, being truthful as well as modest, I must say it always will. [Laughter.]

Mr. MANN. I hope we will always have plenty of money to keep it up. [Renewed laughter.]

The question was taken, and the amendment was agreed to.

Mr. SULZER. Mr. Chairman, yesterday was the eleventh anniversary of the destruction of the *Maine* in the harbor of Habana. That event made history, wrote a glorious chapter in our annals, and changed the map of the world. More than a decade has now come and gone since that tragic event occurred, and as yet nothing has been done by the Government of the United States to raise the wreck of the *Maine*, and to bring home and bury, with military honors, in Arlington Cemetery, the remains of the sixty-odd brave and gallant sailors entombed in that hulk in the muck and slime of Habana Harbor.

The records in the Navy Department show that 231 men were killed when the *Maine* was blown up; that 24 bodies were immediately recovered and buried in Key West, Fla.; that later 144 bodies were recovered and buried in Habana; that these bodies were subsequently brought home and buried in the national cemetery at Arlington; that at least 63 bodies were never recovered or accounted for, and are now entombed in the wreck of the *Maine*. For some inexplicable reason the *Maine* has never been raised and these bodies of the nation's heroic dead recovered and brought home for burial. Our dereliction in this matter is little less than a national disgrace. It is becoming a big black blot on our boasted patriotism. Public sentiment has demanded for years that the wreck of the *Maine* be raised; that the truth of her destruction be told; that the derelict be removed from the channels of commerce; that the bodies of these brave sailors who sacrificed their lives on the altar of their country be recovered and brought home and decently interred in the national cemetery.

Sir, for several years past I have endeavored in every way in my power to have something done about this deplorable matter, but thus far without success. Long ago I introduced a resolution which passed the House unanimously, calling on the Secretary of the Navy for information as to the cause of delay. The Secretary of the Navy sent to the House of Representatives, in compliance with that resolution, some data which was printed as a House document and is now before the Congress. In that document the Secretary of the Navy makes the following statement:

The best information at the command of the Navy Department respecting the probable cost of the removal of the wreck of the *Maine* and the burial of the dead now lying in the hulk of that vessel, with regard to which inquiry is made in the resolution of the 10th instant, is afforded by an examination of the expenditures actually incurred in the attempt to accomplish those objects and in their partial achievement under the appropriations above cited.

It is a matter of record and tradition that when in February, 1898, this work was undertaken representatives of the wrecking companies visited the Department and suggested that on account of the peculiar circumstances under which the vessel was sunk, the nature of the work, and the conditions existing in the harbor at the time, it would be extremely difficult to name in advance any reasonable lump sum at which the task could be undertaken, or to give assurance that the vessel itself could be raised; and after full conferences it was determined that the work of recovering the bodies entombed in the ship and saving such portions of the armament and equipment as could be reached should be immediately entered upon, provision being at the same time made for the raising of the vessel if found practicable.

I now read in this connection a letter from the Secretary of the Navy to the Secretary of State concerning the matter. It is as follows:

NAVY DEPARTMENT,
Washington, March 4, 1908.

SIR: Your letter of the 27th ultimo inclosing a translation of a note from the Cuban minister inquiring "whether the decision reached by this Government recognizing Cuba's rights in the matter of the wrecks of the *Alfonso XII* and *Maine* also applies to the wrecks of all the Spanish war ships destroyed during the war of 1898 in Cuban waters," was duly received.

In reply I have the honor to state that the Secretary of the Treasury, Mr. Shaw, in a letter dated January 9, 1903, said that the Treasury Department did not desire to take further action regarding wrecks in Cuban waters and "was inclined to the opinion that any authority or rights it may have had formerly may properly be considered as having lapsed in favor of the Government of Cuba." (Sec. 3755, R. S.)

On the contrary, however, the Navy Department (letter of July 1, 1902, to Mr. George Richardson, copy herewith, and in other correspondence) has taken the attitude that the disposal of the wreck of the *Maine* rests with the Congress, and that no Executive Department could give assurance of its abandonment by the United States. With respect to the wreck of the *Maine* and those of the Spanish war ships destroyed during the war of 1898 in Cuban waters, however, it may be added that the Navy Department is not now engaged in, and has not in contemplation, any work thereupon.

After correspondence on the subject, the Department of State, October 27, 1904, expressed the view that "in order to obtain a valid and effective disposition of the *Maine* wreck" the matter should appropriately "be settled by a convention with Cuba."

The Navy Department expressed its concurrence in this view; but it is understood that the action thus suggested has not been taken.

Very respectfully,

V. H. METCALF, *Secretary.*

THE SECRETARY OF STATE.

That letter and the report of the Secretary of the Navy made it clear to me that legislation was necessary to accomplish the object desired. Hence, on the 20th day of April, 1908, I introduced a bill which I now send to the Clerk's desk and ask to have read.

The Clerk read as follows:

A bill (H. R. 21176) to raise the wreck of the U. S. battle ship *Maine* in Habana Harbor, and remove the bodies therein to Arlington Cemetery for interment.

Be it enacted, etc., That the Secretary of the Navy be, and he hereby is, authorized and directed to forthwith prepare and publish proposals requesting bids for the removal of the wreck of the U. S. battle ship *Maine*, now sunk in Habana Harbor, and have the bodies therein brought to Washington for interment in the national cemetery at Arlington; and that the contract or contracts for the purposes herein specified shall be let to the lowest responsible bidder.

SEC. 2. That the President be, and he hereby is, authorized and directed to make the necessary arrangements, if any be necessary, for the purposes herein designated, with the Republic of Cuba.

SEC. 3. That any money now at the disposal of the Navy Department is hereby made applicable for the purposes herein specified, and if the same be not sufficient to carry out the purposes herein specified, then such sum of money as may be necessary to meet all the requirements of this act is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to carry out the provisions of this act.

SEC. 4. That this act shall take effect immediately.

Mr. SULZER. Mr. Chairman, that bill speaks for itself. It is now slumbering in the Committee on Naval Affairs, where it has been pigeon-holed ever since I introduced it. I have done everything in my power to get it reported, but thus far without success. I say now it should be speedily reported and passed ere this session of Congress adjourns. It will accomplish the object desired, and it meets with the approval of the patriotic people of this country. The delay has been disappointing to the friends of the *Maine's* heroic dead. I proclaim that the Government has been recreant in this matter. But I am not disheartened. I shall keep working for this legislation until the *Maine* is raised and the bodies of our dead sailors are brought home for interment. The fault is not mine. I have done, and I am trying to do, my duty. The fault is with the Naval Affairs Committee of this House. The members of this committee are to blame for the disgraceful neglect and delay. Yesterday being the eleventh anniversary of this tragical calamity, I tried to get the Speaker to recognize me, it being suspension day in the House, to make a motion to suspend the rules, discharge the Committee on Naval Affairs from further consideration of my bill, and pass the same. The Speaker refused to grant me recognition, although the Speaker recognized other Members on the floor for the purpose of calling up and passing bills far less commendable than my bill to raise the *Maine*, the enactment of which is demanded by our liberty-loving people from one end of the land to the other.

On the 28th day of January this year the President sent to the House of Representatives a special message in which he urged the Congress to take action in regard to the removal of the *Maine* from the harbor of Habana. The President says in his special message:

Governor Magoon, on the eve of leaving Cuba, has expressed the hope that the wreck of the battle ship *Maine* may be removed from the harbor of Habana. I trust the Congress will see the wisdom of this suggestion and will provide for the removal of the *Maine*. We should not allow the wreck of this historic ship to remain as a possible danger to navigation in Habana Harbor, for this is wise from no standpoint. An appropriation should be made for the removal.

But, sir, nothing is done. The Speaker and the Committee on Naval Affairs, for some inexplicable reason that I can not fathom, refuse to respond to the request of the President based on the statement of Governor Magoon, and neglect to report or act on my bill to remove the wreck of the *Maine* from the harbor of Habana and bring the remains of our sailors home to the land they loved and died for. What a shame! What a disgrace to America! What an object lesson of our neglect to every man in the navy of which we feel so proud! Let me read you a part of the statement of Governor Magoon made to the Cubans just before he left Habana. Governor Magoon said:

The wreck of the *Maine* continues to lie in the mud and waters of Habana Harbor. The sunken battle ship is a serious menace to the shipping of the harbor, as it occupies a portion of the best anchorage. The obstruction has increased annually during the last ten years by causing a shoal. The moderate tides prevailing in the harbor are hardly sufficient to prevent a gradual filling up, and this shoal seriously

interferes with the action of the tides, and therefore the entire harbor is rapidly filling. It will be necessary in a short time to begin dredging in order to provide proper anchorage for the large amount of shipping now entering the harbor unless the wreck is removed. The anchorage is also restricted by the wreck and the shoal, for ships are obliged to anchor at sufficient distance to prevent grounding in case they strain on their cables.

Even more important than this obstruction to navigation is the fact that this wreck, although it contains the bodies of sixty-three American seamen, or what is left of them, is apparently abandoned and forgotten by the Government and people of the United States. Thousands of Americans and other thousands of other nationalities annually enter the harbor of Habana, and probably not one omits to express regret and censure for the deplorable spectacle. It has become a national reproach and an international scandal.

The neglect to remove the wreck is attributed by many, especially the large Spanish contingent in Cuba, to the fear that its removal will disclose the fallacy of the popular belief that the *Maine* was destroyed by a torpedo or mine instead of an interior explosion. So generally does this opinion prevail that I believe the Cuban Government was deterred thereby from dealing with the wreck as an obstruction to navigation of its coastal waters and destroying it; however, it should be added that the Cuban authorities were also restrained by a belief that the United States would sometime desire to attempt to remove it and preserve the wreck as a whole instead of breaking it up and removing it in the more inexpensive manner.

The correspondence on file in the Department of State and the Navy Department at Washington shows that a belief prevails in those departments that it is necessary to secure, by a treaty or otherwise, the consent of the Republic of Cuba to the authorities of the United States entering the harbor of Habana and proceeding with the work of removal. This permission, if necessary, can be easily secured, and the Cuban Government would gladly afford assistance in its power to accomplish the desired result, not only because of the injury to the harbor facilities, but also because of the prompting of patriotism and sentiment. I earnestly recommend that the United States Government take immediate steps to accomplish the removal without further delay.

Mr. Chairman, I do not know just why the Committee on Naval Affairs refuses to take action in this matter. I have done my best to get my bill reported. I would like to have some reason for this delay. The patriotic press of the country rings with commendable editorials day in and day out in favor of this legislation. The Government has been derelict in its duty to these brave and gallant men. The Congress must act. The wreck of the *Maine* must be raised. The bodies of her heroic dead must be brought home. Gratitude commands it. Patriotism demands it. The *Maine* must be raised. Let us do our plain duty now. Let us be grateful. Let us be patriotic. Let us enact this legislation—lest we forget——

Mr. COX of Indiana. Has the gentleman from New York any data as to what it will cost the United States Government to raise the wreck of the *Maine?*

Mr. SULZER. I have.

Mr. COX of Indiana. How much do you estimate it will cost?

Mr. SULZER. Less than $50,000 according to competent experts, and I think the Navy Department has available now all the money that is necessary for the purpose—money that was heretofore appropriated. All that is necessary to do now is to pass my bill directing it to be done.

Mr. COX of Indiana. Has the gentleman any data as to the physical value of the *Maine* after it is raised?

Mr. SULZER. Possibly the old hulk will have no great monetary value save for scrap; but that is not the question. This matter is one of gratitude to those who died for their country—of patriotism—of sentiment—of all that makes a nation grand and great. It rises above the sordid question of dollars and cents. I say there are entombed in the hulk of the Maine the bodies of 63 brave and loyal sailors who died for their country, and the greater value is in the gratitude of the Government for which they offered up their lives; and if we do not do our plain duty in the premises we will be false to ourselves; false to our boasted patriotism; false to the demands of public sentiment now sweeping over the land, which insists that the Congress now legislate to remove the wreck of the *Maine* and bring these bodies home and bury them with their comrades in Arlington Cemetery. That is the duty of the hour—raise the *Maine*—lest we forget——

Mr. COX of Indiana. Can these bodies be recovered by diving?

Mr. SULZER. No, they can not. They are buried in the hulk of what is left of the *Maine*, and the wreck must be removed—raised—to get the bodies; and the old hulk should be removed because it is a menace to navigation, and the Cubans want it out of the way.

Mr. COX of Indiana. And the gentleman says there are still 63 bodies in the wreck of the *Maine?*

Mr. SULZER. Yes; at least that many, according to official reports.

Now, sir, during the Spanish-American war our battle cry was "Remember the *Maine!*" Have we forgotten that? Have we, forsooth, so soon forgotten the *Maine?* Should not every prompting of patriotism impel us not only to remember the *Maine*, but to raise the *Maine?* The veterans of the Spanish-American war, from one end of the country to the other, are very much in favor of action along the lines of my bill, and nearly every camp has passed resolutions favoring its speedy enactment into law. Our neglect of the dead sailors buried in the wreck of the *Maine* is a shame and a disgrace. The wreck of the *Maine* must be raised. The bodies of our gallant seamen must be brought home and interred with their ill-fated comrades in the national cemetery. Let us do our duty. Let us enact this law. Let us raise the *Maine*. Let us find out for all time if the *Maine* was destroyed by an explosion from within or without. Let the truth be known to all the world. I am not afraid of the truth. No true American is afraid of the truth. The raising of the *Maine* will forever dissipate doubt—forever clear the sky of history—forever be a credit to our heart, and our courage, and our manhood, and our patriotism, and our gratitude to our heroic dead. [Loud applause.]

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. SULZER. Mr. Chairman, I ask unanimous consent to print, in connection with my remarks, a few letters and newspaper comments regarding this matter.

The CHAIRMAN. Is there objection. [After a pause.] The Chair hears none, and it is so ordered.

The data follow:

[From the Newark Evening News, April 28, 1908.]

PRAISE FOR MR. SULZER—VETERANS INTERESTED IN HIS BILL TO RAISE THE "MAINE"—SENATOR COLBY'S LETTER.

To the Editor of the News.

SIR: Patriotic organizations, together with survivors of the civil and Spanish wars in this State, numbering something over 100,000, are deeply interested in association and individual effort to remove the wreck of the battle ship *Maine* and her dead to a final resting place under the flag which was honored by "the *Maine* and her men." Keenly recognizing the conspicuous national indifference and neglect of a decade in the matter of the sunken *Maine*, a deep sense of national pride and local patriotism have steadily worked together through the public press, and fraternal organizations, to initiate and support Congressional action, which has now taken encouraging shape and promise, in a bill just introduced by Congressman SULZER.

Thousands of survivors of the civil war, both Union and Confederate, congratulate Mr. SULZER for the introduction of this bill, and they stand ready, with a soldier's welcome, for the success of its purpose and provisions. The drift of sentiment, outside of this, may be seen in a letter from a distinguished State senator. It was written by Senator Everett Colby on April 18 last, and sent to Congressman SULZER. The letter follows:

"MY DEAR SIR: I want to add a word to the many you are receiving in favor of the movement to raise the battle ship *Maine*. Your efforts are indorsed by the veterans of our State, for whom I am glad to speak."

Thanking you in advance for giving space to this, I remain,

Yours, truly,

VETERAN.

ARLINGTON, *April 27, 1908.*

[From the Newark News, March 31, 1908.]

WOULD RAISE THE "MAINE"—NEGLECT OF SHIP AND THE NATION'S DEAD UNPARALLELED IN HISTORY OF NAVY.

To the Editor of the News.

SIR: Your valued editorial comment on the recent action of the Secretary of the Navy, in sending to Congress all information in the possession of his Department concerning the wreck of the battle ship *Maine* and the men who went down with her, is read with interest and appreciation in this State by the majority of those who are identified with patriotic and veteran organizations that was ever moved by an appeal to Congress and national honor in behalf of a famous ship and the nation's dead.

The national indifference to and neglect of the *Maine* since her "terrible taking off" is unparalleled in the history of our Army and Navy, and the repeated charges that the United States feared to face the facts, such as the wounds of the *Maine* would disclose, have been publicly charged and reiterated to such an extent that popular sentiment has almost surrendered to feelings akin to the humiliation of an apology to the perpetrator of a crime that shocked the civilized world. In this connection it is recalled that after the Cuban war was over and the details of peace were settled in Paris the Spanish commission said to our representative that "the United States had put a stigma on Spain in charging that Spaniards had wrecked the *Maine*, and they asked the privilege of raising the battle ship and proving that she was blown up from the inside." However, great credit is due to Congressman WILLIAM SULZER for his untiring efforts, up to and including the passage of his resolution in behalf of the *Maine* and its dead on the tenth anniversary of her destruction.

Survivors of the civil and Cuban wars, together with the membership of a patriotic organization numbering over 47,000 in New Jersey alone, are enthusiastic spporters of the movement to float the *Maine* and give proper sepulcher to her honored dead—to have them "brought home to sleep under the Stars and Stripes."

Yours, truly,

A. KING (Veteran 1862–1865).

NEWARK, *March 29, 1908.*

[Editorial from the New York Sun, April 29, 1908.]

THE SULZER BILL TO RAISE THE "MAINE."

Representative SULZER, of New York, has introduced a simple and effective measure designed to obliterate a national scandal and disgrace. Mr. SULZER's bill is now in the hands of the House Committee on Naval Affairs. It authorizes and directs the Secretary of the Navy to contract for raising the wreck of the battle ship *Maine* and removing the bodies found therein to Arlington Cemetery, to rest hereafter alongside others of the nation's dead. It authorizes and directs the President to make the necessary arrangements for this purpose with the Republic of Cuba.

There should be no partisanship of attitude toward the patriotic, just, decent, and necessary action proposed by Mr. SULZER. The bill represents the common interests and well-nigh unanimous desire of the American people. We are informed that eminent Republicans, as well as Democrats, from this and other States are hastening to assure Mr. SULZER of their approval and support. The sentiment of the veterans, both Union and Confederate, and likewise of the blue and the gray that blended in the Spanish war, is strongly enlisted in the movement.

How could it be otherwise? The thought of those neglected and forgotten bones in Habana Harbor is argument enough. Shall Decoration Day of 1908 pass with the Sulzer bill not yet enacted?

[Editorial from the Albany Argus, March 14, 1908.]

THE WRECK OF THE "MAINE."

Speaking of the resolution offered by Representative WILLIAM SULZER, of this State, asking the Secretary of the Navy to give his opinion to the Congress on the right of the Government of the United States to raise the wreck of the battle ship *Maine* and clear the harbor of Habana of the obstruction, the Cincinnati Commercial Tribune, in an interesting editorial comment, says:

"It is altogether probable that Congresssman SULZER, with his colleagues of the House, is fully advised of the rights of the United States in the premises. The raising of the wreck might revive the old question of its destruction by connivance or by direct instructions from the Spanish Government, or by an explosion which came from within the *Maine* and from causes over which the Spanish Government did not and could not control. That the wrecking of the *Maine* precipitated hostilities is not to be doubted, neither is it to be doubted that hostilities between the two countries were inevitable and would have come about even if the *Maine* had steamed safely out of the harbor where she never should have been sent. That the explosion was due to connivance or to direct instructions of the Spanish Government is not believed to-day. If the explosion came from the outside, it was the work of Spanish scoundrels determined to bring on the war or the work of hot-headed Cubans who saw in the certainly of war their certainty of independence. But apart from all questions of that nature, the wreck of the *Maine* should be cleared from Habana Harbor and the causes of the explosion determined if they are possible of determination. It is not altogether creditable that the gallant ship should find burial in foreign waters, and history will not be satisfied without the knowledge of the cause of the explosion. The revival of the question of the cause might be acute for a time, but with all other questions of the war settled the acuteness would neither hurt nor become chronic."

Mr. SULZER'S activity in this matter is very generally commended. It is nothing short of a national disgrace that to-day (more than ten long years after the destruction of the *Maine*) the hulk of that ill-fated battle ship should still be obstructing the harbor of a friendly city—or an unfriendly one, for that matter—and the bones of those who perished in her be left without decent interment.

Nor does it give a creditable—nor, in our opinion, an accurate—impression of American sentiment to have it said abroad that we as a nation are afraid to raise the *Maine* for fear it will be proved that the explosion was from within.

The American people are never afraid to do the right thing and to stand for truth, right, and justice. If it was an accidental explosion from the inside which destroyed the *Maine*, all the world is entitled to the knowledge of the fact, and it would set at rest many ugly rumors and hints made at the time of the explosion and since.

[Editorial from the Washington Post, February 16, 1908.]

ANNIVERSARY OF THE "MAINE"—HABANA DISASTER RECALLED BY RESOLUTION AND HOUSE CHAPLAIN'S PRAYER.

With the view to the raising of the ill-fated battle ship *Maine* and "the proper burial for its dead, now lying with the hulk of that vessel in the harbor of Habana, Cuba," Representative SULZER of New York yesterday introduced in the House a resolution calling upon the Secretary of the Navy for papers and correspondence bearing on the international status of the question and the rights of the Government of the United States in the matter.

Chaplain Couden, in his invocation, recalled the destruction of the *Maine*, and prayed that war may never visit this country again. After referring to the abiding patriotism of the American people, he said:

"We are reminded of the brave men who, ten years ago to-day, went down to death in the ill-fated *Maine*. Grant, O God, that their sacrifice may be an inspiration to the living. Make us to know that our country is not only worth living for, but if need be it is worth dying for; that vigilance is not only the price of liberty, but it is the price of everything worth while. Help us, therefore, to be patriots in times of peace as in times of war; but we most fervently pray, O God, that war shall never come to us again, but that we may live in harmony with each other and in peace with all the world."

[Editorial from the New York World, March 26, 1908.]

THE PROJECT TO RAISE THE "MAINE."

Secretary Metcalf, in accordance with the Sulzer resolution, has furnished the House of Representatives with a statement of the work done in recovering the bodies of officers and men lost with the battle ship *Maine* and in saving equipment and machinery, together with a report on the present status of the project.

The total number of bodies recovered was 188, leaving 63 unaccounted for. A balance of $145,000 remains of the $200,000 appropriated by Congress for the purpose in February, 1898, and $3,000 from the additional appropriation of $10,000 for the removal of the bodies to Arlington Cemetery. Some pieces of armament were saved and the loose wreckage dumped at sea.

What is left is a worthless hulk. But sentiment attaches to it as the tomb of American sailors, and considerations of patriotism urge the raising and removal of the wreck, if only to settle finally the causes of the *Maine's* destruction. If a convention with Cuba is necessary, it can readily be arranged.

TWIN OAKS, NEWPORT, R. I.,
May 5, 1908.

DEAR SIR: Admiral Luce has sent me your letter to him re raising the *Maine*. He suggests that as a member of the board of inquiry upon the cause of her loss, that I give you my views in the matter.

I have always held that the ship should be raised and the work be done in a way to allow a thorough examination of her condition as she lies. This would, of course, require the building of a cofferdam which could be pumped out. It should have been done at once after the war. While absolutely sure that the conditions will be found such as described in our report, the question of result should have no bearing in the matter. The board did its duty according to its lights, and I am sure that I can answer for the other surviving members as well as for myself, in saying that we should welcome any new light which exposing the wreck might bring.

Our failure to raise the wreck has undoubtedly given an impression to many of a want of openness and straightforwardness on the part of the Government. It is our duty to remove this. We can afford to say we were mistaken; we can not afford the imputation of fearing the truth.

I am, very truly yours,

F. E. CHADWICK,
Rear-Admiral, Retired.

ARLINGTON, N. J., *May 9, 1908.*

Hon. WILLIAM SULZER, M. C.,
Washington, D. C.

