Charles Clarence Billingslea, of Maryland, contract surgeon, United States Army, to be assistant surgeon with the rank of first lieutenant, June 2, 1902.

PROMOTIONS IN THE ARMY.

Infantry Arm.

Lieut. Col. William Quinton, Fourteenth Infantry, to be colonel, May 28, 1902.

Lieut. Col. Jesse C. Chance, Twenty-sixth Infantry, to be colonel, May 28, 1902.

Maj. Ralph W. Hoyt, Tenth Infantry, to be lieutenant-colonel, May 28, 1902.

Maj. George A. Cornish, Fifteenth Infanty, to be lieutenant-colonel, May 28, 1902.

Capt. Charles H. Bonesteel, Twenty-seventh Infantry, to be major (subject to examination required by law), May 9, 1902.

Capt. Lyman W. V. Kennon, Sixth Infantry, to be major (subject to examination required by law), May 28, 1902.

Capt. William Lassiter, Sixteenth Infantry, to be major, May 28, 1902.

Capt. Charles G. Morton, Sixth Infantry, to be major (subject to examination required by law), May 28, 1902.

First Lieut. George F. Baltzell, Fifth Infantry, to be captain, May 9, 1902.

First Lieut. Edgar T. Conley, Twenty-first Infantry, to be captain, May 26, 1902.

First Lieut. Edgar T. Collins, Eighth Infantry, to be captain, May 28, 1902.

First Lieut. Seaborn G. Chiles, Eleventh Infantry, to be captain, May 28, 1902.

First Lieut. Lyman M. Welch, Twentieth Infantry, to be captain, May 28, 1902.

PROMOTIONS IN THE REVENUE-CUTTER SERVICE.

First Asst. Engineer J. Edward Dorry, to be a chief engineer in the Revenue-Cutter Service of the United States.

First Asst. Engineer Charles A. McAllister, to be a chief engineer in the Revenue-Cutter Service of the United States.

Second Asst. Engineer Theodore G. Lewton, to be a first assistant engineer in the Revenue-Cutter Service of the United States.

Second Asst. Engineer Albert C. Norman, to be a first assistant engineer in the Revenue-Cutter Service of the United States.

Second Asst. Engineer C. Gadsden Porcher, to be a first assistant engineer in the Revenue-Cutter Service of the United States.

Acting Second Asst. Engineer Norris K. Davis, of Virginia, to be a second assistant engineer in the Revenue-Cutter Service of the United States.

Acting Second Asst. Engineer Lorenzo C. Farwell, of Massachusetts, to be a second assistant engineer in the Revenue-Cutter Service of the United States.

Acting Second Asst. Engineer William J. Gilbert, of North Carolina, to be a second assistant engineer in the Revenue-Cutter Service of the United States.

Second Lieut. George C. Carmine, to be a first lieutenant in the Revenue-Cutter Service of the United States.

Second Lieut. George M. Daniels, to be a first lieutenant in the Revenue-Cutter Service of the United States.

Second Lieut. Detlef F. A. de Otte, to be a first lieutenant in the Revenue-Cutter Service of the United States.

Second Lieut. Frederick J. Haake, to be a first lieutenant in the Revenue-Cutter Service of the United States.

Third Lieut. Eugene Blake, jr., to be a second lieutenant in the Revenue-Cutter Service of the United States.

Third Lieut. Frank B. Goudey, to be a second lieutenant in the Revenue-Cutter Service of the United States.

Third Lieut. Philip H. Scott, to be a second lieutenant in the Revenue-Cutter Service of the United States.

Third Lieut. William J. Wheeler, to be a second lieutenant in the Revenue-Cutter Service of the United States.

Third Lieut. Herman H. Wolf, to be a second lieutenant in the Revenue-Cutter Service of the United States.

POSTMASTERS.

Clinton L. Kester, to be postmaster at Marcellus, in the county of Cass and State of Michigan.

James H. Williams, to be postmaster at Whitehall, in the county of Muskegon and State of Michigan.

Charles McKerlie, to be postmaster at Sturgis, in the county of St. Joseph and State of Michigan.

Christopher T. Bailey, to be postmaster at Raleigh, in the county of Wake and State of North Carolina.

Eleanora Andrews, to be postmaster at Evansville, in the county of Rock and State of Wisconsin.

Edward L. Bates, to be postmaster at Pentwater, in the county of Oceana and State of Michigan.

HOUSE OF REPRESENTATIVES.

FRIDAY, *June 6, 1902.*

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

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

COMPENSATION OF GEN. LEONARD A. WOOD.

Mr. HULL. Mr. Speaker, I am directed by the Committee on Military Affairs to submit the following privileged report on House resolution 278, and move that the resolution lie on the table.

