Also, petition of San Francisco Lodge, No. 68, International Association of Machinists, insisting that the battleship *New York* be built in a Government navy yard in compliance with the law of 1910, and for the eight-hour clause in naval appropriation bill; to the Committee on Naval Affairs.

By Mr. KNAPP: Protest of Board of Trade of Alexandria Bay, N. Y., against passage of a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. McMORRAN: Petitions of the Business Man's Publishing Co. and the Sprague Publishing Co., of Detroit, Mich., protesting against the bill to increase postal rates on magazines and periodicals; to the Committee on the Post Office and Post Roads.

By Mr. MAGUIRE of Nebraska: Petition of business men of Pawnee City, Humboldt, Crab Orchard, Hickman, Firth, Raca, and Kramer, against parcels-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. MOON of Tennessee: Papers from various organizations, favoring House bill 15413; to the Committee on Immigration and Naturalization.

By Mr. MOORE of Pennsylvania: Protests of James McQuaide, F. H. Krewson, H. L. Gardner, The C. M. Wessels Co., Lowrie D. Coleman, Robert F. Salade, Peter E. Kelly, James Kerney, J. B. McMasters, Samuel Fisher, Ernest Veeck, and H. T. Paiste Co., against increase of magazine postal rates; to the Committee on the Post Office and Post Roads.

Also, petitions of District Lodge, No. 1, and George Chance Lodge, No. 361, International Association of Machinists, favoring eight-hour law and battleship construction in Government navy yards; to the Committee on Naval Affairs.

Also, protests of J. O. Weedon, A. B. Furner, Kenton Warne, Carl W. Kimpton, Ray M. Vanderherchen, W. D. Lumis, J. C. Huntington & Co., and Miller Lock Co., against increase of magazine postal rates; to the Committee on the Post Office and Post Roads.

Also, resolutions of State Council of Pennsylvania, Washington Camps Nos. 1, 83, 465, 488, 136, 343, 535, 624, and 457, all of Patriotic Order Sons of America, and Crystal Council, No. 300, Junior Order United American Mechanics, favoring the passage of House bill 15413; to the Committee on Immigration and Naturalization.

By Mr. O'CONNELL: Petition of New England German-American National Alliance, for Canadian reciprocity; to the Committee on Ways and Means.

Also, petition of International Association of Machinists, favoring the building of the battleship *New York* in a Government navy yard; to the Committee on Naval Affairs.

By Mr. PAYNE: Petitions of Marion and Dresden (N. Y.) Granges, against Canadian reciprocity; to the Committee on Ways and Means.

By Mr. PEARRE: Petition of Friends of Sandy Spring, Montgomery County, Md., against fortifying the Panama Canal; to the Committee on Railways and Canals.

Also, petition of United Hebrew Charities of Baltimore, Md., against violation of a treaty by the Russian Government by refusing to accept passports issued to Hebrews; to the Committee on Foreign Affairs.

Also, petitions of Local Camp No. 18, Patriotic Order Sons of America, of Hancock, Md., and Washington Camp No. 43, of Doubs, Md., for House bill 15413; to the Committee on Immigration and Naturalization.

Also, petition of Montgomery County (Md.) Anti-Saloon League, for the Miller-Curtis bill; to the Committee on the Judiciary.

Also, petition of Swanton Grange, No. 194, against Canadian reciprocity; to the Committee on Ways and Means.

Also, petition of Washington Camp No. 31, Patriotic Order Sons of America, of Raspeburg, Md., for House bill 15413; to the Committee on Immigration and Naturalization.

By Mr. PRINCE: Petition of citizens of Illinois, against House joint resolution 17; to the Committee on the District of Columbia.

By Mr. TILSON: Petition of Housatonic (Conn.) Grange and Northfield Grange, for a full and complete parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. WEISSE: Petition of citizens of Wisconsin, favoring construction of battleship *New York* at a Government navy yard; to the Committee on Naval Affairs.

Also, petition of American Federation of Labor, Local No. 657, of Sheboygan, for House bill 15413; to the Committee on Immigration and Naturalization.

By Mr. YOUNG of New York: Petition of Charles O. Morley and other citizens of Brooklyn, N. Y., for the eight-hour clause with reference to construction of battleships; to the Committee on Naval Affairs.

SENATE.

THURSDAY, *February 16, 1911.*

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

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

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by W. J. Browning, its Chief Clerk, announced that the House had passed the bill (S. 10583) to amend the charter of the Firemen's Insurance Co. of Washington and Georgetown, D. C.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H. R. 24123) for the relief of the legal representatives of William M. Wightman, deceased.

The message further announced that the House had agreed to the amendment of the Senate to the bill (H. R. 27837) to amend the provisions of the act of March 3, 1885, limiting the compensation of storekeepers, gaugers, and storekeeper-gaugers, in certain cases, to $2 a day, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

The message also returned to the Senate, in compliance with its request, the bill (H. R. 31538) to authorize the Pensacola, Mobile & New Orleans Railway Co., a corporation existing under the laws of the State of Alabama, to construct a bridge over and across the Mobile River and its navigable channels on a line opposite the city of Mobile, Ala.

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 29360) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1912, and for other purposes; recedes from its disagreement to the amendment of the Senate No. 203 and agrees to the same; further insists upon its disagreement to the amendments of the Senate upon which the committee of conference have been unable to agree; agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon; and has appointed Mr. GILLETT, Mr. GRAFF, and Mr. LIVINGSTON managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

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

S. 9405. An act to amend section 5 of the act of Congress of June 25, 1910, entitled "An act to authorize advances to the reclamation fund, and for the issue and disposal of certificates of indebtedness in reimbursement therefor, and for other purposes;"

S. 10583. An act to amend the charter of the Firemen's Insurance Co. of Washington and Georgetown, in the District of Columbia;

H. R. 21965. An act for the relief of Mary Wind French;

H. R. 25569. An act to authorize a patent to be issued to Margaret Padgett for certain public lands therein described;

H. R. 27069. An act to relinquish the title of the United States in New Madrid location and survey No. 2880;

H. R. 30571. An act permitting the building of a dam across Rock River at Lyndon, Ill.;

H. R. 31066. An act to authorize the Secretary of Commerce and Labor to purchase certain lands for lighthouse purposes;

H. R. 31166. An act to authorize the Secretary of Commerce and Labor to exchange a certain right of way;

H. R. 31353. An act for the relief of F. W. Mueller;

H. R. 31600. An act to authorize the erection upon the Crown Point Lighthouse Reservation, N. Y., of a memorial to commemorate the discovery of Lake Champlain;

H. R. 31657. An act to authorize United States marshals and their respective chief office deputies to administer certain oaths;

H. R. 31925. An act authorizing the building of a dam across the Savannah River at Cherokee Shoals;

H. R. 31926. An act permitting the building of a dam across Rock River near Byron, Ill.;

H. R. 31931. An act authorizing the Ivanhoe Furnace Corporation, of Ivanhoe, Wythe County, Va., to construct a dam across New River; and

H. R. 32473. An act for the relief of the sufferers from famine in China.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a petition of Live Oak Camp, No. 2037, Woodmen of the World, of Chalkbluff, Tex., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the Religious Society of Friends, of Chappaqua, N. Y., remonstrating against any appropriation being made for the fortification of the Panama Canal, which was referred to the Committee on Interoceanic Canals.

He also presented a petition of the Trades and Labor Council of Danville, Ill., praying for the construction of all battleships in Government navy yards, which was referred to the Committee on Naval Affairs.

Mr. GALLINGER. Mr. President, I have had a deluge of telegrams during the last few days asking me to support the so-called Sulloway pension bill. This morning I received a letter which I think I will take the liberty of reading—it is very brief—from a well-known resident of a town in New Hampshire. It is as follows:

The National Tribune telegraphs commander of Grand Army of the Republic post here: "GALLINGER not as earnest as wished for. Can you bring some influence to bear on him? His vote and attention quite important. This in relation to the Sulloway bill before the Senate."

Mr. President, I have been a reasonably consistent friend of the soldiers in all matters of pension legislation, and I am giving very careful consideration both to the so-called Sulloway bill and the substitute bill reported by the Senator from North Dakota [Mr. MCCUMBER], the chairman of the Committee on Pensions. When the matter comes up for vote I shall vote as my intelligence and conscience dictate and not because somebody in Washington has telegraphed somebody in New Hampshire to line me up on the question.

The PRESIDENT pro tempore. The telegrams will lie on the table, the bill having been reported.

Mr. GALLINGER presented a petition of the proprietor of the Gazette-Times-Press, of Lancaster, N. H., and a petition of the Emerson Paper Co., of Sunapee, N. H., praying for the enactment of legislation to prohibit the printing of certain matter on stamped envelopes, which were referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the editor of the Dublin News, of Dublin, N. H., remonstrating against the enactment of legislation to prohibit the printing of certain matter on stamped envelopes, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the Chamber of Commerce of Washington, D. C., praying for the enactment of legislation providing for an increase in the salaries of Government employees, which was referred to the Committee on the District of Columbia.

He also presented memorials of Local Union No. 15, Brotherhood of Paper Makers, of Lisbon Falls, Me.; of the Emerson Paper Co., of Sunapee, N. H.; of Local Grange of Campton; of Mountain Grange of Ossipee; of Local Grange No. 160, of Carroll; and of Local Grange No. 230, of Unity, Patrons of Husbandry; and of sundry citizens of Berlin and Dover, all in the State of New Hampshire, remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

Mr. CULLOM presented a memorial of Local Division No. 125, Amalgamated Association of Street Railway Employees of America, of Belleville, Ill., remonstrating against the repeal of the present law relative to the printing by the Government of notes, bonds, checks, etc., which was referred to the Committee on Printing.

He also presented a petition of Local Union No. 1675, United Brotherhood of Carpenters and Joiners of America, of Breese, Ill., praying for the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

He also presented a memorial of Charter Oak Grange, Patrons of Husbandry, of Peoria County, Ill., remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which was referred to the Committee on Finance.

He also presented a memorial of Wabash Lodge, No. 237, International Association of Machinists, of Mount Carmel, Ill., remonstrating against the repeal of the so-called eight-hour law relative to the building of battleships in Government navy yards, which was referred to the Committee on Naval Affairs.

He also presented a memorial of the Local Business Club of Chester, Ill., remonstrating against the passage of the so-called parcels-post bill, which was referred to the Committee on Post Offices and Post Roads.

Mr. BROWN presented a petition of Holland Post, No. 78, Grand Army of the Republic, Department of Nebraska, of Crete, Nebr., praying for the passage of the so-called old-age pension bill, which was ordered to lie on the table.

He also presented a memorial of the Central Labor Union of Lincoln, Nebr., remonstrating against the repeal of the present law relative to the printing by the Government of notes, bonds, checks, etc., which was referred to the Committee on Printing.

Mr. BOURNE. I present a telegram which I have received from the Oregon & Washington Lumber Manufacturers' Association, which I ask may be read and referred to the Committee on Finance.

There being no objection, the telegram was read and referred to the Committee on Finance, as follows:

PORTLAND, OREG., *February 14, 1911.*

Hon. JONATHAN BOURNE, Jr.,
United States Senate, Washington, D. C.:

The senate to-day passed house joint resolution No. 60, as follows:

"Whereas the Canadian reciprocal agreement opposing the removal of duties upon farm and timber products is now under consideration by Congress; and

"Whereas the removal of these existing tariffs upon its products will work inestimable damage to the welfare of the State; and

"Whereas by reason of the shipping laws of the United States foreign vessels can not be used between domestic ports, while vessels under any flag can be used between Canadian ports and those of the United States, thereby securing very much lower rates and making the competition more difficult to meet; and

"Whereas a Tariff Commission has been appointed by the President of the United States to examine into and report on the necessity of changes in our present tariffs on all commodities, both raw and manufactured: Now therefore be it

"*Resolved*, That the Legislature of the State of Oregon requests its Senators and Representatives in Congress to oppose the ratification or consent of or to said Canadian reciprocal agreement at this time and until said Tariff Commission has reported and the country is more fully advised as to the effect of such agreement will have upon the industries and development of the United States."

L. J. WENTWORTH,
President Oregon & Washington Lumber Manufacturers' Association.

Mr. BOURNE. I present a telegram from the Legislature of the State of Oregon, which I ask may be read and lie on the table.

There being no objection, the telegram was read and ordered to lie on the table, as follows:

SALEM, OREG., *February 15, 1911.*

Hon. JONATHAN BOURNE, Jr.,
Washington, D. C.:

To the honorable Senate and House of Representatives, Congress of the United States.

GENTLEMEN: Your memorialists, the Legislative Assembly of the State of Oregon, would respectfully and earnestly represent to your honorable body that the pensions now granted under existing laws to the veterans of the Civil War are, by reason of advancing age and increasing infirmities, inadequate to the deserts and need of those old soldiers who are so rapidly passing away. We therefore urge upon your honorable body the passage of House bill 29346 (the Sulloway bill), granting increased pensions to the survivors of the Civil War commensurate with their increasing age and infirmities. The number of survivors of the Civil War is rapidly growing smaller and their ranks are fast becoming depleted, and we feel that their services to the Nation have been sufficient to warrant the payment to them of the pension provided for in this bill. It is hereby directed that a copy of this memorial, duly signed by the president of the senate and the speaker of the house and attested by the chief clerks of the two houses, be immediately forwarded to each of the Oregon Senators and Representatives in Congress.

Adopted by the house February 13, 1911; concurred in by the senate February 14, 1911.

JOHN P. RUSK, *Speaker of the House.*
BEN SNELLING, *President of Senate.*
W. F. DRAGER, *Chief Clerk of House.*
F. H. FLAGG, *Chief Clerk of Senate.*

Mr. DILLINGHAM presented a petition of Local Chapter, American Federation of Labor, of Bennington; of General Stark Council, of Springfield; and of Rising Sun Council, of St. Johnsburg, Junior Order United American Mechanics, in the State of Vermont; and of Enterprise Council, Junior Order United American Mechanics, of Keyser, W. Va., praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

He also presented memorials of Prospect Grange, No. 331; Coldspring Grange, No. 427; Willoughby Lake Grange; Local Grange of Chester; and of Local Grange of Brandon, Patrons of Husbandry, all in the State of Vermont, remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

Mr. SCOTT presented a memorial of Richlands Grange, No. 76, Patrons of Husbandry, of Greenbrier County, W. Va., remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which was referred to the Committee on Finance.

He also presented a memorial of sundry citizens of Parkersburg, W. Va., remonstrating against the proposed increase in the postal rates on magazines and periodicals, which was ordered to lie on the table.

Mr. YOUNG presented petitions of the Trades and Labor Assembly of Muscatine; of Local Union No. 1112, United Brotherhood of Carpenters and Joiners of America, of Marshalltown; and of Local Union No. 18, United Association Journeymen Plumbers, Gas and Steam Fitters, and Steam Fitters' Helpers, of Sioux City, all in the State of Iowa, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

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

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

IN ASSEMBLY, *January 23, 1911.*

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

Whereas the United States possesses one of the finest navy yards in the world, situate in the borough of Brooklyn, city and State of New York, and comprising 144 acres of land and 3 miles of water front; and

Whereas said navy yard is sufficiently equipped to economically and expeditiously construct the largest class of battleships, as has been demonstrated by the building of the U. S. battleships *Connecticut* and *Florida;* and

Whereas the maintenance of the well-organized and efficient mechanical force in said yard, ready to meet any emergency, is demanded; and

Whereas battleships should be built in the Government navy yards, in order that competition between the private yards shall not be lost in a combination to overcharge the Government; and

Whereas arrangements have been made for the building of the battleship *New York* at the New York Navy Yard, and a movement is now on foot to build this vessel at a private yard: Now therefore be it

Resolved (if the senate concur), That the President of the United States, the Secretary of the Navy, and the Representatives in Congress from this State be, and they hereby are, requested to strenuously oppose the effort which is being made to have the battleship *New York* built in a private yard; and they are requested to see that this battleship is built in the New York Navy Yard, where such successful work has been heretofore done.

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

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JANUARY 30, 1911.

By unanimous consent, Mr. Ahern called up his resolution in relation to the construction of battleships at the Brooklyn Navy Yard introduced January 23.

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

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

The senate returned the concurrent resolution introduced by Mr. Ahern in relation to the construction of battleships at the Brooklyn Navy Yard with a message that they have concurred in the passage of the same without amendment.

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OFFICE OF THE CLERK OF THE ASSEMBLY.

STATE OF NEW YORK, *County of Albany, ss:*

I, Luke McHenry, clerk of the assembly, do hereby certify that I have compared the foregoing resolution and record of proceedings of the assembly had thereon with the original thereof as contained in the original copy of the official journal of the proceedings of the Assembly of the State of New York of the 23d and 30th days of January, 1911, now on file in my office; that the foregoing is a true and correct transcript of said original resolution and record of the proceedings of the assembly had thereon on the said dates and of the whole thereof.

In witness whereof I have hereunto affixed my hand and official seal this 7th day of February, 1911.

LUKE MCHENRY,
Clerk of the Assembly.

Mr. DEPEW presented a petition of Local Union No. 103, Brotherhood of Painters, Decorators, and Paperhangers, of Binghamton, N. Y., praying for the repeal of the present oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

He also presented petitions of the Central Labor Union of Ithaca; of Local Union No. 1741, United Brotherhood of Carpenters and Joiners, of Lake Placid; of Washington Camp No. 32, Patriotic Order Sons of America, of Warwick; of Charles De Witt Council, No. 91, Junior Order United American Mechanics, of Kingston; and of Local Union No. 31, Brotherhood of Painters, of Syracuse, all in the State of New York, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

He also presented petitions of Admiral Cook Camp, No. 69, United Spanish War Veterans, of Haverstraw; of Local Lodge No. 330, International Association of Machinists, of Buffalo; and of sundry citizens of Lancaster, all in the State of New York, praying for the enactment of legislation providing for the construction of the battleship *New York* in a Government navy yard, which were referred to the Committee on Naval Affairs.

He also presented a memorial of the Central Labor Union of Ithaca, N. Y., remonstrating against the repeal of the present law relative to the printing by the Government of notes, bonds, and checks, which was referred to the Committee on Printing.

He also presented a petition of the Business Men's Association of Auburn, N. Y., praying for the ratification of the proposed reciprocal agreement between the United States and Canada, which was referred to the Committee on Finance.

He also presented memorials of Local Granges No. 833, of Bernhards Bay; No. 841, of Putnam Valley; No. 613, of Mapletown; No. 43, of Lenox; No. 6, of Honeoye Falls; and of Shawangunk Grange, No. 1018, of Greenville, all of the Patrons of Husbandry; and of sundry citizens of Willink and Niagara Falls, all in the State of New York, remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented a petition of the Boone and Crockett Club, of New York City, N. Y., praying for the enactment of legislation providing for the establishment of the Appalachian Forest Reserve, which was ordered to lie on the table.

He also presented a petition of Root Post, No. 151, Grand Army of the Republic, Department of New York, of Syracuse, N. Y., and a petition of James Hall Camp, No. 111, Sons of Veterans, of Jamestown, N. Y., praying for the passage of the so-called old-age pension bill, which were ordered to lie on the table.

Mr. OWEN. I present a concurrent resolution of the Legislature of the State of Oklahoma, which I ask may be printed in the RECORD and referred to the Committee on Indian Affairs.

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

Senate concurrent resolution 17.

A resolution memorializing Congress to pass an act providing for the sale of the coal and asphalt lands of the Choctaw and Chickasaw Nations.

Whereas there has been introduced in the Congress of the United States a bill providing for the sale of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations; and

Whereas said bill has been drafted and agreed upon by all interests affected, Indians and white people alike, thereby removing the objections to said legislation that have heretofore existed, and all interests affected are now urging its passage, the Indians because it will carry out the solemn treaty stipulations contained in the supplementary agreement of 1902, for the sale of their coal and asphalt lands and the distribution per capita of the proceeds, and the white people because it would result in the development and taxation of a large area of land now wholly undeveloped and untaxable, thereby lightening the burden of taxation and resulting in great good to the whole people of the State of Oklahoma: Therefore be it

Resolved by the senate (the house of representatives concurring therein), That the Congress of the United States be, and the same is hereby, memorialized to pass an act at the present session of Congress that will result in the early sales of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations and the distribution of the proceeds per capita among the Indians.

Resolved, That a copy of this resolution be forwarded to Hon. T. P. GORE and the Hon. ROBERT L. OWEN and to the Members of Congress of Oklahoma, and that they be requested to present the same to Congress.

Passed by the senate February 6, 1911.

J. ELMER THOMAS,
President pro tempore of Senate.

Passed by the house of representatives February 6, 1911.

W. A. DURANT,
Speaker of House of Representatives.

Mr. OWEN. I present a concurrent resolution of the Legislature of the State of Oklahoma, which I ask may be printed in the RECORD and referred to the Committee on Indian Affairs.

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

House concurrent resolution 19.

Whereas by act of Congress approved June 28, 1906, the mineral interests then belonging to the Osage Tribe of Indians were retained by the tribe for the period of 25 years, unless otherwise provided by act of Congress; and

Whereas the said act of Congress also provides for the allotment in severalty of the lands of the Osage Tribe of Indians, among the members of said tribe without any right or ownership in the minerals underneath the surface; and

Whereas the said reservation of mineral interest to said tribe is operating to the great detriment to the individual members of the tribe, and is retarding the growth and development of Osage County because of the fact that it makes land sales difficult and because of the fact that it prevents the members of said tribes from receiving a fair and reasonable price for their land.

Therefore we respectfully petition that the Congress of the United States, in a legislation, provide that the minerals now reserved to the Osage Tribe of Indians be individualized and placed to the allottees so that each allottee will receive the minerals underlying the surface allotted to him.

Passed the house of representatives January 24, 1911.

W. A. DURANT,
Speaker of the House of Representatives.

Passed the senate February 7, 1911.

J. ELMER THOMAS,
President pro tempore of the Senate.

I certify that the above and foregoing is a true and correct copy of house concurrent resolution No. 19.

G. A. CROYETT, *Chief Clerk.*

Mr. BURNHAM presented a petition of the editor of the Gazette-Times-Press, of Lancaster, N. H., praying for the enactment of legislation to prohibit the printing of certain matter on stamped envelopes, which was referred to the Committee on Post Offices and Post Roads.

Mr. WATSON presented the memorial of L. J. R. Drysard and H. T. Watts, of St. Marys, W. Va., remonstrating against the passage of the so-called rural parcels post bill, which was ordered to lie on the table.