MY DEAR SIR: I have mentioned the fact that you have decided to speak for the "*Maine* and her men" in the House to several of my friends who have expressed an interest along the lines of our effort in behalf of the famous wreck and its dead. This information is gratefully accepted by all, many of whom think it most commendable as means to record just what was done from a purely patriotic impulse and sense of honor due the nation and its dead.

If you have not already gotten all the data as to the facts of the *Maine* when she rode at anchor in Habana Harbor, allow me to say that the ship, as she stood before the explosion, represented an outlay of $5,000,000, according to Captain Sigsbee, her commander. Her machinery cost $735,000. The hull represents tons of steel. The turrets were steel, 8 inches thick, of which there were two, equipped with 10-inch guns. She was protected for a length of 180 feet amidships with Harveyized steel armor 12 inches thick, worth $500 a ton. Her entire equipment was all that is represented by a first-class battleship of her class at the time. We shall look with interest for all that you may say of the *Maine*.

Yours,

ALFRED KING.

HEADQUARTERS OF THE DEPARTMENT OF NEW JERSEY,
UNITED SPANISH WAR VETERANS,
Rutherford, N. J., December 26, 1907.

Mr. ALFRED KING, *Arlington, N. J.*

MY DEAR SIR: I have just learned of your correspondence with Q. M. Gen. Charles Burrows, Grand Army of the Republic, in regard to bringing the question of floating the old battle ship *Maine*, now lying in the harbor of Habana, to the attention of Congress during its present session. The greatest indifference and neglect seems to be the rule in connection with this famous wreck, and it is certainly commendable on the part of the survivors of the Union armies to ask for national legislation in behalf of the *Maine*. In this connection I desire to say in our own behalf that the Spanish War Veterans are deeply interested, and peculiarly so, in the fate or removal of the wreck of the U. S. battle ship *Maine* from Cuban waters, and also that we are in hearty accord with this movement or any other that your efforts may adopt to give the hulk, with its honored dead, an appropriate and final resting place under the flag of our country.

Fraternally, yours,

JOHN T. COLLINS,
Department Commander.

ARLINGTON, N. J., *April 10, 1908.*

Hon. WILLIAM SULZER, M. C.,
Washington, D. C.

MY DEAR SIR: Through the public press and private correspondence of those who are taking a personal interest in raising the old battle ship *Maine*, I learn of your past and continued efforts in Washington in behalf of the survivors of the civil and Spanish wars, who are taking a deep interest in floating this famous wreck and giving proper burial to its dead. I desire to say in this connection, as an ex-soldier of the Spanish war, that your efforts to float the remains of this battle ship has the support and best wishes of all who are glad to be recognized as comrades and ex-soldiers of the war with Spain for the freedom of Cuba.

Sincerely, yours,

FRANK KOCH.

CHICAGO, ILL., *May 5, 1908.*

Hon. WILLIAM SULZER.

SIR: It was a source of pleasure to me to read of your bill in Congress to have raised the battle ship *Maine*, now lying in Habana Bay. This has been my hope and desire since the destruction of the battle ship on February 15, 1898, and I am sure in that bill you voiced the sentiments of the whole American people. My son, Edward F. Kean, was on duty as a marine guard that night, as I understand, in the lower cabins, and is still among the missing, as also another Chicago boy named Shillington. I trust you will keep the matter of the raising of the battle ship before this honorable session so the work will not be delayed more than is necessary, and, thanking you for your kindly and true American spirit, I remain,

Respectfully,

Mrs. MARGARET KEAN,
1006 North Talman Avenue, Chicago, Ill.

15 FRANCIS STREET, NEWPORT, R. I.,
May 18, 1908.

Hon. WM. SULZER, M. C.

DEAR SIR: In reply to your very polite favor of 16th, I beg to say that if my letter to you urging favorable consideration of the plan for the raising of the *Maine* can be of the slightest use, please make such disposition of it as you think proper. I trust with all my heart you will not let the matter drop.

Very truly, yours,

S. B. LUCE.

THE KNOLLS, CORNISH HILLS, N. H.,
(POST-OFFICE WINDSOR, VT.)
May 11, 1908.

DEAR MR. SULZER: I have only received yours of the 7th to-day, on account of my absence from Newport.

My letter is entirely at your service to use as you think best.

I am, very sincerely, yours,

F. E. CHADWICK.

[From the Washington Post, Monday, February 15, 1909.]

READY FOR MEMORIAL—PREPARATIONS COMPLETE FOR REMEMBERING THE "MAINE"—MAY HAVE NAVY-YARD SALUTE—MANY FLORAL DECORATIONS RECEIVED, WHICH WILL BE PLACED UPON THE ANCHOR IN ARLINGTON NATIONAL CEMETERY—SHORT PROGRAMME THERE, AND PRINCIPAL EVENT IN CHURCH IN THE EVENING.

The final meeting of the committee of arrangements of the Maine Memorial Association and the Army and Navy Union to close up the details for the observance of to-day as the eleventh anniversary of the sinking of the battle ship *Maine* was held in the parlors of the Portner yesterday afternoon. There will be three features of the day and possibly four. There will be a military mass celebrated at St. Patrick's Catholic Church this morning at 10 o'clock, a pilgrimage to Arlington Cemetery to dedicate the anchor of the *Maine* in that cemetery, and a memorial service at the First Presbyterian Church, John Marshall place, at 8 o'clock to-night. The fourth feature will be the firing of a national salute at the navy-yard, if the request for such a salute forwarded the President yesterday is complied with.

The military mass will be celebrated by Father McGuigan, assisted by Fathers Carroll and Smyth as deacon and subdeacon. Following the mass Dr. W. T. Russell, rector of St. Patrick's, will deliver a short address.

PILGRIMAGE TO ARLINGTON.

The pilgrimage to Arlington will start from Aqueduct Bridge promptly at 2.30 o'clock, no matter what the condition of the weather may be. It will be made up of men and women from all the patriotic organizations of the District. Two wreaths sent by President Roosevelt will be among the floral tributes placed on the anchor by Mrs. C. Walton Dunlap and Mrs. Mary V. Goundie. It was arranged at yesterday's meeting that a detachment of uniformed men from the gunners' class, headed by Albert Osenger, will assist at the military mass and place a floral offering on the *Maine's* anchor. The wreath will be entwined with American, Cuban, and Spanish flags. An offering comes from the Mary A. Babcock Auxiliary and Admiral George Dewey Auxiliary, United Spanish War Veterans. Mrs. Ada M. Galloway, in the name of the National Auxiliary of the United Spanish War Veterans, will place a large sheaf of American Beauties on the anchor. Mrs. I. W. Ball, for the National Woman's Relief Corps, will place a wreath on the anchor. Among the other floral offerings there will be one from Phil Sheridan Woman's Relief Corps, department of the Potomac, in charge of Mrs. Fannie Worden, and flowers for the graves of the valiant dead from the same organization. Those having charge of this work are Mrs. Charles Sidman, Mary A. Babcock Auxiliary, United Spanish War Veterans; Cora Campbell, Dewey Naval Auxiliary, United Spanish War Veterans, assisted by Master Henry Moultin Goundie and Mrs. Lida Oldroyd.

The *Maine* memorial committee will decorate the graves of Mrs. Helen G. Sparhawk, one of the original movers in the *Maine* memorial last year, who has since died and is buried in Arlington.

PERMANENT COMMITTEE CHOSEN.

This permanent committee was elected yesterday to look after the distinguished visitors who will attend the services: Mesdames Christine W. Dunlap, Mary V. Goundie, Annie W. Johnstone, Matilda R. Sprague, Ida Galloway, Cora Campbell, Charles A. Sidman, Fannie Worden, J. Walter Mitchell, Frank Fauth, Ruth M. Griswold Peater, and Luchy Graham, Gen. Andrew S. Burt, Capt. J. Walter Mitchell, Capt. J. J. Strain, Capt. William A. Hickey, Charles E. Claggett, Charles W. Blush, Lemuel Fugitt, Albert Osenger, Robert Finn Finucane, and B. F. Sparhawk.

The orations at the anchor in Arlington will be by Father Eugene A. Hannan, the Rev. Zed H. Copp, and Maj. Frank A. Butts. Gen. A. S. Burt will preside, and Capt. J. J. Strain will be officer of the day. Two troops of mounted men from Fort Myer will fire the salute, a bugler will sound "taps," and the military band from that post will play the dirge music. The weather permitting, Admiral Sigsbee will be present and make a short address. Admirals Dewey and Schley have been asked to attend the services in Arlington. Two hundred and sixty-six men lost their lives on the *Maine*, 198 bodies were recovered, and 68 bodies lie in the hulk of the ship. The recovered bodies were buried in Arlington, with a few exceptions.

SERVICES AT THE CHURCH.

The memorial services proper will be held to-night, commencing at 8 o'clock, in the First Presbyterian Church, John Marshall place. General Burt and Col. Charles M. Shinn will preside. The interior of the church will be elaborately decorated with flags and flowers, and the large model of the battle ship *Maine* in the Pension Office will be among the decorations on the altar. Admiral Charles D. Sigsbee, who commanded the *Maine* when she was blown up, will tell the story of that tragic event. The United States Marine Band will furnish the music. When Admiral Sigsbee enters the church he will be met by a drummer boy, who will sound the admiral's roll and lead the way up the main aisle, followed by color bearers. There will be an elaborate musical programme.

AN APPEAL FOR THE "MAINE"—STATE COUNCIL OF THE JUNIOR ORDER UNITED AMERICAN MECHANICS SENDS RESOLUTIONS TO PRESIDENT ROOSEVELT.

To the Editor of the News.

SIR: Survivors of both sides of the civil war and every patriotic American will be glad to learn that the State Council of New Jersey, Junior Order United American Mechanics, representing over 47,000 members in the State of New Jersey alone, will include in the published report of its recent session at Trenton the following preamble and resolutions as an appeal from all councils to President Roosevelt in behalf of the wreck of the battle ship *Maine:*

"Whereas the wreck of the U. S. battle ship *Maine*, now lying in the harbor of Habana, Cuba, together with scores (74) of her dead entombed in the hulk are, and have been, the object of material neglect and indifference, unparalleled in the annals of our army and navy: Therefore be it

"*Resolved*, That the State Council of New Jersey, Junior Order United American Mechanics, hereby respectfully requests the President to include in his recommendations to our next National Congress such measures as may be deemed most practical and effective for the early removal of the battle ship *Maine* from Habana Harbor, and for the proper sepulture of her dead under the flag of our country for which they died; and, be it further

"*Resolved*, That the recording secretary of this council be, and is hereby, ordered to send a copy of these resolutions, under the seal of the council, to the President at Washington."

These resolutions are signed by Frank R. Sharp, State councilor.

Yours, truly,

VETERAN 1862–05.

TRENTON, *November 4, 1907.*

[Editorial from the New York Sun, Wednesday, April 8, 1908.]

THE WRECK OF THE MAINE.

If we do not err about the temper of the House of Representatives, an appropriation will soon be made to raise the unsightly and melancholy wreck of the battle ship *Maine* in the harbor of Habana after almost ten years of neglect and vacillation. Mr. SULZER'S amended resolution calling upon the Secretary of the Navy to send to the House "all letters and data as to the cost and legal status under which the Congress may exercise immediate or future action for the removal of the wreck," and provide burial for the unrecovered dead, was adopted on March 10, and on March 25 Mr. Metcalf complied. His report was referred to the Committee on Naval Affairs the following day.

There was at first no disposition to disregard an obvious duty. Eight days after the blowing up of the *Maine*, which occurred on the evening of February 15, 1898, Congress appropriated $200,000 to recover the remains of the dead, raise the ship, and save any parts of the machinery and equipment that might be used again. On March 30 the sum of $10,000 was appropriated "for the removal of remains of officers and men who perished by the destruction of the U. S. S. *Maine.*" A wrecking and a towing company contracted to do the work. It was abandoned on April 2, 1898, after a report had been made by a naval board recommending that because the contractors were "disinclined to work during the rainy season" and it would take from six to eight months to raise the shattered hull, it was advisable to suspend operations. Meanwhile the court of inquiry had taken evidence and reported, on March 21, that the *Maine* had been wrecked by the explosion of a mine "under the bottom of the ship at about frame 18 and somewhat on the shore side of the ship." On April 20 President McKinley signed the joint resolution of Congress declaring war upon Spain.

Of the original appropriation of $200,000 the sum of $54,043.94 was expended in stripping the wreck above water and recovering four 6-inch guns, the paymaster's safe, two 6-pounder guns, two searchlights, a steam cutter, the breech mechanism of the after 10-inch guns, and 100 shells. The naval board estimated the value of material which could be recovered if the ship were raised "in good order" at $670,600. It was the judgment of the board that "the machinery would not suffer from being submerged several months." It went on record (March 28, 1898), with the opinion that it had "no doubt of the ability of a good company to do such work." Of the appropriation of $10,000 for the transfer of dead to the United States and their burial at Arlington, $6,968.72 was expended. One hundred and eighty-eight bodies were recovered and buried and sixty-three were "not found."

Among the documents in the case sent by Secretary Metcalf to the House is a statement of the date of May 16, 1902, by Charles E. Magoon, who is now the Provisional Governor of Cuba, and at that time was acting chief in the division of insular affairs, War Department. Mr. Magoon wrote in response to an inquiry:

"The military government of Cuba will take no further steps in regard to the *Maine*, and after the withdrawal of our military forces from Cuba, unless Congress should otherwise provide, any attempt made by this Government to raise the *Maine* will come within the jurisdiction of the Navy Department."

The Navy Department has steadily maintained (to quote Mr. Metcalf) "that no executive department of the Government has authority to dispose of or to abandon the wreck, but that such power rests solely, so far as this Government is concerned, in the Congress." In one instance, when the Hon. William H. Moody was Secretary of the Navy, the department (December 3, 1902) disapproved emphatically of Senate bill 5806 "for raising the wreck of the battle ship *Maine.*"

"The department does not regard with favor the raising of the *Maine* for the purpose of photographing her with the view of entering upon another investigation as to the cause of her destruction. No reason is perceived why the former investigation is not sufficient. The material of the vessel would not be of value to the Navy Department. The sentimental consideration attached to the raising of the *Maine* appeals to all, but the department does not recommend the passage of the bill."

Earlier in 1902 Representative ROBERTS of Massachusetts had introduced a bill "for raising the wreck of the battle ship *Maine*," and Acting Secretary Darling, on behalf of the department, wrote to Chairman Foss of the House Naval Committee that "no objection is perceived to the passage of the measure." Six months later, when Chairman HALE of the Senate Naval Committee consulted Mr. Moody about a Senate bill, the Secretary overruled his assistant.

In view of the fact that Cuba is now ruled by a provisional governor, with army officers governing the provinces and an advisory law commission, presided over by Col. E. H. Crowder, U. S. Army, making the laws, the meetings of congress having been suspended by decree of Secretary Taft—in view of these conditions an opinion given by Secretary of State Hay to the Secretary of the Navy on October 8, 1904, is interesting:

"It might be advisable, in order to obtain a valid and effective disposition of the *Maine* wreck, that the matter be settled by a convention with Cuba, which could be submitted to the Senate of the United States for its concurrence."

Mr. Paul Morton, then Secretary of the Navy, concurred. Cuba is no longer in a position to enter into a subvention on the subject. Her right to do so has been suspended. It is renewable at the pleasure of the United States, and the time of the renewal has not been definitely determined. There can be no doubt that the Cuban people would like to have the wreck of the *Maine* removed, for the reason, if for no other, that it is an obstruction to navigation. To the American people it is an eyesore when they see it and a heartache when they think about it. Their Government now has the power, if it has the will, to remove the wreck of the *Maine* without having to ask the permission of Cuba, which would not be withheld if Cuba were articulate politically.

There is no longer any excuse for not raising the *Maine*. The American people desire that it be done. Let Congress make the appropriation and direct the President to execute the will of the people.

[From the New York Times, April 14, 1908.]

THE MYSTERY OF THE "MAINE."

As long as the *Maine* stays where it is now, just showing above the unsavory waters of Habana Harbor, there will probably be people to greet every proposition in or out of Congress for raising the vessel with the prophecy that if this ever is done their belief that it was sunk by an interior explosion will be confirmed. Now, as a matter of fact, even the most malignant of these prophets have no such belief; they simply remember that for a while they had suspicions—perhaps "hopes" would be the better word—that such was the case, and their minds are so constructed that these suspicions or hopes have survived the presentation by the Board of Inquiry of evidence absolutely proving that the *Maine* was blown up from the outside.

Even admitting what these strange persons are so fond of asserting, that the board's report was a tissue of lies and suppressions, they still have to ignore the fact that to this day the keel of the *Maine* mutely testifies against the interior explosion theory by protruding above the decks through which it was driven by the force of the submerged mine. Even that apparently impossible task they perform offhand, however, and maunder on endlessly about how strange it is if there was a mine that no fragments of it were ever found—how remarkable that if a Spaniard or Cuban pressed the key that set off the mine his identity has never been discovered.

It is nothing to the upholders of the interior explosion theory that when the wreck was first examined large quantities of unburned powder were found in the holds, and nothing to them that all their talk about the deterioration of modern ammunition with age and its consequent tendency toward spontaneous ignition is made absurd by the circumstance that on board the *Maine* there was not a pound of the kind of powder to which they refer. There is, indeed, still a "mystery of the *Maine*," but it is the mystery how anybody can now affect a doubt as to the method of her destruction. That was settled for good and all over nine years ago, and, beyond clearing Habana Harbor of a troublesome obstruction, nothing would or could be accomplished by raising the wreck, except, perhaps, a needless confirmation of what is already known.

Women are often charged with a large capacity for disputing the indisputable, and for arguing anew questions that have been argued out, but this is not a sex peculiarity, unless it be true that the men who show it are not men at all. The ever-recurring chatter that comes from some of them about the *Maine* is enough to make one think so.

[From the Newark News, September 19, 1908.]

"REMEMBER THE MAINE."

ALFRED KING COMMENDS A NEWS EDITORIAL ON NATION'S NEGLECT.

To the Editor of the News:

SIR: Your excellent editorial on "The *Maine*" deserves all that popular recognition can give as an appeal, in cold logic, from the American people for humane consistency. Every survivor, North and South, of both armies of the civil war is keenly sensible to the fact that hostilities with Spain were urged and recognized by the civilized world in response to the pathetic demands of humanity for the cessation of shocking cruelties in the name of war on the island of Cuba.

As a nation we went to the rescue, affording relief and protection forever under our flag, and the humiliation for a decade of unparalleled national neglect of scores of those who died to save a people from extermination, and that Cuba might be free. It seems to me that in this connection the following poem, "Remember the *Maine*," written by W. J. Lampton, is worth reprinting:

Down in that tropic, torpid bay,
In the slime and filth of the Spanish way,
Shall the hulk of the *Maine* forever stay?
Shall the ship that stood for Freedom rot
In the stench of that unhallowed spot?
No, No! Let the people rise as one
With a firm demand that right be done
And the dead be honored—the dead who died
That Liberty should be satisfied.
Take the old ship out of her filthy grave
To the clear, blue sea and the whitecapped wave,
And there in the depths, serene and pure,
Give her a glory sepulture.
And moor above her the flag that waves
Forever above all our heroes' graves.

Yours, truly,

ALFRED KING.

ARLINGTON, *September 18, 1907.*

[Editorial from The Evening Sun, Monday, February 15, 1909.]

REMEMBERING THE "MAINE."

Services of one sort and another are being held in Washington to-day commemorative of the destruction of the *Maine* in Habana Harbor on February 15, 1898. It is befitting that the eleventh anniversary of that fateful disaster should be so observed, and at the National Capital, too. We learn from the Washington dispatches that the memorial service may be said to have begun yesterday with an appropriate sermon in one of the Capital's churches to veterans of the Spanish war, to be continued to-day with exercises at Arlington Cemetery around the Maine Monument, a memorial mass in St. Patrick's Church, and an address this evening by Rear-Admiral Sigsbee, who was captain on the *Maine* when the battle ship was blown up. As we read about this we feel that it is proper and right for memories of the *Maine* thus to express themselves at Washington, the capital of the Nation.

It is different at the nation's Capitol. Congress does not remember the *Maine*. Individual members of the Congress do, and have tried to stir the recollection of their fellows, but vainly. The wreck of the *Maine*, from which the bodies of some three score of our sailors who went down with it were never recovered, has lain in the mud and slime of Habana Harbor for eleven long years, and still lies there, a monument to congressional neglect and oblivion.

There are of course no votes in appropriating money to be spent in Habana Harbor in raising the *Maine*. Perhaps if there were the collective memory of Congress would not be so short.

[Editorial from The Times, January 27, 1909.]

MR. SULZER'S TRIUMPH.

At last Congress is thinking about raising the wreck of the *Maine* in Habana Harbor. That the sunken vessel was not raised years ago is a disgrace, and the only public official who can truthfully say that he has a clear conscience in the matter is WILLIAM SULZER, who introduced bill after bill in one session after another to bring the *Maine* to the surface and take out the bodies of the brave Americans who went down with her.

Mr. SULZER fought vainly for years, and his reward will come, for the American people will always remember that he led the small force of Congressmen who sought to have a wrong righted, and who are now on the verge of seeing their efforts crowned with success.

[Editorial from the North American, Philadelphia, Friday, January 29, 1909.]

THE FORGOTTEN "MAINE."

Down in the harbor of Habana on Wednesday morning there was a ceremony which did honor to some of the poorly paid servants of this nation, but which made darker this nation's black shame.

The common seamen of the United States battle ship *Maine* scraped their pennies together and, with the $150 so collected from the forecastle, they bought wreaths and garlands and clustered flowers and a new American flag.

And with launches laden with those purchases, accompanied by Captain Caperton and other officers who wished thus to show their approval of the enlisted men's sentiment, the sailors crossed the harbor from the new *Maine's* anchorage to the spot where a tangled, twisted, rusted mass of metal, not yet sunken into the mud, that is the coffin of sixty-three Americans who gave their lives for the flag, marks the spot where the old *Maine* anchored eleven years ago.

It was a silent trip, and the work that followed was done in silence. Half-masted and reversed—the signal of distress—the Stars and Stripes were hoisted on the military mast which still protrudes above the water, reminding every foreigner who sees the coast of Cuba that we have not remembered the *Maine*.

There was no silly speech making. The oratory of those hard-bitten, hard-handed, hard-living, and hard-fighting sailors is of deeds, not spoken words.

All that they did was to hide with blossoms and green garlands every vestige of that rusted, neglected sepulcher of our forgotten dead and, after a silent salute to the wreck and the flag, to journey back in silence from the *Maine* of 1898 to the *Maine* of 1908.

Of course, a subscription of $150 is not a thing to make a stir about, even when it comes from men whose pay ranges from $16 to $70 a month. But those men on the *Maine* can hardly be considered cheap men. That sum happened to be all they had left. Because when they heard of the death and suffering in Sicily and Calabria they "chipped in" all they could spare to swell their officers' contribution to the relief fund for Italy and so made possible a wireless message that one American battle ship alone had added $1,000 to the life-saving work on the other side of the world.

So the sailors had not much money left to buy flowers with. They could buy only enough to cover that wreckage in Habana harbor. Yet we do not think they are cheap men, even though all the hundreds of them could put into the cap passed around only a pitiful $150.

Our sorrow is that we can not disclaim cheapness as a stigma which any foreign critic is entitled to put upon this rich nation.

"Remember the *Maine!*" Do not all of us remember how the signal that Dewey flew when, like Farragut, he said: "Damn the torpedoes!" and sped into Manila bay, first made us storm, then settle into fixed wrath, and finally indulge in stern exultation?

"Remember the *Maine!*" And for eleven years 63 of our dead have been settling slowly with their ship deeper and ever deeper into the mud of that harbor bed.