The Clerk read as follows:

Resolved, That the Secretary of War is requested to furnish to the House, if not incompatible with the public interest, the following information: What salary or other compensation has been paid to Gen. Leonard A. Wood, late governor-general of Cuba, during the occupation of Cuba by the military forces of the United States, and by what authority and under what law such salary or compensation has been paid.

Mr. HAY. Mr. Speaker, I ask leave to file the views of the minority of the committee.

The SPEAKER. The gentleman from Virginia files the views of the minority.

Mr. RICHARDSON of Tennessee. Mr. Speaker, I want to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RICHARDSON of Tennessee. As I understand it, Mr. Speaker, the committee recommends that this resolution lie on the table, and I want to inquire whether or not the motion of the gentleman by the instruction of the committee is debatable?

The SPEAKER. It is not debatable.

Mr. DALZELL. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. DALZELL. Is not this resolution identical, or almost identical, with the one disposed of yesterday?

The SPEAKER. That is not a parliamentary inquiry.

Mr. BARTLETT. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. BARTLETT. I make the point of order, Mr. Speaker, that the motion is debatable, and I would like to be heard on that point of order.

The SPEAKER. The Chair will hear the gentleman.

Mr. BARTLETT. This is a resolution, Mr. Speaker, which was introduced on the 28th day of May, a resolution of inquiry addressed to the Secretary of War for certain information to be furnished to the House. The resolution has not been reported until to-day. It became a privileged resolution on the 4th instant, the week having expired within which the committee did not make a report.

Now, I desire to call the attention of the Chair to certain parliamentary precedents on the subject. I call attention to section 426 and following sections of Hinds's Parliamentary Precedents, which contain rulings of the Chair on various questions of this sort, and which declare that resolutions of inquiry not being reported within the week, a motion to discharge the committee from consideration of it presents a question of privilege. That is to be found on page 3275 of the RECORD of the Forty-seventh Congress. That is the rule:

A resolution of inquiry may be reported back at any time within a week, and is privileged for consideration when reported.

The resolution becomes privileged in two ways, Mr. Speaker. It is privileged when the committee reports it within the week. The committee may fail to report it within a week, and then it becomes privileged, to be called up at the instance of any member of the House, and because it is so privileged after the week has expired it is reported for consideration.

Now, I refer the Chair to section 430 of Hinds's Parliamentary Precedents, and also to page 6218 of the RECORD of the Fifty-second Congress and page 625 of the Fifty-sixth Congress. I do not mean to say by reference to these citations that they are exactly in point with that which I make in this case, but the point I make now is that the committee having failed to report this resolution within the week, by such failure it becomes a privileged resolution, just as much so as a veto of the President upon a bill becomes a privileged matter, to be called up by any member of the House at any time. And being so privileged, it is privileged for consideration.

I make the point of order that the report which comes in after six days and after the time fixed by the rule has become privileged matter for consideration, and I make the point that a report which proposes simply to lay a resolution on the table is not the consideration contemplated by the rules and the precedents established by the House. It is simply laid on the table and not considered at all. It might be said, although I do not think it is so, that after it was laid on the table, being a privileged resolution, any member of the House could move to take it from the table and

have a vote upon it, just as you could a bill vetoed by the President which had been laid on the table.

I raise the point of order and ask the Chair to decide whether or not, this being a privileged resolution and being under the rules a privileged resolution for consideration, a report recommending that the resolution lie on the table or a motion made by the chairman of the committee is one that must be considered by the House?

The SPEAKER. There is no difficulty at all about this question; it is well settled again and again.

Mr. RICHARDSON of Tennessee. Mr. Speaker, before the Chair rules, I desire to submit one matter to the Chair.

The SPEAKER. The Chair is ready to rule, but will hear the gentleman.

Mr. RICHARDSON of Tennessee. I do not wish to delay this matter; but it is well established that there are certain motions which are privileged, and, as I understand parliamentary law, you can not apply one privileged motion to another privileged motion. A motion to adjourn, for instance, is of the highest privilege; and you can not apply to a motion to adjourn a motion to lay on the table.

The motions which are privileged in their nature and character are specified in the rules; and, as I have just said, it is, as I understand, the universal rule that you can not apply one of these privileged motions to another. A motion to adjourn, a motion to postpone indefinitely, a motion to lay on the table, can not be laid on the table. In other words, no one of these motions, being privileged, can be superseded by a similar motion. I do not see how the motion to lay on the table can be applied to this privileged motion—a motion made privileged under the rule which has been cited.