He also presented a petition of the National American Alliance, of Wheeling, W. Va., praying that an appropriation of $30,000 be made toward the erection of a monument at Germantown, Philadelphia, Pa., in commemoration of the founding of the first permanent German settlement in America, which was referred to the Committee on the Library.

Mr. OLIVER presented a petition of the Pennsylvania State Grange, Patrons of Husbandry, praying for the enactment of legislation providing for the election of United States Senators by a direct vote of the people, which was ordered to lie on the table.

He also presented a memorial of the Pennsylvania State Grange, Patrons of Husbandry, remonstrating against any change being made in the postal rates on periodicals and magazines, which was ordered to lie on the table.

Mr. OVERMAN presented petitions of Local Councils No. 51, of North Wilkesboro; No. 294, of Ophir; No. 208, of Mebane; No. 139, of Cliffside; No. 325, of Lowes Grove; No. 101, of Copeland; No. 111, of Sanford; No. 272, of Powells Point; No. 275, of Rougemont; Smith River Council, No. 71, of Spray; and of Fred Green Council, No. 99, of East Durham, Junior Order United American Mechanics; and of Washington Camps No. 23, of Angier; No. 4, of East Spencer; No. 22, of Raleigh; No. 18, of Marion; No. 35, of East Durham; and No. 1, of Winston Salem, Patriotic Order Sons of America; and of sundry citizens of China Grove, all in the State of North Carolina, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

Mr. PAGE presented a petition of Rising Sun Council, No. 34, Junior Order United American Mechanics, of North Danville, Vt., praying for the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

Mr. SMITH of South Carolina presented a memorial of sundry citizens of Heath Spring, S. C., remonstrating against any change being made in the postal rates on periodicals and magazines, which was ordered to lie on the table.

He also presented memorials of Charles Ellis, of Columbia; K. H. Morgan, of Greenville; Rogers, McCabe & Co., of Charleston; W. E. Smith, of Columbia; the Camperdown Mills, of Greenville; the People's Bank of Greenville; the Fountain Inn Manufacturing Co.; the Simpsonville Cotton Mills, of Greenville; of Wade Stackhouse, of Dillon; of C. S. Webb, of Greenville; of S. M. Jones & Co., of Chester; O'Donnell & Co., of Sumter; and of the Woodside Cotton Mills, of Greenville, all in the State of South Carolina, remonstrating against the passage of the so-called Scott antioption bill relative to dealing in cotton futures, which were referred to the Committee on Interstate Commerce.

Mr. PAYNTER presented the petition of Mary E. Goodwin, of Maysville, Ky., praying that she be granted a pension, which was referred to the Committee on Pensions.

Mr. KEAN presented memorials of sundry citizens of Morristown, Elizabeth, Orange, and Millburn, all in the State of New Jersey, remonstrating against the passage of the so-called Scott antioption bill relative to dealing in cotton futures, which were referred to the Committee on Interstate Commerce.

He also presented the petition of Joseph D. Holmes, of Orange, N. J., praying for the ratification of the proposed reciprocal agreement between the United States and Canada, which was referred to the Committee on Finance.

He also presented a petition of the Business League of Atlantic City, N. J., praying for the passage of the so-called parcels-post bill, which was referred to the Committee on Post Offices and Post Roads.

He also presented memorials of sundry citizens and business firms of Jersey City, Orange, East Orange, Riverton, New Brunswick, Bloomfield, Boonton, Hasbrouck Heights, and Paterson, all in the State of New Jersey, and of sundry citizens of New York City, remonstrating against any increase being made in the rate of postage on periodicals and magazines, which were ordered to lie on the table.

Mr. SHIVELY presented telegrams in the nature of memorials from the American Metal Co., of Indianapolis; the Indianapolis Saddlery, of Indianapolis; the Mooney-Meuller Drug Co., of Indianapolis; the Trotter Henry Co., of Indianapolis; the American Valve Co., of Indianapolis; of G. A. Schnull, of Indianapolis; the Standard Metal Co., of Indianapolis; of James R. Ross & Co., of Indianapolis; the Havens & Geddes Co., of Indianapolis; the Indianapolis Book & Stationery Co., of Indianapolis; of William Fogarty, of Indianapolis; the Apperson Bros. Auto Co., of Kokomo; of Ekin Wallick, of Indianapolis; of Juliett V. Strouse, of Terre Haute; of J. A. Everitt, editor Up-to-date Farmer, of Indianapolis; of Ed. Noris, treasurer Tribe of Ben Hur, of Indianapolis; of the Climax Coffee & Baking Powder Co., of Indianapolis; the National Press Association, of Indianapolis; the Adsell League, of South Bend; of A. M. Reed, of Muncie; of the Crawfordsville Typographical Union, of Crawfordsville, all in the State of Indiana; of Leo Rae Axtell, of New Orleans, La.; of the Priscilla Publishing Co., of Boston, Mass., and of Norman E. Mack, of Buffalo, N. Y., remonstrating against any increase being made in the rate of postage on periodicals and magazines, which were ordered to lie on the table.

He also presented memorials of the Sparks Milling Co., of Terre Haute; F. A. Mosher & Co., of Terre Haute; Otterbein Grain Co., of Otterbein; and W. H. Evans & Sons, of Otterbein, all in the State of Indiana, remonstrating against the passage of the so-called Scott antioption bill relative to dealing in cotton futures, which were referred to the Committee on Interstate Commerce.

He also presented a petition of Lake View Post, No. 276, Department of Indiana, Grand Army of the Republic, of Syracuse, Ind., praying for the passage of the so-called old-age pension bill, which was ordered to lie on the table.

He also presented a petition of the Stone Sawyers' Union, No. 12884, American Federation of Labor, of Bedford, Ind., praying for the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

He also presented a petition of Porter Local Union No. 74, Farmers' Cooperative Educational Union, of Montgomery, Ind., and a petition of Thompson Local Union No. 147, Farmers' Cooperative Educational Union, of Alfordsville, Ind., praying for the adoption of an amendment to the Constitution providing for the election of Senators by direct vote, which were ordered to lie on the table.

He also presented memorials of Lee B. Nusbaum, president of the Merchants' Association, of Richmond; of Charles W. Jordan, of Richmond; of the Havens & Geddes Co., of Indianapolis; of the Hinkle Shoe Co., of Evansville; of the Jones Hardware Co., of Richmond; of the Indiana Retail Hardware Association, of Richmond, all in the State of Indiana, remonstrating against the passage of the so-called parcels-post bill, which were referred to the Committee on Post Offices and Post Roads.

Mr. SMITH of Maryland presented petitions of Washington Camp No. 60, Patriotic Order Sons of America, of Boonsboro; of Banner Council, Junior Order United American Mechanics, of Keedysville; and of Local Council, Junior Order United American Mechanics, of Chester, all in the State of Maryland, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

Mr. WARREN. I present resolutions adopted by the executive committee of the Home Market Club, of Boston, Mass., which I ask may be printed in the RECORD and referred to the Committee on Finance.

There being no objection, the resolutions were referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

HOME MARKET CLUB OPPOSED—ASKS DEFEAT OF RECIPROCITY AS "PERIL TO INDUSTRIES."

"In behalf of our imperiled industries," the executive committee of the Home Market Club yesterday adopted a resolution asking "our Senators in Congress" to do what they can to prevent the ratification of the proposed reciprocity agreement between the United States and Canada.

The resolutions, which were, it is announced, unanimously adopted, are as follows:

"*Resolved*, That in behalf of our imperiled industries the executive committee of the Home Market Club, after consulting many members, respectfully asks our Senators in Congress to do what they can to prevent the ratification of the Canadian compact at this session, in order that the people of the three countries most concerned may have more time to study the many questions involved.

"*Resolved*, That while mutual benefits may be possible under some reciprocal trade arrangement with Canada, the more the pending compact is studied the more difficult it is to approve it as a whole. It seems to us contrary to the protective principle, which should treat all sections, all interests, and all countries alike. It not only discriminates against our farmers, fishermen, lumbermen, pulp and paper makers, and some other industries, but it is accompanied by intimation that further reductions are contemplated. It is not likely to reduce the cost of living, because the Canadians and the middlemen will advance prices according to their enlarged opportunity. It will provoke international jealousies, and probably cause demands for equal concessions under the 'most-favored-nation' clause in our commercial treaties.

"*Resolved*, That with due respect for the rights and powers of the executive in negotiating treaties, and with high respect for President

Taft personally, we yet think that a fiscal and trade arrangement of such a sweeping character as this, which is not a treaty, should have first received the joint consideration of the tariff committees of Congress.

"*Resolved*, That we think it is a mistake to base a change of this character upon the assumption that the conditions and costs of production are so nearly alike in the two countries that no serious dislocation can result from it, for it is in evidence that in some competing sections the value of land, the cost of fertilizers, the expense of shipbuilding, and the wages of labor are from one-quarter to one-third lower in Canada than in this country.

"*Resolved*, That while it was to be expected that commercial bodies, transportation companies, and 'tariff-reform' legislatures would favor the agreement, there is no warrant for believing that the American people are desirous of abandoning the policy of protection, or of making so large an invasion upon it as this agreement involves, and we believe that every protectionist should resist the encroachment as a menace to the best interests of his country.

"*Resolved*, That we entertain such friendship for our Canadian neighbors that we greatly rejoice over their prosperity under protection, but if we are to give them the benefit of our great market without a fair equivalent in exchange, the British preferential, which has not been reciprocated by the United Kingdom, should, in fairness to the United States, be discontinued."

Mr. WARREN presented the memorials of Henry Deck, of New York City, and of Arthur S. Michel, of Brooklyn, and of the Leader Printing Co., of New York City, all in the State of New York, remonstrating against any change being made in the rates of postage on periodicals and magazines, which were ordered to lie on the table.

He also presented a memorial of the De Laval Separator Co., of New York City, N. Y., remonstrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which was referred to the Committee on Finance

Mr. FRYE presented a memorial of Local Grange No. 99, Patrons of Husbandry, of Leeds, Me., and a memorial of North Haven Grange, Patrons of Husbandry, of North Haven, Me., remostrating against the ratification of the proposed reciprocal agreement between the United States and Canada, which were referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. CULLOM. I am directed by the Committee on Foreign Relations, to which were referred certain telegrams and memorials relating to the ratification of the proposed reciprocal agreement between the United States and Canada, to ask that the committee be discharged from their further consideration, and that they be referred to the Committee on Finance.

The PRESIDENT pro tempore. Without objection, the Committee on Foreign Relations will be discharged and the papers will be referred to the Committee on Finance.

Mr. SCOTT, from the Committee on Military Affairs, to which was referred the bill (H. R. 16268) for the relief of Thomas Seals, reported it with an amendment and submitted a report (No. 1169) thereon.

Mr. SMITH of Michigan, from the Committee on Commerce, to which was referred the bill (S. 10559) to designate St. Andrew, Fla., as a subport of entry, reported it without amendment and submitted a report (No. 1166) thereon.

Mr. CURTIS, from the Committee on Pensions, to which was referred the bill (H. R. 32128) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors, reported it with amendments and submitted a report (No. 1170) thereon.

He also, from the same committee, to which were referred certain bills granting pensions and increase of pensions, submitted a report (No. 1167), accompanied by a bill (S. 10817) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors, which was read twice by its title, the bill being a substitute for the following Senate bills heretofore referred to the committee:

S. 3968. Charles B. Flynn.
S. 6710. George N. Holden.
S. 8616. Humphrey L. Carter.
S. 8833. John Kenney.
S. 9151. Duncan A. Gray.
S. 9868. William P. Armstrong.
S. 10043. Christopher J. Rollis.
S. 10137. Samuel S. Householder.
S. 10285. Jesse P. Steele.
S. 10343. Lillian A. Wilmot.
S. 10403. George E. Seneff.
S. 10480. William L. Parks.
S. 10588. John A. West.
S. 10686. Jen Rody Chauncey.
S. 10708. Gilford Ratliff.
S. 10709. Polk R. Kyle.
S. 10814. John D. Smith.

Mr. ROOT, from the Committee on the Library, to which was referred the bill (S. 2737) authorizing the purchase of 13 historical paintings, submitted an adverese report (No. 1171) thereon, which was agreed to, and the bill was postponed indefinitely.

Mr. CRAWFORD, from the Committee on Claims, to which was referred the bill (H. R. 15566) for the relief of H. M. Dickson, William T. Mason, the Dickson-Mason Lumber Co., and D. L. Boyd, reported it without amendment and submitted a report (No. 1173) thereon.

Mr. McCUMBER, from the Committee on Pensions, to which were referred certain bills granting pensions and increase of pensions, submitted a report (No. 1168), accompanied by a bill (S. 10818) 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, which was read twice by its title, the bill being a substitute for the following Senate bills heretofore referred to the committee:

S. 49. James R. Vassar.
S. 150. Charles L. Randall.
S. 361. Amos Stewart.
S. 689. Armstead Fletcher.
S. 1431. George W. Spray.
S. 2463. David C. Nigh.
S. 2532. Josephus Clark.
S. 2770. Charles Maxwell Waterman.
S. 3883. Eli F. Holland.
S. 4168. David E. Fisher.
S. 4177. George F. Woods.
S. 4469. Olive C. Dodge.
S. 4543. William Carpenter.
S. 4643. Elvira E. Chase.
S. 4883. Joseph D. Power.
S. 4979. Lydia J. Taylor.
S. 4994. George H. Wallace.
S. 5209. Richard M. Capen.
S. 5231. John D. Trevallee.
S. 5241. Margaret H. Flint.
S. 5347. Francis M. Webb.
S. 5590. George F. Cooper.
S. 5772. Anton Zwinge.
S. 6025. James W. Ward.
S. 7079. Frank W. Sencebaugh.
S. 7214. William N. Johnson.
S. 7236. Thomas H. Morris.
S. 7345. William C. Knox.
S. 7391. Elijah C. Davey.
S. 7439. Robert H. Johnson.
S. 7581. James W. Broom.
S. 7613. Annie G. Long.
S. 7754. George W. Rauch.
S. 7881. Alfred Anderson.
S. 7979. John H. Iott.
S. 8012. Francis M. Ross.
S. 8034. General L. Boso.
S. 8078. Harvey W. Hewitt.
S. 8079. Francis M. Truax.
S. 8204. Patrick H. Conarty.
S. 8212. Patrick J. Conway.
S. 8271. John Richardson.
S. 8288. Joseph M. Alexander.
S. 8291. John E. Moon.
S. 8350. David Riel.
S. 8372. William H. Meece.
S. 8374. Chesley Payne.
S. 8377. Elizabeth Lucas.
S. 8378. Robert Bell.
S. 8420. Joseph Hiler.
S. 8441. Andrew Pea.
S. 8448. Oliver Yake.
S. 8476. Charles Nobles.
S. 8495. Stephen E. Taylor.
S. 8496. Benjamin F. Johnston.
S. 8497. Freeborn H. Price.
S. 8552. Charles H. Lamphier.
S. 8597. Patrick O'Brien.
S. 8675. Malinda Wilson.
S. 8731. Fannie Ladd.
S. 8817. Edward Tippens.
S. 8818. Kinsman Boso.
S. 8836. William Burris.
S. 8855. Charles C. Edwards.
S. 8856. Ellen M. Corsa.
S. 8858. Alexander McDonald.
S. 8859. Isaac N. Dysard.
S. 8866. William H. Hills.

S. 8889. Ira A. Kneeland.
S. 8893. Fernando S. Philbrick.
S. 8897. Chandler Swift.
S. 8925. Pleasant H. Latimer.
S. 8926. John Bigley.
S. 8975. William H. Gosset.
S. 8977. Thomas Murray.
S. 9022. William Swinburn.
S. 9209. Morris Thomas.
S. 9210. Gullien Tullion.
S. 9217. Samuel A. Sanders.
S. 9257. Winfield S. Janes.
S. 9261. William H. Fields.
S. 9265. Solomon Peck.
S. 9284. Frank J. Clark.
S. 9293. Benjamin Bortz.
S. 9294. Cyrus Wilson.
S. 9350. Perkins H. Bagley, jr.
S. 9414. Alfred L. Tucker.
S. 9444. Francis J. Trowe.
S. 9458. Melissa J. Kauffman.
S. 9545. Lewis H. Shiery.
S. 9548. Andrew Marsh.
S. 9562. William W. Fraser.
S. 9564. Joseph C. Monk.
S. 9567. Eli N. Swerdfeger.
S. 9593. David H. Frink.
S. 9609. Eli Adams.
S. 9612. Benjamin F. Fulton.
S. 9628. Frederick Shulley.
S. 9631. David Stanard.
S. 9680. Daniel Younker.
S. 9696. Benjamin Bennett.
S. 9700. Margaret J. Brownell.
S. 9703. T. Price Line.
S. 9704. Rose E. White.
S. 9735. John Hines.
S. 9741. Austin Betters.
S. 9752. Thomas Posey.
S. 9753. Henry McBrien.
S. 9792. Arthur W. Cox.
S. 9820. William H. H. Ranger.
S. 9861. James M. Chambers.
S. 9867. Mary C. Galbraith.
S. 9937. Wright T. Ellison.
S. 9939. Benjamin T. Stevens.
S. 10004. Richard Dent.
S. 10042. John Rose.
S. 10047. Mark Smith.
S. 10060. William B. Knapp.
S. 10062. Mary P. Meade.
S. 10064. William W. Edwards.
S. 10142. Essie Pursel.
S. 10150. Andrew Schoonmaker.
S. 10195. Jacob Mathews.
S. 10199. George W. Fouts.
S. 10222. George W. McAllister.
S. 10237. Charles H. McCarroll.
S. 10303. Edward J. Miller.
S. 10306. John M. Staples.
S. 10335. Harry G. Bingner.
S. 10340. Theodore Clark.
S. 10360. Michael Wiar.
S. 10393. William McGlone.
S. 10459. Alexander Wilson.
S. 10460. Calvin Buntan.
S. 10501. Lucia W. Huxford.
S. 10504. James Doyle.
S. 10511. Charles O. Chapman.
S. 10515. John S. Cilley.
S. 10587. James H. Thompson.
S. 10615. Benjamin F. B. Holmes.
S. 10639. Ida M. Elder.
S. 10645. Thomas Loughney.
S. 10650. William U. Thayer.
S. 10652. John Walsh.
S. 10654. Marcellus E. McKellup.
S. 10655. George T. Kerans.
S. 10656. Byron Rudy.
S. 10659. William A. Leech.
S. 10673. Anna H. Fitch.
S. 10674. Andrew J. Fogg.
S. 10689. Otis Johnson.
S. 10697. Joseph P. Pittman.
S. 10698. Henry G. Tuttle.
S. 10717. William Hise.
S. 10729. James H. Morley.
S. 10776. Frank N. Jameison.
S. 10797. Edward J. Moss.

Mr. McCUMBER, from the Committee on Pensions, to which was referred the bill (S. 5541) granting a pension to Margaret Gately, submitted an adverse report (No. 1174) thereon, which was agreed to, and the bill was postponed indefinitely.

Mr. HEYBURN, from the Committee on Public Lands, to which was referred the bill (S. 10791) to eliminate from forest and other reserves certain lands included therein for which the State of Idaho had, prior to the creation of said reserves, made application to the Secretary of the Interior under its grants that such lands be surveyed, reported it without amendment.

He also, from the same committee, to which was referred the bill (S. 10707) to consolidate certain forest lands in the Kansas National Forest, reported it with amendments and submitted a report (No. 1175) thereon.

Mr. SMITH of Michigan, from the Committee on Foreign Relations, to which was referred the bill (S. 6119) to give effect to the provisions of a treaty between the United States and Great Britain concerning the fisheries in waters contiguous to the United States and the Dominion of Canada, signed at Washington on April 1, 1908, and ratified by the United States Senate April 13, 1908, reported it with an amendment and submitted a report (No. 1176) thereon.

Mr. WARREN, from the Committee on Military Affairs, to which was referred the bill (S. 10770) fixing the rank of military attachés, reported it without amendment and submitted a report (No. 1177) thereon.

Mr. SMITH of Maryland, from the Committee on Naval Affairs, to which was referred the bill (H. R. 24145) for the establishment of marine schools, and for other purposes, reported it with an amendment and submitted a report (No. 1178) thereon.

Mr. FLINT, from the Committee on Public Lands, to which was referred the bill (H. R. 32344) to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest, reported it with amendments and submitted a report (No. 1179) thereon.

Mr. FRYE, from the Committee on Commerce, to which was referred the amendment submitted by himself on the 15th instant, relative to the construction of two revenue cutters authorized by the act approved April 21, 1910, etc., intended to be proposed to the sundry civil appropriation bill, reported favorably thereon and moved that it be printed and, with the accompanying papers, referred to the Committee on Appropriations, which was agreed to.

NIOBRARA RIVER DAM, NEBRASKA.

Mr. BROWN. From the Committee on Military Affairs, I report back favorably without amendment the bill (H. R. 31662) granting five years' extension of time to Charles H. Cornell, his assigns, assignees, successors, and grantees, in which to construct a dam across the Niobrara River on the Fort Niobrara Military Reservation, and to construct electric light and power wires and telephone line and trolley or electric railway, with telegraph and telephone lines, across said reservation, and I submit a report (No. 1162) thereon. The bill relates alone to the extension of time originally fixed in an act passed by Congress five years. It is very short, and I ask for its immediate consideration.

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

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

LEASE OF SENECA INDIAN LAND.

Mr. PAGE. From the Committee on Indian Affairs I report back favorably without amendment the bill (H. R. 31056) to ratify a certain lease with the Seneca Nation of Indians, and I submit a report (No. 1161) thereon. It is a bill which will require no debate and its passage is very important. I ask unanimous consent for its immediate consideration.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It ratifies and confirms a lease bearing date August 10, 1910, between the Seneca Nation of Indians on the Cattaraugus and Allegany Reservations, in the State of New York, and Edward Bolard, of Cattaraugus County, N. Y.; but the lessee or his assigns shall file a bond for the benefit of the lessor in the sum of $25,000 for the faithful performance of

the terms of said lease, to be approved by the Secretary of the Interior.

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

LAND AT OMAK, WASH.