In the hour of our highest pride and strength and boasting there never will be need for a poet to write a "Recessional" for America. In bitterness and sadness let us confess that the message for our self-study is not "Lest we forget," but "We have forgotten."

Certain material truths we consider of comparative unimportance. We have freed Cuba, and have done our best to uplift her to independence. Yet we leave her with "the sunken battle ship a serious menace to the shipping of the harbor, as it occupies a portion of the best anchorage. The obstruction has increased annually during the last ten years by causing a shoal. It will be necessary in a short time to begin dredging, in order to provide proper anchorage for the large amount of shipping now entering the harbor unless the wreck is removed."

We leave that wreckage not only an obstacle at Cuba's doorway, but a standing scandal upon this nation and a slander upon the American navy. For it is only too true that "the neglect to remove the wreck is attributed by many, especially the large Spanish contingent in Cuba, to the fear that its removal will disclose the fallacy of the popular belief that the *Maine* was destroyed by a torpedo or mine instead of an interior explosion. So generally does this opinion prevail that the Cuban government was deterred thereby from dealing with the wreck as an obstruction to navigation of its coastal waters and destroying it."

These reasons, cited by Charles E. Magoon, provisional governor of Cuba, in his annual report, forwarded to the War Department, are forceful and sufficient. Emphasized by a special message of the President, pleading with Congress to "see the wisdom" of Governor Magoon's suggestion for the removal of the wreck should bring even from this Congress the small appropriation needed for the work.

But it is in the following passage of the Magoon report that we find the stinging indictment of American patriotism and national decency that should stir the country to self-respect and elicit a mandate to Congress jarring the unspeakable pettiness of its ruffled "dignity" to realization of what the nation's dignity demands:

"Even more important than this obstruction to navigation is the fact that this wreck, although it contains the bodies of 63 American seamen, or what is left of them, is apparently abandoned and forgotten by the Government and people of the United States. Thousands of Americans and other thousands of other nationalities annually enter the harbor of Habana, and probably not one omits to express regret and censure for the deplorable spectacle. It has become a national reproach and an international scandal."

Fair men did not quarrel with the greatest living poet when he called the American spirit "uncouth, illogical, elate." But the sense of injustice was keen when he proclaimed us "careless 'mid his dead, the scandal of the elder earth."

How can we declare that taunt untrue, how can we cleanse our honor as a people, while the skeletons that were our heroes only eleven

years ago lie in their rotting uniforms in that harbor slime, unremembered and unhonored save by those poor wreaths hung on the wreckage by grace of the pennies of a few sailors ready to face the same death any day for the sake of the same reward from the country that is the richest of all on earth—save in remembrance and self-respect?

The Clerk read as follows:

COLORADO.

For general incidental expenses of the Indian Service in Colorado, including traveling expenses of agents, $1,000.

Mr. SHERMAN. Mr. Chairman, I offer the following amendment to follow line 14.

The Clerk read as follows:

Insert after line 14 "the Secretary of the Interior is hereby authorized to dispose of and convey the real estate, including buildings and fixtures of the Grand Junction and Fort Lewis schools, Colorado, to the State of Colorado upon the condition that the properties shall continue to be maintained and operated as educational institutions, and that children of Indian parents shall have the same privileges of education as white children, with tuition free: *Provided*, That the Commissioner of Indian Affairs is authorized and directed to dispose of by sale or transfer to other schools such property as is not covered by the transfer of the real estate, buildings, and fixtures."

Mr. MANN. Mr. Chairman, I reserve a point of order.

Mr. SHERMAN. I do not think any point of order would lie against it.

Mr. MANN. The transfer of property of the United States to a State is subject to a point of order; whether it does or not is a question.

Mr. SHERMAN. That is not the question here; we want to get at whether it is advisable to do it or not.

Mr. MANN. I do not doubt the advisability of doing it on proper terms. I wish the gentleman would explain the amendment.

Mr. SHERMAN. A special report was made to the House in Document No. 1071, in which it is stated, among other things, that, so far as the Fort Lewis and Grand Junction schools of Colorado are concerned, Governor Buchtel answered the inquiry sent out by the department that he was quite certain that the State could use one or both of these properties as normal schools, that they were very much needed, and he would take up the subject with the government officials.

The commissioner stated to us later—I supposed it was in this report—that negotiations had been taken up with the State of Colorado and the State was anxious to obtain the title to these two schools, with the agreement that they should be maintained in perpetuity as schools and that in these schools any Indian pupils should be educated and cared for at the expense of the State of Colorado. That is all there is to it.

Mr. MANN. I withdraw the point of order.

The amendment was agreed to.

The Clerk read as follows:

KANSAS.

HASKELL INSTITUTE.

For support and education of 750 Indian pupils at the Indian school, Haskell Institute, Lawrence, Kans., for transportation of pupils to and from said school, and for pay of superintendent, $137,750; for general repairs and improvements, $10,000; for hay barn, $3,000; for equipment new manual-training building, $1,000; for ventilation system, $2,500; for equipment of manual training school, $2,500. In all, $156,750.

Mr. SHERMAN. Mr. Chairman, I move to amend by striking out lines 6 and 7 on page 17. It is a duplication.

The amendment was agreed to.

The Clerk read as follows:

MORRIS SCHOOL.

That the Secretary of the Interior is hereby authorized and directed to dispose of and convey the real estate, including buildings and fixtures, of the Morris School of Minnesota, in the State of Minnesota, under such terms and conditions as he may prescribe, including the necessary land therefor: *Provided*, That the Commissioner of Indian Affairs is authorized and directed to dispose of by sale or transfer to other schools such property as is not covered by the transfer of the realty, buildings, and fixtures.

Mr. MANN. Mr. Chairman, I reserve a point of order to that.

Mr. SHERMAN. What I said in reference to the Colorado schools applies to this.

Mr. MANN. This school has not been in existence a great while, has it?

Mr. SHERMAN. Something like thirteen years, I think; I may be in error.

Mr. MANN. Is there any possibility of our providing some other schools to take the place of these after we give them away?

Mr. SHERMAN. The thought is in the disposition of these schools to dispose of those remote from reservations; to dispose of those which have not a sufficient number of pupils to make it worth while and expedient to maintain the schools. That is, that have not enough pupils within the reasonable radius of the school; at the same time to provide, in the disposal of them, that there shall be free tuition for the Indians at that school, and to dispose of them to States upon the proviso that they shall maintain them as educational institutions.

Mr. MANN. There is no such provision in this paragraph.

Mr. SHERMAN. We did not put it in the bill, but we authorize the department to dispose of it upon those conditions.

Mr. MANN. But it was in the gentleman's other amendment.

Mr. SHERMAN. There is no thought of disposing of the schools other than to provide for free tuition for such Indians as present themselves for schooling.

Mr. MANN. I think the gentleman and I agree about the advisability of maintaining the nonreservation schools, although the gentleman would hardly be understood as insisting that they were disposing of schools far away from the reservation first.

Mr. SHERMAN. No; there are other considerations than that. For instance, in what is known as the Haskell School in Kansas, a most excellent school with a manual training department; there is no better school anywhere, and still that school is more remote from large numbers of Indians than other schools that we would sooner dispose of. There is no better school anywhere or one which furnishes a better education than the Haskell School.

Mr. MANN. There are a large number of Indians in Minnesota. Are we going to get ourselves into the position in giving away the present school that in a year or two we will be asked by gentlemen who represent the State of Minnesota to provide another school up there, and possibly some more complaisant chairman, not so long in the service as the gentleman from New York, will agree to provide the additional school.

Mr. SHERMAN. I anticipate that within the service of the gentleman from Illinois—and I trust that will be as long as it has been valuable, and that makes it almost perpetual—I doubt if anybody within that length of time will undertake to establish a new nonreservation school in this country.

Mr. MANN. Oh, they have been established since I have been here. There are many more ways than one of killing a cat.

Mr. SHERMAN. Well, nobody knows that better than the gentleman from Illinois. [Laughter.]

Mr. MANN. Mr. Chairman, I withdraw the point of order.

The Clerk read as follows:

To enable the Secretary of the Interior to complete the survey, allotment, classification, and appraisement of the lands in the Blackfeet Reservation, in the State of Montana, $100,000: *Provided*, That this sum shall be reimbursed to the United States from the proceeds of the sale of the surplus lands after the allotments are made.

Mr. MANN. I move to strike out the last word. I would ask the gentleman how much of a reservation this is.

Mr. SHERMAN. It is not as large as the Crow Reservation. I wonder if the gentleman from Montana [Mr. PRAY] can tell me from memory.

Mr. PRAY. About 1,800,000 acres.

Mr. SHERMAN. It is larger than I had supposed.

Mr. MANN. After this survey is made, will that be followed up by a bill to open it up for entry?

Mr. PRAY. That is for an irrigation project, and this is to continue that—this appropriation. About 30,000 acres of it will be available for irrigation.

The Clerk read as follows:

For construction of irrigation systems to irrigate the allotted lands of the Indians of the Flathead Reservation, in Montana, and the unallotted irrigable lands to be disposed of under the act of April 23, 1904, entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," including the necessary surveys, plans, and estimates, $250,000, the cost of said entire work to be reimbursed from the proceeds of the sale of the lands within said reservation.

Mr. PRAY. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

On page 23, line 21, at the end of the paragraph, after the word "reservation," amend by inserting the following as a new paragraph:

"That any of the lands withdrawn under the reclamation act in pursuance of the provisions of section 5 of the act of Congress approved April 27, 1904, entitled 'An act to ratify and amend an agreement with the Indians of the Crow Reservation, in Montana, and making appropriations to carry the same into effect,' which are not disposed of within five years from the date of the passage of said act shall remain subject to disposal under the provisions of the reclamation act until otherwise directed by the Secretary of the Interior."

Mr. SHERMAN. On that I reserve the point of order.

Mr. MANN. What is the number of the gentleman's bill?

Mr. PRAY. Senate 8357. It was reported by the Indian Committee a few days ago. I will state that the purpose of this

amendment is simply to enable the Reclamation Service to retain control of the disposition of the balance of the lands now remaining under the Huntley irrigation project. The chairman of the Committee on Indian Affairs will recollect that a few years ago a portion of the Crow Indian Reservation was ceded to the United States, and that about 30,000 acres were withdrawn under the reclamation act for the purpose of building an irrigation project about 12 miles from Billings, Mont. This project was constructed at an expense of about a million dollars. It was provided in the act opening this portion of the reservation that all lands not disposed of within five years—that is, five years from the 27th of April, 1904, when the act took effect——

Mr. STEPHENS of Texas. When do the five years expire?

Mr. PRAY. April 27, 1900. That the balance of the land would be sold to the highest bidder for cash, as appears from the Senate report. That would enable speculators to come in and take up the balance of the lands under the Huntley project and defeat the purpose of the reclamation act.

Mr. STEPHENS of Texas. The purpose of this amendment is to extend the time?

Mr. PRAY. It is to extend the time and enable the Secretary of the Interior to dispose of them as was originally intended.

Mr. STEPHENS of Texas. Then it would be a benefit to the Indians, inasmuch as it would bring them more money, and there would be a chance to get a better price for the land.

Mr. PRAY. Yes; I think the gentleman is correct.

Mr. STEPHENS of Texas. I think it would be a good amendment.

Mr. PRAY. The Indians receive $4 an acre.

Mr. MANN. Suppose this amendment be not adopted, then what will be the result? Will not this land be sold to the highest bidder?

Mr. PRAY. If this amendment is not adopted, and I am not fortunate enough in passing the bill before the end of the session, it will be sold to the highest bidder and speculators will be enabled to get control of these valuable lands, and I would say to the gentleman that three-quarters of the land under the Huntley irrigation project, consisting of about 30,000 acres, are now settled, and the service desires to go ahead and carry out the purposes of the act.

Mr. MANN. If these lands are so extremely valuable and settlers want them, why haven't the settlers taken them within the five years' time?

Mr. PRAY. The gentleman will understand that it took considerable time to complete an irrigation project costing a million dollars. In fact it was only completed about a year and a half ago, to the best of my recollection.

Mr. MANN. Plenty of time within which to settle it. Why should we provide this land should be disposed of for a less price than these Indians would otherwise obtain, if the law now in force is continued in force?

Mr. PRAY. I will say to the gentleman that under the provisions of the original act opening this portion of the Crow Reservation about 30,000 acres were withdrawn, and it was provided by treaty agreement and by statute that the Indians should receive $4 an acre for that land, which would amount to about $120,000; and in addition to that, other valuable considerations specified in the original act, and that the land should be reclaimed under the provisions of the reclamation act——

Mr. MANN. Which land?

Mr. PRAY. The land under the Huntley irrigation project.

Mr. MANN. Now, I will say to the gentleman I have read the report in this case, and nobody can understand what it means. It purports to be a copy of the Senate report, possibly incorrectly copied or incorrectly printed in the first place. This is what the report says:

> All lands which were not disposed of within five years from the date of the passage of said act remain subject to disposal under the provisions of the reclamation act.

Now, if that is the case, if all lands undisposed of within five years remain subject to disposal under the reclamation act, what more does the gentleman want?

Mr. PRAY. Well, aside from the language, which is clearly an error, that is what the bill seeks to accomplish.

Mr. MANN. Yes; but here is a report stating that this is existing law.

Mr. PRAY. I do not know as to that. What report is it?

Mr. MANN. The House report.

Mr. PRAY. I have before me the Senate report——

Mr. MANN. This is the House report. I am reading from the House report purporting to give the Senate report.

Mr. PRAY. The same words are here in the Senate report. I should say that is evidently an oversight or a clerical error.

Mr. MANN. I could not understand, and I do not yet. I assume that that possibly was an error because, otherwise, the bill would not be here, yet there is a statement.

Mr. PRAY. Perhaps I did not quite understand the former question of the gentleman or did not explain it fully in my reply.

Mr. MANN. I do not know whether——

Mr. PRAY. I mean the former question.

Mr. MANN. I am trying to ascertain now whether that statement is correct. The gentleman says that statement is incorrect.

Mr. PRAY. I have tried to explain what the bill seeks to accomplish; that is evidently an error in the report.

Mr. MANN. Then the report says that if this bill be not passed and the five-year period expires, then the land will be sold to the highest bidder for cash. Is that correct?

Mr. PRAY. Yes; according to the bill and report that is correct.

Mr. MANN. Why should not that be done? Why should not the Indians have the land sold to the highest bidder for cash? The homesteaders have had a chance to take it up and have not taken it up.

Mr. PRAY. They are taking it up as rapidly as circumstances will permit; they are building up a prosperous community.

Mr. MANN. It seems to me that after five years if it has not been taken that nobody has a license to complain.

Mr. PRAY. It seems to me, if the gentleman will permit, that the very purpose of the reclamation act, and likewise the original act, would be absolutely defeated if that were allowed to be done, because one man or set of men might go in there and gain possession of the entire tract; and yet, assuming that was not the intention——

Mr. MANN. I would not assume that would be the case. Of course I am not in favor of speculators getting this land, but the gentleman assumes speculators would get this land. It seems to me this is a distinction between the existing law and what would be the law if the gentleman's bill prevails; that now the homesteader gets this land, and the amount that he pays is restricted to the amount set forth in the law at $4 per acre, whereas much of this land is worth $25 an acre or more; and if the law is continued as it is now, a man could go there and buy this land, this valuable land, paying the Indians what it is worth instead of getting it for "a song and dance."

Mr. McGUIRE. But it does not go to the Indians——

Mr. PRAY. I will say to the gentleman that he is hardly——

Mr. MANN. Then who gets the money for this land if it does not go to the Indians?

Mr. PRAY. It is provided that the Indians shall receive $4 an acre for their land——

Mr. MANN. Not less than $4.

Mr. PRAY. The law says the price shall be $4. Now, the settler has to pay $30 in addition to that on account of the money expended for the construction of——

Mr. MANN. The Indians are to receive not less than $4 per acre for the land, and if they sell for $100 an acre it is their land and it is their money. Now, the Government does not own this land, but it is making improvements, and it is supposed to pay for the improvements out of the money for which the land is sold. Now, I do not see any reason why the Government, although desirous of having homesteaders settle upon this land, should give favoritism to some particular man who wants to settle, at the expense of the Indians.

Mr. PRAY. Well, I do not look at it in that way.

Mr. McGUIRE. Has not that always been the policy of the Government?

Mr. MANN. Quite the contrary; that has not been the policy of the Government.

Mr. McGUIRE. I do not so understand it. It has always been the policy of the Government to allow homesteaders to take up lands throughout the West in general.

Mr. MANN. The gentleman himself had a bill here the other day, with a plea under which he shed tears almost in the House——

Mr. McGUIRE. Not that.

Mr. MANN (continuing). Stating that the lands had been sold to the Indians for twice its value, or such a matter, and were seeking to be let off.

Mr. McGUIRE. The only exception that has been made to this rule in the last fifty years has been in Oklahoma and one or two other points.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. MANN] has expired.

Mr. MARSHALL. Mr. Chairman, possibly I can give the gentleman from Illinois a little light on this subject. Here is the proposition: It is not the policy of the Government to get the very last dollar out of lands for the Indians. The idea is to divide these lands up and get as many white men intermingled with the Indians as possible. But, further than that, this great irrigation project, if I am right, was planned with a view of putting water on these lands. Now, if they are allowed to be sold in a body at the end of five years, as the provisions of the bill opening the reservation provide, they can go into the hands of a single person or corporation, be withheld from this irrigation project, and, in a measure, defeat it, because it will make the balance of the lands that have already been brought under the project bear an unreasonable part of the cost of the plant.

Mr. MANN. Will the gentleman yield for a question?

Mr. MARSHALL. Certainly.

Mr. MANN. Does the gentleman think that anybody will buy this land for the purpose of keeping it out of reclamation and irrigation when it would be worth five or ten times as much by being irrigated?

Mr. MARSHALL. But the gentleman must remember this——

Mr. MANN. They may be very foolish people out West, but I do not think anybody is foolish enough in the West to do that.

Mr. MARSHALL. The gentleman who buys this land and puts it under the irrigation project will be obliged to part with every particle of it except one unit, which is perhaps 80 or 160 acres, so there is no possibility of one man bringing all these lands under this project and no particular object for him to divide it up, because they compel him to sell it and sell it quickly.

Mr. MANN. The cost of this irrigation, as I understand it, is paid out of the Indians' money?

Mr. MARSHALL. No, indeed. It is paid out of an assessment on the lands, and paid by the man who buys them.

Mr. MANN. On the Indians' lands?

Mr. MARSHALL. No; I think not.

Mr. MANN. Is it not, like these other provisions in the bill here, advanced out of the Treasury and reimbursed to the Treasury out of the funds coming from the Indians' lands?

Mr. MARSHALL. Yes.

Mr. MANN. In other words, we make an experiment at the Indians' expense. If it is successful, we take the benefits. If we lose, they are the ones who lose. That is a jug-handled experiment.

Mr. MARSHALL. Not at all. The homesteader, or whoever gets this land, pays the Indian his money, and pays enough to make the Indian whole for the cost of the project. It does not cost the Indian a cent.

Mr. MANN. It does not cost the Indian a cent if it is successful.

Mr. MARSHALL. Nor if it is unsuccessful. The idea is to make this project a success.

Mr. SHERMAN. I had reserved the point of order; I now make it.

The CHAIRMAN. It seems clear to the Chair that the amendment offered by the gentleman from Montana is legislative in character, and not in order on a general appropriation bill. The Chair therefore sustains the point of order.

The clerk read as follows:

That the Secretary of the Treasury is hereby authorized and directed to place upon the books of the Treasury to the credit of the Winnebago tribe of Indians the sum of $883,249.58, being the balance of the unappropriated amounts due said tribe under the fourth article of the treaty of November 1, 1837, to wit, $804,909.17 (7 Stat. L., 544), and the act of July 15, 1870, $78,340.41 (16 Stat. L., 355), and the Secretary of the Interior is authorized to pay per capita to the members of the tribe the said sum, under such rules and regulations as he may prescribe, in the same manner as provided by the act of April 21, 1904 (33 Stat. L., 201).

Mr. MANN. I reserve the point of order upon the paragraph.

Mr. SHERMAN. It is a provision such as we often make with reference to Indian agreements, where the United States agrees to pay to Indians a certain sum of money and until it is so paid to pay them interest on that fund. This particular amount has never yet been set aside in the Treasury and appropriated, although the agreement provides that we shall pay them interest upon such particular sum; and heretofore they have been paid interest thereon. Now, we capitalize the full amount and put it in the power of the Secretary of the Interior, under the provisions of existing law, to pay to each individual Indian whom he may determine upon investigation is competent to take care of his own affairs his share of that particular sum.

Mr. MANN. On what basis does it capitalize?

Mr. SHERMAN. It capitalizes on the basis of 5 per cent.

Mr. MANN. Has the gentleman any idea how much there is outstanding of this sort of obligation?

Mr. SHERMAN. I could tell the gentleman correctly by reference to the book. It is several million dollars; I have not the exact amount in mind, and I have not the book with me here. I would guess the total amount of Indian funds in the Treasury which have been set aside by appropriations in cases similar to this would amount to something like thirty-one or thirty-two millions of dollars, as I now recall. The greatest amount due to any single tribe is the Osages, which amounts to something over $8,000,000. Altogether it is something over $30,000,000. I can not give the exact amount from memory.

Mr. MANN. I withdraw the point of order.

The Clerk read as follows:

That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to the board of county commissioners of Ormsby County, Nev., for damages to the public road caused by the breaking of the dam belonging to the Indian school at Carson City, Nev., the sum of $70 from an unexpended balance of the appropriation "Indian school, Carson City, Nev., 1907," not required for other purposes.

Mr. MANN. I reserve the point of order against that paragraph. I do not know but what it may be better to pay it.

Mr. SHERMAN. It went out last year on a point of order, and if the gentleman makes the point of order this year it will have to go out, because it is clearly subject to it.

Mr. MANN. Why should it be in the Indian appropriation bill?

Mr. SHERMAN. Because they could not get it in any other place. [Laughter.]

Mr. MANN. I did not know that the committee was easier to work than any other.

Mr. SHERMAN. Oh, no. It is something that the Indian agent at that locality thought ought to be paid, and there was an unexpended balance of the sum appropriated for the fiscal year 1907. He desired to pay it out of that fund, but had no authority to do so, and he asked Congress to grant him authority. It was sent here with a favorable recommendation by the Commissioner of Indian Affairs last year, and was put in the bill, and went out on a point of order, undoubtedly raised by the gentleman from Illinois, who is here with his watchful eye and thoughtful care of the Treasury; and it will have to go out this year if the gentleman makes the point of order.

Mr. MANN. I do not think items of this sort ought to be in the bill. If this was a case of a poor widow——

Mr. SHERMAN. I never was in very hearty sympathy with it myself, but it is in the bill, and I would like to see it remain there.

Mr. MANN. I make the point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

For support and civilization of Indians at Fort Berthold Agency, in North Dakota, including pay of employees, $20,000.

Mr. GRONNA. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 33, line 23, insert a new paragraph, to read:

"For payment to such Indians of the Fort Berthold Reservation, in North Dakota, as the Secretary of the Interior shall determine to be entitled thereto the value of certain horses condemned and destroyed by the Bureau of Animal Industry in the years 1906 and 1907, said value to be ascertained and determined by the said Secretary of the Interior, $13,860, or so much thereof as may be necessary.

Mr. MANN. I reserve the point of order on the amendment.

Mr. GRONNA. Mr. Chairman, I received my information regarding this matter too late to appear before the committee; I have, however, a letter from the acting commissioner, under date of January 25, 1909, which reads as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 25, 1909.

Hon. A. J. GRONNA,
House of Representatives.