The SPEAKER. The gentleman from Tennessee must bear in mind that the matter reported by the committee is not a motion, but is a resolution. As the Chair was about to state, the question here presented is a very simple one and has been repeatedly decided. The rules give a committee one week within which to report back a resolution of this character—a resolution of inquiry addressed to the head of a department. If, as in this case, a resolution of this character, referred to a committee, is not reported back within a week, the rule and the decisions contemplate that any member of the House may protect the interests of the House by calling up the resolution for consideration. That becomes a privilege of the House. But there is no decision that divests the committee or the member representing the committee of the right, the privilege—the Chair might say the duty—of reporting the resolution when it can be done.

Now, while the matter does not bear at all upon the parliamentary situation, it is proper to say that the chairman of the Committee on Military Affairs was ready to report this resolution within the week. But the Chair was very anxious to keep the right of way for the Judiciary Committee, and, at the request of the Chair, the gentleman from Iowa [Mr. HULL], the chairman of the Committee on Military Affairs, postponed calling up the resolution. And it was again postponed yesterday morning on the joint consent of both the gentleman from Georgia [Mr. BARTLETT] and the chairman of the Committee on Military Affairs. The only change that has been made in the rights of the member representing the Committee on Military Affairs is that the House itself has the same privilege that he has—the privilege of bringing up the resolution if it is not reported.

Now, the gentleman from Iowa has brought in this resolution and moved to lay it on the table. Nothing has transpired that changes his right to make that motion; and there is nothing better settled in parliamentary law than that a motion to lay on the table is not debatable. The Chair also has no doubt that, under the usages of the House, the laying of the resolution on the table, like the postponing of it, is a consideration of the matter by the House. The Chair is, therefore, constrained to overrule the point of order and to hold that the motion made by the chairman of the Committee on Military Affairs is in order; and the question before the House is on that motion.

Mr. BARTLETT. Mr. Speaker, I should like to make a request, if the Chair will entertain it, for unanimous consent. I desire to ask that the report of the committee and the views of the minority may both be printed in the RECORD.

The SPEAKER. The gentleman from Georgia asks unanimous consent that the report of the majority of the committee, with the views of the minority, may be printed in the RECORD. Is there objection? The Chair hears none, and that order is made.

The report of the committee is as follows:

The Committee on Military Affairs, to whom was referred H. Res. 278, as follows:

"*Resolved*, That the Secretary of War is requested to furnish to the House, if not incompatible with the public interest, the following information: What salary or other compensation has been paid to Gen. Leonard A. Wood, late governor-general of Cuba, during the occupation of Cuba by the military forces of the United States, and by what authority and under what law such salary or compensation has been paid"—

report the same back to the House with the recommendation that it do lie on the table.

House Doc. No. 696 of the first session of the Fifty-sixth Congress furnishes the information, together with a letter from the Secretary of War dated May 31, 1902, which states that the salary received as governor of Cuba was $15,000 per year for entire time.

Letter from Secretary of War is made part of this report:

WAR DEPARTMENT, *Washington, May 31, 1902.*

SIR: I observe that a resolution has been introduced in the House, and referred to the Committee on Military Affairs, calling for information as to General Wood's salary in Cuba and the authority under which it has been paid. I should hardly suppose that the adoption of the resolution would serve any useful purpose. You will find the whole subject covered in House Document No. 696, Fifty-sixth Congress, first session, on page 17, of which you will find the order of General Alger making an allowance to General Brooke, out of the revenues of Cuba, at the rate of $7,500 a year. There has been no change since that time, except that when General Wood's commission as major-general of volunteers expired I made an order for a further allowance, equal to the difference between the salary of a major-general and a brigadier-general, so as to keep his total compensation at the same figure, the combined compensation received as an officer of the Army and as governor of Cuba being always $15,000 per annum.

I see that the Cuban Congress has voted that Mr. Palma's salary shall be $25,000. You will see, by examining the document above referred to, that I have already explained this subject both to the Senate and to the House, and neither House of Congress has taken any action or made any objection, although the matter has thus been fully before them for two years, and although there has been important legislation regarding Cuba in the meantime. The payments of this salary are also explained in the full and detailed account of all expenditures of Cuban revenues down to the 30th of April, 1900, transmitted to the Committee of the Senate on Cuba, and contained in five large printed volumes containing a complete and detailed accounting in answer to the calls of that committee, made up at an expense of probably not less than $50,000. It is the purpose of the Department to transmit to Congress at an early day a further accounting, giving the receipts and expenditures in detail down to the close of our occupation, and 13 typewriters are now exclusively engaged in the preparation of this statement. Under these circumstances the passing of this resolution by the House would seem to have somewhat the character of giving the sanction of the House to an attack which is without the slightest foundation.

I should hardly suppose that the House of Representatives would wish to adopt a resolution which implies ignorance on its part of the authority of the President of the United States, under the law of military occupation, to appropriate and expend the revenues of the government of the occupied country. The concluding words of the resolution would seem to have that effect.