Mr. JONES. From the Committee on Public Lands I report back favorably without amendment the bill (S. 10756) granting public lands to the town of Omak, State of Washington, for public-park purposes, and I submit a report (No. 1164) thereon. The bill simply authorizes the town of Omak to buy a little less than 30 acres for public-park purposes. I ask for its immediate consideration.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It grants and conveys, for public-park purposes, to the town of Omak, county of Okanogan, State of Washington, a municipal corporation, the following-described lands, or so much thereof as said town may desire, to wit: All of Government lot No. 3, section 25; and all of Government lot No. 4, section 26, both lying in township 34 north, and range 26 east of Willamette meridian, and containing 29.12 acres, more or less.

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

LAND AT TRINIDAD, COLO.

Mr. THORNTON. From the Committee on Public Lands I report back favorably with amendments the bill (S. 10591) to grant certain lands to the city of Trinidad, Colo., and I submit a report (No. 1163) thereon. The bill is recommended by the department and the right of the Government has been safeguarded. It seems that this city is in the semiarid region of Colorado, and it is very necessary that it should get this land as soon as possible on account of its water supply. Under the circumstances, I ask unanimous consent for the present consideration of the bill.

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

The amendments were, on page 1, line 7, before the word "acres," to strike out "one hundred and sixty" and insert "forty;" in line 13, after the word "use," to strike out the words "and behoof forever;" on page 2, line 12, after the words "United States," to insert the following proviso: "*And provided*, That there shall be reserved to the United States all oil, coal, and other mineral deposits that may be found in the land so granted, and all necessary use of the lands for extracting the same;" and in line 12, after the words "*And provided*," to insert the word "*further*," so as to make the bill read:

Be it enacted, etc., That the following-described lands, situate in Las Animas County, Colo., namely: The southwest quarter of the northeast quarter of section 19, in township 32 south, range 68 west of the sixth principal meridian, containing 40 acres, more or less, be, and the same are hereby, granted and conveyed to the city of Trinidad, in the county of Las Animas and State of Colorado, upon the payment of $1.25 per acre by said city to the United States. The above lands are granted and conveyed to the city of Trinidad, to have and hold for its separate use for purposes of water storage and protection of water supply; and for said purposes said city shall forever have the right, in its discretion, to control and use any and all parts of the premises herein conveyed, and in the construction of reservoirs, laying such pipes and mains, and in making such improvements as may be necessary to utilize the water contained in any natural or constructed reservoirs upon said premises, and to protect its water supply from pollution and otherwise: *Provided, however*, That the grant hereby made is and the patent issued hereunder shall be subject to all legal rights heretofore acquired by any persons or persons in or to the above-described premises, or any part thereof, and now existing under and by virtue of the laws of the United States: *And provided*, That there shall be reserved to the United States all oil, coal, and other mineral deposits that may be found in the lands so granted, and all necessary use of the lands for extracting the same: *And provided further*, That the lands hereby authorized to be purchased, as hereinbefore set forth, and all portions thereof shall be held and used by or for the said grantee for the purposes herein specified, and in the event the said lands shall cease to be so used they shall revert to the United States, and this condition shall be expressed in the patent to be issued under the terms of this act.

The amendments were agreed to.

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

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

OSAGE INDIAN LANDS.

Mr. OWEN. From the Committee on Indian Affairs I report back favorably the bill (S. 10606) supplementary to and amendatory of the act entitled "An act for the division of the lands and funds of the Osage Nation of Indians in Oklahoma," approved June 28, 1906, and for other purposes, and I submit a report (No. 1172) thereon. I ask for the present consideration of the bill.

The Secretary read the bill.

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

Mr. KEAN. I should like to ask the Senator from Oklahoma two or three questions.

Mr. OWEN. Mr. President, I ask that the report of the Secretary of the Interior be read. It is a very short explanatory account of the bill.

Mr. KEAN. I understand that this bill does not increase the enrollment of the Osage Nation.

Mr. OWEN. No.

Mr. KEAN. That it is only to allow them to allot their lands, and that it is recommended by the Secretary of the Interior.

Mr. OWEN. It is.

Mr. KEAN. And it is thought to be very necessary.

Mr. OWEN. Yes, sir.

Mr. KEAN. And it is also approved by the Osage Tribe of Indians.

Mr. OWEN. Yes, sir.

Mr. DAVIS. Mr. President, I object.

The PRESIDENT pro tempore. Objection being made, the bill goes to the calendar.

Mr. OWEN. Mr. President, notwithstanding the objection of the Senator from Arkansas, I move that the Senate proceed to the consideration of the bill. It is a departmental bill, and I ask that the report of the Secretary of the Interior be read in regard to it.

Mr. GALLINGER. Has the bill been reported to-day, Mr. President?

The PRESIDENT pro tempore. The bill has been reported to-day, and the Chair does not think the motion of the Senator from Oklahoma is in order.

Mr. GALLINGER. Under the rule the bill must go over one day, if objected to.

Mr. OWEN. Then I ask that the bill lie on the table until to-morrow.

The PRESIDENT pro tempore. The Senator from Oklahoma asks that the bill lie on the table until to-morrow. Is there objection?

Mr. DAVIS. I object.

The PRESIDENT pro tempore. The Senator from Arkansas objects. The bill will go to the calendar.

ST. ANDREW (FLA.) SUBPORT OF ENTRY.

Mr. TALIAFERRO. I ask unanimous consent for the present consideration of the bill (S. 10559) to designate St. Andrew, Fla., as a subport of entry, which was reported favorably this morning from the Committee on Commerce by the Senator from Michigan [Mr. SMITH].

The PRESIDENT pro tempore. The Senator from Florida asks unanimous consent for the present consideration of the bill——

Mr. CRAWFORD. Mr. President, I object. I think some of the Senators who are waiting here to make reports and then to attend to other matters ought not to be subjected to waiting for the consideration of every bill which is reported.

Mr. TALIAFERRO. This bill will not take two minutes. It is a very short bill.

Mr. CRAWFORD. I would gladly yield to the Senator from Florida, but this has been going on here for a half hour or more. I have simply been waiting for an opportunity to present a report, so that I can leave the Chamber, to attend to another matter.

Mr. TALIAFERRO. I withdraw the request, Mr. President, until the Senator from South Dakota has had an opportunity to make his report.

Mr. TALIAFERRO subsequently said: Mr. President, I renew the request for the consideration of the bill (S. 10559) to designate St. Andrew, Fla., as a subport of entry.

The PRESIDENT pro tempore. The Senator from Florida asks unanimous consent for the present consideration of a bill. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to make St. Andrew, in the State of Florida, a subport of entry in the district of Pensacola, and provides that the necessary customs officers may, in the discretion of the Secretary of the Treasury, be stationed at that subport, with authority to enter and clear vessels, receive duties, fees, and other moneys, and perform such other services as, in his judgment, the interest of commerce may require, and that the officers shall receive such compensation as he may allow.

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

LANDS ON DAUPHIN ISLAND, ALA.

Mr. JOHNSTON. From the Committee on Military Affairs I report back favorably, without amendment, the bill (S. 10638) to authorize the Secretary of War to sell certain lands owned by the United States and situated on Dauphin Island, in Mobile County, Ala., and I submit a report (No. 1165) thereon. I ask unanimous consent for its present consideration.

The PRESIDENT pro tempore. The bill will be read for the information of the Senate.

The Secretary read the bill, and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It authorizes the Secretary of War to sell so much or such parts of that certain tract of land condemned and held by the United States, and situated on Dauphin Island, in Mobile County, Ala., being a tract of 900 acres, more or less, constituting the eastern end of said island, as may not be reasonably necessary for present or prospective military or cognate purposes, for such consideration or upon such terms as he may find reasonable, not less than the original cost, and to execute deeds therefor.

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

BILLS AND JOINT RESOLUTION INTRODUCED.

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

By Mr. LODGE:

A bill (S. 10819) providing for the refund of certain duties incorrectly collected on cutch; to the Committee on Finance.

A bill (S. 10820) granting a pension to Pierce O'Connell (with an accompanying paper); to the Committee on Pensions.

By Mr. CULLOM:

A bill (S. 10821) granting an increase of pension to Chastina E. Hawley; to the Committee on Pensions.

By Mr. GAMBLE:

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

A bill (S. 10823) to extend the time for the completion of a bridge across the Missouri River at Yankton, S. Dak., by the Yankton, Norfolk & Southern Railway Co.; to the Committee on Commerce.

By Mr. SCOTT:

A bill (S. 10824) granting an increase of pension to Benjamin F. Reed (with accompanying papers); to the Committee on Pensions.

By Mr. JONES:

A bill (S. 10825) granting an increase of pension to John Thompson; to the Committee on Pensions.

By Mr. RAYNER (by request):

A bill (S. 10826) for the relief of the legal representatives of George Neitzey, deceased, surviving partner of Neitzey & Acker; to the Committee on Claims.

By Mr. GORE:

A bill (S. 10827) to appropriate the sum of $100,000 for the drilling of experimental artesian wells; to the Committee on Irrigation and Reclamation of Arid Lands.

By Mr. CRANE:

A bill (S. 10828) for the relief of S. and W. Welsh and others; to the Committee on Claims.

By Mr. OWEN:

A bill (S. 10829) providing for the payment of the claims of the Shawnee and Delaware Indians;

A bill (S. 10830) providing payment of the claims of the Pawnee Tribe of Indians against the United States; and

A bill (S. 10831) providing for the payment of the claims for equalization of Creek allotments; to the Committee on Claims.

By Mr. OVERMAN:

A bill (S. 10832) for the relief of A. M. Williams, jr., administrator of Edward Cleve; to the Committee on Claims.

By Mr. GORE:

A bill (S. 10833) granting an increase of pension to Albert J. Davis (with accompanying papers); to the Committee on Pensions.

By Mr. BRADLEY (by request):

A bill (S. 10834) for the relief of Fred Stitzel, surviving partner of the firm of Stitzel Bros.; and

A bill (S. 10835) for the relief of the estate of William W. Parrish, deceased; to the Committee on Claims.

By Mr. NELSON:

A bill (S. 10836) to authorize the Minnesota River Improvement & Power Co. to construct dams across the Minnesota River; to the Committee on Commerce.

By Mr. GALLINGER:

A joint resolution (S. J. Res. 144) authorizing the printing of 2,500 copies of the Code of Law for the District of Columbia (with accompanying paper); to the Committee on the District of Columbia.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. OVERMAN submitted an amendment proposing to increase the appropriation for the erection and completion of the post-office and customhouse building at Wilmington, N. C., to the amount of $200,000, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Public Buildings and Grounds and ordered to be printed.

Mr. WARREN submitted an amendment relative to the conveyance by the United States to the Government of Porto Rico of all the rights and title to the buildings and grounds of the insane asylum, known as the "Beneficencia Building," and the buildings and grounds known as the "San Juan Military Hospital," in San Juan, P. R., etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

WITHDRAWAL OF PAPERS—A. J. G. KANE.

On motion of Mr. DEPEW, it was

Ordered, That leave be granted to withdraw from the files of the Senate the papers accompanying Senate bill 6651, Sixty-first Congress, to correct the military record of A. J. G. Kane, there having been no adverse report thereon.

POSTAGE ON PERIODICALS.

Mr. PENROSE submitted the following resolution (S. Res. 351), which was referred to the Committee on Printing:

Resolved, That there be printed 25,000 copies of Senate Document No. 820, Sixty-first Congress, third session, "Letters from the Postmaster General to Hon. BOIES PENROSE relative to the section of the postal appropriation bill that provides for an increase in the postage rate on the advertising portions of periodical publications mailed as second-class matter," for the use of the Committee on Post Offices and Post Roads.

IMPROVEMENT OF THE ANACOSTIA FLATS.

Mr. GALLINGER. Mr. President, I have a letter from the Commissioners of the District of Columbia, transmitting the second report of Mr. Hugh T. Taggart, special counsel, on the ownership of lands and riparian rights along the Anacostia River, in the District of Columbia. Mr. Taggart made a former report, which was printed as a Senate document. I move that the letter and report be referred to the Committee on Printing, with the view to having them printed as a Senate document. I submit the following resolution, which I ask may be read and referred to the Committee on Printing:

There being no objection, the resolution (S. Res. 350) was read and referred to the Committee on Printing, as follows:

Resolved, That the letter from the Commissioners of the District of Columbia transmitting the second report of Mr. Hugh T. Taggart, special counsel, on the ownership of lands and riparian rights along the Anacostia River in the District of Columbia, be printed with accompanying illustrations as a document.

STOREKEEPERS AND GAUGERS.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H. R. 27837) to amend the provisions of the act of March 3, 1885, limiting the compensation of storekeepers, gaugers, and storekeeper-gaugers, in certain cases to $2 a day, and for other purposes, which was, in line 4 of the amendment, after the words "compensation is," to insert "now."

Mr. SMOOT. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

LUMBER INDUSTRY OF THE UNITED STATES.

Mr. SMOOT. On February 14 the President sent a message to the Senate transmitting a report of the Commissioner of Corporations on the lumber industry of the United States, and it was ordered to be printed as a public document. I find in that report three illustrations. I ask the Senate for authority to print the illustrations.

There being no objection, the order was reduced to writing and agreed to, as follows:

Ordered, That there be printed with Senate Document No. 818, Sixty-first Congress, third session, "Message from the President of the United States transmitting in response to Senate resolution of January 18, 1907, Part I, of a summary report of the Commissioner of Corporations, on the lumber industry of the United States," the illustrations accompanying the same.

TELEPOST CO.

Mr. GALLINGER. Mr. President, some weeks ago, at the request of the senior Senator from Connecticut [Mr. BULKELEY], I asked that the bill (H. R. 19402) to enable the Telepost Co.

to construct its plant, operate the same, and transact its business in the District of Columbia, and to make necessary connections with other parts of its system, be placed on the calendar under Rule IX. The Senator from Kentucky [Mr. PAYNTER] was not present on that day. He made the report on the bill, and he feels that it ought to go back under Rule VIII. I make the request that it be placed at the bottom of the first page of the calendar under Rule VII.

The PRESIDENT pro tempore. The Chair hears no objection to the request of the Senator from New Hampshire, and it will be agreed to.

RIGHTS OF THE SENATE.

Mr. HEYBURN. Mr. President, I rise to a question of privilege. I send to the Secretary's desk a paper with a marked article to which I desire to call the attention of the Senate. It is one that reflects upon the integrity and the character of the Senate, and imputes to it motives irreconcilable with honor and dignity.

The PRESIDENT pro tempore. If there be no objection the Secretary will read as requested.

The Secretary read from the Washington Post of Thursday, February 16, 1911, as follows:

TAFT CAN PASS PACT—SENATE WILL ACT ON RECIPROCITY IF PRESIDENT INSISTS—IN FEAR OF EXTRA SESSION—REPUBLICAN LEADERS BELIEVE PRESIDENT IN POSITION TO FORCE ACTION ON AGREEMENT—CONFERS WITH CRANE AT WHITE HOUSE—MAY PICK LODGE TO CONDUCT CAMPAIGN—BURTON TELLS OF MEASURE.

The Canadian reciprocity agreement was received in the Senate yesterday in the ordinary course of business without demonstration and was formally referred to the Committee on Finance, where it will be given consideration and eventually reported back for final action. What its fate will be is problematical. The most determined standpatters freely admit there will be a majority for the agreement if a vote is reached. In the judgment of Senators who have participated in many a long-fought and hotly contested legislative battle there is but one way in which to bring this agreement to a vote.

The President can compel action if he deems it of sufficient importance to crack the whip. If the President lets the Senate know, not by intimation or suggestion, but in language so plain that the most unwilling listener must interpret his message to mean an extraordinary session if the Senate fails to act, there will be a vote. If the President declines to go to that extreme, the agreement will never get further along its legislative road than the calendar.

Left in this fashion as a discredited heritage to the next Congress, the whole battle will have to be fought over again or reciprocity laid aside for general revision of the tariff in accordance with Democratic ideas as to what constitutes revision.

Mr. HEYBURN. Mr. President, the Senate can not pass this over without some attention, unless it has so completely lost its self-respect as to be not entitled to the respect of any other person. A charge that any Member of this body is to be influenced by the crack of the whip of anybody else is a charge of cowardice which would not be received without resentment by anyone but a coward. To charge that a coordinate branch of this Government can compel another of the coordinate branches to act other than in pursuance of its judgment and conscientious duty under oath is to charge that body with corruption. They charge corruption against the coordinate body that would attempt to influence it, and they charge cowardice and corruption against the body that would be influenced by it. Are we going to sit here in silence under such charges? There is no party politics in a matter of this kind; it is one that goes to the question of the honor and the dignity of this body and *of every Member* of it. That it shall be stated in the public press, that sits and walks upon the floor of this Chamber by the courtesy of the Senate, that the Senate is venal and cowardly, is a thought intolerable to be contemplated. So long as the Senate retains its self-respect and its claim to the high position that it does hold in the Government of the United States and among the nations of the earth, if it fails to resent a statement of this kind made by somebody who is enjoying the courtesy of the Senate, then it will be entitled to just so much respect as is given it by those who are responsible for such statements.

I have heard it charged within a few days on another occasion that the pressure of the White House would be sufficient to swerve men in this body from the performance of their duty under their oaths. I heard it stated and saw it printed that the threat that Members of this body might be called upon for a further consideration of the measures before them in an extra session would be sufficient to make them retreat from their conscience; stamp themselves before the world as without a conscience. For that purpose I have called the attention of the Senate to this publication in order that it may not go unnoticed; that we are being charged by those who are the recipients of courtesy and favor at our hands with crimes that are blacker than those that occupy the attention of the criminal courts of the land.

CIVIL GOVERNMENT FOR PORTO RICO.

Mr. DEPEW. I ask for the consideration of the special order.

The PRESIDENT pro tempore. The Senator from New York asks that the Senate proceed to the consideration of the special order, the title of which will be stated.

The SECRETARY. A bill (H. R. 23000) to provide a civil government for Porto Rico, and for other purposes.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

The Secretary proceeded to read the bill, and read to the end of section 5.

Mr. ROOT. I rise to inquire whether the reading of the bill is under such circumstances that there is assumed to be an assent by the Senate to the portions that are read as we go along.

The PRESIDENT pro tempore. Not at all. The bill will be open to action as in the Committee of the Whole.

Mr. ROOT. I do not wish to interfere at all with the progress of the bill, but lest it might happen that the sixth section of the bill should come up while I am out of the Chamber I wish now to say that I object to it, and that I shall ask the Senate to give it the most serious consideration upon its merits before it is passed upon.

Mr. FLETCHER. What section is that?

Mr. ROOT. It is the sixth section, which confers citizenship upon the people of Porto Rico.

The Secretary resumed and concluded the reading of the bill.

Mr. CLARKE of Arkansas. The pending bill is one of some importance, and I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Arkansas suggests the absence of a quorum. The Secretary will call the roll.

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

Bankhead	Crane	Johnston	Root
Borah	Crawford	Jones	Scott
Bourne	Culberson	Kean	Shively
Bradley	Cullom	Lodge	Simmons
Briggs	Cummins	McCumber	Smith, Mich.
Bristow	Davis	Nelson	Smith, S. C.
Brown	Depew	Nixon	Smoot
Bulkeley	Dillingham	Oliver	Stephenson
Burkett	Fletcher	Owen	Sutherland
Burnham	Flint	Page	Warner
Burrows	Frazier	Paynter	Warren
Burton	Frye	Penrose	Watson
Carter	Gallinger	Percy	Wetmore
Chamberlain	Gamble	Perkins	Young
Clapp	Gronna	Piles	
Clark, Wyo.	Guggenheim	Rayner	
Clarke, Ark.	Heyburn	Richardson	

The PRESIDENT pro tempore. Sixty-five Senators have responded to their names. There is a quorum present.

Mr. DEPEW. Mr. President, the unfinished business will be in order in about a minute, and I therefore ask unanimous consent that this bill, having been read through, be taken up to-morrow morning immediately after the routine business.

The PRESIDENT pro tempore. The Senator from New York asks unanimous consent that the Senate proceed to the consideration of the Porto Rican government bill immediately after the completion of morning business to-morrow.

Mr. KEAN. Not to interfere with appropriation bills.

The PRESIDENT pro tempore. Not to interfere with appropriation bills.

Mr. SMOOT. Or the unfinished business.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from New York?

Mr. SCOTT. I will say to the Senator from New York that I am sorry to object, but I want to get the pension bill up, and I shall insist to-morrow morning, if the opportunity presents itself, upon its being taken up in lieu of the bill for Porto Rico. Consequently I shall have to object.

Mr. DEPEW. Objection having been made to to-morrow morning, I make the same request for Saturday morning.

Mr. OWEN. I object.

The PRESIDENT pro tempore. The Senator makes the same request for the Porto Rican bill for Saturday morning. Is there objection?

Mr. SCOTT. I shall have to object to that as I did to the other, unless I can get the consideration of the pension bill. We have only two weeks left of the session, and that is an important bill to a great number of people. While I dislike very much to object to the request of many friend, the Senator from New York, I do not want anything to interfere to prevent getting that bill up.

The PRESIDENT pro tempore. Objection is made, and the bill goes to the calendar.

ELECTION OF SENATORS BY DIRECT VOTE.

The PRESIDENT pro tempore. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which is Senate joint resolution 134.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. J. Res. 134) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

Mr. BORAH. Mr. President, I ask the indulgence of the Senate while I discuss for a time, as briefly as I may, the amendment offered by the Senator from Utah [Mr. SUTHERLAND]. I have spoken before upon the general proposition which is involved in the amendment proposed by the committee, and I shall not again ask the patience of the Senate to discuss the general proposition. I feel compelled to discuss the amendment offered by the Senator from Utah, first, because as yet nothing has been said as to why the joint resolution has been offered in its present form by those who brought in the report from the committee, and, secondly, because of some of the rather extraordinary statements which have been made as to the effect which will follow in case of the change proposed in Article I, section 4.

The proposed amendment to the Constitution as it was reported from the committee was not new or original with the Judiciary Committee. Those who were authorized to report a resolution of some form made considerable investigation as to the different resolutions and the forms which they have taken in the last 30 or 40 years during the time that this matter has so often been before Congress. Among other resolutions covering the general subject matter was the resolution in exact word and phrase as it was reported from the committee. It passed the House by a two-thirds vote in 1892 or 1893, and it seemed to incorporate the views of the friends of the resolution generally, although there have been differences of opinion as to details at all times, as there naturally would be as to a resolution of this kind.