SIR: The office has received your letter of January 14 inclosing a communication from Superintendent Hoffman, of the Fort Berthold Agency, in regard to the claim of certain Indians of his agency for infected horses destroyed by order of the Bureau of Animal Industry, Department of Agriculture, in 1906 and 1907.

There does not appear to be any way in which these Indians can be compensated unless an appropriation for the purpose is made by Congress.

I shall be very glad to have such an appropriation made. The horses were condemned to prevent the spread of an infectious disease, and the Indians were given to understand that they would be remunerated to the value of the horses destroyed.

The office has no further information concerning the number and value of the animals destroyed or the names of the owners.

An item of appropriation, however, might be drawn so as to authorize payment after due investigation. Probably the following would answer the purpose:

"For payment to such Indians of the Fort Berthold Reservation in

North Dakota as the Secretary of the Interior shall determine to be entitled thereto, the value of certain horses condemned and destroyed by the Bureau of Animal Industry in the years 1906 and 1907, said value to be ascertained and determined by the said Secretary of the Interior, $13,860, or so much thereof as may be necessary."

I return Superintendent Hoffman's letter.

Very respectfully,

R. G. VALENTINE,
Acting Commissioner.

Mr. STEPHENS of Texas. Can the gentleman inform the committee why that was not brought before the Committee on Indian Affairs for investigation?

Mr. MANN. He said he did not get it until too late.

Mr. GRONNA. The claim came too late for me to bring it before the committee. They had already reported the bill out.

Mr. STEPHENS of Texas. Were the horses killed because they had some disease?

Mr. MANN. Glanders.

Mr. STEPHENS of Texas. Were they condemned by some competent authority?

Mr. GRONNA. They were condemned and killed by an agent of the Government.

Mr. HINSHAW. Of the Bureau of Animal Industry.

Mr. STEPHENS of Texas. How many horses were killed?

Mr. SHERMAN. One hundred and eighty-one.

Mr. GRONNA. One hundred and eighty-one. There is also a bill introduced in the Senate by Senator MCCUMBER, on which a favorable report has been made.

Mr. STEPHENS of Texas. Who estimated the value?

Mr. GRONNA. I was going to state that I have here a letter addressed to Senator MCCUMBER, and I had a similar letter sent to the committee, but which was mislaid. This is the letter from Mr. Hoffman, the agent on the Indian reservation.

Mr. MANN. Has the gentleman any letter from the Agricultural Department on the subject?

Mr. STEPHENS of Texas. Doctor Wiley, for instance.

Mr. MANN. Doctor Wiley kills a great many bad things, but he does not kill horses on account of the glanders.

Mr. GRONNA. I was going to read a letter from the agent sent out by the Agricultural Department under the Bureau of Animal Industry:

If a successful extermination of glanders is to be effected this following summer, the Indians will have to be made to understand that they will be remunerated for their horses which are destroyed. The conditions on the reservation are such that it will be very easy for the Indians to hide their suspicious cases in the timber on the bottom lands along the river, and in the Bad Lands. Unless they know they are to be given a fair price for their horses which will be destroyed, much difficulty will be experienced in finding their worst cases.

Mr. STEPHENS of Texas. I believe the gentleman is a lawyer. As a matter of fact would not the courts in passing upon this question require the Government—your State, for instance, or the United States Government—to pay the actual value of the property at the time it was destroyed? Is not that the measure of damages?

Mr. GRONNA. If the gentleman will have the amendment read again, I believe the amendment provides for that. The damages will be such as the department may determine.

Mr. STEPHENS of Texas. Does the gentleman consider a glandered horse of any value whatever? Isn't he worse than nothing? In fact, would it not be a benefit to the tribe of Indians to have it destroyed?

Mr. GRONNA. I will say to the gentleman that unless the Indians had been given to understand that they would be reimbursed, it would cost the Government a great deal more to exterminate this disease than it would be allowing them a fair price for the horses.

Mr. STEPHENS of Texas. By what authority would the agent of the Government give such advice as that to the Indians?

Mr. GRONNA. I can not say.

Mr. STEPHENS of Texas. You have laws against glanders in your State.

Mr. GRONNA. We have.

Mr. STEPHENS of Texas. Glandered stock?

Mr. GRONNA. Yes.

Mr. STEPHENS of Texas. Does the State pay full value for a glandered horse destroyed?

Mr. GRONNA. We do, to an amount not to exceed $100 for a horse.

Mr. STEPHENS of Texas. For every horse?

Mr. GRONNA. For every horse.

Mr. STEPHENS of Texas. Condemned and killed in your State?

Mr. GRONNA. Yes.

Mr. STEPHENS of Texas. Who makes this valuation?

Mr. GRONNA. The veterinary surgeon—the state veterinary.

Mr. STEPHENS of Texas. And you pay for the horses in that way?

Mr. GRONNA. Yes.

Mr. STEPHENS of Texas. Is that the amount you propose to pay here, that the Government shall pay these Indians?

Mr. GRONNA. No.

Mr. MARSHALL. It is left to the Secretary of the Interior.

Mr. GRONNA. Such amount as the Secretary of the Interior may determine to be just.

Mr. MANN. Has the gentleman any report from the Department of Agriculture or the Bureau of Animal Industry on this subject?

Mr. GRONNA. My colleague has.

Mr. MARSHALL. He just read from the report of E. J. Cary, veterinary surgeon.

Mr. MANN. I have that in my hand. That is no report on the point.

Mr. GRONNA. Yes, it is; it covers this proposition. I have another report.

Mr. MANN. No report of how many horses were destroyed?

Mr. GRONNA. Yes; there is.

Mr. MANN. Not from the Bureau of Animal Industry, the people who destroyed the horses; no report as to the value of the horses from the bureau that destroyed them. One department of the Government does a thing, and the gentleman goes to another department of the Government to get the information. What reason is there for not applying to the department that did the work to know what was done?

Mr. GRONNA. This is a report from the parties that did the work.

Mr. MANN. I beg the gentleman's pardon. The gentleman reads from a report in which it says that something should be done, and then not a word more from the department of the Government that did it.

Mr. GRONNA. If the gentleman will look on page 2 he will see a report——

Mr. MANN. A report from somebody else to the Indian agent that the man from the Agricultural Department did something. Why do we not have a report from the Agricultural Department as to what they did, let me ask the gentleman? We are constantly destroying noxious and communicable diseases of animals that are dangerous. We have just passed an appropriation for stamping out the foot-and-mouth disease, and are likely to be called upon for a considerable additional appropriation. We carry every year in the agricultural bill a large sum of money for the purpose of paying for just such things as this. If the case arose in the way stated, it is easy to get the money out of the direct appropriation or in a deficiency.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. I ask unanimous consent that the gentleman may have five minutes more.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the time of the gentleman be extended five minutes. Is there objection?

There was no objection.

Mr. GRONNA. I will say in reply to the gentleman that I have a letter from the Acting Commissioner of the Indian Office.

Mr. MANN. He did not destroy the horses?

Mr. GRONNA. No; but I want to say that if there are no horses destroyed there will be no money paid out.

Mr. MANN. Here is the point: The Government in stamping out a disease like glanders pays, as I understand, the real value of the animal that is taken, but a horse that has the glanders is not worth anything. The sooner it is dead the better; it is of no use. Now, I do not know whether this comes within the rule of the Department of Agriculture in such cases or not, but I see no reason for making a distinction, giving the Indians a better service than is given the white men as the owners of these horses.

Mr. MONDELL. Do I understand the gentleman from Illinois to say that the Bureau of Animal Industry is authorized to pay, and does pay, out of this appropriation for animals killed?

Mr. MANN. In some cases I understand that is the case.

Mr. MONDELL. And they have the authority to do it?

Mr. MANN. They have the authority and the money, and they do it.

Mr. MONDELL. If that can be done it means that all the States will proceed to unload charges of this kind on the Federal Government.

Mr. MANN. All the States are trying to do it, and the gentleman's own State is one of them, but Congress does not undertake to do all of it.

Mr. MONDELL. That is entirely new to me. My State is paying out a considerable amount of money every year for glandered horses that are killed and other horses that are killed, but if the Federal Government is doing it elsewhere I am glad to know about it.

Mr. MANN. I do not undertake to say whether they pay for glandered horses or not, but I do know that we carry an appropriation under which they are authorized to expend money for the purpose of stamping out some of these diseases, as they are now spending money for stamping out the foot-and-mouth disease.

Mr. MONDELL. It is important to know whether the Federal Government has a right to spend money to pay for animals within a State——

Mr. MANN. The gentleman understands very well that the National Government has no more authority to go into a State and take a man's private property and destroy it without paying for it than has the State. If the State does it the State must make provision for it. If the General Government does it, the General Government must make provision for it.

Mr. MONDELL. I did not understand that the Congress ever authorized that kind of expenditure to pay money for animals killed. We have been behind the times in my State because the State has been paying for the animals killed.

Mr. MANN. Oh, the gentleman can not convince me nor the the rest of the House that anything of that sort misses his State, because he is as diligent in looking after those things as anybody that ever came inside these walls. [Laughter.]

Mr. MONDELL. Since the gentleman from Illinois has informed me on the subject I assure him that we will see that we get our share.

Mr. MANN. We pay for the vaccine to keep the gentleman's cattle well. We pay for it in Chicago.

Mr. MONDELL. That is not paying for animals killed.

Mr. MANN. No; that is paying for trying to keep them well.

Mr. GRONNA. Now, Mr. Chairman, permit me to make one more statement; I read from the report:

> There does not appear to be any way in which the Indians can be compensated unless an appropriation is made by Congress. I shall be glad to have such an appropriation made. The horses were condemned to prevent the spread of an infectious disease, and the Indians were given to understand that they would be remunerated for the horses destroyed.

Now, this is a statement by the Acting Commissioner of the Bureau of Indian Affairs.

Mr. MANN. Does not the gentleman himself think that when we seek to pay for property destroyed by the Department of Agriculture on the ground that they promise to pay for it, we ought to have a statement from the department as to what they say they did?

Mr. GRONNA. This amendment is drawn in such a way, I would say to the gentleman, that nothing could be paid to them. It will be paid out at the direction——

Mr. MANN. This amendment is drawn in such a way that the money will be paid to them and the Department of Agriculture will never know it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. I think I must insist on the point of order.

The CHAIRMAN. The Chair understands the gentleman from Illinois to insist on his point of order.

Mr. MANN. I am perfectly willing, if this bill is not to be passed to-night, to have the item go over without prejudice. I would not object to having the item passed over if the bill should not be finished to-night.

Mr. GRONNA. I hope that it will be passed over.

The CHAIRMAN. The gentleman from North Dakota asks unanimous consent that the pending amendment may be passed without prejudice. Is there objection? [After a pause.] The Chair hears none. The Chair understands that the point of order is pending against it.

The Clerk read as follows:

> For general incidental expenses of the Indian Service in Oklahoma, and for pay of employees, $22,000.

Mr. FERRIS. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

> Insert, after the word "dollars," line 21, page 36: "That the Secretary of the Interior be, and he is hereby, authorized and directed to withdraw from the Treasury of the United States, in his discretion, the sum of $500,000, or so much thereof as may be necessary, of the funds on deposit to the credit of the Kiowa, Comanche, and Apache tribes of Indians in Oklahoma, and pay the same to the members of said tribes, per capita, in such manner and under such regulations as he may prescribe."

Mr. SHERMAN. Mr. Chairman, I reserve the point of order on the amendment.

Mr. FERRIS. Mr. Chairman, this amendment becomes necessary from the fact that about seven years ago the major portion of their estate was sold, and about two years ago the rest of it was sold other than their allotments. Prior to the time this land was sold and the proceeds thereof placed in the Treasury as a trust fund, they used the lease money for their maintenance and support, but since the land has been sold and the money deposited in the Treasury, subject only to the order of Congress, these Indians have been without any support whatever. Delegations from the Indians have come on and asked that this be done. The Indian agent in charge of these Indians is here in the city now asking that this be done. The Indian Office, both the commissioner and the other parties of the Interior Department, have asked that it be done, and I think the chairman of the committee now has, perhaps not in his possession on the floor, but I am sure in his office, a letter to that effect. I would also state further, and I think the chairman of the committee will confirm it, that the Indian delegation has called on him in person and represented the facts there, and also the Indian agent did so to-day. I think the amount is necessary. It is their own money, the proceeds of their land that was sold a few years ago. They are in debt and they need the money to square themselves up and keep them going.

The money is drawing only 4 per cent, and the local rates of interest in Oklahoma are much higher, and this being needed it is a matter of poor economy to permit them to pay 10 or 12 per cent, and perhaps more, with the money on deposit here receiving only 4 per cent, and that paid by the Government itself. I hope that the point of order may not be made against this item, to the end that justice be done the Indians.

Mr. SHERMAN. Mr. Chairman, let me ask the gentleman what portion of the $500,000 which he proposes to have withdrawn is required to pay the debts of these Indians?

Mr. FERRIS. Replying to the chairman of the committee, I am not informed in detail as to the amount. However, the Indian agent who is in charge of the Indian bureau tells me this. He estimates that there are about 3,750 Indians, and he estimates that they owe in excess of $100 per capita on an average. Of course, in some cases they owe more and some less. That was about as near as he could estimate it for me.

Mr. SHERMAN. The gentleman is correct in saying that I have a letter from the department which approves this proposition of permitting the withdrawal of the money. He is also correct in his statement that the agent for the Indians has called on me and urged me very earnestly to consent to this amendment; but what assurance can the agent or can anybody give us that if we permit the withdrawal of this fund to pay these debts a year from now the Indians would not be just as much in debt as ever?

Mr. FERRIS. Replying to that, I can only say this, that prior to the time the lands of the Indians were sold they then derived their money and lived upon their lease money, but since these lands have been sold the money has been in trust and not subject even to the order of the Interior Department. They are a class of people—the Comanche and Kiowas—of which some have begun farming and others have expressed a desire to farm if they can obtain the means.

Mr. SHERMAN. If we are to permit the withdrawal now of a half a million dollars of their fund, and it takes four-fifths of that to pay their existing debts, it leaves a very small per capita, does it not, to assist them in supporting and maintaining themselves by farming?

Mr. FERRIS. I agree with the chairman in every respect, but it is now the expressed policy of the Indian Office that that whole amount should be turned over to them, aggregating some $3,000,000 on deposit and some $6,000,000 now due them for lands the settlers owed for—that the whole amount should be turned over to them and the policy inaugurated of establishing them on their homesteads, which policy I heartily favor, knowing them as I do and having lived among them as long as I have. However, I thought that was too big a project to be undertaken at the short session, and I thought this would be temporary and the Congress could afterwards devise means for meeting the situation.

Mr. SHERMAN. This $6,000,000 that is due them, it is part of that $6,000,000 the payment of which we extended the time for the other day?

Mr. FERRIS. Yes; and they have more than $3,000,000 on deposit now that is not available at all.

Mr. SHERMAN. I understand it. If we give $500,000 now we will be asked undoubtedly a year from now to appropriate three or four or five hundred thousand dollars again; and would not that lead us to believe that in future years when this is expended we will have to appropriate large sums in form of gratuities to care for these Indians?

Mr. FERRIS. As again suggested, the amount that they would receive I think the chairman would hardly want to call an appropriation.

Mr. SHERMAN. I am talking about the eventual appropriation. This is not an appropriation; this is an expenditure of part of their funds, but I was talking about what we may eventually be called upon to do.

Mr. FERRIS. I anticipate and I think I fully understand what the chairman says, but I want to urge this one proposition, that Congress would hardly want to leave the Indians in a state of destitution, these Kiowas and Comanches, when they have $3,000,000 on deposit not subject to their order and $6,000,000 due them which is withheld and they can not get hold of until some plan can be inaugurated so that it can be turned over to them.

Mr. MANN. Did not we have the same thing up last year or the year before?

Mr. FERRIS. I was not here the year before.

Mr. MANN. But since the gentleman has been here.

Mr. FERRIS. Last year.

Mr. SHERMAN. We have, in reference to these Indians and in reference to many others. There has been a payment to them per capita of some portion of their funds in the Treasury, but always on the theory of their ultimate betterment to put them in a position where they could do something to maintain and support themselves. Now, I understand this proposition is, largely, to provide means with which to pay existing debts. Why did the people trust them? This $500,000 withdrawal is not to provide for the present pressing needs, but is to provide for their present pressing creditors. That is about the size of it.

Mr. FERRIS. If I may be pardoned a little further, I will say that it is not only needed for existing indebtedness, but likewise for their pressing needs, because when an Indian is head over heels in debt and paying an exorbitant rate of interest I undertake to say that it is of pressing importance that he have some relief, because the dodging of and the evading of creditors—most of the Indians are honest, though some of them are dishonest, perhaps—is not a pleasant situation for the Indian to be in. And it seems to me it is not economy on the part of the Government to force him to pay exorbitant rates of interest when he has money on deposit and is only receiving a small rate of interest.

One word further regarding the necessity of payment of debts. It is true that it is for the payment of debts, but it is also for immediate relief. And I want to say one word further. From time immemorial these Indians have been paid in quarterly and semiannual payments, and now that their lands are sold there is not any money to give them unless Congress affords to them from their own means. The Interior Department has no authority to act in the premises without congressional authorization.

Mr. MANN. Will the gentleman yield?

Mr. FERRIS. Yes.

Mr. MANN. Why is it that these Indians all have land that has been allotted to them, considerable quantities of land, and are not able to support themselves?

Mr. FERRIS. For the simple reason that they have no tools, they have no teams, and they have no houses. The Kiowa, Comanche, and Apache people do not live on their homesteads. They hang around the agencies and do not, as a rule, live on their Indian allotments.

Mr. MANN. They have not got to the point yet where they are willing to go to work on a farm and support themselves?

Mr. FERRIS. In the absence of any money whatever turned over to them to buy tools, or to buy houses, or to buy implements, their present state does not warrant them in going ahead, and they are, as the gentleman suggests, not yet willing to undertake the task of self-maintenance.

Mr. MANN. Does the gentleman think that if they had tools they would go to work and support themselves and cultivate their farms?

Mr. FERRIS. My impression is that in time they would; and it is my well-defined idea that a plan should be inaugurated whereby their money, or portions of it, and such assistance as the Government might see fit to render them should be expended in establishing them on their individual allotments and withhold further payments from them until they show some signs of work in their own behalf.

Mr. MANN. The gentleman will remember that last year, when this matter was up, I said to the gentleman that if we paid their debts then, they would be just as much in debt a year from then—the same set of people, all of whom want to get the money out of the Treasury. If we pay the money now they will want just as much in another year, and in the course of a few years their principal will be all gone, and then there will be no money with which to buy tools, and no Indian supporting himself, and necessarily the Government, having been at fault in paying over the principal, will be compelled to support them.

Mr. STEPHENS of Texas. Will the gentleman from Illinois permit me to suggest——

The CHAIRMAN. The gentleman's time has expired.

Mr. SHERMAN. Mr. Chairman, I ask that the time of the gentleman from Illinois [Mr. MANN] be extended for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. STEPHENS of Texas. Will the gentleman from Illinois permit me to suggest that there should be something paid these Indians in lieu of the lease money that they have had heretofore?

Mr. MANN. I do not know anything about that. I believe in giving these Indians anything that is proper.

Mr. STEPHENS of Texas. Should they not have the interest on their money in lieu of the lease money that the cattlemen have paid them for the lands? We have had the use of the money, and they should have interest on the money instead of the lease money.

Mr. MANN. If the gentleman will pardon me, when the proposition to allot these lands in severalty came up and was adopted, it was the expectation and intention that the Indians living upon the land, or otherwise, as they pleased, would be able to take care of themselves.

Mr. STEPHENS of Texas. That may be true. But if the gentleman will figure just a moment, he would find that the $6,000,000 coming to them on the land sale, and $3,000,000 on hand now, would make $9,000,000, which at 4 per cent interest would amount to $360,000 per annum, would it not—more money than they derived from the lease money?

Mr. MANN. What is done with the interest money now?

Mr. STEPHENS of Texas. There are $6,000,000 of it, I understand, not available, because the settlers have not paid for the land in full.

Mr. MANN. It seems they have been paid the interest; now what has been done with the money? They get the interest on $9,000,000.

Mr. STEPHENS of Texas. On $3,000,000.

Mr. MANN. They get the interest on $9,000,000 each year, and still they go on year after year incurring debts to white men who want them to get in debt.

Mr. FERRIS. I hope the gentleman will withhold his objection until I repeat one statement that I wish to make more clearly, and that is this: Prior to 1901, when the Kiowa and Comanche country was sold, they had been receiving quarterly, semiannually, and annually payments from this lease money. Since the land was sold the money went into a trust fund, and is not available only upon congressional authorization for their use since that time. Now, when their lands are disposed of and they are forced to take up their residence on an allotment and the money is tied up in the Treasury, these people need assistance. They at least are deserving of the right to expend their own funds. And while the gentleman from Illinois very wisely suggests that they may come in next year asking for the same relief, I want to say that unless some new plan is devised by which they can be stimulated to establish themselves on that land, or until they are supplied with tools, horses, and implements, no doubt they will. It is merely asking for their own. They have no earning capacity. These Indians, many of them, are located in the county in which I live. I know them, their traits, and how they live. These people as they now stand differ widely from the other Indians of my State and need the assistance this amendment gives them.

Mr. HINSHAW. How does the amount received at interest compare with the amount received on the leases?

Mr. FERRIS. I am unable to give that. The lease money was distributed to them in quarterly, semiannual, and annual payments until they became reliant on it to a certain extent each year. Since their lands have been sold they have been unable to get this annually. However, last year the chairman of the committee and the House yielded to me and allowed me to put on an amendment for their immediate necessities. It was necessary last year, and it is necessary this year, and unless some new plan is devised it will be necessary hereafter.

Mr. HINSHAW. Why not change the law so that they can get the interest quarterly as they did get the grass money quarterly?

Mr. FERRIS. I have no objection to that.

Mr. MANN. Do they not get the interest now?

Mr. FERRIS. They get the interest now.

Mr. MANN. The gentleman one minute tells us that they have nothing, and the next minute tells us that they get the interest. I do not mean that the gentleman would mislead the House.

Mr. FERRIS. I feel sure the gentleman from Illinois has no desire to misquote me, not even misquote my intentions.

My statement, as I recall it, is they neither have the land nor the money, meaning the lands that were sold and the proceeds derived therefrom. It is true that they have the interest on this fund, also true they have their individual allotments. The Kiowas and Comanches are a dependent people with both their land and money tied up, and they will be in this condition until they are assisted and forced to establish themselves on their allotments.

Mr. MANN. They now have land and interest on their fund, and, like everybody else who are improvident, they are not satisfied until they get the principal.

Mr. SHERMAN. In view of the fact that the department asked that this authorization be given, and in view of the fact that the agent down there is most earnest in his desire to have the authorization given, I hesitate to insist upon the point of order. But I want to make this suggestion to the gentleman rather than insist upon the point of order: Let us pass this by, and if the gentleman will draw an amendment providing that, for instance, $250,000 may be withdrawn, not to pay their debts, but to supply their necessities for the coming year, I will not object to that. Let those people who have trusted them and gotten them in debt—and I have no doubt sold them pianos and sewing machines and all sorts of things, and who expected them to loot the Treasury for their fund—let them wait a while longer by providing that $250,000 may be withdrawn and expended through the department or the bureau, I do not care which way you put it, for their support during the coming year and for furnishing such agricultural implements and the like as necessary to make it possible for them to support themselves, and I will not make any objection.

Mr. FERRIS. I would like to ask the chairman of the committee to dictate the amendment to the Clerk.

Mr. SHERMAN. I simply ask unanimous consent to pass by this amendment without prejudice.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the pending amendment be passed without prejudice. Is there objection? [After a pause.] The Chair hears none.

Mr. MANN. I asked that the amendment offered by the gentleman from North Dakota be passed without prejudice. I would like to have it recurred to.

The CHAIRMAN. Is there objection to returning to the amendment offered by the gentleman from North Dakota at this time. [After a pause.] The Chair hears no objection.

Mr. MANN. I reserved the point of order. The gentleman from New York [Mr. COCKS] has obtained some information in regard to it which I think would, as I indicated to him, probably satisfy me and the House in reference to the matter.

Mr. COCKS of New York. Mr. Chairman, I have communicated with the Chief of the Bureau of Animal Industry, Doctor Melville, who stated to me that these animals were destroyed to prevent the spread of a disease there, and it was an understanding between the bureau and the Indian Department that this was for the remuneration of the Indians for these horses.

Mr. MANN. I understood the gentleman to say that at the time of the destruction of the horses it was not understood that they were to be paid for out of the fund provided for the Bureau of Animal Industry, but, being an Indian matter, that they should be paid for out of Indian Department funds.

Mr. COCKS of New York. Yes.

Mr. MANN. That being the understanding, I withdraw the point of order.

The amendment of Mr. GRONNA was agreed to.

The Clerk read as follows:

That the Secretary of the Treasury is hereby authorized and directed to place upon the books of the Treasury to the credit of the Sacs and Foxes of the Mississippi tribe of Indians the unappropriated sums of $200,000, due under the second article of the treaty of October 21, 1837 (7 Stat. L., p. 540), and $800,000 under the second article of the treaty of October 11, 1842 (7 Stat. L., p. 596).

Mr. MANN. I move to strike out the last word, for the purpose of asking the gentleman from New York [Mr. SHERMAN] whether this and the preceding item in any way involve the controversy between the Sac and Fox Indians of Iowa and those of Oklahoma?

Mr. SHERMAN. No, Mr. Chairman; the pending suit has reference to other funds than either of those appropriated for here.

The Clerk read as follows:

That there be, and hereby is, appropriated, out of the money in the Treasury of the United States belonging to the Osage Nation of Indians, the sum of $14,000 for the erection of a new building at the Osage Boarding School, Oklahoma, to replace the one recently destroyed by fire.

Mr. SHERMAN. Mr. Chairman, I move to strike out lines 3 to 8, inclusive, on page 40. That provision has already been cared for.

The Clerk read as follows:

Page 40, strike out lines 3 to 8, inclusive.

Mr. SHERMAN. That has already been cared for in the deficiency bill.

The amendment was agreed to.

The Clerk read as follows:

DISTRICT AGENTS.

Supplemental to the funds appropriated and available for expenses connected with the affairs of the Five Civilized Tribes, there is hereby appropriated for the salaries and expenses of district agents and other employees connected with the work of such agents, out of any funds in the Treasury not otherwise appropriated, the sum of $90,000, to be immediately available and available until expended as the Secretary of the Interior may direct; and all powers heretofore conferred by law on said district agents, who are designated by the act of May 27, 1902 (35 Stat. L., p. 312), as "local representatives" of the Secretary of the Interior, are continued in full force and effect: *Provided*, That the Secretary of the Interior is hereby authorized to employ of such district agents such number, not exceeding five, as he deems proper, to perform like duties as those now performed by them among the Five Civilized Tribes in Oklahoma in other portions of that State.

Mr. MANN. I reserve a point of order on that paragraph.

Mr. SHERMAN. Mr. Chairman, a provision similar to this was carried last year in the bill known as the "removal of restrictions bill," and under that provision agents, who are called "district agents," to the number of about 50, have been appointed and are now acting, and are doing a very important work in the portion of Oklahoma which heretofore has been known as "the Indian Territory." They have been engaged in looking after the interests of the Indians in every possible way, seeing that those who have not selected their allotments select them, seeing that they are not defrauded out of their lands, that they do not enter into leases for a consideration which is not adequate, and all that sort of thing. They are rendering a very important service for the benefit of the Indians. It is a service now in existence.

Mr. MANN. Is this connected with the land frauds down there?

Mr. SHERMAN. No; not what the gentleman calls land frauds. It is connected wholly with the Indian Service.

Mr. MANN. What is the object of making the fund here available until expended?

Mr. SHERMAN. I suppose the theory is that, all of it not being used during this fiscal year, whatever is unused can be used during the next fiscal year.

Mr. MANN. That would apply to any appropriation.

Mr. SHERMAN. Yes. I know of no other reason for putting it in.

Mr. MANN. What differentiates this from the ordinary appropriation?

Mr. SHERMAN. Nothing that I know of. It is a question of the importance of the service, that is all; and if they do not use it all during this coming fiscal year, the desire is that what is not used that year may be used in the following year.

Mr. MANN. Is there any reason why next winter the committee considering this bill should not be informed as to the necessity for this service?

Mr. SHERMAN. Not at all; and there is no expectation of not informing them.

Mr. MANN. They could not be informed if this goes in.

Mr. SHERMAN. Oh, yes.

Mr. MANN. They would not know anything about it.

Mr. SHERMAN. We are always informed as to the condition of every appropriation. I will say to the gentleman that there is not a year that we are not informed of the condition of every fund, exactly how much was expended during the fiscal year, exactly how much was left on hand, and all that sort of thing, and we will have that same information next year.

Mr. MANN. The gentleman refers to the Book of Estimates?

Mr. SHERMAN. No; I do not. The gentleman misunderstands. Fuller information than the Book of Estimates ever contains is required by the committee from the department every year, and we get it. I can tell the gentleman, for instance, the amount that was left over in every particular fund that was appropriated for in our bill the last fiscal year, and what the condition of the fund was on January 1 of this year.

Mr. MANN. Tell us about this fund, how much was appropriated and how much was expended.

Mr. SHERMAN. This was not included in last year's appropriation bill and therefore I have not the figures for this one item. Every item included in last year's appropriation bill I have the figures for.

Mr. MANN. That is exactly it. I said, if this was not to be in the appropriation bill next year there would be no in-

formation furnished about it. The fund has been appropriated, and has been expended, and the gentleman's committee has not been given any information concerning it. I do not know anything about the item, and do not pretend to; but I make the point of order on so much of the item in lines 18 and 19 as reads "and available until expended."

Mr. SHERMAN. The point of order is well taken, I will admit.

The CHAIRMAN. The Chair sustains the point of order.

Mr. HACKNEY. Mr. Chairman, I move to amend by striking out the word "two," in line 22, page 41, and inserting the word "eight." It is a clerical or typographical error.

The Clerk read as follows:

Page 41, line 22, strike out the word "two" and insert the word "eight."

The amendment was agreed to.

Mr. FERRIS. Mr. Chairman, I ask unanimous consent to return to page 36 of the pending bill to offer the following amendment, which I send to the desk.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent to return to page 36 of the bill for the purpose of offering an amendment. Is there objection?

There was no objection.

The Clerk read as follows:

Insert on page 36, line 21, after the word "dollars," the following: "That the Secretary of the Interior be, and he is hereby, authorized and directed to withdraw from the Treasury of the United States, at his discretion, the sum of $250,000, or so much thereof as may be necessary, of the funds on deposit to the credit of the Kiowa, Comanche, and Apache tribes of Indians in Oklahoma, and pay out the same for the benefit of the members of said tribes for their maintenance and support for the ensuing year in such manner and under such regulations as he may prescribe."

Mr. MANN. On that I reserve a point of order. What is the difference between this and the other except in amount?

Mr. SHERMAN. The other authorized the withdrawal of the fund, and it was stated that it would be used to the amount of $400,000 in the payment of existing debts. Now this eliminates existing debts. It leaves the people who have been foolish enough to trust the Indians, and perhaps not only foolish enough to trust them but so criminal, if I may use the word, as to induce them to go into debt, leaving them to wait for their money, and it is provided that $250,000 of their own money may be used under the direction of the Secretary of the Interior for their support and maintenance during the coming year. That is the difference between the two.

Mr. FERRIS. This provides for $250,000 and the other provided for $500,000.

Mr. MANN. How much do the Indians now receive as interest on their fund?

Mr. SHERMAN. They must receive in the neighborhood of $300,000.

Mr. MANN. How much per capita?

Mr. SHERMAN. I should say about $80.

Mr. MANN. Eighty dollars for each one in the family?

Mr. FERRIS. They do not get that much, for a part of it is outside money that no interest is paid on.

Mr. MANN. We provided the other day for interest on town-site sections. Each one in the family gets the money—one man gets it for all in the family. It seems to me that a family of Indians with a homestead and that much clear coming to him ought to be able, if he is ever going to be able, to begin to learn the necessity for living on his income.

Mr. STEPHENS of Texas. I want to say to the gentleman that the land is all new; it is a prairie country, and the land is not yet reduced to cultivation. When it is reduced to cultivation it can be rented for from one to five dollars an acre, according to the value of the land. Now, that would be quite an income to have; but wild land, fresh land, can not be rented to the farmers.

Mr. MANN. That is it; it can be rented to white men. I want the Indians to understand that it is their business to cultivate the ground themselves or else for us to understand that we have got to support them for all time, and if so, we had better keep the fund and support them on the interest. Here is a proposition to give them the land which you do not expect them to cultivate, and also the funds, which were supposedly to protect us, and in the end we will have to take care of them.

Mr. STEPHENS of Texas. The white men will have to make a living for them.

Mr. MANN. It may be that the white men will have to make a living for them. I have discovered by observation and reading in this world that the only way anybody makes a living is for fear of starvation or freezing to death. Nobody here would work if it was not for fear of those two things. [Laughter.]

Mr. FERRIS. I hope there will not be any misunderstanding, Mr. Chairman, as to the amount of money that the Indians receive.

The report of the Secretary last year shows that they received $50 per capita as interest, and the prior years it was $30.

Mr. MANN. For each Indian.

Mr. FERRIS. Instead of receiving $80 last year, they received $30, and the year before nothing, and this year $50.

Mr. MANN. That is it; it is going up all the time, and the debts are just as much; and if we gave them $500,000, they would owe just as much as they do now. That is the system the gentleman wants to encourage. We ought to stick to the policy of having these people do some work, and I make a point of order against the paragraph.

The CHAIRMAN. It is new legislation, not in order on an appropriation bill, and the Chair sustains the point of order.

The Clerk read as follows:

That the Secretary of the Interior is hereby authorized to make an investigation of the status of all tracts of land reserved for members of the Creek, Choctaw, and Chickasaw tribes of Indians under the Creek treaty of March 24, 1832 (7 Stat. L., 366), the Choctaw treaty of September 27, 1830 (7 Stat. L., 333), the Chickasaw treaty of October 27, 1830 (7 Stat. L., 381), and the Chickasaw treaty of May 24, 1834 (7 Stat. L., 450), for which patents have not been issued, or conveyances made by the reservees under the treaties have not been approved by the President, and he shall report his conclusions with his recommendation concerning any action by the Congress needed to clear up the titles to those lands, and the sum of $10,000 is hereby appropriated, out of any money in the treasury not otherwise appropriated, to pay the expense of the investigation provided for herein.

Mr. BYRD. Mr. Chairman, I make the point of order on the whole paragraph that it is legislation on an appropriation bill.

The CHAIRMAN. Does the gentleman from New York wish to be heard on the point of order?

Mr. SHERMAN. No.

The CHAIRMAN. The point of order is sustained, and the Clerk will read.

The Clerk read as follows:

For the completion of the work heretofore required by law to be done by the Commission to the Five Civilized Tribes, $140,000, said appropriation to be disbursed under the direction of the Secretary of the Interior.

Mr. CARTER. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Insert, after line 19, page 43:
"Said appropriation to be disbursed under the direction of the Secretary of the Interior, who is directed to so disburse this appropriation as to complete said work by July 1, 1910."

Mr. MANN. I reserve the point of order simply for the purpose of asking whether that extends the time another year.

Mr. CARTER. It does extend the time for twelve months.

Mr. MANN. We have put this sort of a provision in the bill several times. Does it amount to anything?

Mr. CARTER. I think this is the first time it has been in for several years.

Mr. SHERMAN. Of course it does not amount to anything. It was in last year.

Mr. MANN. I know it was. I withdraw the point of order.

Mr. CARTER. I just want to state this, That I have been requested very urgently to make a point of order against that provision, but I have not done it, primarily, because it is necessary for some of this money to be appropriated, possibly all of it, and, secondarily, I wanted to see our worthy chairman, before he was exalted to the high position of the second highest office in this great Republic, get through his last supply bill in the House with as little contention as possible from the members of his own committee. For these reasons I have not made the point of order against it, and I would like very much to see the amendment agreed to.

Mr. STEPHENS of Texas. I make the point of order against the amendment. I do not think this ought to be limited, the time in which to close these rolls.

Mr. Chairman, I desire to call the attention of this House to the fact that Congress, in its endeavor to close up the business of the Choctaw and Chickasaw tribes of Indians in Oklahoma in a very short time, has failed to enroll Indians that should have been enrolled and permitted others to be enrolled that should not have been enrolled. This is not my assertion, but the statement of the Secretary of the Interior, Mr. Garfield, to this Congress in an official communication, viz, his annual report for the year 1907, page 20. If this is true, and no one will dispute it, we should not close the rolls before we purge them.

The Supreme Court in the Stephens case (174 U. S. Repts.) holds that Indians are the wards of the Government; hence Congress is the court that must distribute their property to them justly and fairly, and if we do not, but disinherit part of

the heirs and give part of the estate to parties not heirs, then we will render the Government, in my judgment, subject to having to pay the disinherited Indians for the property we have unjustly given to Indians not entitled to it.

Now, to obviate this danger, while we have, still belonging to this estate and in our hands, subject to our disposition, surplus land and money enough to give all these Indians their share of this property, we should open up these rolls and let the Indians of these tribes by blood be enrolled and have their property given to them. I would not disturb any Indians now in possession of the land allotted to them, but I would give to those entitled to it as Indians by blood all the remaining property; and with that end in view I have introduced the following bill:

Be it enacted, etc., That the provisions of an act approved February 6, 1901 (chap. 217, U. S. Stat. L., 56th Cong.), entitled "An act amending the act of August 15, 1894, entitled 'An act making appropriations for current and contingent expenses of the Indian Department and fulfilling treaties and stipulations with various Indian tribes for the fiscal year ending June 30, 1895, and for other purposes,'" be, and the same is hereby, extended to any person claiming any right in the common property of the Choctaw or Chickasaw Indians or tribes; and in order to make said act applicable to any person claiming any such right in said property said act is hereby amended to read as follows:

"SEC. 2. That all persons who are, in whole or in part, of Choctaw or Chickasaw blood or descent and who are entitled to share in the common property of the Choctaw or Chickasaw Indians under any treaty with said Indians or law of Congress, or who claim to be so entitled under any treaty, grant, agreement, or act of Congress, or who claim to have been unlawfully denied or excluded from participating in the common property of the Choctaws or Chickasaws to which they claim to be lawfully entitled by virtue of any treaty, grant, agreement, or act of Congress, may commence and prosecute or defend any action, suit, or proceeding in relation to their right thereto in the proper district or circuit court of the United States; and said district and circuit courts are hereby given jurisdiction to hear, try, and determine any action, suit, or proceeding arising within their respective jurisdiction and involving the right of any person, in whole or in part of Indian blood or descent, to share in the common property of said Choctaw or Chickasaw Indians under any treaty, grant, agreement, or law of Congress (and in said suit the parties thereto shall be the claimant as plaintiff, and the Choctaw and Chickasaw nations or tribes jointly as party defendant); and the judgment or decree of any such court in favor of any claimant to share in the common property of said tribes shall have the same effect, when properly certified to the Secretary of the Interior, as if such judgment or decree had been allowed and approved by him: *Provided*, That the right of appeal shall be allowed to either party, as in other cases, and that no act of Congress or agreement limiting the time in which an application or assertion of right should be made shall operate to defeat the rights of any person entitled to share in the said common property under any treaty with or grant to said Indians.

"SEC. 3. That the plaintiff shall cause a copy of his petition, filed under the preceding section, to be served upon the district attorney of the United States in the district wherein suit is brought, and shall mail copies of same, by registered letters, to the principal chief or governor of the Choctaw and Chickasaw nations, respectively, and shall thereupon cause to be filed with the clerk of the court wherein suit is instituted an affidavit of such service and the mailing of such letters. It shall be the duty of the district attorney upon whom service of petition is made as aforesaid to appear and defend the interests of the Choctaw and Chickasaw nations in the suit, and within sixty days after the service of petition upon him, unless the time should be extended by order of the court made in the case, to file a plea, answer, or demurrer on the part of the Indian governments or tribes, and to file a notice of any counterclaim, set-off, claim for damages, or other demand or defense whatsoever in the premises: *Provided*, That should the district attorney neglect or refuse to file the plea, answer, demurrer, or defense, as required, the plaintiff may proceed with the case under such rules as the court may adopt in the premises; but the plaintiff shall not have judgment or decree for his claim, or any part thereof, unless he shall establish the same by proof satisfactory to the court.

"SEC. 4. That wherever it shall appear to the satisfaction of the court in which the proceedings has been instituted that there is in the possession of any department of the Government or of any bureau, division, or commission thereof or thereunder, any record or records material to the proper determination of the issue being heard, or about to be heard, the head of the department in which such record is kept shall, upon request of the judge of said court, transmit a certified copy of the record or records on file in his department to the clerk of the court to be used at the trial of the case without any charge therefor: *Provided further*, That all records in the possession or custody of any government officer or department or division, bureau, or commission thereof or thereunder pertaining or appertaining to the rights of any such claimant shall, upon request of the claimant or his authorized attorney, be open to inspection; *Provided further*, That all suits brought under the provisions of this act shall be commenced within six months after the passage of this act, and the court, upon the request of either the plaintiff or defendant, shall advance any suit instituted under the provisions of this act on the dockets thereof to as early hearing as is consistent with the rights of the parties and the interests involved."

Mr. Chairman, this bill should become a law. If it does not, hundreds of Indian families will lose their homes and become outcasts. Let me give you a true history of this matter. By article 2 of a treaty negotiated September 27, 1830, and ratified by the Senate of the United States and proclaimed as a law on February 24, 1831 (7 Stats., 333), the United States agreed to specially convey certain lands west of the Mississippi River (and which are now being allotted) in fee-simple title to the Choctaw Nation in trust for the exclusive use and benefit of a designated class of persons composed of all those persons comprising the Choctaw community on the day the treaty was ratified and their descendants.

On March 24, 1837, the Senate of the United States ratified a treaty entered into by the Choctaws and Chickasaws, by terms and provisions of article 1 of which treaty those persons comprising the Chickasaw community on the day the treaty was ratified and their descendants acquired by purchase an equal, undivided individual interest in the property agreed to be conveyed to the Choctaws by article 2 of the treaty of 1830, on the same terms that the Choctaws held it, and by this treaty the Chickasaws became a part of the designated class of Choctaws for whose exclusive use and benefit the grant was to be made.

On February 24, 1842, the President of the United States specially conveyed by patent the said western lands in fee-simple title to the Choctaw Nation, to be held by said nation in trust for the exclusive use and benefit of said designated class of persons.

By act of Congress approved June 10, 1896, a commission known as the "Commission to the Five Civilized Tribes" was directed to receive, consider, and determine applications of persons claiming citizenship in the Choctaw and Chickasaw nations preparatory to the preparation of final citizenship rolls to be used as a basis for the distribution in severalty of the tribal property. Said act expressly directed said commission to determine all such applications according to the treaties with and laws of the United States. This act required the enrollment of all persons who made application who were of the said designated class of persons named in the treaties and the grant. Said act further provided that either the Indian nations (who were represented by their officials and attorneys) or the applicants could appeal from the decision of the commission to the United States district courts. Only a comparative few of the Choctaws and Chickasaws applied to said commission under said act, and of the number who applied, appeals were taken to the United States district courts in cases involving the rights of about 5,000 persons. The United States district courts heard the cases and rendered judgments admitting to citizenship approximately 4,000 persons. Appeals were taken in these cases from the judgments of the United States district courts to the Supreme Court of the United States, which court affirmed said judgments. (174 U. S., 476.) Thereafter, by act approved July 1, 1902, a legislative commission, designated therein as the "Choctaw-Chickasaw citizenship court," was created with authority to review, revise, and annul said judgments entered by said United States district courts and affirmed by the Supreme Court of the United States. The attorneys (Mansfield, McMurray, and Cornish) who procured this legislation held inviolate contracts with the officials of the Indian governments by which, in the event they could secure a reversal of said judgment rendered by the federal courts, they were to receive 9 per cent of the value of the property each such person was entitled to receive under said judgment.

This citizenship court rendered judgments and decrees affirming the judgments of the federal courts in cases involving the rights of 156 persons and reversed and rendered null and void the judgments of the federal courts in cases involving the rights of approximately 3,800 claimants. This citizenship court, under congressional act approved March 3, 1903, was authorized to fix the compensation of the attorneys who secured the legislation under which the court was created, for their entire services rendered in these cases, both in procuring the legislation and conducting said cases before said citizenship court. Said court under said act entered a decree awarding a fee of $750,000 to said attorneys, but did not state upon what basis the allowance was made.

The charge has often been made that certain members of the citizenship court were improperly, if not corruptly, influenced to render said judgments, and thereby deny to upward of 4,000 Indians their property rights which had been decreed them by the federal courts. It is believed by many persons that there was just ground for said charge, and that these people were improperly, if not fraudulently, denied their property rights by federal officers who profited financially thereby.

Mr. Chairman, on April 29 of last year I offered a resolution, No. 389, authorizing the appointment of a subcommittee of this House to investigate the charge that this citizenship court had been corrupted or bribed to render the opinions they rendered in said cases. This resolution was referred to the Committee on Rules, and has never been reported from said committee. It is as follows, viz:

[House of Representatives. Resolution 389. Sixtieth Congress, first session.]

Whereas under an act of Congress approved June 10, 1896, the United States district courts in Indian Territory heard and determined the rights of approximately 5,000 people claiming citizenship in the Choctaw and Chickasaw nations; and

Whereas the said United States district courts rendered judgments

and decrees entitling approximately 4,000 of said persons to enrollment as Choctaw and Chickasaw citizens; and

Whereas said judgments were thereafter affirmed by the Supreme Court of the United States; and

Whereas by an act of Congress approved July 1, 1902, a legislative commission therein designated as the Choctaw-Chickasaw citizenship court was created and authorized to readjudicate the rights of the said 4,000 persons who had procured judgments from the United States district courts, some of which judgments had been affirmed by the Supreme Court of the United States; and

Whereas said legislative commission, known as the Choctaw-Chickasaw citizenship court, heard and determined, or pretended to hear and determine, on review, the rights of said 4,000 persons who theretofore procured favorable judgments from the United States courts; and

Whereas said Choctaw-Chickasaw citizenship court rendered a finding, judgment, or decree affirming the judgments of the United States courts in cases involving the rights of only 156 persons and illegally, wrongfully, and it is charged corruptly, denied the rights of all other persons who had theretofore secured favorable judgments from the United States courts decreeing them to be citizens of the Choctaw and Chickasaw nations, and thus depriving them of their property and citizenship rights; and

Whereas said Choctaw-Chickasaw citizenship court awarded a fee of $750,000 to George Mansfield, J. F. McMurray, and Melvin Cornish, doing business under the firm name and style of Mansfield, McMurray & Cornish, for pretended legal services in procuring the enactment of legislation creating said court and in prosecuting said cases before said court; and

Whereas it is generally believed and charged that certain members of said court were corruptly induced to render said findings, judgments, or decrees denying said persons enrollment as Choctaws and Chickasaws for a money consideration paid to them out of the fee awarded to said attorneys: Therefore be it

Resolved, That the Committee on Indian Affairs of the House, or a subcommittee thereof consisting of three members, one of whom shall belong to the minority party, to be appointed by the chairman, is hereby authorized and directed to investigate said charges and to report the facts to the House; that said committee or subcommittee is further authorized to sit during the sessions of the House or during vacation, in Washington or elsewhere, to employ a stenographer and one clerk, to summon and subpœna witnesses and to compel their attendance, to administer oaths, to require the production of books and papers, and to exercise any and all other powers necessary to a full and complete investigation of the conduct of said court, or any member thereof, to the end that it may report the true facts to the House with reference to said charges; and it is further provided that the expense incident to said investigation shall be paid out of the contingent fund of the House.