I desire to say in all frankness that for myself I think that the States can best do everything which the National Government can do under Article I, section 4, other than those things which the National Government can do without Article I, section 4. If those who are opposing this amendment in its present form and supporting the proposed amendment of the Senator from Utah could show to those who are favoring it that it would have the effect which has in general terms been claimed, I doubt if it would have any support upon either side of this Chamber. But, as a matter of fact, the things which the Government may do without section 4, as has been determined by the court, is practically what it may do with section 4, with certain exceptions, which I will call attention to in a few moments.

I believe that a popular election is essentially a matter of local concern, and is one of those things which the State can best control and direct. I think that it is at all times our duty to retain to the States those matters which are essentially local and to give to the National Government those things alone which are essentially national in their scope and purpose. An election, a popular election in particular, is always a matter of local concern—the manner in which it shall be held, those who may participate in it, and the method of securing and ascertaining the result.

Very few States in the Union have election laws in all particulars similar. Indeed, there have been conditions in many States, outside of the South, where it would have been most unfortunate if any national interference had been had on the part of the National Government. Maine has her election laws as they have been worked out through the experience of her people through a hundred years; Wisconsin and Oregon and the other States have their election laws comporting and conforming to their idea of conducting a popular election; and the States in other parts of the Union have worked out, according to their experience and their wisdom, a system and a method of conducting their elections which best represent the judgment and the wisdom of the people of those particular States. They are as diversified and as well individualized as the different States of the Union themselves. It is, therefore, a matter of local concern essentially pertaining to the States as to how they shall best take and measure the judgment of their people at the polls.

In readjusting our form of government to the conditions which grow up from decade to decade and century to century we should always keep in mind the principle upon which the fathers constructed the Government, and that is, that those things which are essentially local should be left to the States, and those things which are national should be given over to the National Government.

Mr. Lincoln in a very notable address upon one occasion said:

> To maintain inviolate the rights of the States to order and control under the Constitution their own affairs by their own judgment exclusively is essential for the preservation of that balance of power on which our institutions rest.

We have not hesitated in the last 40 years to transfer powers theretofore belonging exclusively to the States to the National Government. I do not find fault with that proposition so long as those powers transferred are in their nature national and essentially of the scope of the entire country. But as this method proceeds and gradually gathers up and draws to the National Government those things which are national, if we would keep that balance of power so essential to our form of government, it is for us to see that those things which are essentially local shall also be retained to the State.

Justice Harlan, a great jurist and a great patriot, in an address delivered in New York some time ago said:

> A national government for national affairs and a State government for State affairs is the foundation rock upon which our institutions rest, and any serious departure from that principle would bring disaster upon the American system of free government.

A distinguished lawyer in New York, Mr. John R. Dos Passos, has, within the last few weeks, written an article upon this particular subject of the election of Senators by a direct vote, and while I do not agree with the brilliant author in all his conclusions, I want to read a paragraph from this notable address:

> The more we encroach upon State sovereignty the more the trend toward nationalism becomes visible, to the consequent destruction of our theory of a federation of States, and the advantages of that form of government are gradually lost sight of. The States bear the same relation to the central Government that a domestic family bear to a municipality. The family looks after its own particular foyer in its own way—it eats, drinks, lives according to its own conceptions of health and propriety, without interference by the municipality. The latter supervises the public concerns, the highways, the streets, the schools; it intrudes not into the domestic affairs of its citizens. The same relation should exist in practice as it does in theory between each individual State and the central Government. In the performance of its State duties it has no superior; its citizens understand its wants; they are alive to its interests and their State pride makes them ambitious to see their State thrive and advance. But in proportion to the weakening of State sovereignty the interests of its citizens wane, and soon State independence and individuality disappear, all power becomes vested in a central Government, the domestic interest of the citizen in his State eventually dies, and the people are governed by a national head.

I do not know how we are to keep alive that civic pride and that civic energy—that interest which all citizens should have in the great affairs of which each is a component part—if we take from them those responsibilities which should rest upon them in the discharge of those duties that pertain to matters essentially local. If there is any one proposition which may be said in every sense to be a local matter of State concern, individualized by the people, it is the manner of conducting a popular election. Mr. President, after the people have ceased to have the intelligence and the patriotism and the pride to conduct a popular election in a proper way, protected from fraud and corruption and dishonesty, how long will the National Government operate at Washington?

Mr. SUTHERLAND. Mr. President——

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

Mr. BORAH. I do.

Mr. SUTHERLAND. Does the Senator from Idaho think that the election of a Senator of the United States in a State is purely a matter of local concern to the State which elects him?

Mr. BORAH. Not purely, but primarily. But the manner of conducting it is essentially a matter of local concern.

Mr. SUTHERLAND. Does the Senator not concede that the Federal Government is concerned in that as well as the State?

Mr. BORAH. Just as the Federal Government is concerned, in the welfare and in the proper performance of the functions of a citizen of a State in all respects. I think a particular State is far more interested in having Senators properly credited here than the General Government; we could proceed without a particular State being represented while the State would be wholly without representation.

Mr. SUTHERLAND. The Senator will concede, will he not, that the election of United States Senators is not only a matter of concern to the individual States which elect the individual Senator, but is also a matter of concern to the General Government?

Mr. BORAH. In the manner I have indicated.

Mr. SUTHERLAND. Then, upon what theory can the Senator insist that the authority to supervise those elections should be vested wholly in the hands of the State government, which

is partly concerned in the election, and that no power whatever should exist in the General Government, which is also partly interested in the election of Senators?

Mr. BORAH. I am proceeding to answer that question, because it is the question which is involved in the whole controversy. If the Senator will permit me to proceed and I do not cover the subject I shall be very glad to be interrupted after I have drawn toward the close.

Mr. SUTHERLAND. Will the Senator permit me, before he resumes, to submit another question, which he may consider in connection with it?

Mr. BORAH. Very well.

Mr. SUTHERLAND. Does the Senator think that the election of a President of the United States is purely a matter of local concern?

Mr. BORAH. Not purely so. Nevertheless, the manner of conducting it is, and the Constitution recognizes this fact by leaving it for the legislatures to control.

Mr. SUTHERLAND. And if not, does the Senator see any distinction between the election of a President of the United States in this regard and the election of those who constitute the Senate of the United States and the House of Representatives, and thereby constitute a coequal department of the Federal Government with the President?

Mr. BORAH. I will discuss that in a few moments; but I will say again that the Constitution of the United States provides that the manner of selecting electors is left to the States, and instead of the Senator's question directing the argument in his behalf it seems to me a very strong reason why the power which is intrusted to determine the manner of selecting electors may properly be trusted with the matter of selecting those who are elected to this body.

What confidence and what power do we repose in the State at this time with reference to the selection of Senators?

In the first place, the State determines, according to its judgment and its wisdom, who they will send to this body and what his qualifications shall be outside of the question of age, citizenship, and inhabitancy. We intrust to the State governments and the people within the States the sole power of judging what character and class of Representatives they shall present as their Members in this body, outside of the three limitations as to age, citizenship, and inhabitancy, all of which undoubtedly the State would have taken care of, with the possible exception that they might have had a variation as to age. Undoubtedly they would not have elected those who were not inhabitants of the State or citizens of this country.

Mr. HEYBURN. Mr. President——

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

Mr. BORAH. I do.

Mr. HEYBURN. Will the Senator permit an inquiry? I understood the Senator to say that the States might regulate the manner of the election of electors. Was I incorrect in my understanding?

Mr. BORAH. I will read what I had in mind:

> Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress.

Mr. HEYBURN. That is only a part of the story. The provision goes on to define the character, qualifications, and the manner of selecting them. The general language contained in Article II, section 1, is not all of the provision. It says, "But no Senator or Representative or person holding an office of trust or profit under the United States shall be appointed an elector," and then goes on to say: "The Congress may determine the time of chosing the electors and the day on which they shall give their votes, which day shall be the same throughout the United States." "The electors shall meet," and so forth. Congress has the absolute control. The general language which the Senator from Idaho read is scarcely to be considered as a part of the provision for the selection of electors.

Mr. BORAH. I have no doubt it is the view of my colleague that it ought not to be considered a part, but the process by which he eliminates it from the Constitution is not made plain. The Constitution provides that each State shall appoint in such manner as the legislature may direct. What does the word "manner" mean in Article I, section 4, and what does the word mean in Article II, section 1? It is true that as to the question of time it is reserved, but as to the manner of selecting it is left alone to the State legislatures. It has been held that a State legislature may direct that the electors in one part of the State may be appointed and in the other elected by popular vote. It is exclusively and absolutely in the control of the State legislature. There is not any more doubt about that than there is that it is in the Constitution. The question of time, I grant you, is under the control of the National Government.

Mr. HEYBURN. Well, that is a part of it.

Mr. BORAH. But the question of time is not a question of the manner, and that is the point which I am now discussing.

Not only, Mr. President, does the State select and determine who shall represent this body but we have not the power to dictate to the State any other qualifications than those which the State sees fit to assign to its Represenatives here. It was said by the Senator from New York [Mr. ROOT] a few days ago that if this section 4 were changed as it is proposed to be changed, we would be powerless to secure the election of Members of this body.

It would be interesting to know under what power of the Constitution we could control an election of Senators upon the part of a State, if the State did not see fit to exercise that privilege. As has been said by a writer well known to all upon the subject of the Constitution, the States might dissolve the National Government without revolution or rebellion simply by inaction in declining to elect Members to this Chamber. Under the great charter under which we live and have thrived we rest at last absolutely upon the patriotism and the judgment and the loyalty of the people of the respective States to send Members here and the class of men they send. We not only give them now the unqualified power to fix the qualifications, but it is for them to say, with no power upon our part to remedy it, whether they will send Representatives here at all. Yet there are those who consider it revolutionary, when the States are already intrusted with this great power, to give them the right to prescribe the manner in which they shall perform this important duty. The incident of the right, the appanage of the right, it is ruinous to take away, still leaving the great fundamental question of the selection of Senators to the people of the respective States.

I want to read here a quotation from a distinguished member of the Constitutional Convention of 1787. It is from the address of Mr. Wilson, of Pennsylvania, after he returned from the convention, in his explanation to the people of the State of Pennsylvania as to the work which they had performed. Mr. Wilson said:

> Oft have I viewed with silent pleasure and admiration the force and prevalence through the United States of this principle: That the supreme power resides in the people, and that they never part with it. It may be called the panacea in politics. There can be no disorder in the community but may here receive a radical cure. If the error be in the legislature, it may be corrected by the Constitution; if in the Constitution, it may be corrected by the people. There is a remedy, therefore, for every distemper in government if the people are not wanting to themselves. For a people wanting to themselves there is no remedy.

Mr. President, I ask attention to the last sentence, because there seems to be an idea that some mystic, necromantic power exists somewhere in the Government or in this Chamber to perform the functions of government after the people themselves have ceased to act in regard to it; after they have become corrupt and incompetent. It seems to be the opinion of some that after all living pride and all patriotism have departed from the people that still there would be left somewhere sufficient virtue to operate the Government successfully. The fountain never rises above its source, and the source of all power in State or National Government is the people. This is the sentence:

> From their power, as we have seen, there is no appeal. To their error there is no superior principle of correction.

I presume if that were announced to-day by someone of the present age it would be criticized as the new doctrine of the "new charmers who keep serpents." But it comes from one of the most profound and widely read and thoroughly educated of the great men who constituted the convention. They had infinitely more confidence, evidently, in the judgment of the masses of the people, than those of to-day who stand with their face from the dawn discussing the past as a thing complete and closed—as a record finished and laid away.

It is true, Mr. President, that we should proceed with these amendments with caution, but we should not hesitate to do as they did, to deal with the questions which confront us with that intelligence and wisdom which God gives to each particular age, up through which moves the great leavening power of righteous progress.

Mr. President, the doctrine of Mr. Wilson still lives in the great State which he represented, and I desire to ask the Secretary to read a telegram which I received a few moments ago.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read as follows:

HARRISBURG, PA., *February 15.*

Hon. WM. E. BORAH,
United States Senate, Washington, D. C.:

Pennsylvania State Grange, representing 60,000 organized farmers, pray for the passage of resolution for election of United States Senators by direct vote of the people.

WM. T. CREASY,
Master, Pennsylvania State Grange.

Mr. BORAH. Mr. President, the friends of the resolution for the election of Senators by popular vote have always found it very difficult to draw a resolution satisfactory to those who are opposed to it. It is not difficult to draw a resolution which satisfies those who are sincerely in favor of the election of Senators by popular vote, but it has always been a difficult matter for the friends of the movement to so frame a resolution that it would satisfy those who are always opposed to it.

In 1902 a resolution was offered in this Chamber containing the simple proposition of the election of Senators by popular vote. It was unmixed with any other question. It went to the committee. The Senator from New York [Mr. DEPEW], finding the resolution simple and direct, covering one proposition, immediately proceeded to amend it, and he made it a rather complex proposition. I desire to read the amendment which was offered at that time—at a time when the resolution contained but one proposition—because that amendment appears again:

The qualifications of citizens entitled to vote for United States Senators and Representatives in Congress shall be uniform in all the States, and Congress shall have power to enforce this article by appropriate legislation and to provide for the registration of citizens entitled to vote, the conduct of such elections, and the certification of the result.

I do not think that I do the Senator from New York an injustice when I say that that amendment was offered for the purpose of killing the resolution, and that it did so. The amendment was offered and accepted, and the resolution and the movement in its behalf, of course, had an abrupt end.

So when this pending joint resolution came into the Senate from the committee the Senator from Montana [Mr. CARTER] announced that he was not going to support the joint resolution freely, but rather under duress, because his legislature had commanded him so to do. But when the Sutherland amendment was offered, in the eloquent address of the Senator from Montana on the subject, he appealed to us to give him a simple proposition, one which he could support, one in which the people had been interested for years and years, and not to trouble the minds of those who were sincerely in favor of the joint resolution by mixing it up with other propositions.

So, Mr. President, this amendment offered by the Senator from Utah has been the source of great comfort and solace to all those who are opposed to the joint resolution. It has enabled them to erect bulwark behind which they can shoot to death the original joint resolution and avoid the necessity of presenting to the country some reason why this main joint resolution should not be adopted.

Mr. CURTIS. Mr. President——

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

Mr. BORAH. I do very gladly, although the Senator from Kansas was very careful not to yield to the Senator from Idaho the other day.

Mr. CURTIS. The Senator from Kansas did not yield to the Senator from Idaho, because he was compelled to complete his remarks before 2 o'clock.

Mr. BORAH. Yes; the Senator from Idaho understands.

Mr. CURTIS. What I want to ask the Senator from Idaho is, Would it not be just as fair to conclude that the Senator from Idaho reported an amendment to the original joint resolution in order to kill it as to say that the Senator from New York offered the amendment a few years ago for that purpose?

Mr. BORAH. It might be true, Mr. President, if it were not for the fact that the Senator from New York is always opposed to the joint resolution in whatever form or shape it is; that he has always openly and persistently fought it in any form, as have many other Senators, while the Senator from Idaho is willing to take it with almost any trimmings in order to get the real proposition for which we contend.

Mr. YOUNG. Mr. President——

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

Mr. BORAH. I do.

Mr. YOUNG. The Senator from Idaho now yields to one who is heartly in favor of his measure.

Mr. BORAH. I am glad to count one more convert.

Mr. YOUNG. While the Senator is pointing out some of the inconsistencies of those who are opposed to the joint resolution, allow me to appeal to him to regulate a legislature that is in session at Des Moines, which for a month has beeen declining to submit a senatorship to the vote of the people.

Mr. BORAH. Mr. President, if the distinguished Senator, who has resided in the State of Iowa for so many years, with his great influence and merits can not secure his own election, of course it is beyond the power of this body to help him out of that position. [Laughter.]

Mr. YOUNG. Mr. President, if the Senator from Idaho will permit me, I will say that the political uplift, which is supposed to be represented by the Senator from Idaho, has its hand upon the lid in Iowa.

Mr. BORAH. Mr. President, if there is any place where the political uplift, of which the Senator from Idaho is a very small part, "has its hand upon the lid," that is one place where justice will be finally done and the rights of the people will be finally worked out in the proper way.

Mr. YOUNG. Mr. President——

Mr. BORAH. It is evident that the Senator from Iowa——

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

Mr. BORAH. It is evident that the loyalty of the Senator from Iowa to the cause of the uplift is suspected by those who have their hand upon the lid. [Laughter.]

Mr. YOUNG. The only reason they give for keeping their hand on the lid is that the junior Senator from Iowa might be nominated and elected, if that is sufficient. [Laughter.]

Mr. BORAH. Of course that may be the reason which has been given to the Senator from Iowa, but possibly we are not trusting him with all our secrets. [Laughter.]

Mr. YOUNG. Mr. President, I want to make it clear that I am in favor of the election of United States Senators by the people, and I want to move in all these directions with sincerity. I believe in the good faith of the Senator from Idaho; I enjoy what he says; but I have had but one political creed, and that is that a man ought to practice what he preaches. [Laughter.]

Mr. BORAH. Mr. President, Iowa is not within my jurisdiction, but it has been practiced with very great success in the State in which I happen to live. I should not have been here if it had not been practiced [laughter], and I have great affection for the bridge which carried me over.

Mr. President, I shall be compelled to discuss with some tediousness, I presume, the law which has been so sadly misunderstood—for I do not wish to use a harsher term—in regard to the effect which will be wrought by a change in section 4 of Article I of the Constitution.

In the first place, as to the place of election, the Senator offering the amendment will, of course, agree with me that it is a wholly immaterial matter, because the question of place is now under the control of the States exclusively, and the question of place would be immaterial if we have the election by popular vote.

The next matter is the question of time. We now have practically uniformity in all of the States with reference to the question of time, and it has been worked out, not as has been suggested, under the dictation of the National Government alone, but it has been worked out largely through the States. It is quite true, and I am not unmindful of the fact, that Congress at one time provided for a uniform time with reference to the election of Congressmen, but in doing so Congress paid due heed to the fact that all States did not wish one time, a certain time, fixed; and therefore in every particular instance, as I believe, where States had a different time, Congress yielded to the States and fixed the law in harmony with the practice and custom as worked out by the States.

Mr. SUTHERLAND. Mr. President——

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

Mr. BORAH. I do.

Mr. SUTHERLAND. Was that the case except in those States where the constitution of the State provided for a different time?

Mr. BORAH. I do not know whether that was the case except where the constitution provided or not.

Mr. SUTHERLAND. Is not that the provision of the act of Congress? As I recall it, the provision of the act of Congress, first, was to fix a uniform time, namely, the Tuesday after the first Monday in November, and then by a subsequent amendment it was provided that that should not apply to those States whose constitutions provided for a different day.

Mr. BORAH. I rather think, Mr. President, that that is true, but I do not see that it is material to the proposition I am presenting, because the matter of selecting Congressmen was wholly in the control of the National Government when-

ever it saw fit to act, and any State constitution would have to yield to the law of Congress.

Mr. SUTHERLAND. As I understand it, Congress simply made that exception because it recognized the difficulty of changing the constitutional rule; but where there was no constitutional provision a uniform date was fixed, because that did not involve the change of the fundamental law of the State.

Mr. BORAH. I think the statement made by the Senator from Utah is likely correct, that it related to those States which had a constitutional provision with reference to the time of election; but that is only stating in another way the same proposition that I stated, because the constitution of the State would have to yield to any provision which Congress should make in regard to the manner of selecting Congressmen.

Mr. NELSON. Will the Senator from Idaho allow me to ask him a question?

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

Mr. BORAH. I do.

Mr. NELSON. Why would the constitution of a State have to yield in that case? Is it not because section 4 of Article I of the Constitution places the power in the Federal Government?

Mr. BORAH. Undoubtedly.

Mr. NELSON. Now, if that power had been eliminated, as the Senator proposes in the case of Senators, the Federal Government would have been powerless.

Mr. BORAH. Well, but my good friend from Minnesota does not make progress in the argument. I said that the constitution of the State would have to yield to the provision of Congress.

Mr. SUTHERLAND. Mr. President, if the Senator will permit me there, I understand that the reason why Congress excepted those States which had a constitutional provision was not because Congress had no power by law to set aside the constitutional provision so far as it applied to the election of Congressmen, but the election provided for by the constitution also included the election of the State officers, and it was desirable that the election of the State officers should take place upon the same day, so that there should not be two elections.

Mr. BORAH. Mr. President——

Mr. SUTHERLAND. Just a moment, if the Senator will permit me. So Congress, recognizing that the election could not be provided for for the State officers without a change in the fundamental law, recognizing that it was not desirable that the election of State officers and Congressmen should take place upon different dates, left those constitutional provisions in effect.

Mr. BORAH. Undoubtedly. The reason why Congress yielded to the custom of the State, where it was fixed by the constitution of the State, was to avoid inconvenience to the State. That is precisely the argument that I am making here. If we take control of this matter and fix a different time for the holding of a popular election the inconvenience and the expense is just the same to the State whether they fix it in the State constitution or fix it by statute.

Mr. SUTHERLAND. But in the case of the law it simply requires the legislative action to change the law, while in the case of a constitution it is a more difficult undertaking. The constitutional amendment must be submitted to the people and be voted on by the people.

Mr. BORAH. The Senator from Utah does not contend, as I take it, that the fact that an act of Congress would change the time of holding a congressional election in a State would also change the time of holding a State election, if they were both fixed by the Constitution.

Mr. SUTHERLAND. Not at all.

Mr. BORAH. In other words, Mr. President, if Congress had seen fit to say to those States which had a constitutional provision fixing the time for holding their election, "You shall hold your congressional election upon a certain day," that would not have interfered in the least with the constitutional provision of the State that the State elections should be held upon another day.

Mr. SUTHERLAND. The Senator is quite right about that, but Congress believed that the States, where it simply required legislative action, would conform to the date fixed by Congress for the election of Congressmen, and would fix that same date for the election of State officers; but they recognized that it was a more difficult thing to do that where it involved a change in the constitution of the State. That was the reason for the exception.

Mr. BORAH. Mr. President, it did not involve the change of the constitution of the State. The moment that Congress fixed a time to hold a congressional election, if the power of Congress was operative at all, it operated, and the constitution of the State did not have to be changed. It simply became inoperative and ineffective as against the provision of Congress.

Mr. SUTHERLAND. That is true. It would be if Congress had so acted.

Mr. BORAH. Yes.

Mr. SUTHERLAND. But I was simply calling the attention of the Senator to the fact that Congress by subsequent amendment had made that exception for the reason that I have indicated, that they recognized the greater difficulty resting upon the people of the State to amend their constitution than merely to amend the law.