Resolved, That said committee shall report to the House whether, in their judgment, any of said Indians whose judgments were set aside by said court have been unjustly deprived of their property without due process of law, and if they so find, to suggest in their report appropriate legislation for restoring them to their personal and property rights as citizens of said tribes.

Mr. Chairman, this resolution was referred to the Committee on Rules and never reported from that committee. This citizenship court rendered some very strange opinions. One of the investigations made by the Senate shows that this court in the case of 17 different families put on part and left off part of families. This affidavit shows one example. It is as follows:

Anderson F. Cowling, of Cowlington, Okla., Choctaw by blood.

STATE OF OKLAHOMA, *Pittsburg County, ss.*

Personally appeared before me, Mrs. R. H. Tarter, a notary public in and for the county and State aforesaid, Anderson F. Cowling, to me well known, who upon his oath deposeth and said:

That he is a citizen of the United States, a resident of the town of Cowlington, La Flore County, State of Oklahoma, and is 65 years of age; that he has been a resident of the Choctaw Nation for thirty-two years last past; that he is a son of Sallie Kemp, a Choctaw by blood, who was a daughter of Sol Kemp, a Choctaw by blood; that in the year 1896 affiant made application to the Commission to the Five Civilized Tribes for the enrollment of himself, his wife, and three children as citizens of the Choctaw Nation by blood, under the act of June 10, 1896; that said application was allowed by said commission and affiant, his wife, and three children enrolled; that thereafter an appeal was taken to the United States district court, central district, Indian Territory, by the Choctaw Nation from said decision of the Commission to the Five Civilized Tribes enrolling affiant, but that no appeal was taken from the decision of the commission enrolling affiant's wife and his three children, notwithstanding the fact that the said children were enrolled as a result of the Indian blood of their father, affiant; that after a full hearing before said court a judgment was entered adjudging affiant to be a citizen of the Choctaw Nation; that thereafter his case, together with all other cases in which judgment had been rendered by the United States territorial courts for Indian Territory, was appealed to the Supreme Court of the United States, and that said United States Supreme Court rendered a decision affirming the decision of the United States territorial court adjudging affiant to be a citizen of the Choctaw Nation; that thereafter the judgment of the United States courts adjudging affiant to be a citizen of the Choctaw Nation was set aside by the legislative commission known as the "Choctaw-Chickasaw citizenship court," and that affiant is to-day without any recognition of his right to share in any of the common property of the Choctaws and Chickasaws.

Affiant further states that his three children were enrolled as blood citizens of the Choctaw Nation, by reason of his Indian blood, by findings of the Commission to the Five Civilized Tribes, the Commissioner of Indian Affairs, and the Secretary of the Interior, and that they are now on the approved blood roll of the Choctaw Nation; that his wife is enrolled on the approved rolls of the Choctaw Nation as an intermarried citizen, deriving her enrollment by reason of her marriage to him.

ANDERSON F. COWLING.

Subscribed and sworn to before me this the 16th day of November, 1908.

[SEAL.] MRS. R. H. TARTER,
Notary Public.

My commission expires June 24, 1912.

The Commission to the Five Civilized Tribes was expressly directed by section 21 of said act to make the rolls in conformity with the treaties and laws of the United States, and to enroll as citizens all persons of Choctaw or Chickasaw blood and descent who were bona fide residents of said nations on the 28th day of June, 1898; and to prepare rolls of freedmen entitled to any rights or benefits under the treaty of 1866, and their descendants who were bona fide residents of said nations on June 28, 1898; and it was expressly provided that when the rolls were made as the act provided, and were approved by the Secretary of the Interior, they should be final.

The Commissioner of Indian Affairs, under date of July 25, 1899, directed the commission in performing its work under said act as follows:

The rolls as made up by your commission must, to become final, receive the approval of the Secretary of the Interior. It will therefore be necessary for you to make a record of all cases sufficient to enable this office and the department to take intelligent action in the premises, and especially in those cases where your decision either for or against the right of any person to have his name appear upon the roll is complained of.

For the purpose of this record you will require each applicant for enrollment to present himself in person before the commission at one of its appointments within the tribe in which such applicant claims right to enrollment for examination under oath, his statements to be taken down by the commission, upon which the commission will determine his right to enrollment, and such record and action of the commission would be preserved and transmitted with the rolls to be considered by this office and the department when the rolls made by the commission are submitted for the approval of the Secretary of the Interior.

Tams Bixby and A. S. McKennon, two members of the commission, who had direct charge of the preparation of the citizenship and freedmen rolls, testified before the select committee of the Senate (vol. 1, S. Rept. No. 5013, 59th Cong., 2d sess.) that no person appearing before said commission was examined under oath and his or her statements reduced to writing as required by the departmental instructions.

On June 7, 1897, another act was approved directing the commission to enroll as citizens of said nations all persons whose names appeared on any approved roll of the Choctaws or Chickasaws and their descendants born after the approval of any of said rolls.

On June 28, 1898, Congress, acting upon the recommendation of the Commission to the Five Civilized Tribes, passed an act giving the commission full authority to make correct and complete rolls of all persons entitled to share in the common trust property (H. R. Rept. 593, 55th Cong., 2d sess.).

There appears, therefore, no way by which any error committed by the commissioners in examining persons in the field could have been corrected on review by the Secretary, as the only record before the Secretary was such memorandum of evidence taken as the commission had seen fit to make of record.

Many persons of mixed Indian and negro blood, undoubtedly of the designated class of persons for whose benefit the grant was made, were enrolled by the commission as "freedmen" and no mention made in the memorandum of their Indian blood. These people under treaty stipulations appear to be entitled to as full property rights as Indians, many of them being, as appears from the evidence offered and photographs exhibited, of more than half Indian blood, and some of them practically full bloods.

Under date of March 17, 1899, Assistant Attorney-General Willis J. Vandevanter, in an official opinion rendered for the guidance of said commission, construed the act of June 28, 1898, to mean that all persons whose names lawfully appeared upon the tribal rolls and their descendants should be enrolled on the citizenship rolls of said tribes and should receive distributive shares of the common property of said Indians. (S. Rept. 5013, 59th Cong., 2d sess., p. 1555.) The report of the Secretary (pp. 49–50, Hearings on H. R. 15649) states that only such rolls as had been prepared by the Indian officials during the years 1885 to 1896, inclusive, were in the possession of or were consulted by either the commission or the department in the preparation of the citizenship rolls which are now being used as a basis for the distribution of the tribal property. It is charged that these rolls were prepared by individuals who were pecuniarily interested in the division of the estate and were notoriously inaccurate and incomplete.

The parties preparing the rolls were Mansfield, McMurry, and Cornish, the attorneys I have named before, and it was not proper for said commission to have used said rolls exclusively as a basis for the final citizenship rolls, particularly as there were then in the possession and custody of the Secretary of the Interior and the Secretary of the Treasury a large number of complete and authentic rolls of the members of said tribes, which were not consulted and which are believed to contain the names of many persons of Indian blood, or the names of the ancestors of many persons of Indian blood, who are undoubtedly

of the same designated class of persons for whose exclusive use said grant was made, but who have been refused enrollment by said commission and said Secretary, and thereby denied the right to share in the common property.

It appears from incontestable evidence, and it is admitted by the Secretary of the Interior on page 20 of his annual report for the year ending June 30, 1907, that the rolls are incomplete and that many blood citizens are not enrolled who are entitled to enrollment, and it is claimed by the department that many persons have been enrolled who are not entitled to enrollment.

The official certifications contained in Senate Report No. 5013 (pt. 2, 59th Cong., 2d sess.) show that blood Indians have been enrolled as citizens and given distributive shares in the property, while their full brothers and sisters have been either denied enrollment, and thereby denied their lawful property rights, or enrolled as freedmen and given freedmen limited property rights of 40 acres of average land. It appears further from the report of the Secretary, set out in Senate Document No. 390, Fifty-ninth Congress, second session, that during the week immediately preceding March 4, 1907, on which day the jurisdiction of the Secretary to approve enrollments terminated, the department examined and decided 2,023 cases, which it is claimed by attorneys for claimants involved the rights of approximately 10,000 persons. It is apparent that the Secretary could not have properly considered these cases in the time in which he had to act, and it would be unjust to deny these claimants their property rights because the administrative officers did not have time to properly consider their cases. Many other evidences of irregularities in the preparation of said rolls at least cast suspicion on the rolls as approved by the Secretary. For the reasons thus stated by me, I do not believe the said rolls as approved by the Secretary under existing law are final, for they have not been made as the statute provided they should be made; therefore my bill should pass, opening up these rolls, so that justice may be done.

Under agreements with the Choctaws and Chickasaws, ratified June 28, 1898, and July 1, 1902, each person enrolled as a citizen by the Secretary was to receive 320 acres of the average allottable lands and a distributive share of all funds; persons enrolled as freedmen were to receive 40 acres of the average allottable lands and were not to share in any funds.

I am firmly of the belief that, owing to the nature of the title to this property and the notorious mistakes committed by administrative officers (which have undoubtedly resulted in unlawfully depriving many persons of their property), the Government will become liable for millions of dollars in claims brought against it by persons whose rights have been thus denied. They have been always held to be the wards of the Government by Congress and by the courts, and if they are wards then the United States Government is their guardian and as such will be in law and morals bound to justly administer the estates of its wards, and my bill will accomplish that purpose. It does not seek to change existing law, but simply permits every person who claims a right in this property to go into the proper United States district or circuit court in Oklahoma, and there have his or her claim judicially determined. The same law is now in force in every jurisdiction in the United States except the eastern district of Oklahoma, and I can see no reason why the Choctaws and Chickasaws should be deprived of the benefits of a law which has met with universal approbation in every other jurisdiction and in every civilized country in the world.

The bill could be amended so as to authorize the Attorney-General of the United States to examine the rolls of the Choctaws and Chickasaws after they are prepared by the administrative officers under my proposed bill, and to investigate any suspicious enrollments, and if from said investigation he is satisfied that any person or persons have been unlawfully enrolled, to cause such names to be stricken from the rolls, or appeals could be provided for to the United States district or circuit courts.

Mr. Chairman, I will specifically point out certain Indians in the Choctaw Nation who are real Indians by blood, born in that country, and lived there always, that are not on the rolls, but are clearly entitled to be under the treaties of 1830 and 1866.

These people did not know of the requirements of the act of June 10, 1896, nor of the existence of said act. Some of these people, to wit, Sallie Berryman, for herself and children; Victoria Boyd, for herself and children; and Mrs. Banty, for herself and children; and several other heads of families, whose names I do not know, were applicants before the Choctaw council for enrollment in 1896, and again in 1897.

The council passed upon their testimony, said they were entitled to be enrolled, and upon the payment of $100 per head they would place them on the rolls. This they were not able to pay, went home to try to raise the money, and before council convened again the governor of the Choctaw Nation was notified that the council was without authority to enroll its members since the creation of the Dawes Commission. These applicants were notified by the council and instructed to go before the Dawes Commission at Atoka, Ind. T., in August, 1898, which they did. A. S. McKinnon was the acting chairman of said commission. He heard their applications and dismissed them, telling them that the commission was without authority to enroll them, and the said McKinnon refused and did not make any record of said applications, as I have before stated the law required this commission to do.

There were then some parties who complained to the department in Washington, with many affidavits as to the refusal of said McKinnon to make a record. These affidavits are, I presume, now on file in the department. In the year 1900 the commission was again instructed by the department to make a record of all those who made application, and just at this time the act of May 31, 1900, was enacted, depriving the commission of the right to receive or consider applications of Indians by blood, but to receive applications of Mississippi Choctaws; this was afterwards construed to apply only to those claiming rights under the fourteenth article of the treaty of 1830, and to give no rights to blood citizens.

At the very first opportunity, in the year 1900, they made application and were forced to make it as Mississippi Choctaws, notwithstanding they were Indians by blood, and said commission permitted them to introduce testimony and make a record, and these records are here on file in the office of the Commissioner of Indian Affairs, and show clearly that these people are Indians by blood and entitled to enrollment.

Some of them supposed they were enrolled, and they may have been, for there were not then and are not now any rolls of several of those counties. Many of them did not make applications for enrollment until the time came to allot lands. It was the allotment that directed their attention to the necessity of the preservation of their rights.

The act of June 28, 1898, gave jurisdiction to the department; properly construed, it authorized the enrollment of every Indian by blood who was entitled, but the commission construed it otherwise and held they had no authority under this act to enroll applicants by blood.

People went before the commission desiring to apply for citizenship and were told that they were too late. They were told, however, that they could apply as Mississippi Choctaws, so a number made applications as Mississippi Choctaws just as soon as they learned that they could apply in that manner.

The term "Mississippi Choctaw" had no meaning in that country at that time, such as was subsequently given to it. They were all from Mississippi, and the common people construed the term to mean any enrolled Choctaw whose people had come from Mississippi.

By the act of May 31, 1900, these blood Indians were prevented from making any application at and after that date, but it should be remembered that none of their applications as Mississippi Choctaws had been taken up and considered at that time, so after it was too late to apply by blood the Mississippi Choctaw applications were taken up, and they were denied because they were not fourteenth article Mississippi Choctaws. By this method of whipsawing their little farms have been taken from them; they have been denied every right.

These people were entitled under the law, are entitled in equity; there is no reason that they should not be enrolled, for there is plenty of land, and if there are to be any corrections of the roll, the act should be plain enough to enroll them.

Their records are all before the department. No new testimony need be taken. They can file an application for reconsideration within sixty days if a time limit is given. It ought to be limited to Indians by blood otherwise entitled under the law, and then take off the limit of time which barred their applications; and, if they applied as Mississippi Choctaws and were Indians by blood because of a mistake or through ignorance, that fact should not bar them, for it was the duty of the officers to enroll those who were entitled.

The Dawes Commission went down there, not as a court to enforce strict pleading, but as a commission to enroll those entitled, and the duty still exists on the part of the Government to protect them. It can be properly done and the act can be made definite, and I most respectfully submit that this is the time to do it, and my bill will accomplish that result. Let me warn this Congress that if it refuses to enroll these Indians and if we divide up all of the land and property of the tribe among the favored ones now on the rolls and fail to give the others their share of their common estate, Congress will be besieged for

many years with these claims for their distributive shares, to be paid out of the Treasury of the United States.

My friend from Mississippi [Mr. BYRD], on February 17 last year, in an eloquent and able speech, advocated the rights of the Mississippi Choctaws to enrollment. Speaking of the unjust acts of the Dawes Commission toward the Mississippi Choctaws, he said in that speech:

The first edict issued was that none but those residing in the Territory at that time could share in the distribution of the lands, but this was abandoned. Then it was contended that only those who could trace their ancestry back to a certain class who participated in the treaty could receive a share, and this, too, was abandoned; and next it was insisted that only the descendants of the full bloods could inherit, and this likewise was overruled.

Being forced to admit that the Choctaw territory belonged to the tribe in common, regardless of where they lived or who their ancestors were, or whether half blood or whole blood, it was decided that the only way to outlaw the Mississippi Choctaws was to railroad a law through Congress requiring them to immediately remove to the Territory and live upon their several allotments, and that unless this was done within six months they were forever barred. Under this unlawful, unjust, and cruel law they have lost all. The book of fate seems to be forever closed against them. It was the "unkindest cut of all."

Why, Mr. Chairman, this procedure was nothing less than legalized robbery. Upon what process of reasoning can we justify either the justice or the legality of such action? Can the Government after executing a fee-simple title to this estate afterwards destroy the title by entailing an impossible condition upon it? Certainly not. There is not a lawyer who ever read three pages of Blackstone who will disagree with me on this proposition. But, whether the law be or be not constitutional, the Mississippi Choctaws are bound by it just the same, for the reason that the Government is cloistered behind that relic of kingcraft, that the sovereign can do no wrong, nor be sued, except by consent. Bills are pending before the Committee on Indian Affairs providing that these poor people be given access to the courts to ascertain their rights, but not one of them will be reported, for to do so would mean the defeat of the well-planned scheme of robbery.

Then, too, how unreasonable was the proposition to require these poor people to remove to the Territory within the short period of six months. They were without means, ignorant, and helpless. But it is contended that the Government made an appropriation of $20,000 to move them. This might have sufficed to take some of them, but the whole amount was expended, and yet over 350 remained in Mississippi.

But admitting that they could have provided means for transportation, how were they to live on the blizzard-swept prairie, without houses, without food, clothing, or the implements of husbandry? Why, sir, a decree requiring the public-school children of this city to go and provide homes for themselves on the frozen plains of Manitoba would not have been more cruel and unreasonable. Many of those who did go died from exposure. In many instances they were crowded during a long, cold winter into cotton sheds, barns, and warehouses. Disease broke out among them, and in some instances whole families perished.

Let it never be forgotten that this Government since 1831 has been the self-constituted guardian of the Choctaws. Without invitation we assumed the right to administer this sacred trust. Have we kept faith with our wards? Let their destitution and the deeds of robbery perpetrated upon them answer. Were we discharging our duty with all fidelity to them when we leased their valuable oil and coal lands to corporations for a mere trifle, or when we paid one law firm a little less than $1,000,000 out of their common fund, in order to assist us in robbing them? Three hundred and fifty shares of that great sum was the lawful property of the Mississippi Choctaws and should have gone to them instead of to attorneys especially employed to defraud them. I don't say that these lawyers did not earn their fee. They won the case. With the aid of a few government officials they succeeded in robbing my Choctaw friends of an interest in an empire. I dare say that no Roman general ever more thoroughly looted or pillaged a conquered nation than did these officers and attorneys these unfortunate people.

But I understand that there are yet 3,000,000 acres of this common estate and about $400,000 unappropriated and unstolen. Now, in the name of reason and common justice, why not repeal this cruel statute and let these Mississippi Choctaws yet share in this common estate? If you are not willing to do this, then open the doors of the courts and let them sue for their property, and if you are blinded to this just demand, let me implore you to provide for their support by a direct appropriation from the Treasury.

My friend BYRD appealed to the President in behalf of the Mississippi Choctaws and received the following reply:

THE WHITE HOUSE,
Washington, March 18, 1908.

MY DEAR CONGRESSMAN: Referring to your letter of the 7th instant in regard to the condition of the Choctaws in Mississippi, the inclosed very interesting communication of Commissioner Leupp explains itself. Will you see Mr. Leupp and try to reach with him an agreement as to what can best be done to relieve the condition of these Choctaws, and then let me know? I will do all I can to aid you to secure the passage of a measure of relief. I thank you for the course you are taking in bringing up this matter, the urgency of which I keenly appreciate.

Sincerely, yours, THEODORE ROOSEVELT.

Hon. A. M. BYRD,
House of Representatives.

Mr. Leupp, in reply to the above letter, states that:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 16, 1908.

The PRESIDENT: I have received Secretary Loeb's note of March 10, submitting letter of Hon. A. M. BYRD, House of Representatives, regarding the need of relief for the Choctaws remaining in Mississippi, and asking for my views as to whether anything can be done for them.

Mr. BYRD says that the four or five hundred Choctaws remaining in Mississippi are in a destitute condition and believes that some provision should be made for their support.

It is true, as he says, that the Choctaws in Mississippi are in a forlorn plight. They represent that element which refused to accompany the larger part of the tribe when removed by the Government in 1831–1833 to Indian Territory under the treaty of 1830. Under the fourteenth article of this treaty the privilege of remaining and taking land was reserved for those who saw fit to conform to its requirements, and three thousand or more remained; but through misconduct on the part of representatives of the Government and the violence and fraud resorted to by white men who coveted the lands hardly any of them secured the reserves to which they were entitled. The pressure on the Government from the people of Mississippi to secure the removal of the Indians was so great that it continued its efforts to transfer the remaining Choctaws to their country west, and their emigration was in progress during most of the years from 1837 to 1855. In 1855, when the removal policy was abandoned, there were possibly 2,500 of the Indians east of the Mississippi, in the States of Alabama, Mississippi, and Louisiana.

Under the act of Congress approved June 28, 1898 (30 Stat. L., 295), provision was made for the "identification" of Mississippi Choctaws claiming descent from ancestors who complied with the fourteenth article of the Choctaw treaty; and in the Choctaw-Chickasaw agreement, approved July 1, 1902 (32 Stat. L., 641), it was provided that persons so identified should remove to and make settlement in the Choctaw-Chickasaw country in Indian Territory within six months from date of identification. Representatives of the Commission to the Five Civilized Tribes visited the State of Mississippi and proceeded with the work of identification. No provision at that time had been made for transportation of the Indians to the Choctaw-Chickasaw country or for their subsistence after they arrived there; neither was there any provision, financial or administrative, for locating them on particular tracts of land. Subsequently Congress appropriated $20,000 to aid in the removal of Mississippi Choctaws, which was expended by the Commission to the Five Civilized Tribes, and a relatively small number of those identified were transported west and subsisted for a short time in Indian Territory out of this fund.

The majority of those who did reach Indian Territory were either transported at the expense of private parties under contracts made with the Indians or removed themselves on their own resources. Several hundred of those who were identified never reached the Indian Territory or made proof of settlement there, and some who were removed, owing to their lack of financial resources, found the conditions they faced in the West worse than those they left and returned to Mississippi. It is fair to presume that many of them did not go because they were unable to secure funds with which to remove. Because the measures meant to be advantageous to the Indians were in some respects inadequate or incomplete they failed to bring the relief that was anticipated.

Racial feeling has been especially strong among those Choctaws who remained in Mississippi. They have not mixed in marriage with the whites or negroes to as great an extent as the Indians who removed to Indian Territory, and the larger part still are full-blood Choctaws. Many are unable to speak the English language, and to find one who can read is a rarity. They have lived in small settlements, holding aloof from white men as much as possible, although employed almost exclusively on the plantations; and in many respects, growing out of this social condition, they have retrograded even from the not very advanced condition of their people as it existed in 1830. Shunning the white men to so great a degree, they have lacked the opportunity of learning business methods and agricultural skill that has been enjoyed by the negroes who were formerly slaves, with the result that they are more undeveloped in business and productive capacity, have lived more poorly, and in the main have sunk to a lower level in every respect than the former slaves and their descendants. After seventy years of separation from the main body of their tribe, they have failed to profit by being surrounded by white men, and have acquired only a smear of civilization. They have shown no disposition to send their children to school, and apparently have not been encouraged to do so. They do not care to mix with the negroes, and it is questionable whether their children would be received in the white schools.

Mr. BYRD is correct in painting them in his speech before the House of Representatives as being in a deplorable condition. They abandoned their tribal brethren and refused through many years to go west, where they might share in the tribal property; but their conduct in that regard grew out of their ignorance and their indisposition through timidity to forsake that with which they were familiar and could endure for new surroundings and new industrial and social conditions, under which they feared they might not be able to succeed. They have no special claim on the Government, unless it be based on the ground that through the misconduct of the government representatives they or their ancestors were deprived of the land in Mississippi to which they were entitled under the treaty, or because as Indians they have a natural right to the protection of the Government. Throughout the last fifty years the office has periodically received petitions for the relief of these Choctaws, but nothing has ever been done, except the opportunity accorded them to go to the Choctaw Nation west.