Mr. BORAH. I have stated, Mr. President, that the State did not have to amend its constitution. The constitution of the State became simply inoperative as to that proposition, and there was no necessity for an amendment of the constitution.

Mr. SUTHERLAND. It would have to amend its constitution in order to have the election of the State officials upon the same day.

Mr. BORAH. Not at all; for the reason that the constitutional provision fixing the date of the popular election would be operative as to State officials and inoperative as to congressional.

Mr. SUTHERLAND. The Senator misunderstands me. I say if a State desired to provide that State officials should be elected upon the same day that Congress had provided by law that Representatives in Congress should be elected, in order to accomplish that in the State of Vermont or the State of Maine it would require an amendment to their constitutions.

Mr. BORAH. That is perfectly true; but that all comes back to the same question of inconveniencing the State with reference to the manner in which the people shall hold their popular elections; the inconvenience to the State, the burden to the State, the expensiveness to the State is precisely the same whether they have been acting under a custom established by their constitution or under a law fixed by the statute itself. If the State should have to have a different election for their Representatives in Congress or an election at a different time for their Senators—if it were understood that when this joint resolution left the Senate Chamber it involved the question of the States holding two popular elections, one for their State officials and one for their Senators, it would undoubtedly meet with a great deal of opposition, and that opposition would not be confined to one section of the country either.

Certainly the question of time is one which the good judgment and the intelligence and the long-established practice and customs of the people can safely settle in view of the fact that after 122 years they have worked out this question through their own experience and through laws which they consider wise and efficient to effect their purpose. If we exercise the power to change the time, we must either have two elections or compel the States to change their time, either of which is undesirable.

But I pass from the question of time, and will come to the important question, which is the question of the manner, the way, the mode, the method of election. Is it important and essential that Congress have the power to prescribe the manner of conducting an election? After the States have drawn to themselves the great power of selecting their Senators by popular vote, the question is, Who can best prescribe the manner of performing that function, those upon whom rests the responsibility of doing the work or some others who have not the benefit of the conditions and the experience of the particular locality in which that election shall be conducted?

Under this system, Mr. President—and I will state here now my exact opposition to and my reason for opposing the Sutherland amendment—under this system, in my judgment, Congress could of its own motion interfere with our entire election machinery, our system of registration, our primary law, our ballot, and the entire mechanism of conducting elections. When you have said that, in my judgment, you have fixed the boundary line between what the Government may do under section 4 and the line beyond which they may do all that has been claimed that ought to be done without section 4.

I am not willing to concede for my own State that our system of holding elections or the manner of conducting them shall be prescribed by any others than those who are directly interested in the matter. I do not want a different time fixed; I do not want a different ballot; I do not want a different registration system; I do not want a different set of primary laws. These matters are matters of prime concern to the people who must elect all their officers and conduct all their elections and see that they are all clean, and they and they alone can best work out this matter in accordance with the local condition and situation which pertain to each individual State. This is a matter with which the people are familiar, which they are bound to take an interest in by reason of their State elections,

and which to say they can not efficiently perform is to challenge their capacity for the discharge of the ordinary duties of civil life.

If I did not believe that under this system you could interfere with the election laws of the different States as to their machinery, without any cause other than the wish of Congress, it would not make a particle of difference to me whether this amendment went in or went out.

Before going to a discussion of this feature of the law, however, I want to call attention very briefly to what we have done under section 4 and what value it has been to us in the past. For more than 70 years, Mr. President, Article I, section 4, remained a dead letter in the Constitution, so far as the election of Senators was concerned; for more than 70 years the States alone prescribed and determined the manner of selecting their Senators.

Never, until 1866, did we find any occasion for exercising the power contained in this section. Prior to that time it was left entirely to the States, and I submit that anyone who will read the history of the election of Senators from that time backward to the beginning of the Government, and from that time on will not find that the National Government has aided in any particular in the successful election of Senators.

It is a notorious fact that so long as the matter was left in the hands of the State the election was more successfully conducted and the duty more satisfactorily discharged than it has been since. It is very easy to account for that. It is for the simple reason that the States are most vitally concerned, not solely and alone, but primarily, and they worked out the system which best solved the problems presented to the individual States. If you want to know how successful the act of 1866 has been, just cast your eye quickly over history since its passage, and you will find that the result is in accordance with what John Sherman said here upon the floor, that "instead of being a success, it would be a failure." As a fine example of the effect of the act of 1866, let us look at the condition in Montana to-day; at the condition in Iowa; at the situation in Colorado, and the conditions which surround it, and particularly—although I am not honored by the presence of the Senator from New York [Mr. ROOT]—at the condition in the State of New York, whose junior Senator has eulogized this system with such wonderful power on this floor, and at the condition which is brought into the Senate Chamber as the aftermath from the election of the State of Illinois.

If we will investigate these conditions, we will find that, instead of our wisdom being superior to that of the several States, it has been proven by history to be inferior, because, as I have said, it is a matter which comes close home to each and every State. The citizens of the respective States, knowing the conditions and knowing those things with which they have to deal, can best determine as to whether they shall elect by a plurality vote or by a majority vote, in joint assembly or in the separate houses of the legislature.

I must trespass upon the patience of the Senate long enough to read a statement from Senator Sherman at the time of the passage of the act of 1866. Mr. Sherman was not the only one who opposed that act; other distinguished Senators also opposed it; but I will only read a paragraph or two from Mr. Sherman. He said:

> Practically there has been but very little difficulty in this matter since the foundation of the Government. It is always the interest of every State to elect a Member of the Senate; but where the two Houses disagree there is sometimes a vacancy until the matter can be submitted to the people. I do not think that practice has resulted in any evil. * * *
>
> I think it is much better to leave the mode and manner of electing Senators to the people of the States themselves, through their legislature; to allow the legislature, if necessary, to change the law or modify it to suit the exigency. It makes no difference to the United States; it is only a question as to the mode and manner of electing a Senator.

Mr. BEVERIDGE. Mr. President, will the Senator answer a question for information before he leaves this branch of the subject, because the question is in connection with it?

Mr. BORAH. Yes, sir.

Mr. BEVERIDGE. Why was it that the last clause of the first paragraph of section 4 of Article I was put into the Constitution? My recollection is that James Madison was its author, but I do not recall the reasons why it was inserted. The Senator, of course, has that at his fingers' ends.

Mr. BORAH. The particular reason assigned for putting that clause into the Constitution was in case the States refused to act or failed to provide any means for election that upon such refusal the National Government would not be wholly without power in the premises. That is the practical reason which was assigned.

Now, Mr. President, can we under Article I, section 4, have anything to say as to who shall vote or who shall be empowered to vote for a United States Senator? I have been greatly surprised at some of the declarations which have been made with reference to the matter, and I only want to say that if the distinguished Senators who have made those statements will specify to the Senator from Idaho in what particular we can deal with that matter and satisfy him that it can be done, he will not insist upon this proposition.

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

Mr. BORAH. I will.

Mr. NELSON. I concede that the qualifications of voters are fixed by the State; but has not the Federal Government under section 4 of Article I the power to make rules and regulations to see that the voters can exercise the right of voting for United States Senators free and untrammeled, without any interference from the authorities of the State?

Mr. BORAH. Mr. President, the National Government has the right to see that a man who under its Constitution has a right to vote shall do so regardless of section 4.

Mr. SMITH of Michigan. But, Mr. President, that would require legislation by both branches of Congress.

Mr. BORAH. It requires legislation to do it now.

Mr. SMITH of Michigan. No. Let me suggest to the Senator from Idaho that under this section of the Constitution the Senate may acquire jurisdiction over frauds in elections, may it not?

Mr. BORAH. Exactly.

Mr. SMITH of Michigan. Now, I desire to put this question to the Senator as to the desirability of our still retaining certain control over the election of Senators. Take the case in the State of Mississippi to-day. Mississippi chose a Senator to succeed the Senator from Mississippi [Mr. MONEY] four years ago.

I would not for anything have you infer from that that he was not chosen properly; but suppose he were chosen improperly—that fraud and intimidation entered into the election—does the Senator from Idaho believe that the Senate could, under any provision of the Constitution that will be left after section 4 is stricken out, acquire jurisdiction over that election and the methods by which it was accomplished until the new Senator from Mississippi presented his credentials here?

Mr. BORAH. I have no doubt about it.

Mr. SMITH of Michigan. I have very grave doubt about it.

Mr. BORAH. I regret that the Senator entertains such doubt.

Mr. NELSON. Will the Senator yield to me a moment?

The PRESIDENT pro tempore. Will the Senator from Idaho yield to the Senator from Minnesota?

Mr. BORAH. I yield.

Mr. NELSON. I call the Senator's attention to the fact that his amendment not only repeals that part of section 4 conferring the ultimate regulative power on the Federal Government, but expressly confers it on the States. In other words, it cuts off ex industria the power of the Federal Government to interfere in any manner whatever to preserve order and to see that the people have the right to exercise, free and untrammeled, the right to vote for a United States Senator as for a Congressman.

Mr. BORAH. As I am going to come to that feature in just a moment I will not now digress.

The State alone, Mr. President, fixes the qualification of the voter. Of course I would not feel like trespassing upon the time of the Senate to state that if so many propositions had not been submitted which would lead to a different inference. But the United States has no voters of its own except as it accepts the qualifications fixed by the State. In the first instance the State alone determines who shall cast a vote, and outside of the prevention of discrimination, which is guaranteed by the fifteenth amendment, we have no power to say who shall vote and who shall not vote for Congressman or, if this joint resolution should pass, for Senator.

Mr. NELSON. Will the Senator yield to me?

Mr. BORAH. I will.

Mr. NELSON. But have we not the power to see that all those who are qualified to vote and have a right to vote shall have the opportunity to exercise that right to vote under the Constitution?

Mr. BORAH. We have that right.

Mr. NELSON. And do you not propose to take that away by conferring the power absolutely on the State legislature?

Mr. RAYNER. Will the Senator allow me? When the Senator from Minnesota speaks of those who have the right to vote, does he mean the right to vote under the laws of the State?

Mr. NELSON. Certainly; there is no dispute about that. I concede that the States have a right to prescribe, as a general rule, with the limitations contained in the fifteenth amend-

ment, who are entitled to vote. But when it comes to the matter of exercising that right, whether the voter shall have the right to go up to the polls peaceably and have his vote counted, the power of regulating that is given to the Federal Government by the fourth paragraph of the first section, and it is that power which you propose to take away here and confer exclusively on the State legislature.

Mr. BORAH. The joint resolution now before the Senate does not accomplish at all what the Senator from Minnesota seems to think.

We have absolute power to protect every man in the United States when he is seeking to exercise a right guaranteed by, derived from, or dependent upon the Constitution of the United States.

Mr. CARTER. Does the Senator insist on——

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

Mr. BORAH. Oh, yes; I yield.

Mr. CARTER. Does the Senator insist upon the correctness of that proposition as to the individual voter? I understand the Senator's proposal to be that the Government of the United States, independent of section 4 of Article I of the Constitution, which this joint resolution proposes to strike down, has ample power to protect the individual voter in the exercise of his rights at the polls. Is that the Senator's proposition?

Mr. BORAH. That is the position I take, and I find ample authority for it in the opinion which the Senator from Montana read to the Senate a few days ago.

Mr. CARTER. The Supreme Court of the United States in the Yarbrough case and the Seibold case, in most clear, specific, and unmistakable terms, declared what is obvious from the text, that the fifteenth amendment applies only to the sovereign States and the Federal Government, and that an individual can not appeal for redress under the amendment when deprived of his rights.

Mr. BORAH. If the Senator from Montana will just wait a few minutes, I will either demonstrate to the Senate that he has not read the Yarbrough case, or I will demonstrate to an absolute certainty that it has been misrepresented upon this floor.

Mr. CARTER. We will hail that with delight.

Mr. BORAH. I have no doubt the Senator will. The Senator from Montana is an anxious seeker for truth.

Mr. SUTHERLAND. Will the Senator repeat that?

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

Mr. BORAH. If Senators will permit me to conclude this phase of the argument, I will then gladly yield, but I would like to proceed to answer the Senator from Montana, because his anxiety is manifest.

Mr. SUTHERLAND. I have no particular anxiety, Mr. President, but I would like to understand the Senator's position, and I confess I do not.

Mr. BORAH. I will undertake to make it plain to the Senator from Utah, and if I do not make it plain to the Senator from Utah I will be glad to have him interrupt.

Mr. SUTHERLAND. Of course I do not insist upon asking the Senator a question.

Mr. BORAH. I will yield to the Senator from Utah.

Mr. SUTHERLAND. I simply want to ask the Senator whether or not it is his opinion that the enforcement act of 1870—I think it was in 1870; at any rate, passed about that time—could have been passed by Congress under a constitutional provision such as is proposed by the Senator's joint resolution.

Mr. BORAH. Part of it could and part of it could not.

Now, Mr. President, I want to read some decisions in a few moments which those who have opposed this amendment in its present form ought to have read before they commenced this debate, because it is apparent that they have simply taken a general statement. But before I do that I want to proceed with the line of argument which I had outlined by quoting very briefly, that it may go into the RECORD, from some of the decisions with reference to the power of the States and the States alone to fix the status of the voter.

In the case of Minor *v.* Happersett, the court said:

> The United States has no voters in the States of its own creation. The elective officers of the United States are all elected directly or indirectly by State voters. * * * The amendment (14) did not add to the privileges and immunities of the citizen. It simply furnished additional guarantee for the protection of such as he already had. No new voters were necessarily made by it. It is clear that the Constitution has not added any right or sovereignty to the privileges and immunities of citizenship as they existed at the time it was adopted. * * * The fourteenth amendment had already provided that no State should make or enforce any law which abridged the privileges or immunities of a citizen of the United States. If sovereignty was one of these privileges and immunities why amend the Constitution to prevent its being denied on account of race, etc. Nothing is more evident than that the greater must include the less and if all were already protected, why go through with the form of amending the Constitution to protect a part?

Justice Swayne said in one of the opinions written by him:

> Until this amendment was adopted the subject to which it relates was wholly within the jurisdiction of the States. The General Government was excluded from participation.

In a late case in the Supreme Court, in One hundred and ninety-third United States, Pope *v.* Williams, it is said:

> The privilege to vote within a State is within the jurisdiction of the State itself, to be exercised as the State may direct and upon such terms as it may deem proper, provided, of course, no discrimination is between individuals. * * * The question whether the conditions prescribed by the State might be regarded by others as reasonable or unreasonable is not a Federal one.

Mr. Guthrie says that—

> It has been held that the fourteenth and fifteenth amendments do not of themselves confer the right of suffrage and that the States are still at liberty to impose property or educational qualifications upon the exercise of that right.

Mr. Tucker, in his work on the Constitution, says:

> So in respect to suffrage, which is exclusively under State jurisdiction, except as affected by the fifteenth amendment. The right of suffrage is a State privilege belonging to State citizenship and is exclusively under State jurisdiction. The United States can confer no such privilege within a State.

Mr. RAYNER. Before the Senator concludes——

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

Mr. BORAH. I do.

Mr. RAYNER. Does the Senator object to reading three or four lines more from the case of Minor *v.* Happersett, or will he permit me to read it?

Mr. BORAH. I will permit the Senator from Maryland to read it.

Mr. RAYNER. To add to what the Senator said, the Supreme Court said in that case:

> Certainly if the courts can consider any question settled this is one. For nearly 90 years the people have acted upon the idea that the Constitution, when it conferred citizenship, did not necessarily confer the right of suffrage. If uniform practice long continued can settle the construction of so important an instrument as the Constitution of the United States confessedly is, most certainly it has been done here.

And they wind up by saying:

> Being unanimously of the opinion that the Constitution of the United States does not confer the right of suffrage upon any one, etc.

That is the leading case in the United States.

Mr. NELSON. Will the Senator from Idaho kindly yield to me for a minute?

Mr. BORAH. I will.

Mr. NELSON. I want to say to the Senator from Maryland once for all that the question of suffrage is not involved in this case.

Mr. RAYNER. Yes; but the Senator from Minnesota differs from——

Mr. NELSON. We concede that the States have a right to prescribe who are qualified voters in the States, and the only limitation upon that right is the discrimination provided against in the fifteenth amendment. The right of suffrage is not involved in this case. The question involved here is whether the Federal Government shall have the power to regulate the manner of these elections so that those who are qualified to vote under State laws may have the free right to exercise it.

Mr. RAYNER. I am glad the Senator from Minnesota differs with the Senator from New York [Mr. ROOT], because the whole argument of the Senator from New York, which I shall try to answer to-day, was that the Sutherland amendment was necessary in order to confer the right of suffrage on the Federal Government. That was the proposition on which he based his argument.

Mr. BORAH. I desire to resume.

Mr. CARTER. Mr. President——

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

Mr. BORAH. No. I will ask the Senator from Montana to wait until I cover this proposition which is now being debated.

Mr. CARTER. I desire to cite to the Senator two authorities from the Supreme Court, which I think would direct his attention particularly to the point I undertook to impress upon his mind.

Mr. BORAH. I have no doubt that I will myself cite those authorities.

Mr. CARTER. I have no doubt the Senator is an encyclopedia of authorities.

Mr. BORAH. I may not be an encyclopedia, but I am capable of reading the decisions of the Supreme Court and of understanding them, not because of any particular legal acumen

but because of the great capacity of that court to speak in language fitted for simple minds.

Mr. President, I grant you, for the sake of the argument, that Congress could, under section 4, prescribe the manner of holding an election—take over the entire matter. But when the voter approached the ballot box he would have to carry with him the certificate of qualification made by his State. The manner in which the election should be conducted could, under section 4, be prescribed by Congress, but as to whether the party could vote at all or not and what his qualifications should be the State in which he was casting his ballot alone would determine. We could not add to or subtract from that which the State had done. We could not prescribe any qualifications which the State had not seen fit to prescribe, neither could we reject the voter if the State had qualified him to vote, provided always there had been no discrimination, which is protected by the fifteenth amendment.

Mr. NELSON. I want to say, if the Senator will allow me, that that question is not at issue, and we make no issue on that point.

The PRESIDING OFFICER (Mr. CRAWFORD in the chair). Does the Senator decline to yield?

Mr. BORAH. I do not decline to yield, but I should like to suggest to the Senator from Minnesota that the Senator from Idaho is not addressing his remarks exclusively to the Senator from Minnesota and that there may be others in the Senate Chamber who have a different view of the matter.

Mr. President, admitting that the State fixes the qualifications of the voter—as the Senator from Minnesota has settled the proposition by admitting it—admitting that under section 4 we may prescribe the manner, is the National Government powerless to protect the voter in the right to cast his vote, outside of the power conferred by section 4?

Here is the legal proposition briefly and succinctly stated: The Constitution provides that the qualifications of voters for Representatives shall be those prescribed by the State for electors for the most numerous branch of the State legislature thereof. In case this amendment is adopted the Constitution will provide that one having the qualifications of a voter for the most numerous branch of the State legislature shall be a voter for United States Senator. The joint resolution fixes and establishes that as it is now established with reference to the House of Representatives.

My position is that when the State legislature fixes the qualification of the voter for the most numerous branch of the legislature thereof his right to cast that vote is then a right guaranteed by the Constitution of the United States, and that that right, guaranteed by the Constitution of the United States, may be protected by any law which Congress in its wisdom sees fit to write, the same as it can protect every other right guaranteed by the Constitution of the United States.

As said by Mr. Justice Miller, while the State does not fix eo nomine the qualification of the voter for Representative in Congress, the State does fix the qualification for the voter for the most numerous branch of the legislature of the State, and that when the State has fixed that, then the Constitution adopts that, and it is a part of the qualification of the voter for Congressman. When the State has acted in fixing the qualification for voters for the most numerous branch of the State legislature, which, under the fifteenth amendment, it must do without discrimination, then the Constitution of the United States adopts that qualification as a qualification for voters for Congress, and Congress may fully and in all proper ways protect that right. This would be the rule under the Constitution for Senators if this proposed amendment should be adopted by the States.

Mr. NELSON. I dislike to interrupt the Senator, but if he will yield to me for a moment——

The PRESIDENT pro tempore. Does the Senator yield?

Mr. BORAH. Will the Senator wait until I finish this argument?

Mr. NELSON. Very well.

Mr. BORAH. I want to yield to the Senator, but I do not want to be interrupted in the midst of an argument when I am answering a question which the Senator from Minnesota has submitted.

Mr. NELSON. All right.

Mr. BORAH. And whenever this right has been fixed by the State through the process of fixing the qualification of electors for the most numerous branch of the legislature, then the Constitution of the United States accepts that as the qualification for the voter for a Federal officer; and I submit without fear of successful contradiction that that right being recognized in the Constitution, dependent upon it, and guaranteed by it, there is no limitation upon the power of Congress to protect a voter in the exercise of that right.

If a man goes to the polls in my State qualified to vote for a member of the most numerous branch of my State legislature and seeks the right to cast his vote for Congressman he is exercising a right guaranteed by the fundamental law, and if any man interferes with him, Congress may pass any law it sees fit to pass to protect him, regardless of section 4. It is a fundamental principle, as broad as the Constitution itself, that any right guaranteed by it may be protected by such statutes and in such way as the wisdom of this body sees fit to pass or adopt to protect it.

I read a quotation or two upon that before I pass on. Justice Harlan has said:

> It is no longer open to question in this court that Congress may by appropriate legislation protect any right or privilege arising from, created or secured by, or dependent upon the Constitution or laws of the United States.

Again, the Supreme Court has said in the case of Logan *v.* The United States:

> Every right created by, arising under, or dependent upon the Constitution of the United States may be protected and enforced by Congress by such means and in such manner as Congress in the exercise of the correlative duty of protection or of the legislative powers conferred upon it by the Constitution may in its discretion deem most eligible and best adapted to attain the object.

What right is there guaranteed by the Constitution of the United States beyond reach of Congress to protect? The sole and only question to be determined is whether or not, after the status of the voter has been fixed, his right to vote for Congressman or Senator is a right guaranteed by the Constitution. If it is, will any Senator here contend that we must go to section 4 and find the power to protect him?

Let us see. In a case in 179 United States, the court says:

> The right to vote for Members of Congress of the United States is not derived merely from the constitution and laws of the State in which they are chosen, but has its foundation in the Constitution of the United States.