Under the act of Congress approved February 8, 1887 (24 Stat. L., 388), as amended February 28, 1891 (26 Stat. L., 794), provision is made for allotting on the public domain Indians who abandon the tribal status, and it is the privilege of such Indians to take advantage of that law; but the Choctaws are so situated financially and so entirely lacking in the intelligence necessary to set up an independent establishment that it is questionable whether any measures the Government might take toward making possible their settlement under that law would be of real advantage to them. Certainly this law could not be made beneficial unless very careful supervision were maintained over them for at least a generation. These Indians have no skill in any agricultural pursuit except cotton raising, and the Government has no public lands available within the cotton-growing States.

Another solution of the problem might be the purchase from the unallotted lands of the Choctaws and Chickasaws of a sufficient tract to settle them in Oklahoma, where they would be able to come in contact with the more intelligent members of their tribe, and this would also necessitate an expenditure of considerable money and the supervision of their affairs for some time to come. The only other solution that occurs to me would be the purchase of lands for these Indians in Mississippi, where they would be surrounded by the conditions under which they have always lived, so that they may own their lands and maintain their own establishments.

I shall certainly be glad to do anything in my power to aid in a solution of this difficult problem.

Very respectfully,

F. E. LEUPP,
Commissioner.

Mr. Chairman, on the first day of this Congress I introduced a bill, No. 122, authorizing the defendants in one of the court citizenship cases to appeal from said citizenship court to the Supreme Court of the United States. The preamble of the bill explains fully the reasons and necessity for the passage of the measure, and is as follows:

A bill (H. R. 122) to provide for an appeal of one case from the Choctaw and Chickasaw citizenship court to the Supreme Court of the United States.

Whereas under the act of Congress of June 10, 1896, the Commission of the United States to the Five Civilized Tribes of Indians (known as the "Dawes Commission") was authorized and empowered to hear, pass upon, and determine the application of all persons claiming to be members of either of said tribes and whose right to citizenship had been denied by the tribe, and granted to the tribe, or person claiming citizenship therein, the right of appeal to the United States courts in the Indian Territory from the decision of said commission, if it or he was aggrieved thereby, and provided that the judgments of saidcourts should be final (20 Stat., p. 339); and

Whereas many persons did apply to said commission to be identified and enrolled by said commission as members of one of said tribes and many of them, as well as said tribes, did appeal to said United States courts aforesaid from the decisions of said commission and obtained and caused to be rendered and entered final judgments in accordance with the provisions of said act of June 10, 1896; and

Whereas under an act of Congress of July 1, 1898, the tribe against whom final judgments had been obtained in said United States courts, and the persons whose claims to citizenship had been denied by said courts, were granted an appeal from the final decisions of said courts directly to the Supreme Court of the United States (30 Stat., p. 591); and

Whereas the Choctaw and Chickasaw nations, respectively, under the terms of said last-named act did appeal from the judgments rendered by said United States courts against them, respectively, to the said Supreme Court; and whereas all of said judgments so appealed from were by the said Supreme Court affirmed and held to be final (Stephens et al. *v.* Cherokee Nation et al., 174 U. S., p. 1041, law edition); and

Whereas under an act of Congress approved July 1, 1902, entitled "An act to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes." Fifty-seventh Congress, first session, chapter 1362, page 646, a court was created and designated as the Choctaw and Chickasaw citizenship court; and whereas in section 31 of said act it is recited, "It being claimed and insisted by the Choctaw and Chickasaw nations that the United States courts in the Indian Territory, acting under the act of Congress approved June 10, 1896, have admitted persons to citizenship or to enrollment as such citizens in the Choctaw and Chickasaw nations, respectively, without notice of the proceedings in said courts being given to each of said nations; and it being insisted by said nations that in such proceedings notice to each of said nations was indispensable, and it being claimed and insisted by said nations that the proceedings in the United States courts in the Indian Territory under the act of June 10, 1896, should have been confined to a review of the Commission to the Five Civilized Tribes, upon the papers and evidence submitted to said commission, and should not have extended to a tribe de novo of the question of citizenship, and it being desirable to finally determine these questions, the two nations, jointly, or either of said nations acting saparately and making the other a party defendant, may, within ninety days after this agreement becomes effective, by a bill in equity filed in the Choctaw and Chickasaw citizenship court hereinafter named, seek the annulment and vacation of all such decisions by said courts. Ten persons so admitted to citizenship or enrollment by said courts, with notice to one, but not to both, of said nations, shall be made defendants to said suit as representatives of the entire class of persons similarly situated, the number of such persons being too numerous to require all of them to be made individual parties to the suit, but any person so situated may, upon his application, be made a party defendant to the suit. Notice of the institution of said suit shall be personally served upon the chief executive of the defendant nation, if either nation be made a party defendant as aforesaid, and upon each of said ten representative defendants, and shall also be published for a period of four weeks in at least two weekly newspapers having general circulation in the Choctaw and Chickasaw nations. * * * Said suit shall be determined at the earliest practicable time, shall be confined to a final determination of the questions of law here named, and shall be without prejudice to the determination of any charge or claim that the admission of such persons to citizenship or enrollment by said United States courts in the Indian Territory was wrongfully obtained, as provided in the next section;" and

Whereas under the terms of section 31 of said act of July 1, 1902, the Choctaw and Chickasaw nations filed in said citizenship court, at South McAlester, Ind. T., their petition in equity against J. T. Riddle, D. S. Riddle, L. A. Riddle, Elizabeth Casey, John Casey, Andrew B. Hite, L. T. Hill, James W. Balthrop, T. D. Arnold, and J. H. Bratcher, for themselves and as representatives of all persons similarly situated, who had established their right to citizenship in either the Choctaw or Chickasaw nations by obtaining judgments in said United States courts, as provided under act of June 10, 1896, and sought the vacation and cancellation of all such judgments rendered by said United States courts, because of the two questions of law named in section 31 of said act of July 1, 1902, said cause in said citizenship court being entitled, styled, and numbered "The Choctaw and Chickasaw nations, or tribes of Indians, *v.* J. T. Riddle et al., No. 1;" and

Whereas on the 17th day of December, 1902, said citizenship court rendered and caused to be entered in said cause a judgment wherein it held and decided—

First. "That notice to each of said Choctaw and Chickasaw nations, or tribes of Indians, of the proceedings of the United States courts in the Indian Territory, acting under the act of Congress approved June 10, 1896, admitting persons to citizenship, or to enrollment as such citizens, in the Choctaw and Chickasaw nations, respectively, was indispensable."

Second. "That in said proceedings in the United States courts in the Indian Territory said courts proceeded to hear and determine said causes de novo."

"That by reason of each of said facts, to wit, that the proceedings in said United States courts were had without notice to each of said tribes or nations when notice to each of said nations was indispensable, and that said United States courts tried said causes de novo when their action should have been confined to a review of the action of the Commission to the Five Civilized Tribes upon the papers and evidence submitted to such commission, all of said proceedings, decrees, and decisions of said United States courts in the Indian Territory admitting any and all persons to citizenship or enrollment as such citizens in said nations or tribes of Indians, or either of them, ought to be set aside, annulled, and vacated." And "Ordered, adjudged, and decreed that all of said judgments, decrees, and decisions rendered by the United States courts in the Indian Territory, acting under the act of Congress approved June 10, 1896, admitting persons to citizenship or to enrollment as such citizens in the Choctaw and Chickasaw nations, respectively, upon appeal from the Commission to the Five Civilized Tribes, in favor of the ten defendants named in the bill in this proceeding, as well as to those who have come in and made themselves parties thereto, and the judgments rendered as aforesaid in favor of all persons similarly situated are set aside, annulled, vacated, and held for naught;" and

Whereas under the law the decision of the said citizenship court has resulted in decitizenizing about 3,000 persons, whose right or claim to Choctaw or Chickasaw citizenship had been adjudicated by the United States courts in the Indian Territory in accordance with the act of Congress of June 10, 1896, and in striking their names from the roll of citizenship of said tribes prepared by the Dawes Commission, and has resulted in the destruction of the property rights of such persons in good faith acquired after the rendition of said judgments so attempted to be canceled; and

Whereas it is contended by such persons that the said decision of said citizenship court is invalid, and upon appeal to a competent court of appeals upon review would be reversed for the following reasons:

First. Because said section 31 of the act of Congress approved July 1, 1902, was an attempt on the part of the legislative branch of the Government to vacate, cancel, and annul final decrees of a court of competent jurisdiction, and because at the date of the passage of said act both the questions of law in said section named had been submitted to, passed upon, and adjudicated by courts of competent jurisdiction in a controversy between the same parties.

Second. Because when the said act of July 1, 1902, was passed, and when the decision of said citizenship court was rendered, the Supreme Court of the United States had passed upon and decided the two questions of law named in said act in the case of Stephens and others *v.* Cherokee Nation and others (174 U. S., 339, bottom of page, law edition) adverse to the holding and decision of said citizenship court.

Third. Because said section 31 of said act is class legislation and discriminates between persons exactly in the same status, in that according to the terms thereof persons admitted to citizenship by the Dawes Commission with notice to one and not both said nations are unaffected thereby, whereas upon appeal from said commission to the United States courts notice to both of said nations was required according to the tenor and effect of the decision of said citizenship court.

Fourth. Because said citizenship court had not the power in an action in personam to set aside judgments in favor of persons not parties to said test suit without naming such persons in the bill in equity filed and causing them to be personally served with process.

Fifth. Because in the determination of Indian citizenship no property right, but the status only of the person, is involved, as has been decided by the Supreme Court of the United States in the cases of Roff *v.* Burney (168 U. S., 442, bottom of page, law ed.), Stephens *v.* Cherokee Nation (174 U. S., 1041, bottom of page, law ed.), Cherokee Nation *v.* Hitchcock (187 U. S., 184, bottom of page, law ed.), Lone Wolf *v.* Hitchcock (187 U. S., 299, bottom of page, law ed.).

Sixth. Because since the year 1855 the Choctaw and Chickasaw nations have maintained separate and distinct political autonomies, the one in no way depending upon the other in the management of its political or governmental affairs, and because at no time in the history of said tribes has the Choctaw Nation acted with or assumed the right to act with the Chickasaw Nation in inquiring into, passing upon, and determining the citizenship or membership of said tribe, and vice versa. (Treaty of 1855, 11 Stats., p. 611, arts. 4, 5, 6, and 7; const. of the Chickasaw Nation.)

Now, therefore, to the end that the rights of such persons to citizenship may be determined by a court of competent jurisdiction, and to the end that the decision of said citizenship court may be reviewed by such court,

Be it enacted, etc., That any person who is a party to said test suit of the Choctaw and Chickasaw nations or tribes of Indians *v.* J. T. Riddle and others, as aforesaid, as one of the original ten defendants, or who has made himself a party thereto, or whose claim to citizenship was affected by the decision of said Choctaw and Chickasaw citizenship court as aforesaid, is hereby granted and allowed an appeal from said cause in said court directly to the Supreme court of the United States, and said cause by said Supreme Court shall be advanced upon its docket and set down for hearing at as early a day as is practicable. There shall be but one appeal from said cause, in which all persons as aforesaid may join, and the same shall be allowed, prosecuted, and determined as appeals in civil cases from the United States court of said may join, and the same shall be allowed, prosecuted, and determined, except that the amount or value of the matter, thing, or question involved shall in no way affect the jurisdiction of the Supreme Court: *Provided, nevertheless,* That said appeal herein provided for shall be perfected within six months from the date of the passage and approval of this act.

SEC. 2. That in passing on and determining the two questions of law hereinbefore mentioned the Supreme Court may consider all of the laws, customs, and usages of the Choctaw and Chickasaw nations, respectively, with reference to the admission of persons to citizenship or enrollment in either of said nations, and to that end, upon application, it may require the Secretary of the Interior, the Commissioner of Indian Affairs, or the Commission of the United States to the Five Civilized Tribes, or any of their subordinates, or officers of the United States courts in the Indian Territory, or the chief executive of either of said nations to furnish certified copies of any record, decision, ruling, or opinion applying or referring to the said questions. All notices or process necessary to perfect the appeal herein provided for shall be served upon the chief executive of the Choctaw Nation and the Chickasaw Nation, respectively, or upon the attorneys of record for said nations in said cause appealed from.

SEC. 3. That pending said appeal and the decision of the Supreme Court thereon all the rights of the appellants therein shall remain unimpaired and shall in no way be affected by the decision of any court whatsoever.

SEC. 4. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed, and that this act take effect from and after its passage.

Mr. Chairman, this bill, like the resolution I have referred to, has never been reported to this House, and I fear it never will be reported. But I indulge the hope that the Sixty-first Congress will refuse to close the rolls of the Choctaw and Chickasaw Indians until every Indian is enrolled, and full and complete justice will thus be done our Indian wards.

The CHAIRMAN. Does the Chair understand the gentleman from Texas to make the point of order against the amendment offered by the gentleman from Oklahoma?

Mr. STEPHENS of Texas. Yes.

The CHAIRMAN. I should say that the point of order comes too late.

Mr. SHERMAN. Mr. Chairman, the point of order has been re-formed so as to cut out some extra words which are a duplication.

Mr. STEPHENS of Texas. I understood the gentleman from Illinois made the point of order.

Mr. MANN. I withdrew the point of order.

Mr. SHERMAN. Mr. Chairman, I will ask the Clerk to re-report the amendment. There was a duplication of words as it was first handed up.

The CHAIRMAN. The Clerk will again report the amendment.

The Clerk read as follows:

Insert at the end of line 19, page 43:
"And the Secretary of the Interior is directed to so disburse this appropriation as to complete said work by July 1, 1910."

The CHAIRMAN. Is there objection to the modification of the amendment?

There was no objection.

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

The Clerk read as follows:

To reimburse Dr. G. W. Harkins, of Coalgate, Okla., for services rendered and expenses incurred in suppressing the spread of smallpox in Indian Territory from June 30, 1901, to August 8, 1901, $634.15, the same to be accepted by said Dr. G. W. Harkins in full payment of all demand for such services and expenses.

Mr. MANN. Mr. Chairman, I reserve the point of order on the paragraph and ask the gentleman whether these services were rendered by direction of any of the officials of the Indian Department?

Mr. CARTER. Yes; they were rendered by direction of the Secretary of the Interior.

Mr. MANN. I withdraw the point of order.

The Clerk read as follows:

For permanent annuity for support of light horsemen, per thirteenth article of treaty of October 18, 1820, and thirteenth article of treaty of June 22, 1855, $600.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I want to ask whether there is any appropriation in this bill carried for the support of heavy horsemen. We have a new administration coming in, and the distinguished chairman of the Indian Committee is a part of it; and it seems to me that it is a discrimination to carry an appropriation for the support of light horsemen when we all know that both the gentleman and his running mate are heavy horsemen. [Laughter.]

Mr. GARRETT. Mr. Chairman, it has been stated here that the administration intended to use automobiles and abandon horses.

Mr. MANN. What I am referring to is the discrimination between the character of light horsemen and heavy horsemen.

Mr. SHERMAN. Mr. Chairman, I will state that at the time this agreement was entered into the distinguished heavy-weight gentlemen who are to be inaugurated on the 4th of March were not in existence, and that may account for applying the provision of the treaty only to light horsemen rather than heavy horsemen.

Mr. MANN. I withdraw the pro forma amendment.

The Clerk read as follows:

SALEM SCHOOL.

For support and education of 600 Indian pupils at the Indian school, Salem, Oreg., and for pay of superintendent, $102,200;
For general repairs and improvements, $10,000;
In all, $112,200.
For general incidental expenses of the Indian Service in Oregon, including traveling expenses of agents, and support and civilization of Indians of Grande Ronde and Siletz agencies, $3,000;
Pay of employees at the same agencies, $3,000;
In all, $6,000.

Mr. HAWLEY. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Insert after line 15, and before line 16, on page 47, the following:
"Siletz Indian Reservation: That within one year from the date of the approval of this act any religious or missionary society now occupying, under proper authority, for religious or educational work among the Indians, any lands of the Siletz Reservation in Oregon, shall have the right to purchase 10 acres of land on said reservation, or a less quantity, at the option of the purchaser, at the rate of $2.50 per acre, and the same shall be conveyed to such religious or missionary society by patent."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Provided, That if such school is disposed of as above authorized at any time during the fiscal year of 1910 the pro rata share only of the appropriation for the maintenance of said school for the portion of the year which the school is maintained by the United States shall be available.

Mr. MARTIN. Mr. Chairman, it was my purpose to have made some remarks under general debate on this bill on this subject of reservation and nonreservation schools, but the consumption of the entire time that was expected to have been taken in general debate to-day in other ways made that impossible. At this late hour I will not attempt to enter into a lengthy discussion of the question, but I may say, while it is well known that the views of the present Commissioner of Indian Affairs are not in favor of the continuance of the system of nonreservation schools, and while with most of the plans of the present commissioner for the general education and improvement of the Indians I quite agree, to this one proposition I am not able to bring my concurrence. The truth is, I believe the nonreservation school, considering the fact that the ultimate purpose and obligation on the part of the Government is the civilization of the Indian so that he can be placed in a position where he can support himself and become in some measure a citizen of the United States, bearing that in view, I believe the nonreservation school is to-day the strongest single civilizing force standing between the blanket Indian and barbarism.

We have always had an Indian problem. When our forefathers landed at Jamestown and Plymouth our Indian problem began, and it will continue at least for some generations to come. No great public question is really settled until it is settled right. The Indian question can only be settled by the civilization of the Indian.

It would be anomalous and unthinkable that we should tolerate permanently within the boundaries of States and the Nation large bodies of people who have nothing in common, politically or industrially, with the balance of our people. The Indian must therefore be prepared for citizenship; and when prepared, the responsibilities of citizenship must be placed upon him.

The Indian must be advanced to civilization by the same means that have lifted up all races of men—hard work and education. The ministry of toil is the best antidote for indolence and barbarism. Able-bodied Indians should either work or starve. This is the settled policy at the Indian Bureau as now administered. We are helping the Indian most when we are teaching him to help himself. Our present commissioner has been specially successful and thorough in his efforts to make the Indian industrious and self-reliant, and thorough also in his promotion of Indian education.

Real progress is being made, and no period of like duration has seen so great progress, particularly in the West, as the past four years. While speaking in praise of the general work of the Indian Office, I am equally positive that the commissioner's often-expressed purpose to close out our nonreservation schools, if carried into execution, would not be for the best good of the Indian nor of the States containing the Indian population. Abandon these schools, and we would retrograde at least a decade in the final solution of the Indian problem.

I desire to submit here the views of one who has been for many years in the Indian Service as inspector, teacher of reservation schools, and superintendent of nonreservation schools. He has had exceptional opportunities for studying the education question in all of its phases. The commissioner requested him to place his views in writing, and I am permitted to present a portion of his communication as bearing upon this question:

In a general view of Indian education, as seen by one who has had many years of experience, not only in observation, but in actual work and contact, there appears many features of the work which are encouraging and promising, and, on the other hand, there have been and are at present many things to discourage and dishearten those who may be active in the work.

I will say that, under certain conditions and with suitable employees, I believe that a reservation day school is capable of accomplishing more for the money expended than any other school in the Indian Service. But I am sorry to say, in this connection, that the changing conditions

and the lack of suitable employees to conduct these little institutions of learning have resulted apparently in lessening very materially the scope of their influence. Eight or ten pupils, poorly supplied with clothing, with little or nothing to eat a good portion of the time, dirty in their homes, and not presentable in their personal appearance in school, are not very inspiring to the average teacher who attempts to instruct them, and there is apt to arise a condition of indifference and the child comes to school and returns to its home, and it would be hard to determine just what has been gained, if anything.

Then there comes the reservation boarding school, which, in many respects, should be able to perform just as good service as the nonreservation school; but there are conditions surrounding these institutions that have a retarding influence. The employees are isolated in many instances, and there is apt to grow up a condition of narrowness and lack of interest. This often results in frequent changes in the employee force, and it would seem in some instances that when an employee received an appointment to a reservation school the first thing sought for was a transfer, and in many instances it would seem for the good of the school that the transfer be granted.

As an illustration of this fact, there was one reservation school to my knowledge of a capacity for 60 pupils that has perhaps had more changes in its employee force in one year than a nonreservation school with which I am familiar has had in four years. It can not be otherwise than a broken and disconcerted effort maintained under such conditions.

The mission schools are in a class by themselves. They are now largely contract schools, and as to what extent the Government has supervision I am not aware. In former years, when my duties took me in contact with these schools, I observed a fair degree of efficiency, though I never conceded the point that such schools were, in the general results, superior to the well organized and conducted government school. In brief, my observation has been that there should be on every reservation a good, thorough, and well-equipped school system, and the only suggestions that I would make along this line is to redouble the effort, energy, and interest in the reservation schools, but at the same time keep open before the child the fact that it can reach out into a broader life if it so desires, and that the nonreservation school can offer opportunities beyond what can be obtained at home.

The nonreservation schools have certainly done a great deal in the general education of these people. It is very difficult for one who has not lived on a reservation for any considerable length of time and who has not tried to see things from the Indian standpoint to realize what a wonderful revelation it must be to the Indian boy or girl who for the first time sees a city or a train or who comes in contact with the outside world.

It is now true that many reservations are being encroached upon by the white man and that many of these features are being brought close to the homes of the Indian. But while this is true, there is an element in this new and rapid advance that is not calculated to elevate the undisciplined mind of the Indian. The living at a nonreservation school for a period of a year, the having of three meals a day, the clean bed, the regular bath, the meeting of a number of employees and teachers and mingling with their own people under proper restrictions, and the ever-present earnest effort of those about them can not help but have an influence on the life to follow. It is also true that reservation schools are not living up to their privilege, and for that matter the whole educational work is undoubtedly below what it should be. This, perhaps, would be the conclusion of every sincere worker, though he may have done all that he knew how to do; yet, after it is over and after the time for work is ended, it is only natural that one can see wherein there might have been improvements. That being the case, it should be the earnest endeavor of everyone in the work to make a study of the existing conditions and be able, in so far as possible, to meet the requirements. In other words, we should all be alive to the needs of the time in which we are working.

The one sad feature of this work is that the results as seen on the reservations are not flattering, to say the least. This apparent failure of many who have had some education is often held up as a reason for condemning the schools, and the question is often asked the nonreservation superintendent: "Do they go back to the old reservation life after they leave here?" My answer invariably is that they do not, and then I explain that no child can remain in my school for a single term, let alone a period of from three to six years, and then return to the reservation and be the same as it would have been had it never gone to school. The young man or woman may not show improvement over those who have not gone to school; they may even be worse in a single instance or exception; but there is an impression made on that mind that can never be erased, and whether there is an improvement or not, the person has a better knowledge of the ways of the world and of right and wrong than it would have had had it remained in ignorance of all these things.

It was at one time my task to make a careful investigation of the lives and conduct of returned students. This was some years ago, and no doubt conditions are somewhat changed at this time. In so far as I can recall, my conclusion was that 15 per cent of persons attending nonreservation schools showed no improvement whatever, though it is possible that in later years there might be manifest some characteristics which would indicate a benefit received at school.

The failure of the young man or woman leaving the nonreservation school is not, in my opinion, due, to any large extent, to the school, but to the conditions to which they return. There seems to be no systematic effort to train or develop the returned pupils. The conditions are such that the person returning to a reservation falls into idleness, and in many instances, there being a living furnished without any effort on the part of the individual, there grows up an extravagance that is very detrimental to progress. The young man who comes into possession of a few hundred dollars feels that he must have a good time, and he spends his money more freely than the white man who might be worth as many thousands; and there seems to be a disposition on the part of many on the reservations, and especially those living around the borders, to encourage the Indian in getting rid of what he has. They encourage him in selling his land, in selling his horses, sheep, and cattle; they encourage him in doing anything that will separate him from his wealth; and there does not seem to be any systematic effort to teach these people to be frugal and provident. I do not know what could be done, but whatever of failure there appears to be with the Indian, it should not be charged to the school nor to the good, honest, conscientious men and women who have given their lives to instruct these people in the right way and who have succeeded, for the time being, at least. When these persons were with them, under their influence, they led them in the ways of right and progress, and then, when their influence is severed, have been unable to control the actions or life of the student. I sincerely believe that whatever there is of success among the young men and women on the reservation is due more largely to the influences that have been exerted by their teachers and matrons and other employees of the school than any other single force that could be mentioned.