Again it is said, and this is the Yarbrough case:

> But it is not correct to say that the right to vote for a Member of Congress does not depend upon the Constitution of the United States. The office, if it be properly called an office, is created by the Constitution, and by that alone. It also declares how it shall be filled, namely, by election. Its language is "The House of Representatives shall be composed of Members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.
>
> The States in prescribing the qualifications of voters for the most numerous branch of their own legislature do not do this with reference to election for Members of Congress. Nor can they prescribe the qualifications for voters for those eo nomine. They define who are to vote for the popular branch of their own legislature, and the Constitution of the United States says the same persons shall vote for Members of Congress in that State. It adopts the qualifications thus furnished as the qualifications of its own electors for Members of Congress. It is not true, therefore, that electors for Members of Congress owe their right to vote to the State law in any sense which makes the exercise of the right dependent exclusively upon the law of the State.

There is nothing better settled now, Mr. President, than that the right to vote for a Member of Congress, and the right which will exist under this amendment to vote for Senator, is a right guaranteed by and dependent upon and derived from the Constitution of the United States. I should be interested to know if, in the desire to defeat this joint resolution, the Senator from New York, who told us that we were wrecking our entire system and taking away the power to protect our elections from fraud and violence and corruption, will, as a lawyer, stand before the American bar and say that Congress has not the power to protect every right guaranteed by the Constitution of the United States? It is very unfortunate, Mr. President, that these great constitutional and legal propositions should be intermingled and mixed with questions of policy, for it leads to statements upon this floor that if posterity read them it will wonder if we ever read the Constitution at all.

Mr. President, I come to the Yarbrough case.

Mr. NELSON. Will you allow me a question here before you take up another subject?

Mr. BORAH. I am not taking up another subject; I am continuing this.

Mr. NELSON. Another branch of the case.

Mr. BORAH. This is the same branch.

Mr. NELSON. Very well; if the Senator objects to a question, I will not ask it.

Mr. BORAH. I will let the Senator ask his question when I get through with this part of the subject.

Mr. NELSON. It is just a brief question.

Mr. BORAH. Very well. I will let the Senator ask it.

Mr. NELSON. It comes in right here.

Mr. BORAH. I see it does.

Mr. NELSON. A part of your amendment provides that the time and place and manner of holding elections for Senators shall be prescribed in each State by the State legislature. What does that mean? Does not that confer the exclusive power on the State legislature?

Mr. BORAH. As to the manner, it does.

Mr. NELSON. What does the term "manner" imply?

Mr. BORAH. I should not like to discuss that in all its details, but it means here the machinery of conducting the election; but it does not necessarily mean that the Government may not prescribe such rules and regulations and such provisions as will guarantee the unmolested right of every citizen to cast his vote at an election.

The manner in which the election should be held, whether under the Australian ballot system or the old system, would be determined by the State, but the right to cast a ballot in accordance with whatever system the State fixed the Congress could control.

Mr. President, if I am permitted to proceed for a few moments, I should like to discuss the Yarbrough case.

Mr. Justice Miller, who wrote this opinion, is justly referred to by the Senator from Kansas as a great jurist, and I think he would be accepted by all as a great jurist. He states the question to be determined in the case:

This, however, leaves for consideration the more important question—the one mainly relied on by counsel for petitioners—whether the law of Congress, as found in the Revised Statutes of the United States, under which the prisoners are held, is warranted by the Constitution, or being without such warrant, is null and void.

The sole question presented to the court after it disposed of some preliminary matters was whether or not sections 5508 and 5520 were constitutional; or, in other words, whether or not Congress had power to pass those provisions of the statute. I direct the particular attention of the Senator from Montana to the reading of section 5508:

SEC. 5508. If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same, or if two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined, etc.

What does section 5508 prescribe? That anyone who intimidates or assaults or interferes with a person seeking to exercise any right guaranteed by the Constitution of the United States shall be punished. Not alone the right of suffrage, but any right guaranteed by the Constitution of the United States.

Will it be contended that this right referred to here is solely and alone a right to vote? Will it be contended that section 5508 could not have been passed without the provision in the Constitution that we may prescribe the time, place, and manner of holding an election? This section is as broad as any right guaranteed by the Constitution of the United States. It is not confined to voting, to the manner of conducting an election, to Congressmen, or to anyone else. The only limitation upon the matter is that it shall be a right guaranteed by the Constitution.

The Supreme Court has held, sir, that under section 5508 a man may be prosecuted who interferes with another who is seeking to acquire title to a homestead upon the public domain, not relating to an election or to the right of suffrage or to section 4, but any right. In the case of The United States *v.* Waddell the court says that under this same section that by us was passed—under the election provision of the Constitution—a party may be prosecuted for interfering with another in securing a right upon the public domain. Do the Senators contend that under the right to prescribe the manner of conducting an election you can pass a constitutional statute protecting entrymen upon the public domain?

Again, Mr. President, section 5520:

If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any citizen who is lawfully entitled to vote from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of the Congress of the United States.

Will it be contended that under section 4, which gives us the power to prescribe the manner of conducting an election for Representatives alone, we would have the power also to prescribe the manner of conducting the election for presidential electors, when the Constitution in another provision provides explicitly that that power to prescribe the manner of their election is in the State legislature? This provision not only protects those who vote for Representatives, wherein we may prescribe the manner, but it protects those who vote for presidential electors, wherein we may not prescribe the manner. Yet this authority has been read here and commented on as if without section 4 we could not have passed sections 5508 and 5520. Neither one of them is confined to it. One of them is entirely outside of it. It goes upon the broad proposition, as stated by Justice Harlan, that any right guaranteed by the Constitution may be protected by the laws of Congress.

Mr. President, let us read some from the body of the opinion. I dislike to trespass so long upon the patience of the Senate. This is the provision which was read by the Senator from Montana, the Senator from Utah, the Senator from Kansas, and indirectly referred to by the Senator from New York:

That a government whose essential character is republican, whose executive head and legislative body are both elective, whose most numerous and powerful branch of the legislature is elected by the people directly, has no power by appropriate laws to secure this election from the influence of violence, of corruption, and of fraud is a proposition so startling as to arrest attention and demand the gravest consideration.

Under the Constitution to-day a presidential elector is elected in the manner prescribed by the State legislature. We have nothing to do with the manner whatever; it belongs alone to the State. Yet the statute which protects the voter there, the same as for Representative, is the statute upon which they rely and which they say could not have been passed without section 4. It is passed in the face of the terms of the Constitution with reference to presidential electors, if the construction of the Senators be correct.

If this Government is anything more than a mere aggregation of delegated agents of other States and governments, each of which is superior to the General Government, it must have the power to protect the elections on which its existence depends from violence and corruption.

I concede that proposition.

If it has not this power, it is left helpless before the two great natural and historical enemies of all republics, open violence and insidious corruption.

There the reading of this decision has always abruptly ended in this Chamber. The dire calamity which would overtake the National Government in case we could not protect our Federal elections from violence and fraud is set forth in the sounding language of the great Justice. They close the volume and turn to the Senate and say that without section 4 all this would happen. If they had been content to read another single paragraph in this decision it would have answered their argument without any answer from me.

The proposition that it has no such power—

Mind you, the proposition that it has no such power—

is supported by the old argument often heard, often repeated, and in this court never assented to, that when a question of the power of Congress arises the advocate of the power must be able to place his finger on words which expressly grant it.

Justice Miller left the domain of express grants covered by the provision of conducting the manner of elections for Representative and entered into the domain of implied power. He sustained his position upon the doctrine of implied power and found sufficient power there not only to protect the election at a congressional election but also of a presidential election.

The brief of counsel before us, though directed to the authority of that body to pass criminal laws, uses the same language. Because there is no express power to provide for preventing violence exercised on the voter as a means of controlling his vote, no such law can be enacted.

That was the position taken by the counsel.

Mr. Justice Miller says this argument—

destroys at one blow, in construing the Constitution of the United States, the doctrine universally applied to all instruments of writing, that what is implied is as much a part of the instrument as what is expressed. This principle, in its application to the Constitution of the United States, more than to almost any other writing, is a necessity, by reason of the inherent inability to put into words all derivative powers—a difficulty which the instrument itself recognizes by conferring on Congress the authority to pass all laws necessary and proper to carry into execution the powers expressly granted and all other powers vested in the Government or any branch of it by the Constitution. (Art. I, sec. 8, clause 18.)

We know of no express authority to pass laws to punish theft or burglary of the Treasury of the United States. Is there therefore no power in the Congress to protect the Treasury by punishing such theft and burglary?

Then the learned Justice cites a number of instances in which Congress has provided laws for the punishment of parties who have interfered with those seeking to exercise a right under the Constitution of the United States.

Mr. RAYNER. What case is that?

Mr. BORAH. It is the case of Yarbrough. Then after referring to section 4, in the opinion which is referred to in the course of the argument, the court said:

This duty does not arise solely from the interest of the party concerned, but from the necessity of the Government itself—

And that applies to every Federal officer who is elected—

that its service shall be free from the adverse influence of force and fraud practiced on its agents, and that the votes by which its Members

of Congress and its President are elected shall be the free votes of the electors, and the officers thus chosen the free and uncorrupted choice of those who have the right to take part in that choice.

Mr. President, how do you proceed to protect the voter for a presidential elector under section 4? You can fix a time, and that is all. The manner is exclusively in the State legislature. How do you proceed to legislate for his protection? Do you do so under section 4? Certainly not. Do you do so under Article II, section 1? Certainly not, because the Constitution expressly provides that the manner of conducting this election is in the hands of the legislature. You do so, Mr. President, under what I stated a few minutes ago, the broad power of Congress to pass all laws necessary for the protection of any right guaranteed by the Constitution, and the right to vote for a Congressman and the right to vote for presidential electors are both guaranteed by that instrument.

Mr. CARTER. Mr. President——

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

Mr. BORAH. Yes; with pleasure.

Mr. CARTER. The Senator will admit, of course, because the text will show, that both the Siebold case and the Yarbrough case rested upon the statute of 1870, passed under authority of the Federal Government to regulate elections. There is no question about that, is there?

Mr. BORAH. Do I understand the Senator contends that section 5508 was passed under that authority?

Mr. CARTER. As to the election act, I understand the Yarbrough case to have arisen under the act of 1870. As to whether the section referred to is a part of that act I am not advised.

Mr. BORAH. It is very important to know, because that is what the court was construing.

Mr. CARTER. But the court was construing the act of 1870 precisely as that act was construed in the Siebold case, and the only difference in the two cases is that in the Siebold case the prosecution was directed against certain officers of the State——

Mr. BORAH. Permit me to ask——

Mr. CARTER. And in the Yarbrough case against certain parties other than officers for interfering with officers of the United States.

Mr. BORAH. Does the Senator from Montana claim that section 5508, on page 664, was passed alone under the authority of Article I, section 4?

Mr. CARTER. I contend that both the Yarbrough case and the Siebold case turned on the election law of 1870, and later the Supreme Court held in two distinct cases that an attempt to enforce the personal right under the fifteenth amendment was a futile attempt and the act was void in that regard.

Mr. BORAH. I will come to that. The Senator from Montana apparently declines to answer one question, which he must answer in order to deal fairly with this decision, and that is, Was section 5508 passed under and by virtue of the authority of Article I, section 4?

Mr. CARTER. Undoubtedly the act of 1870 was passed under authority——

Mr. BORAH. Was section 5508 passed under section 4?

Mr. CARTER. I have not the section before me and therefore I will not answer until I have examined it.

Mr. BORAH. I will read the section for the Senator. I think the Senator has the section.

Mr. CARTER. I desire to know whether the Senator insists that both the Siebold case and the Yarbrough case did not turn upon legislation based upon the part of the Constitution which he proposes to strike out.

Mr. BORAH. I distinctly assert that the Yarbrough case did not, and if the Senator from Montana will be frank enough and answer the "Senator from Idaho" I will convince the Senator from Montana of that fact here upon the floor.

Mr. CARTER. The Senator has attempted to do that for some time, and quite unsuccessfully.

Mr. BORAH. The reason that I am unsuccessful is because the Senator refuses to read section 5508 to the Senate and tell the Senate under what power we passed it.

Mr. CARTER. The Senator has the section and he has a chance to read it himself.

Mr. BORAH. I will read it:

SEC. 5508. If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same, or if two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than $5,000 and imprisoned not more than 10 years; and shall, moreover, be thereafter ineligible to any office or place of honor, profit, or trust created by the Constitution or laws of the United States.

Does the Senator from Montana claim that that was passed alone under section 4?

Mr. CARTER. It covers other crimes than those which would naturally arise in connection with an election proceeding for Senators of the United States or Members of the House of Representatives; but the Senator will certainly not contend that the Yarbrough case and the Siebold case were not determinative of certain principles of law and constitutional power arising from legislation authorized by the section of the Constitution this resolution proposes to strike out.

Mr. BORAH. Mr. President, section 5508 was not passed under and by virtue of Article I, section 4, and that is well demonstrated to the Senate, because the Supreme Court of the United States has upheld it for the protection of rights upon the public domain. Have we reached a point in the discussion of this question where we must construe section 4 to cover the right to acquire a right or title on the public domain?

Mr. NELSON. Will the Senator allow me? We all, who know anything at all, know that the right to protect the public domain is based on that paragraph of the Constitution giving Congress jurisdiction over the territory of the United States, and it is not based on section 4 of Article I.

Mr. BORAH. Precisely. I agree entirely with the Senator from Minnesota.

Mr. NELSON. What has that to do with the matter here? It is highly important, but what bearing has it on this case?

Mr. BORAH. The Senator manifests some anger, which is unfortunate. The bearing it has upon this case is this: We are told by the Senator from Montana that section 4 was the authority for passing section 5508, and we are told by his colleague [Mr. NELSON], who sits beside him, that we derived the authority from another provision of the Constitution.

Mr. CARTER. Mr. President——

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

Mr. BORAH. Certainly.

Mr. CARTER. The Senator certainly desires to be fair. This record will justify itself. The Senator from Montana made the statement, and insists upon the accuracy of it, that the Siebold case and the Yarbrough case both construed or interpreted the power of Congress to pass certain legislation prescribing penalties under the authority of section 4 of Article I of the Constitution, which this resolution proposes to strike out.

Mr. President, the Senator has been indulgent with me, and I should like to make more clear to his mind my position in reference to this matter if he will permit me for one moment.

Mr. BORAH. I do not desire to have the Senator from Montana enter into a speech at this time.

Mr. CARTER. I should like to cite an authority which, I think, will make it clear to the Senator that the position——

Mr. BORAH. Will the Senator give me the name of the authority?

Mr. CARTER. I will be glad to do so. I cite the case of James against Bowman, in One hundred and ninetieth United States Reports.

Mr. BORAH. I have that on my table, I think, and I am going to address my attention to it in a few minutes.

Mr. CARTER. I would be glad if the Senator would do that in due season. He seems to be a little slow in getting to it. I should like also to have the Senator take into consideration certain other authorities. I presume he has them all. I will call his attention to them if he has not.

Mr. BORAH. I am a little slow in getting along. The fault is not wholly mine. [Laughter.]

Mr. President, we are told that the Yarbrough case construes provisions of the statute passed under and by virtue of Article I, section 4; and yet the statute passed under Article I, section 4, construed in the Yarbrough case, protects voters, as I have shown, for presidential electors the same as Members of Congress, and Article II, section 1, of the Constitution expressly gives the legislature the power to prescribe the manner of selecting electors.

And although we are also told, Mr. President, that section 5508 was passed alone under the authority of Article I, section 4, yet the Supreme Court of the United States has held that that section—not some other section, but that section—sustains a prosecution for a party interfering with another in acquiring rights upon the public domain.

It is evident, as I said a few moments ago, that these sections were passed under and by virtue of the implied power of Congress to protect any right guaranteed by the Constitution of the United States.

I quoted a moment ago from the opinion, and I quote a little further, because I am afraid that some Senators did not catch the language of the Justice.

Mr. RAYNER. Mr. President, will the Senator please give me the page from which he is reading?

Mr. BORAH. Page 662.

Mr. RAYNER. That is the case of Yarbrough, in One hundred and tenth United States Reports?

Mr. BORAH. Yes.

This duty does not arise solely from the interest of the party concerned, but from the necessity of the Government itself, that its service shall be free from the adverse influence of force and fraud practiced on its agents—

Not its voters, but also its agents, as the Justice gives numerous instances of—

and that the votes by which its Members of Congress and its President are elected shall be the free votes of the electors, and the officers thus chosen the free and uncorrupted choice of those who have the right to take part in that choice.

When we adopt this resolution, if we should do so, and it should go into the Constitution, we will prescribe or provide that the legislature shall do precisely with reference to the election of Senators what they now do with reference to electors, and after it is in the Constitution we would have precisely the same authority for passing section 5520 with reference to Senators that we now have with reference to presidential electors.

Is it a dangerous thing to take away the manner of electing Senators from the National Government and place it where the Government has already placed the manner of electing presidential electors, when the court in the case of Yarbrough held that both may be equally and alike protected from violence and fraud and intimidation and everything that interferes with an election?

So I say, Mr. President, that those who contend that the sections of the statute in the Yarbrough case were passed alone under and by virtue of Article I will not be able to maintain their position.

Mr. SMITH of Michigan. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Michigan?

Mr. BORAH. I yield.

Mr. SMITH of Michigan. Under the resolution proposed by the Senator from Idaho, is there any power residing in the Federal Government to fix a uniform time for the election of Senators?

Mr. BORAH. There is not.

Mr. SMITH of Michigan. When I interrupted the Senator from Idaho a few moments ago and said that I disagreed with his conclusion, I disagreed with it because I felt that that phase which I have insisted upon from the first is one of the most important would not remain in the Constitution if this amendment to it is adopted.

Mr. BORAH. The question of time, I agree with the Senator from Michigan, would be solely in the power of the State to fix. I have no doubt, of course, but what that is true.

Mr. SMITH of Michigan. May I interrupt the Senator again? I do not know that I ought to interrupt him, because he has been so frank in answering my question, but it would then be in the power of the States, if they so chose, to elect their Senators at any time they may desire without let or hindrance upon the part of the Federal Government, and they may choose them 6 or 10 years in advance of the vacancy.

Mr. BORAH. Or, Mr. President, they may not choose them at all, and that they may not do now. We must trust at last the wisdom and patriotism of the people in the respective States, and in their wisdom and patriotism I have confidence.

Mr. SMITH of Michigan. I want to thank the Senator for his frankness. I want to say to him that so far as I am concerned there is nothing captious in my interruption. I am in full sympathy with the proposition to give to the people of the States the power to elect Senators directly, and I have no quarrel wih him upon that point whatever; but I dislike very much, I will say frankly, to see the power of the Federal Government taken off the election of Federal officials when I regard the question of uniformity of time as so essential.

Mr. BORAH. Mr. President, it has been urged here also that the repeal or change of section 4 would take away some of the power of Congress to pass upon the title of Members to these respective bodies. The Senator from Montana contended that without section 4 we would be greatly interfered with in protecting this body from Members who had been elected by corrupt influences. I read the statement of the Senator from Montana:

Little consolation can be drawn from paragraph 1 of section 5 of Article I of the Constitution, which provides that "each House shall be the judge of the elections, returns, and qualifications of its own Members," for it is evident that if Congress is deprived of the right to legislate on the times and manner of electing Senators the States will possess supreme power in the premises and the Senate will not be at liberty to inquire into the manner of exercising that power.

Again the Senator says:

When you deprive any elective parliamentary body of power to keep the channel between the voters and the legislative chamber free from obstruction or pollution by fraud, violence, or corruption, you condemn that body to degradation and death.

It was also suggested by the Senator from New York that he thought the change in section 4 would interfere with the power which we have under Article I, section 5; that while we would still have the power we might not have the machinery, as I understood his argument, not having read it since it was delivered and quoting only from memory.

But Article I, section 5, provides that—

Each House shall be the judge of the elections, returns, and qualifications of its own Members. * * * Each House may determine the rules of its proceedings, punish its Members for disorderly behavior, and with the concurrence of two-thirds expel a Member.

I am not going to detain the Senate long in discussing this proposition. I think upon reflection all will admit that there is no limitation upon the power of each body to deal with the subject of the election of Members of the Senate or of the House other than that which each sees fit in the respective bodies to exercise or to establish.

I call attention in passing to the statement of Senator Thurman, made in 1873, with reference to this power:

We have a Constitution, and the Senate exists by virtue of the Constitution; and the Constitution declares how the Senate shall be constituted and what shall be its powers, and among them is the power to judge of the elections, qualifications, and returns of its Members.

Now, Mr. President, mark it, there is no question as to what is meant by "qualifications." We know that those are the qualifications specified in the Constitution itself, and that you can superadd no other qualification. There is no difficulty, either, about the "returns." What shall be the returns is a matter to be determined by law, and the law declares what shall be the returns, what they shall contain, and what they shall show; that is all matter of law; and we decide upon their face whether they are in due form and in compliance with law. But then, sir, comes the question of the election. We are to be the judge of the "election." What is meant by that? In the first place, mark it, that the word is without limitation. It does not say you shall be the judge of the election quoad this or quoad that; you shall be the judge to the extent of finding whether the election was held on the right day, or whether it was held by a body that constituted a valid legislature, or whether there was a majority, and you shall be judge of nothing else. It puts no limitation on your power to judge of the election. It is a perfectly unlimited power to judge, and is therefore a power to hold the election void for any cause that, according to law and reason and consistency with our Constitution, makes an election void.

Is there any question, Mr. President, under this provision of the Constitution that either body may take any step it sees fit to deal with the subject of determining who is a Member? Is there any question but that each body may determine when a person is elected or has a title to a seat in the body in accordance with any rule which the body to which the Member is elected or accredited sees fit to establish?

Mr. SUTHERLAND. Will the Senator from Idaho yield to me for a question?

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

Mr. BORAH. I do.

Mr. SUTHERLAND. Do I understand that it is the contention of the Senator from Idaho that if we eliminate from the Constitution the last clause of section 4 of Article I, namely, "but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators," still the Congress of the United States would possess the same power which it now possesses to regulate the manner of elections?

Mr. BORAH. No; I do not contend that. I contend that Congress would have the power to take any measure that it deemed proper to see that the party who had a right to vote cast his vote. If that could be said to involve the question of going into and prescribing the manner, I have no doubt that Congress would have that power. It does not necessarily follow, however, that the proposition of prescribing the manner is necessary in order to guarantee a party the right to vote. So long as the State established a proper manner we could only see to the exercise of the right in the manner prescribed. For instance, if the State established the Australian ballot system, we could not establish the old system. We could only see that every voter should have a right to cast his ballot in accordance with that manner.

Mr. SUTHERLAND. Then, does the Senator concede that, if we eliminate the section to which I have directed attention, it would take away the power of Congress to regulate the manner of the election except in the particular which the Senator has stated?

Mr. BORAH. In my opinion it would take away the power of Congress, in the first place, to prescribe the time. There is no doubt about that. In my opinion it would take away the power of Congress to prescribe the manner other than such provision as was necessary to guarantee the party the right to cast his vote unmolested.

Mr. SUTHERLAND. That is, it would prevent the Government of the United States from passing a law to provide for supervisors at elections?

Mr. BORAH. I do not think so.

Mr. SUTHERLAND. You think not?

Mr. BORAH. I do not think so. The Government could very well say, We are entirely satisfied with your election laws, your form of ballot, your registry system, your style of booths, but we will place men there to see that the voter for Senator is permitted, unmolested and without fraud, to exercise his right in accordance with the manner the State has prescribed. The manner of performing a right and the right itself should be kept distinct.

Mr. SUTHERLAND. Mr. President, I call the attention of the Senator from Idaho to the fact that section 4 of Article I confers upon the State legislatures the agency—constitutes a delegation of power by the people of the United States to regulate the times and places and manner of holding these elections. If the language of the Constitution stops there, upon what theory can the Senator from Idaho say that the Congress of the United States, from whom the power has been withdrawn, shall still possess the power to do anything that may be embraced within the term "manner of holding elections?"

Mr. BORAH. Mr. President, this provision of the Constitution in the amendment which we have proposed is that the qualifications which the legislatures may fix as the qualifications for the most numerous branch of the legislature of the State shall be the qualifications of voters to vote for United States Senators. When those qualifications are fixed by the legislatures, then the right to cast that vote becomes a right protected by the Constitution, and we may pass any law necessary to see that that right is properly exercised. But that does not involve at all the right at the same time to say whether the vote shall be by the Australian or some other ballot. Whatever be the style or manner of performing, still the party must be guaranteed the right to perform in that way.

Mr. SUTHERLAND. Yes; but when we delegate affirmatively the power to the State legislatures to regulate the manner of the election, do we not by that very fact take away from anybody else the affirmative power to do so?

Mr. BORAH. We have delegated to the State legislatures the power to fix the manner of choosing electors for President.

Mr. SUTHERLAND. Yes.

Mr. BORAH. And the Supreme Court has upheld a statute which protects parties in the exercise of the right to vote for such electors.

Mr. SUTHERLAND. I can not quite agree with the Senator's construction of that case; but I am asking the Senator for his own view.

Mr. BORAH. That is my view.

Mr. SUTHERLAND. Is it the Senator's view that when we delegate affirmatively to one agent the power to do a thing, that another agent may do it?

Mr. BORAH. I do not concede that the manner conflicts with the proposition which I submit, and that is that the right may be guaranteed in such a way as Congress sees fit; but the manner of holding elections does not necessarily imply that proposition.

Mr. CLARK of Wyoming. Will the Senator permit me to ask him a question?

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

Mr. BORAH. I will.

Mr. CLARK of Wyoming. I understand that section 4 of Article I confers certain definite powers upon the Congress of the United States and that the amendment now proposed withdraws those definite powers from the Congress of the United States and confers them in terms upon the legislatures. Does not that result in depriving the Congress of the United States absolutely of the powers thus withdrawn?

Mr. BORAH. It does as to the extent of the power which we have delegated; but I contend that, outside of that proposition, those things which we ought to do the Supreme Court has held that we may do, regardless of section 4 of Article I, and that is true with reference to presidential electors now.

Mr. CLARK of Wyoming. Then the Senator's contention is that section 4 of Article I, as originally in the Constitution, was then and is now surplusage?

Mr. BORAH. In my opinion, Mr. President, that is true so far as protecting the polls against fraud, intimidation, and so forth; we could have done that anyway. It has been true in history and it is largely true in fact. I ask the Senator from Wyoming under what power now do we protect voters voting for presidential electors?

Mr. CLARK of Wyoming. I am not discussing any of those matters. I simply wanted to get the view of the Senator in relation to the particular matter upon which I interrogated him.

Mr. BORAH. I understand the Senator, but it would be interesting to know under what power we protect voters voting for presidential electors if the argument of the Senator is correct. That is a proposition which needs the attention of our friends in order that their logic may have full force.

Mr. CLARK of Wyoming. But the difference, as I view it at the moment, is that we have given a special power to Congress by section 4 of Article I, and we now propose definitely to deprive Congress of that power. Does that still leave in the Constitution the idea of an implied power that we have expressly deprived Congress of?

Mr. BORAH. But we have expressly given to the State legislatures by direct terms the power to prescribe the manner of electing these electors. That is expressly delegated to the State legislatures in the same specific language that we here delegate this, and yet certainly the court has held in the Yarbrough case that they may be protected the same as are other parties.

Mr. SUTHERLAND. Then I understand that the position of the Senator from Idaho is that Congress will possess the same power to regulate the manner whether the power is affirmatively conferred or not.

Mr. BORAH. No; I did not say that, Mr. President. There are many things connected with the manner of an election that have nothing whatever to do with the proposition of denying or protecting a man in the right to cast a vote. I say that under section 4 of Article I we may, of our own desire, go out and prescribe machinery for the election, whether the question was ever raised as to the man having been denied his right in any way, shape, or form. We could proceed to prescribe the manner regardless of whether or not the question of the right to vote was involved in the controversy. It gives us a wider power and a wider range with reference to fixing the machinery by which the election is carried on.

I grant to the Senator from Utah, if it became necessary in any particular instance in order to see that the party had the right to vote, that we should prescribe a certain rule. I have no doubt that we could do so, but beyond that, under section 4 of Article I, we could go and prescribe a rule, whether the right had been denied for him to cast his vote or not.

Mr. SUTHERLAND. Will the Senator permit me one other question?

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

Mr. BORAH. I do.

Mr. SUTHERLAND. Does the Senator from Idaho think, if this portion of section 4 of Article I is eliminated, that the Congress of the United States would have the power to prescribe the kind of ballot which should be used?

Mr. BORAH. I do not. Of course, conditions could be conceived where a ballot might be so arranged to deprive parties of the right to vote or work a fraud; if so, we could interfere. But ordinarily, no.

Mr. SUTHERLAND. Then, does the Senator concede that without this provision in the Constitution we could not have provided for a written or printed ballot, or for the use of machines?

Mr. BORAH. I do.

Mr. SUTHERLAND. And that any State, if it should choose to do so, could adopt the viva voce system of voting?

Mr. BORAH. I think so; and that is one of my objections to section 4 of Article I. I think the State ought to be left absolutely the power to fix the form of ballot and that form of machinery having to do with the election. When the State has done that, I think that beyond that, if the question of the right is involved, the Congress of the United States may go any distance it desires for the purpose of protecting that right.

When I was diverted from the subject I was discussing the question of our power under Article I, section 5, and I desire to quote here from the address of the Senator from New York [Mr. Root] in the Lorimer case. He said:

> Mr. President, we here are not a court in the discharge of this high function; we are more than a court. There exists no power in any government short of an amendment of the Constitution of the United States to limit or control the evidence we shall receive or the grounds upon which we shall act in judging the qualification and election of a Member. The sole limit is the limit imposed by our own sense of what is just and right and for the public weal. No strict rules of evidence control us, no statutes declaring what shall or shall not constitute a good election. We are not a board of canvassers counting votes; we are a body which Congress itself can not control, protecting the integrity, the purity, and the efficiency of this great representative body, in many respects the most powerful body under representative government in the world. We are charged with that duty, and our own consciences and sense of justice must determine the action we take in the performance of the duty. The question for us to determine is whether, upon the whole, taking all this testimony together, the election of WILLIAM LORIMER was brought about by corrupt practices.

In other words, the interpretation of Article I, section 5, by the Senator from New York gives us unlimited power to deal with the cleanliness and the purity of the election of Members

of this body, the same power which the House of Representatives has to deal with Members of that body.

The Senator from New York contends that there is no limitation upon our power other than our conscience and our judgment; and certainly we have never been aided by section 4, Article I. We have never undertaken to assist Article I, section 5, by legislating under Article I, section 4. We have always proceeded under the power of Congress to deal with the question of protecting the rights of the people regardless of where and in what particular place of the Constitution that right was guaranteed, and we have always proceeded to investigate the title of a Member to a seat in this body unrestrained by any other law than the conscience and the judgment of Members of this body. Section 4 of Article I does not aid us; section 4, if repealed, would not hinder us.

Mr. President, I come now to the other proposition, and that is the question of protecting the Negro vote. I regret very much that that proposition has been deemed to be necessary for a proper discussion of this subject. But, as it has been brought here for discussion, I want, before the subject passes from our consideration, so far as I am concerned, to state some things about which I have some fairly earnest convictions.

I do not know, Mr. President, how long the North is going to play the hypocrite or the moral coward on this Negro question. The North always assumes when we come to discuss the Negro question that there is in the North a superiority of wisdom and of judgment and of virtue and of tolerance with reference to dealing with that question which is not found in other parts of the country. Call the roll in this Senate Chamber of States where they have a Negro population and present the record with reference to the manner in which the North has dealt with this question, and tell me what authority any man has to stand upon the floor of the Senate and chide any part of this Union about the manner in which it deals with this question.

The Northern States have exhibited the same animosity, the same race prejudice and race hatred that has been developed in the other parts of the Union. While I know that this will grate upon the feelings of some, since the question has been raised in this Chamber, I propose to do as the Senator from New York said we should do, tell the truth in regard to this matter. We burn the Negro at the stake; our northern soil is cursed with race wars; we push the Negro to the outer edge of the industrial world; we exhibit toward him the same intolerance in proportion to his number in our part of the country as they do in every other part of the land, and in the same way. I have not a particle of doubt, Mr. President, if we had to deal with this subject in all its widespread ramifications as others have to deal with it, judging from what has happened in Colorado, in Illinois, and in numberless other States of the North, we would exhibit the same qualities, display the same weaknesses and the same intolerance that others have been chided with exhibiting or possessing.

Secondly, I want to ask my friends who have raised this question of protecting the Negro in the South, and who assert that we have the power under section 4 of Article I to deal with the subject, why we do not exercise the power if we have it? We have not only behind us in the Northern States, in proportion to the black population, the same record, but in addition to that, Mr. President, we stand before the country declaring that we have the constitutional power to deal with this question, and yet we must admit to every black man in the North and to every black man in the South that we have not had the moral courage to exercise that power. Speaking for myself, I deny that the power extends where the exigencies of this debate have sent it, and I resent the proposition that for 40 years wrongs have been committed that we have had the power to deal with and that we have cowardly refused to exercise that power. To say that under Article I, section 4, we can protect the colored voter of the South and at the same time to assert that he has been disfranchised is either to convict ourselves of deplorable moral cowardice or to wantonly libel the South.

It is a fine situation, Mr. President, in which the great Republican Party finds itself in this debate. It has been practically asserted, indeed, sir, it has been asserted upon the floor of the Senate that under section 4 of Article I we can deal with what is called the "grandfather clauses" of State constitutions. Then the question arises, When are we going to deal with them? It is my deliberate opinion that we have not an iota of power under section 4 to deal with the question of suffrage in any State of this Union so long as it complies with the fifteenth amendment to the Constitution, and whether it has or not can always be tested under the provisions of that amendment alone and of itself.

It has been asserted deliberately upon the floor of this body that the repeal of section 4 of Article I would embarrass, if not repeal, the fourteenth and fifteenth amendments to the Constitution. It was stated by the senior Senator from New York [Mr. DEPEW] the other day, by the Senator from Montana [Mr. CARTER], the Senator from Kansas [Mr. CURTIS], and, as I understood, by the junior Senator from New York [Mr. ROOT] that when that section 4 should have been repealed the fourteenth and fifteenth amendments would be rendered ineffective.

Section 4 of Article I deals alone with individuals. The fourteenth and fifteenth amendments deal alone with the States. It might be true that if section 4 were retained we could do some things which it has been contended we should do by those who are supporting the amendment of the Senator from Utah [Mr. SUTHERLAND]; but certainly it can never be contended that a provision in the Constitution which deals with individuals can impair in any respect the provision of the Constitution which deals alone with the action of the States.

Mr. HEYBURN. Mr. President, will the Senator permit me a question?

The PRESIDENT pro tempore. Does the junior Senator from Idaho yield to his colleague?

Mr. BORAH. Certainly.

Mr. HEYBURN. Is it not true that the fourteenth amendment deals with individuals when it provides that the Congress may interfere where the right to vote for a member of the State legislature or a State judge is concerned? The individual right to vote is dealt with in express terms in section 2 of the fourteenth amendment.

Mr. BORAH. It has been decided so often, Mr. President, that the fourteenth amendment relates alone to the action of the States that I did not suppose it was a subject of controversy.

Mr. HEYBURN. No; that is the exception.

Mr. BORAH. The fourteenth amendment to the Constitution provides:

SECTION 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside.

Would the repeal of section 4 destroy the citizenship of people who are born in the United States or naturalized and are subject to its jurisdiction?

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.

If section 4 were repealed, would it be contended that a State could pass a law which would abridge the privileges or immunities of citizens of the United States? Would the State have any less of an inhibition upon it with section 4 eliminated than it has now?

Nor shall any State deprive any person of life, liberty, or property, without due process of law.

If section 4, which relates to the manner of conducting elections, were repealed, would it be contended that any State could pass a law which would deprive any person of life or liberty or property without due process of law?

Nor deny to any person within its jurisdiction the equal protection of the laws.

What provision of the fourteenth amendment is dependent upon section 4 of Article I for its successful and efficient enforcement? If a State should pass any law inhibited by the fourteenth amendment would there be any question that the Supreme Court would have the power to declare it, and would declare it, in violation of that amendment, and therefore void? It is the State that is inhibited from action under the fourteenth amendment, and it has been held by the Supreme Court that the fourteenth amendment does not give us any power to deal with individuals. Section 5 of the fourteenth amendment provides:

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

There is no limitation upon the power of Congress. The fourteenth amendment is complete within itself. Every right guaranteed by it may be protected by the Congress by appropriate legislation; it derives no aid or benefit from any other provision of the Constitution. The same is true with reference to the fifteenth amendment, which provides:

ART. XV. SEC. 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State on account of race, color, or previous condition of servitude.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

Both of these amendments to the Constitution, Mr. President, relate to the action of the States as sovereignties and members of this Union, and both of the amendments provide that all appropriate legislation may be enacted for the purpose of carrying into effect or taking care of the rights guaranteed

by their different provisions. We have not been told in what respect the fourteenth and fifteenth amendments would be impaired. We have simply been advised that they would be impaired. It seems to me that, if we will reflect for a moment, those amendments and all the rights guaranteed by them are completely protected by their own provisions. Those who are seriously and earnestly in favor of electing Senators by direct vote of the people will not long hesitate upon this proposition.

The fact is, Mr. President, that this race question has been brought here in the earnest hope that it would do service in killing this resolution. It is brought forward by those who have stood in opposition to this and similar resolutions for 30 years and who have employed every argument, good or specious, and taken advantage of every parliamentary situation to defeat the measure. There is not an authority to be found in the books which holds that under section 4 we have power to deal with the question of suffrage in the States or as against the States. There is not the slightest foundation for the contention that the proposed change of section 4 will modify or weaken the provisions of the fourteenth and fifteenth amendments. Both of these amendments are complete within themselves, and each gives Congress unlimited power to pass any act appropriate to make effective their provisions.

We have used the Negro as a political football about as long as our own sense of decency or the Negro's developing intelligence will permit. If we have a constitutional power which may be used to his advantage, we ought to use it whenever and wherever he is being wronged. If we have not such power, we ought to cease to mislead him and have the courage to state to him the truth. We ought at least to cease surfeiting the Negro on these soporific applications of rhetoric, these tender and moving protestations embalmed from year to year in the CONGRESSIONAL RECORD. The colored man has advanced to a point where we can well dispense with this perennial distribution of political soothing sirup and give him the substantial food of hard facts and simple truths.

Notwithstanding it is clearly intimated—indeed, sir, essentially asserted—that during all these years we have had ample power to undo election laws which it is claimed disfranchise the Negro, notwithstanding it is asserted that we have the knowledge of the wrong and the power at our command to right it, we have during all of this time remained silent. Now that another proposition is to be served, a true reform throttled, we can no longer suffer in silence.

The Senator from New York says let the truth be told. Yes; let the truth be told. Let us conceal nothing. The truth is that the Negro is beginning to master his first great sad lesson in his upward fight in civilization. He is beginning to realize that the white man, whether in the North or in the South, is of one and the same race; that in his blood is the virus of dominion, of power. That while the slave chains have been broken the industrial chains are being forged, wrought of the same material as the old slave chains—greed and avarice, race hatred and race prejudice. That the black race will inevitably wear these chains, wear them in the North and wear them in the South unless the race is sturdy enough and strong enough and self-reliant enough to reject them of its own force. That these qualities and virtues must be acquired through self-discipline, self-help, industry, frugality, and long suffering. It is the badge of sufferance which God in His inscrutable wisdom had placed upon them, and it must be worked out by the race itself and the aid of those who truly sympathize with them and are true enough and candid enough to tell them the truth.

All in the world the Government can do in this matter is to assure the Negro the equal protection of the law and the protection of equal laws. This it can do, this it at all times ought to do. Anything more would be ruinous to the Negro and demoralizing to our whole body politic. If the time ever comes when a political party has the power and the boldness to take as its special wards and partisan vassals millions of voters and in return for their vote give them special advantages and special favors it will mark the beginning of corruption, race hatred, and race war which would make the massacres of old seem tame and uninstructive. Sir, what we can do, what we ought to do, what we have the power unimpaired under the Constitution to do is to give him the protection of equal laws. This and no more is just and wise.

Let me say to the Negro from my place in the Senate, although I know my voice will not be heeded nor carry weight with others, but I wait for time to make good—after the exigencies of this debate are over, after this resolution has again been killed, if they should succeed, you will never again hear anything about the virtues or the power of section 4. No measure will be offered here, no bill passed under it for the substantial advantage or benefit of the Negro. Let me say to the black man of the South and to his black brother in the North, do not permit the anxious and restless and hopeful spirit to call you from the path you are pursuing of working out your own salvation.

No law will be proposed, no statute passed, no voice will be raised in this Chamber again for years. The silence of the last decade will be followed by the silence of the next decade. The Negro should turn from these political contentions and political exigencies and find the truth in reading the plain terms of the Constitution and decisions of the great tribunal that has never trifled with his cause. There he will find the exact measure of the Nation's power. Yes; let the truth be told. Let the hard facts be known that the State, and the State alone, fixes the qualifications of the voter, and that outside of the principle of no discrimination we are powerless to do otherwise. This is the great law of equality upon which all Republics are founded, and it is the great law of equality under which all races must work out their salvation, and under which we must all be content to live. The North and the South must be satisfied with the rule. [Applause in the galleries.]

INDIAN APPROPRIATION BILL.

Mr. CLAPP submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 28406) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1912, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 7, 12, 15, 18, 31, 35, 37, 39, 41, 43, 49, 51, 53, 54, 58, 62, 63, 64, 78, and 84.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 3, 8, 10, 13, 14, 21, 22, 24, 27, 32, 33, 34, 36, 38, 40, 42, 44, 52, 59, 60, 65, 67, 68, 69, 70, 71, 72, 75, 80, 85, 86, 87, and 89, and agree to the same.

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

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment as follows: Strike out all of the proposed amendment and in lieu thereof insert "and twenty-five"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "seventy-five"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment as follows: Strike out all the proposed amendment and insert in lieu thereof the following:

"For construction, lease, purchase, repairs, and improvements of school and agency buildings, and for sewerage, water supply, and lighting plants, and for purchase of school sites, $425,000: *Provided*, That the Secretary of the Interior shall report annually to Congress the amount expended at each school and agency for the purposes herein authorized: *Provided further*, That on the first Monday in December, 1911, the Secretary of the Interior shall transmit to Congress a report in respect to all school and agency properties entitled to share in appropriations, general or specific, made in this act, and such report shall show specifically the cost investment in such properties as of July 1, 1911, including appropriations made available by this act, (1) for the purchase, construction, or lease of buildings, including water supply, sewerage, and heating and lighting plants; the purchase or lease of lands; the purchase or construction of irrigation systems for the irrigation of such school or agency lands; and for the equipment of all such plants for the promotion of industrial education, including agricultural implements, live stock, and the equipments for shops, laundries, and domestic science; (2) the physical condition of such plants and their equipment; (3) an estimate of expenditures necessary for (a) new buildings, (b) improvements, equipment, and repairs necessary for the upkeep of such plants; and (4) a statement of the quantity and market value of the products derived from the operation of such plants for the fiscal year 1911 and the disposition of the same. The Secretary of the Interior shall accompany such report with a recommendation, supported by a statement of his reasons therefor, as to the necessity or advisability of continuing or discontinuing each such school or agency plant."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment as follows: In line 2 of the proposed amendment strike out the word "shall" and insert the word "may"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: Strike out all of the proposed amendment and on page 6 of the bill, after line 10, insert a new paragraph, as follows:

"For general expenses for telegraphing and telephoning in the Indian service, $14,000: *Provided*, That the amount appropriated in the Indian appropriation act approved April 4, 1910, for telegraphing and telephoning in connection with the purchase of goods and supplies for the Indian service, is hereby made available to cover all general expenses for telegraphing and telephoning in the Indian service that have been or may be incurred during the fiscal year 1911."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: In line 10 of the proposed amendment, after the word "States," strike out the balance of the amendment and insert in lieu thereof the following:

"On or before June 30, 1918, and all repayments to this fund made on or before June 30, 1917, are hereby appropriated for the same purpose as the original fund and the entire fund, including such repayments, shall remain available until June 30, 1917, and all repayments to the fund hereby created which shall be made subsequent to June 30, 1917, shall be covered into the Treasury and shall not be withdrawn or applied except in consequence of a subsequent appropriation made by law: *Provided further*, That the Secretary of the Interior shall submit to Congress annually on the first Monday in December a detailed report of the use of this fund: *Provided still further*, That the Secretary of the Interior shall close the account known as the civilization fund created by article 1 of the treaty with the Osage Indians, dated September 29, 1865 (14 Stats L., p. 687), and cause the balance of any unexpended moneys in that fund to be covered into the Treasury, and thereafter it shall not be withdrawn or applied except in consequence of a subsequent appropriation by law; and that section 11 of the Indian appropriation act for the fiscal year 1898, approved June 7, 1897 (30 Stats. L., p. 93), is hereby repealed."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: After the word "bridges," at the end of the proposed amendment, change the period to a comma and insert "and that the limit of cost herein fixed in no event shall be exceeded"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows: Strike out all of the proposed amendment and in lieu thereof insert the following:

"The first proviso in section 25 of the Indian appropriation act, approved April 21, 1904 (33 Stat., 224), is hereby amended so that the first sentence in said proviso shall read as follows: '*Provided*, That there shall be reserved for and allotted to each of the Indians belonging on the said reservations 10 acres of the irrigable lands'; and there is hereby appropriated the sum of $18,000, or so much thereof as may be necessary, to defray the cost of the irrigation of the increased allotments, for the fiscal year 1912: *Provided*, That the entire cost of irrigation of the allotted lands shall be reimbursed to the United States from any funds received from the sale of the surplus lands of the reservations or from any other funds that may become available for such purpose: *Provided further*, That in the event any allottee shall receive a patent in fee to an allotment of land irrigated under this project, before the United States shall have been wholly reimbursed as herein provided, then the proportionate cost of the project, to be apportioned equitably by the Secretary of the Interior, shall become a first lien on such allotment, and the fact of such lien shall be recited on the face of each patent in fee issued and the amount of the lien set forth thereon, which said lien, however, shall not be enforced so long as the original allottee, or his heirs, shall actually occupy the allotment as a homestead, and the receipt of the Secretary of the Interior or of the officer, agent, or employee duly authorized by him for that purpose, for the payment of the amount assessed against any allotment as herein provided shall, when duly recorded by the recorder of deeds in the county wherein the land is located, operate as a satisfaction of such lien."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment as follows: Strike out the first two words of the proposed amendment and insert the word "The."