As to the Chamberlain School, I have been ready as a member of the committee to concur in this particular plan, from the fact I believe these nonreservation as well as the reservation schools should be distinctively industrial schools. One of two things ought to be done in regard to the Chamberlain School. Either it should have larger areas of land, greater facilities for industrial education, or to do what we have done with it. Upon the remaining nonreservation schools in our State the Government has already made good provision of sufficient land and facilities to teach the Indian youth industries under similar climatic conditions with which they will be met when they work out their destiny after they return to their people.

Mr. STEPHENS of Texas. Mr. Chairman, I would like to ask the gentleman if he does not think it would be well to discontinue such schools as Hampton, Va., Carlisle, Pa., and schools hundreds of miles away from the Indian reservation, on the ground, as the gentleman has stated, of climate which causes pulmonary diseases and others.

Mr. MARTIN. So far as disease is concerned, and so far as the merits of each particular school is concerned, I think these are not specially dependent upon proximity to or remoteness from the reservations. As to the expense or economy, I admit that is an important question. I will say, more directly in answer to the gentleman's question, that I think the nearer the nonreservation schools can be to the reservation from which the Indian pupils come, other things being equal, the better. I think that the nonreservation schools at long distances from the reservations ought to be considerably improved as to their methods and the attention that is given the pupil in order to prepare him for the particular work he has to do in the future——

Mr. STEPHENS of Texas. I understand that——

Mr. MARTIN. And if I had the time——

Mr. STEPHENS of Texas. And is it not a fact that most of the children in your State which attend Indian schools have parents who are voters, and some of them holding office?

Mr. MARTIN. Not in my State. A very small percentage of children of voting parents attend these nonreservation schools.

I think, Mr. Chairman, that while the reservation schools have some advantages and should be continued, unfortunately the Indian parent, as well as the Indian student, kept exclusively upon the reservation, and considering the character of the white people that go to those reservations for the purpose of speculation and profit upon the ignorance and out of the property of the Indians, view necessarily the problem of civilization as represented in the white population in its most unfavorable aspect. Where the nonreservation schools are near the reservation and it is the habit of the parents to take their children in their own conveyances to the schools, they come in contact with the white population from a better view point and get a better opportunity to observe the elements of civilization. Education and progress are as much, indeed more, a matter of example than of precept, and I think under this nonreservation school system in close proximity to the reservation the Indian has his best view of the white population instead of continually seeing it in its worst aspect.

No people advance more rapidly than their ideals. Ideals of home and comfort can only be formed by observation and contact with like conditions. The student on the reservation sees few examples of thrift and progress. In the nonreservation schools the girls may be employed in near-by houses and many become good domestic servants. Athletics, in competition with high schools and colleges, are a most wholesome influence.

When the last reservation is abandoned and the unallotted lands have become the homes of thrifty settlers and the sites of cities and towns, then civilization will have come to the Indian; but until that is done I believe that Congress ought to liberally support the nonreservation schools, particularly those which are close to the reservation, as affording the best opportunity that the Indian student and the Indian parent now have to observe the example of civilization in one of its most inspiring demonstrations.

The time of the gentleman from South Dakota [Mr. MARTIN] having expired, by unanimous consent he was granted one minute more.

Mr. CARTER. Suppose we do away with the nonreservation schools; as there are not enough reservation schools to care for the Indians there at present, what method does the gentleman propose to follow in order to care for these children who are now attending the nonreservation schools?

Mr. MARTIN. I would not abandon them. I think they should be retained and improved; but I am here to say, as I regard the Indian problem, as it has come under my own observation in the West, in its educational phases, I doubt very much whether we could continue this plan of closing nonreservation schools without a very serious impairment of our educational system. My own view is that we ought to retain both the reservation and nonreservation schools.

The CHAIRMAN. The time of the gentleman has expired.

The Clerk resumed and continued the reading of the bill.

Mr. SHERMAN. Mr. Chairman, I ask unanimous consent that on page 51, in line 4, after the word "sixty" there be inserted the word "eight," so as to read "sixty-eight thousand;" and in lines 6 and 7, on the same page, to strike out the words "at seven agencies."

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SHERMAN. Then, Mr. Chairman, I ask unanimous consent that in engrossing the bill the Clerk make such corrections in the totals as are found necessary by reason of the changes that have been made by amendment.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. STEPHENS of Texas. Mr. Chairman, I see an error on page 36, line 5, in the spelling of a name. It ought to be "Cynthia Ann Parker" instead of "Cynthia Parker."

The CHAIRMAN. Without objection, the correction will be made.

There was no objection.

Mr. SHERMAN. Mr. Chairman, I move that the committee do now rise and report the bill and amendments to the House with a favorable recommendation.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. LAWRENCE, Chairman of the Committee of the Whole House on the state of the Union, reported that the committee had had under consideration the bill (H. R. 26916) making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1910, and had directed him to report the same to the House with sundry amendments, with a recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. Is a separate vote demanded on any of the amendments? If not, the vote will be taken on the amendments in gross.

The question is on agreeing to the amendments.

The question was taken, and the amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read a third time, and passed.

On motion of Mr. SHERMAN, a motion to reconsider the vote by which the bill was passed was laid on the table.

Mr. SHERMAN. Mr. Speaker, I ask unanimous consent that all gentlemen who have spoken on subjects in the bill have the privilege of extending their remarks on those subjects in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

LEAVE TO EXTEND REMARKS.

Mr. CUSHMAN. Mr. Speaker, I ask unanimous consent to extend in the RECORD remarks I made this morning in relation to an additional judge in the western district of Washington.

There was no objection.

RETURN OF BILLS FROM THE PRESIDENT.

The SPEAKER laid before the House the following concurrent resolutions of the Senate, which were severally read, considered, and agreed to:

Senate concurrent resolution 95.

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return to the Senate the bill (S. 5989) authorizing the Department of State to deliver to Maj. C. De W. Wilcox decoration and diploma presented by Government of France.

Senate concurrent resolution 92.

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return to the Senate the bill (S. 6891) for the relief of Maj. G. S. Bingham.

FORT PECK INDIAN RESERVATION.

Mr. CAMPBELL. Mr. Speaker, I ask unanimous consent for the immediate consideration and adoption of the order which I send to the Clerk's desk.

The Clerk read as follows:

Ordered, That the Clerk be directed to request the Senate to furnish the House of Representatives an engrossed copy of the bill of the Senate (S. 8273), to amend an act approved May 30, 1908, entitled "An act for the survey and allotment of lands now embraced within the limits of the Fort Peck Indian Reservation, in the State of Montana, and the sale and disposal of all the surplus lands after allotment," the original copy being lost.

Mr. CLARK of Missouri. What is the object of this thing?

Mr. CAMPBELL. The object of it is to supply the Speaker's table with a bill that is not there.

Mr. CLARK of Missouri. What is the reason it is not there?

Mr. CAMPBELL. It is lost.

Mr. CLARK of Missouri. Somebody stole it?

Mr. CAMPBELL. I do not know.

The SPEAKER. The bill was not lost from the Speaker's table.

Mr. CLARK of Missouri. Has it passed both Houses?

Mr. CAMPBELL. It passed the Senate.

The SPEAKER. The bill was referred to the Committee on Indian Affairs.

Mr. CLARK of Missouri. I have no objection.

The SPEAKER. The Chair hears no objection, and it is so ordered.

WITHDRAWAL OF PAPERS.

Mr. HUBBARD of West Virginia, by unanimous consent, obtained leave to withdraw from the files of the House, without leaving copies, the papers in the case of J. H. Wills, Fifty-eighth Congress, no adverse report having been made thereon, and also the papers in the case of L. M. Thomas, Fifty-ninth Congress, no adverse report having been made thereon.

RECESS.

Mr. SHERMAN. Mr. Speaker, I ask unanimous consent that we now stand in recess until 11 o'clock to-morrow morning.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Accordingly (at 6 o'clock and 6 minutes p. m.) the House was declared in recess until 11 o'clock a. m. to-morrow.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, a letter from the Secretary of the Treasury, transmitting a copy of a letter from the president of the Spanish Treaty Claims Commission submitting an estimate of appropriation for payment of awards (H. Doc. No. 1453), was taken from the Speaker's table, referred to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. HULL of Iowa, from the Committee on Military Affairs, to which was referred the bill of the Senate (S. 6392) authorizing the Secretary of War to donate two condemned cannon to the county court of Mercer County, W. Va., reported the same without amendment, accompanied by a report (No. 2167), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. COLE, from the Committee on the Territories, to which was referred the bill of the House (H. R. 27971) authorizing the Attorney-General to appoint as special peace officers such employees of the Alaska school service as may be named by the Secretary of the Interior, reported the same without amendment, accompanied by a report (No. 2168), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. FOSTER of Vermont, from the Committee on Foreign Affairs, to which was referred the joint resolution of the House (H. J. Res. 257) to authorize the Secretary of State to invite the Governments of France and Great Britain to participate in the proposed tercentenary celebration of the discovery of Lake Champlain by Samuel de Champlain, reported the same without amendment, accompanied by a report (No. 2169), which said joint resolution and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the

Clerk, and referred to the Committee of the Whole House, as follows:

Mr. HOWARD, from the Committee on the Library, to which was referred the joint resolution of the House (H. J. Res. 217) concerning the manuscript prepared by Charles Chaillé-Long, containing an account of the proceedings at the unveiling of the statue of the late Maj. Gen. George B. McClellan, reported the same without amendment, accompanied by a report (No. 2164), which said joint resolution and report were referred to the Private Calendar.

Mr. PARKER, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 3826) for the relief of Reed B. Granger, reported the same with amendments, accompanied by a report (No. 2165), which said bill and report were referred to the Private Calendar.

Mr. SHACKLEFORD, from the Committee on Claims, to which was referred the bill of the House (H. R. 7009) for the relief of John H. McBrayer, reported the same without amendment, accompanied by a report (No. 2170), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 16920) granting a pension to John Waters—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 20284) granting an increase of pension to Catherine Hanigan—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. WASHBURN: A bill (H. R. 28162) to amend the act approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies"—to the Committee on the Judiciary.

By Mr. FERRIS: A bill (H. R. 28163) removing restrictions on lands lying along section lines in Oklahoma for road purposes—to the Committee on Indian Affairs.

By Mr. GREENE: A bill (H. R. 28165) to promote the merchant marine and foreign trade of the United States and to provide auxiliaries for the national defense—to the Committee on the Merchant Marine and Fisheries.

By Mr. ANDREWS: A bill (H. R. 28166) to validate an act of the legislative assembly of the Territory of New Mexico in reference to the issue of certain bonds—to the Committee on the Territories.

By Mr. BARTHOLDT: A bill (H. R. 28167) to grant additional authority to the Secretary of the Treasury to carry out certain provisions of public-building acts, and for other purposes—to the Committee on Public Buildings and Grounds.

By Mr. HUGHES of West Virginia: A bill (H. R. 28168) to authorize the Secretary of War to furnish two condemned brass or bronze cannon and balls to the city of Huntington, W. Va.—to the Committee on Military Affairs.

By Mr. STEVENS of Minnesota: A bill (H. R. 28169) authorizing the Secretary of War to donate two brass or bronze cannons to the city of Stillwater, Minn.—to the Committee on Military Affairs.

By Mr. GOULDEN: A bill (H. R. 28170) to encourage the sale and exportation of articles of domestic manufacture—to the Committee on Ways and Means.

By Mr. REYNOLDS: A bill (H. R. 28171) making an appropriation for the erection of a monument in memory of the soldiers of the Revolutionary war of Captain Philip's company of Colonel Piper's regiment, murdered by Indians near Saxton, in Bedford County, Pa., Sunday, July 16, 1780—to the Committee on the Library.

By Mr. BRADLEY: A bill (H. R. 28172) to authorize the Secretary of War to donate one condemned bronze fieldpiece and cannon balls to the city of Port Jervis, State of New York—to the Committee on Military Affairs.

Also, a bill (H. R. 28173) to authorize the Secretary of War to donate one condemned bronze fieldpiece and cannon balls to the city of Middletown, State of New York—to the Committee on Military Affairs.

By Mr. BATES: A bill (H. R. 28174) granting certain rights and privileges to the department of fisheries of the State of Pennsylvania—to the Committee on Military Affairs.

By Mr. DALZELL: A bill (H. R. 28175) to amend section 4434 of the Revised Statutes of the United States, and for other purposes—to the Committee on the Merchant Marine and Fisheries.

By Mr. GAINES of West Virginia: A bill (H. R. 28176) to amend an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, and the acts supplementary thereto, so as to extend the benefits thereof to the District of Columbia—to the Committee on Agriculture.

By Mr. COOPER of Wisconsin (by request): A bill (H. R. 28177) to amend an act approved July 1, 1902, entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes"—to the Committee on Insular Affairs.

By Mr. MANN: Resolution (H. Res. 568) requesting the Secretary of War to transmit to the House copy of the last report of Charles E. Magoon, provisional governor of Cuba—to the Committee on Foreign Affairs.

By Mr. FOSTER of Illinois: Joint resolution (H. J. Res. 258) to authorize the Secretary of War to furnish one condemned cannon and cannon balls to J. S. Chandler Post, No. 102, Grand Army of the Republic, Salem, Ill.—to the Committee on Military Affairs.

By Mr. HULL of Tennessee: Concurrent resolution (H. C. Res. 65) directing the Secretary of State to instruct our representatives abroad to make certain investigations concerning income tax, etc.—to the Committee on Ways and Means.

By Mr. ANTHONY: Memorial of the legislature of Kansas, urging that Congress impose a just and reasonable duty on imported zinc ores—to the Committee on Ways and Means.

Also, memorial of the legislature of Kansas, urging the enactment of a law by Congress for the creation of a retired list for volunteer officers of the civil war—to the Committee on Military Affairs.

Also, memorial of the legislature of Kansas, urging the passage by Congress of Senate bill 3755, for the relief of John F. Lewis—to the Commitee on Military Affairs.

Also, memorial of the legislature of Kansas, urging the passage by Congress of H. R. 4020—to the Committee on Invalid Pensions.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. ANSBERRY: A bill (H. R. 28178) granting a pension to Barbara A. Dewel (now Bacon)—to the Committee on Invalid Pensions.

By Mr. CHAPMAN: A bill (H. R. 28179) granting an increase of pension to William Wafford—to the Committee on Invalid Pensions.

By Mr. FOELKER: A bill (H. R. 28180) granting an increase of pension to William G. Bailey—to the Committee on Invalid Pensions.

By Mr. HUGHES of West Virginia: A bill (H. R. 28181) granting an increase of pension to John A. Burns—to the Committee on Invalid Pensions.

By Mr. HULL of Tennessee: A bill (H. R. 28182) for the relief of the legal representatives of T. C. McCulloch—to the Committee on War Claims.

By Mr. JONES of Virginia: A bill (H. R. 28183) for the relief of the Grafton Christian Church, of Grafton, Va.—to the Committee on War Claims.

By Mr. KEIFER: A bill (H. R. 28184) granting a pension to Sarah Otstot—to the Committee on Invalid Pensions.

By Mr. MOON of Tennessee: A bill (H. R. 28185) granting an increase of pension to John W. Roy—to the Committee on Invalid Pensions.

Also, a bill (H. R. 28186) granting an increase of pension to James L. Dungan—to the Committee on Invalid Pensions.

By Mr. WILLIAMS: A bill (H. R. 28187) for the relief of the legal representatives of John Lewis Tindall, deceased—to the Committee on War Claims.

By Mr. BARCHFELD: A bill (H. R. 28188) for the relief of Margaret F. Watson—to the Committee on Claims.

By Mr. SCOTT: A bill (H. R. 28189) removing the charge of desertion from the name of Alfred Rebsamen—to the Committee on Military Affairs.

By Mr. LIVINGSTON: Resolution (H. Res. 569) to pay to Robert Coates, Arthur L. Lucas, and James E. Dent additional compensation—to the Committee on Accounts.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALEXANDER of New York: Petition of United Trades and Labor Council of Buffalo, Erie County, N. Y., favoring abolition of piecework in the Mare Island Navy-Yard—to the Committee on Naval Affairs.

By Mr. ANSBERRY: Petition of farmers' institute of West Unity, Williams County, Ohio, favoring parcels-post and postal savings bank laws—to the Committee on the Post-Office and Post-Roads.

Also, petition of Hicksville Farmers' Institute Society, favoring legislation for parcels-post and postal savings bank laws (S. 5122 and 6844)—to the Committee on the Post-Office and Post-Roads.

By Mr. ASHBROOK: Petition of Alvin Rich, of Wooster, Ohio, against a duty on oilcloth and linoleum—to the Committee on Ways and Means.

By Mr. BARTLETT of Georgia: Petition of the Whitfield Grocery Company, of Milledgeville, Ga., favoring repeal of duty on raw and refined sugars—to the Committee on Ways and Means.

By Mr. COLE: Petition of Livingston Post, Grand Army of the Republic, of Richwood, Ohio, against consolidation of pension agencies—to the Committee on Appropriations.

Also, petition of citizens of Ohio, for legislation to establish a parcels post and postal savings bank—to the Committee on the Post-Office and Post-Roads.

By Mr. COOK of Colorado: Petition of members of Berkley Presbyterian Church, of Denver, Colo., favoring the so-called "Littlefield bill"—to the Committee on the Judiciary.

Also, petition of stock growers of Uncompahgre Valley Water Users' Association, asking extension of time for payment of water under the reclamation act—to the Committee on Irrigation of Arid Lands.

By Mr. FOSTER of Illinois: Petition of Chandler Post, No. 102, Grand Army of the Republic, of Salem, Ill., for cannon for a monument to soldiers of the civil war—to the Committee on Military Affairs.

By Mr. FULLER: Petition of J. W. Howard, C. E. E. M., of New York City, favoring placing crude asphalt and crude bitumen on the free list—to the Committee on Ways and Means.

Also, petition of National Business League of Commerce of Chicago, Ill., favoring the Lowden bill (H. R. 21491) for appropriation to erect buildings for consular service—to the Committee on Foreign Affairs.

Also, petition of the Church of the Christian Union, of Rockford, Ill., favoring H. R. 24148, for establishment of children's bureau in the Interior Department—to the Committee on Expenditures in the Interior Department.

Also, petition of merchants of Grand Ridge, Ill., against parcels-post and postal savings bank bills—to the Committee on the Post-Office and Post-Roads.

By Mr. GOULDEN: Petition of Brotherhood of Locomotive Engineers, Trainmen, and Firemen, against H. R. 26725 (the Watson bill supplement of the safety-appliance act)—to the Committee on Interstate and Foreign Commerce.

Also, petition of C. F. Henngtin, of New York City, for legislation favorable to railway interests—to the Committee on Interstate and Foreign Commerce.

By Mr. GUERNSEY: Petition of Ernest Conner and others, of Guilford, Me., favoring parcels-post legislation—to the Committee on the Post-Office and Post-Roads.

By Mr. HAMMOND: Petition of Sheaffer & Alvey and 13 others, of Winnebago, Minn., against parcels-post legislation—to the Committee on the Post-Office and Post-Roads.

By Mr. HOBSON: Petition of 110 citizens of Tuscaloosa, Ala., favoring the antiopium bill—to the Committee on Interstate and Foreign Commerce.

By Mr. KELIHER: Petition of Knights of Labor District Assembly No. 30, favoring legislation to prevent exorbitant prices in food products—to the Committee on the Judiciary.

By Mr. LAFEAN: Petition of Gettysburg Lodge, No. 1045, Benevolent and Protective Order of Elks, favoring creating a reservation in the State of Wyoming for care and maintenance of the American elk—to the Committee on the Public Lands.

Also, petition of Hanover Lodge, No. 763, Benevolent and Protective Order of Elks, for a reservation in Wyoming for care of the American elk—to the Committee on the Public Lands.

By Mr. LINDBERGH: Petition of citizens of Brainerd, Minn., against passage of Senate bill 3940—to the Committee on the District of Columbia.

By Mr. LOWDEN: Petition of citizens of the Thirteenth Congressional District of Illinois, opposing tax on tea or coffee—to the Committee on Ways and Means.

By Mr. MOON of Tennessee: Papers to accompany bills for relief of James L. Dungan and John W. Roy—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of James C. Connor—to the Committee on War Claims.

By Mr. PORTER: Petition of W. A. Trimble and other citizens of Conesus, Livingston County, N. Y., favoring parcels-post and postal savings bank laws—to the Committee on the Post-Office and Post-Roads.

By Mr. REYNOLDS: Petition of Lodge No. 102, Benevolent and Protective Order of Elks, asking for the creation of a reserve in the State of Wyoming—to the Committee on the Public Lands.

By Mr. RYAN: Petition of the National Shoe Wholesale Association of the United States, against a duty on hides—to the Committee on Ways and Means.

Also, petition of the German-American Alliance, of Buffalo, N. Y., against a duty on scientific books—to the Committee on Ways and Means.

Also, petition of the United Trades and Labor Council, of Buffalo, N. Y., against the piece and task system at Mare Island Navy-Yard—to the Committee on Naval Affairs.

By Mr. WANGER: Petition of B. P. Tomlinson, master, and Emma F. Smith, secretary, on behalf of Pineville Grange, No. 507, Patrons of Husbandry, of Pineville, Bucks County, Pa., for legislation creating a national highways commission and for an appropriation to aid in the improvement and maintenance of public roads—to the Committee on Agriculture.

SENATE.

WEDNESDAY, *February 17, 1909.*

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

Prayer by the Chaplain, Rev. Edward E. Hale.

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

The VICE-PRESIDENT. The Journal stands approved.

NAVAL APPROPRIATION BILL.

Mr. HALE. Now, Mr. President, in accordance with the notice given last night, I ask that the naval appropriation bill be laid before the Senate and proceeded with.

The Senate resumed the consideration of the bill (H. R. 26394) making appropriations for the naval service for the fiscal year ending June 30, 1910, and for other purposes.

The VICE-PRESIDENT. The first amendment reserved was reserved by the Senator from Massachusetts [Mr. LODGE], and is the amendment on page 60, relative to the Marine Corps. It will be read.

The SECRETARY. On page 60, line 6, after the word "dollars," insert the following proviso:

Provided, That no part of the appropriations herein made for the Marine Corps shall be expended for the purposes for which said appropriations are made unless officers and enlisted men shall serve as heretofore on board all battle ships and armored cruisers, and also upon such other vessels of the navy as the President may direct, in detachments of not less than 8 per cent of the strength of the enlisted men of the navy on said vessels.

Mr. HALE. Notice was given, instead of remaining longer last night in session, that the Senate would be asked to proceed at once to the consideration of the bill this morning. But the Senator from Massachusetts [Mr. LODGE] is not present. One or two Senators suggested that they would desire to debate some of these amendments. If any Senator desires to do so, and is ready, I wish, for the convenience of the Senator who is absent, that he would proceed.

Mr. CUMMINS. I suggested last evening that I wanted to submit some observations to the Senate upon this amendment. I am quite ready to proceed, but it is evident the Senate is not ready to proceed.

Mr. HALE. I will say to the Senator that while full notice was given I shall not attempt to proceed to take questions by votes until Senators have time to reach the Chamber. I merely suggested that if any Senator desires to debate the amendment