In line 24 of the proposed amendment, after the word "quarries," strike out the words "under the provisions of section 3 of the act of February 28, 1891, Twenty-sixth United States Statutes at Large, page 795."

In line 30, before the word "proceeds," insert the word "net."

Strike out the last two lines of the proposed amendment and insert: "That so much of the act of February 23, 1889, entitled 'An act to accept and ratify the agreement submitted by the Shoshones, Bannocks, and Sheepeaters, of the Fort Hall and Lemhi Reservations, in Idaho, May 14, 1880, and for other purposes,' and the provision in section 7 of the Indian appropriation act approved April 4, 1910, as conflict with the provisions herein are hereby repealed."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment as follows: Strike out all the proposed amendment and in lieu thereof insert:

"There is hereby appropriated the sum of $5,000, or so much thereof as may be necessary, to be immediately available, for the purpose of defraying the costs and expenses, including the compensation of counsel, in the proceedings authorized to be brought in the Court of Claims by provisions in section 22 of the Indian appropriation act for the fiscal year 1911 approved April 4, 1910, between the United States and the Yankton Tribe of Indians of South Dakota, to determine the interest, title, ownership and right of possession of said tribe of Indians in and to certain lands and premises therein described."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment as follows: Strike out all of the proposed amendment and insert in lieu thereof the following:

"The Secretary of the Interior is hereby directed to withdraw from the Treasury of the United States the sum of $2,500, or so much thereof as may be necessary of the principal sum on deposit to the credit of the Chippewa Indians in the State of Minnesota, arising under section 7 of the act of January 14, 1889, entitled 'An act for the relief and civilization of the Chippewa Indians in the State of Minnesota,' to pay the actual and necessary expenses of the members of the White Earth Band of Indians sent by a council of said Indians held December 10, 1910, to represent said band in Washington during the third session of the Sixty-first Congress, which expense shall be itemized and verified under oath by Chief Wain-che-mah-dub, of said delegation."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment as follows: Strike out all of the proposed amendment and in lieu thereof insert the following:

"*Provided*, That the portion of the cost of this project paid from public funds shall be repaid into the Treasury of the United States as and when funds may be available therefor: *Provided further*, That in the event any allottee shall receive a patent in fee to an allotment of land irrigated under this project, before the United States shall have been wholly reimbursed as herein provided, then the proportionate cost of the project to be apportioned equitably by the Secretary of the Interior, shall become a first lien on such allotment, and the fact of such lien shall be recited on the face of each patent in fee issued and the amount of the lien set forth thereon, which said lien, however, shall not be enforced so long as the original allottee or his heirs shall actually occupy the allotment as a homestead, and the receipt of the Secretary of the Interior, or of the officer, agent, or employee duly authorized by him for that purpose, for the payment of the amount assessed against any allotment as herein provided shall, when duly recorded by the recorder of deeds in the county wherein the land is located, operate as a satisfaction of such lien."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment as follows: Strike out all of the proposed amendment and insert in lieu thereof the following:

"In the issuance of patents for all tracts of land bordering upon Flathead Lake, Mont., it shall be incorporated in the patent that 'this conveyance is subject to an easement of 100 linear feet back from a contour of elevation 9 feet above the high-water mark of the year 1909 of Flathead Lake, to remain in the Government for purposes connected with the development of water power.'"

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment as follows: In line 3 of the proposed amendment, after the word "available," strike out the words "for superintendent's cottage, $5,500"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment as follows: In lieu of the sum proposed insert: "ninety-five thousand one hundred"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment as follows: In lieu of the sum proposed insert: "In all, $82,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment as follows: After the word "dollars," in line 4, strike out the balance of the proposed amendment and insert "additions to dormitories, $30,000; in all, $50,200"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment as follows: Strike out all of the proposed amendment and insert in lieu thereof the following: "For the purchase of water and irrigation for the growing of trees, shrubs, and garden truck, $2,500"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment as follows: Strike out all of the proposed amendment and in lieu thereof insert the following: "That the Secretary of the Interior, in his discretion, is authorized to sell, upon such terms and under such rules and regulations as he may prescribe, the unused, unallotted, and unreserved lands of the United States in the Kiowa, Comanche, and Apache Reservations"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment as follows: In line 3 of the proposed amendment strike out the words "by the Government of the United States may be made with the approval of" and insert in lieu thereof the words "may be made by."

At the end of the proposed amendment strike out the words "of the United States"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment as follows: Strike out all the proposed amendment and in lieu thereof insert the following:

"The net receipts from the sales of surplus and unallotted lands and other tribal property belonging to any of the Five Civilized Tribes, after deducting the necessary expense of advertising and sale, may be deposited in national or State banks in the State of Oklahoma in the discretion of the Secretary of the Interior, such depositories to be designated by him under such rules and regulations governing the rate of interest thereon, the time of deposit and withdrawal thereof, and the security therefor, as he may prescribe. The interest accruing on such funds may be used to defray the expense of the per capita payments of such funds."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment as follows: Strike out all of the proposed amendment and in lieu thereof insert the following:

"That the Secretary of the Treasury be, and he is hereby, authorized and directed to remit the claim of the United States against J. Blair Schoenfelt, late United States Indian agent, Union Agency, Okla., and the Secretary of the Treasury is further authorized and directed to pay to J. Blair Schoenfelt the sum of $3,578.63, being the amount he has paid to the United States, and the Secretary of the Treasury is further authorized and directed to place to the credit of the proper Indian funds the sum of $3,702.74."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment as follows: Strike out all of the proposed amendment and insert in lieu thereof the following:

"For continuing the construction of the Modoc Point irrigation project, including drainage and canal systems, within the Klamath Indian Reservation, in the State of Oregon, in accordance with the plans and specifications submitted by the chief engineer in the Indian Service and approved by the Commissioner of Indian Affairs and the Secretary of the Interior in conformity with a provision in section 1 of the Indian appropriation act for the fiscal year 1911, $50,000: *Provided*, That the total cost of this project shall not exceed $155,000, including the sum of $35,141.59 expended on this project to June 30, 1910, and that the entire cost of the project shall be repaid into the Treasury of the United States from the proceeds from the sale of timber or lands on the Klamath Indian Reservation."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment as follows: Strike out all of the proposed amendment and insert in lieu thereof the following:

"For support and education of Indian pupils at the Indian school at Pierre, S. Dak., and for general repairs and improvements, to be immediately available, $6,000."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment as follows: Strike out all the proposed amendment and insert in lieu thereof the following:

"For the relief of distress among the Indians of Skull Valley and Deep Creek, and other detached Indians in Utah, and for purposes of their civilization, $10,000, or so much thereof as may be necessary, to be immediately available, and the Secretary of the Interior shall report to Congress, at its next session, the condition of the Indians herein appropriated for and the manner in which this appropriation shall have been expended."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment as follows: In line 1 of the proposed amendment, after the word "of," strike out the words "lateral distributing systems and the maintenance of existing"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment as follows: Strike out all of the proposed amendment and in lieu thereof insert:

"To enable the Secretary of the Interior to construct a bridge across the Duchesne River at or near Theodore, Utah, $15,000, or so much thereof as may be necessary, to be reimbursed to the United States out of the proceeds of the sale of lands within the ceded Uintah Indian Reservation open to entry under the act of May 27, 1902, including the sales of lots within the said town site of Theodore."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment as follows: At the end of the proposed amendment add the following: "to be reimbursable from the Puyallup 4 per cent school fund"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment as follows: Strike out all of the proposed amendment and in lieu thereof insert the following:

"The Secretary of the Interior is hereby authorized to investigate and to report to Congress at its next session the necessity or advisability of constructing wagon roads on the Yakima Indian Reservation, the cost thereof to be reimbursed out of the proceeds of the sale of surplus lands of such reservation. If he shall find the construction of such roads to be necessary or advisable, he shall submit specific recommendations in respect to the kind of roads to be constructed, their location and extent, together with an estimate of cost for the same."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment as follows: In line 6 of the proposed amendment, after the word "thereof," insert "not to exceed $35,000"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment as follows: In line 4 of the proposed amendment, after the word "timber," insert "now."

In line 29, after the word "feet," strike out the words "in any one year."

At the end of the amendment insert a new paragraph as follows:

"The Commissioner of Indian Affairs is hereby directed to reopen negotiations with the Oneida Indians of Wisconsin for the commutation of their perpetual annuities under treaty stipulations and report the same to Congress on the first Monday in December, 1911."

And the Senate agree to the same.

On the amendments of the Senate numbered 48, 76, and 82 the committee of conference has been unable to agree.

MOSES E. CLAPP,
P. J. MCCUMBER,
WM. J. STONE,
Managers on the part of the Senate.

CHAS. H. BURKE,
P. P. CAMPBELL,
JNO. H. STEPHENS,
Managers on the part of the House.

The report was agreed to.

Mr. CLAPP. I move that the Senate further insist upon its amendments and request a further conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. CLAPP, Mr. MCCUMBER, and Mr. STONE the conferees on the part of the Senate.

POSTAGE ON PERIODICALS.

Mr. SMOOT. From the Committee on Printing I report a resolution (S. Res. 351), and I ask unanimous consent for its immediate consideration.

The Secretary read the resolution submitted by Mr. PENROSE this morning, as follows:

Resolved, That there be printed 25,000 copies of Senate Document No. 820, Sixty-first Congress, third session, "Letters from the Postmaster General to Hon. BOIES PENROSE relative to the section of the postal appropriation bill that provides for an increase in the postage rate on the advertising portions of periodical publications mailed as second-class matter," for the use of the Committee on Post Offices and Post Roads.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Utah?

Mr. CULBERSON. Let the resolution go over.

The PRESIDENT pro tempore. Objection is made, and the resolution goes over.

COLLECTOR OF CUSTOMS FOR MONTANA AND IDAHO.

Mr. LODGE. I am directed by the Committee on Finance, to which was referred the bill (S. 9113) fixing the salary of the collector of customs for the customs district of Montana and Idaho, to report it with an amendment, and I submit a report (No. 1180) thereon. I ask for its present consideration. It will take but a moment.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike out all after the enacting clause and insert:

That hereafter the salary of the collector of customs for the district of Montana and Idaho shall be $4,000 per year in lieu of the present salary and all fees, commission, and perquisities of every nature allowed or permitted under the provisions of section 2648 of the Revised Statutes or other existing law.

The amendment was agreed to.

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

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

ELECTION OF SENATORS BY DIRECT VOTE.

Mr. RAYNER. I desire to ask the Senator from Idaho whether he proposes to ask for a vote this afternoon upon the Sutherland amendment.

Mr. BORAH. I want to continue the consideration of the joint resolution for awhile.

Mr. BEVERIDGE. Vote!

Mr. BORAH. And if we could vote on the Sutherland amendment I should like to do so.

Mr. CARTER. I understand the Senator from Idaho very much desires to proceed with the consideration of the unfinished business. In that behalf I desire to suggest that a number of Senators have requested that an executive session be held this evening, and inasmuch as to my knowledge there are three or four Senators who desire to speak briefly in the morning, I trust the Senator will yield to a motion to proceed to the consideration of executive business at this time. I can go forward with my remarks to-night, but I should like very much to trace the genesis of a certain section to which the Senator has referred, and I should prefer to go on in the morning.

The Senator from Minnesota [Mr. NELSON] desires likewise to be heard briefly before the vote is taken, and I know of other Senators. I think it quite obvious that a vote can not be reached to-night.

Mr. BORAH. I suggest the proposition of taking a recess until to-morrow morning, and then take up this matter immediately on convening to-morrow morning.

Mr. CARTER. I understand the Senator from Indiana desires to make some remarks to-morrow.

Mr. BEVERIDGE. No; I do not. I anticipated that this matter and the other matter of which notice has been given would probably consume to-day and to-morrow. I shall make some observations on Tuesday next, but not before. We ought to get through with this measure to-day and to-morrow. We ought to get through with it to-day.

Mr. CARTER. There is no objection to taking it up immediately after the close of morning business to-morrow, which is very brief in the closing days.

Mr. BORAH. I should like to proceed with this matter for a time. We had an executive session last evening, and there is nothing before the Senate in the way of executive business which is of any particular moment.

The PRESIDENT pro tempore. The joint resolution is before the Senate.

Mr. NELSON. It seems to me we have given time to others to debate it. I should like to make a few remarks, and the Senator from Utah, I know, wants to speak to-morrow, and the Senator from Montana. I do not think it is fair to crowd us to go on this evening.

Mr. BORAH. I would not want to crowd anyone if it were not for the fact that we have only about two more weeks. If I could have consent for a day to vote upon the joint resolution——

Mr. BEVERIDGE. To-morrow.

Mr. NELSON. Let me suggest that we can agree to take this up to-morrow immediately after the reading of the Journal.

Mr. BEVERIDGE. And vote on it before adjournment.

Several SENATORS. No.

Mr. NELSON. No; but take up the case.

Mr. BORAH. I ask unanimous consent that we may take up this matter to-morrow morning immediately after the reading of the Journal.

Mr. LODGE. After the routine morning business. I do not think it desirable to cut off the introduction of bills and the presentation of reports of committees.

Mr. BORAH. I will modify it and say to-morrow, immediately after the routine morning business.

The PRESIDENT pro tempore. The Senator from Idaho asks unanimous consent that the joint resolution be considered to-morrow immediately after the completion of morning business. Is there objection? The Chair hears none.

Mr. BEVERIDGE. I move that when the Senate adjourns it adjourn to meet at 11 o'clock to-morrow.

Several SENATORS. No; no.

Mr. BEVERIDGE. I submit that to the Senate.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Indiana withdraw the motion?

Mr. BORAH. Was the other matter disposed of?

Mr. WARREN. I hope the Senator will withdraw his motion. We have committees—the Appropriations Committee, for instance—which will be in session to-morrow forenoon. Witnesses have been bidden to come; the Secretary of Agriculture, for one, has been invited to appear as a witness. At this late hour to-day to name an hour as early as 11 o'clock to-morrow would very seriously interfere with the business of the Senate.

Mr. KEAN. I hope the Senator from Indiana will not insist on his motion. The Committee on Interstate Commerce has a very important meeting to-morrow at 10 o'clock.

Mr. BEVERIDGE. Senators ask me to withhold the motion, and I do withhold it for a moment, to make this suggestion to Senators. The reason I make the motion is that I take it everyone wants to dispose of this matter, which has now so long been before the Senate. It ought to be disposed of to-morrow, and therefore I fix, as it is usual to do at this time of the session, especially a short session, 11 o'clock, so the measure may be disposed of. The Senator from Wyoming and the Senator from New Jersey make the very pertinent suggestion that there are commitee meetings scheduled for to-morrow. But the answer to that is that beyond all question the debate, before any vote can be had, will take up all of the time when the committees will be meeting, and therefore their members would be deprived not of the opportunity to vote, but merely of hearing the entertaining debates, which I observed this afternoon was not sufficient to chain Senators in their seats.

Mr. President, I make that motion.

Mr. NELSON. I move that the Senate proceed to the consideration of executive business.

Mr. BEVERIDGE. Very well. That takes precedence.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After six minutes spent in executive session the doors were reopened, and (at 5 o'clock

p. m.) the Senate adjourned until to-morrow, Friday, February 17, 1911, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate February 16, 1911.

UNITED STATES ATTORNEY.

George Du Relle, of Kentucky, to be United States attorney, western district of Kentucky. A reappointment, his term having expired.

PROMOTIONS IN THE ARMY.

INFANTRY ARM.

Lieut. Col. Francis H. French, Eleventh Infantry, to be colonel from February 15, 1911, vice Col. Robert K. Evans, Twenty-eighth Infantry, who accepted an appointment as brigadier general on that date.

Maj. Edgar W. Howe, Twenty-seventh Infantry, to be lieutenant colonel from February 15, 1911, vice Lieut. Col. Francis H. French, Eleventh Infantry, promoted.

Capt. Edmund Wittenmyer, Sixth Infantry, to be major from February 15, 1911, vice Maj. Edgar W. Howe, Twenty-seventh Infantry, promoted.

First Lieut. Edward A. Kreger, Twenty-eighth Infantry, to be captain from February 15, 1911, vice Capt. Edmund Wittenmyer, Sixth Infantry, promoted.

CONFIRMATIONS.

Executive nominations confirmed by the Senate February 16, 1911.

COLLECTOR OF CUSTOMS.

Cornelius W. Pendleton to be collector of customs, Los Angeles, Cal.

REGISTERS OF THE LAND OFFICE.

William Farre to be register of the land office at Burns, Oreg.

John C. Denny to be register of the land office at Seattle, Wash.

POSTMASTERS.

ARIZONA.

John Oscar Mullen, Tempe.
George O. Nolan, Ray.

CALIFORNIA.

William P. Taylor, San Rafael.

COLORADO.

Clayton Whiteman, Hayden.

CONNECTICUT.

William B. Bristol, Stratford.
Charles H. Dimmick, Willimantic.
Thomas Walker, Plantsville.

GEORGIA.

William W. Wade, Maysville.

ILLINOIS.

Silas H. Aldridge, Plymouth.
John C. Beever, Coulterville.
John W. Black, Brookport.
John W. Church, Marissa.
Thomas M. Crossman, Edwardsville.
Victor H. Dumbeck, Silvis.
Frank Fry, Depue.
Charles Scofield, Marengo.
William W. Taylor, Divernon.

INDIANA.

William V. Barr, Bicknell.
Walter Bradfute, Bloomington.
John M. Davis, Columbus.
Harvey H. Harshman, Dunkirk.
Norman T. Jackman, Waterloo.
Cary J. McAnally, Hymera.
William H. Mote, Union City.
Eli T. Steckel, Atlanta.
Laron E. Street, Brookston.
Fred B. Snyder, Brook.
M. Bert Thurman, New Albany.

IOWA.

Charles H. Hoyt, Fayette.

KANSAS.

Lincoln Ballou, Tonganoxie.
H. I. Dolson, McCune.

MARYLAND.

John B. Beard, Williamsport.
William C. Birely, Frederick.
Ulysses Hanna, Frostburg.
John A. Horner, Emmitsburg.
William Pearre, Cumberland.
Morris L. Smith, Woodsboro.

MASSACHUSETTS.

James F. Shea, Indian Orchard.

MICHIGAN.

Charles H. Bostick, Manton.
Charles M. Fails, Wolverine.
Henry J. Horrigan, Ionia.
Fred A. Hutty, Grand Haven.
Charles E. Kirby, Monroe.
Charles H. Pulver, Dundee.
Wesley T. Smith, Honor.

MISSOURI.

A. H. Dieterich, Wyaconda.
Henry Grass, Hermann.
Joseph Lake Sharp, Wellsville.
Rolla G. Williams, Illmo.

MONTANA.

William E. Baggs, Stevensville.
Lottie S. Kimmel, Armstead.

NEBRASKA.

William H. Hopkins, Meadow Grove.
Carelius K. Olson, Newman Grove.
Isaac S. Tyndale, Central City.

NEW JERSEY.

Emma Cafferty, Allentown.
A. H. Doughty, Haddonfield.
John H. Nevill, Chrome.
Truman T. Pierson, Metuchen.

NEW MEXICO.

John Becker, Belen.

NORTH CAROLINA.

Willis G. Briggs, Raleigh.
Vann J. McArthur, Clinton.

PENNSYLVANIA.

Abel H. Byers, Hamburg.
Jesse B. Conner, Overbrook.
Samuel V. Dreher, Stroudsburg.
J. W. Grimes, Claysville.
H. C. Gordon, Waynesboro.
Augustus M. High, Reading.
Elizabeth Hill, Everson.
William W. Latta, California.
Edwin R. Miller, Republic.
William J. Minnich, Bedford.
Joseph W. Pascoe, Easton.
Thomas Morgan Reese, Canonsburg.
James P. Shillito, Burgettstown.
William W. Scott, Sewickley.

SOUTH DAKOTA.

Fred de K. Griffin, Selby.

TENNESSEE.

Samuel L. Parker, Sparta.
Noah J. Tallent, Dayton.

TEXAS.

Samuel J. Hott, St. Jo.
Hugo J. Letzerich, Harlingen.
David H. Mitchell, Ovalo.
Arthur N. Richardson, Electra.
John B. Schmitz, Denton.
Jacob J. Utts, Canton.
Wilber H. Webber, Lampasas.

WASHINGTON.

Fred W. Miller, Oakesdale.
Emery Troxel, Connell.

WITHDRAWAL.

Executive nomination withdrawn February 16, 1911.

Philip S. Malcolm, of Oregon, to be collector of customs for the district of Portland, in the State of Oregon.