It seems hardly worth mentioning that neither the name nor the title of General Wood is correctly stated in the resolution.

Very respectfully,

ELIHU ROOT, *Secretary of War.*

Hon. JOHN A. T. HULL,
Chairman Committee on Military Affairs, House of Representatives.

The views of the minority are as follows:

The undersigned members of the Committee on Military Affairs respectfully dissent from the report of the committee on House resolution No. 278, which resolution is as follows:

"*Resolved*, That the Secretary of War is requested to furnish to the House, if not incompatible with the public interest, the following information: What salary or other compensation has been paid to Gen. Leonard A. Wood, late governor-general of Cuba, during the occupation of Cuba by the military forces of the United States, and by what authority and under what law such salary or compensation has been paid."

General Wood is an officer in the United States Army, with the rank of brigadier-general, and, as such officer, was governor-general of the island of Cuba, and in command of the military forces of the United States stationed in Cuba. His pay and emoluments of office were fixed by statute, as an officer of the United States Government. The pay of a brigadier-general of the Army is by statute fixed at $5,500 per annum, or $458.33 per month, and 10 per cent therefor for serving beyond the limits of the United States.

The statement has been made in the press that large sums have been paid to General Wood as salary and allowances during his service in Cuba—far in excess of the amount allowed by law for salary and allowances.

The purpose of this resolution was simply to arrive at the facts, and expressed no opinion as to the legality of the payment; and Congress is entitled to know the facts.

Section 1269 of the Revised Statutes, which is also contained in section 817 of the Military Laws of the United States, provides "that no allowance shall be made to officers in addition to their pay, except as hereinafter provided."

This is a statute expressly forbidding any other allowance to officers of the Army than that provided by law, and if it has been violated, or if additional allowances have been paid to General Wood, Congress is entitled to know what they are, and under what authority of law they have been paid.

There are various statutes upon the subject. Section 1763 of the Revised Statutes declares:

"No person who holds an office, the salary or annual compensation attached to which amounts to the sum of $2,500, shall receive compensation for discharging the duties of any other office, unless expressly authorized by law."

Section 1764 provides:

"No allowance or compensation shall be made to any officer or clerk, by reason of the discharge of duties which belong to any other officer or clerk in the same or any other department; and no allowance or compensation shall be made for any extra services whatever, which any officer or clerk may be required to perform, unless expressly authorized by law."

Section 1765 of the Revised Statutes provides:

"No officer in any branch of the public service, or any other person whose salary, pay, or emoluments are fixed by law or regulations, shall receive any additional pay, extra allowance, or compensation, in any form whatever, for the disbursement of public money, or for any other service or duty whatever, unless the same is authorized by law, and the appropriation therefor explicitly states that it is for such additional pay, extra allowance, or compensation."

We do not know what the facts are, and make no charge that this law and the sections quoted have been violated; but we do insist that Congress has the right to be informed of the facts; to know whether the law has been violated in the matter of allowing pay and compensation to this officer, in what manner the public money has been spent, and by what authority of law it has been spent. An answer to the resolution of inquiry, if the salary provided by law has been paid to General Wood, or if he has been given the salary and allowances authorized by law, could do no wrong or injustice to this officer; and if a salary and emoluments have been paid him which were not allowable by law, then Congress has the right to know it and to be informed of it. The defeat of this resolution would be both an injustice to General Wood and a

denial of the right of the House to have at all times information from the heads of the departments of the Government.

We believe the resolution is a proper one and should be passed, and we so recommend.

WM. SULZER.
JAMES HAY.
JAMES L. SLAYDEN.
THOS. M. JETT.
C. E. SNODGRASS.

The SPEAKER. The question is now on the motion to lay on the table. [The question was put.] The ayes appear to have it.

Mr. HAY. I call for a division.

The question was again taken; and there were—ayes 77, noes 55.

Mr. HAY. Upon this question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 100, nays 71, answered "present" 24; not voting 156, as follows:

YEAS—100.

Alexander,	Emerson,	Knapp,	Prince,
Bartholdt,	Esch,	Lacey,	Ray, N. Y.
Bates,	Evans,	Lawrence,	Reeder,
Beidler,	Fletcher,	Littlefield,	Reeves,
Blackburn,	Fordney,	Lovering,	Rumple,
Blakeney,	Foss,	McLachlan,	Schirm,
Bowersock,	Fowler,	Mahon,	Shattuc,
Brick,	Gardner, Mich.	Mann,	Shelden.
Bromwell,	Gibson,	Metcalf,	Smith, Ill.
Brown,	Greene, Mass.	Minor,	Smith, Iowa
Burk, Pa.	Grosvenor,	Mondell,	Southwick,
Burleigh,	Hamilton,	Moody, N. C.	Stewart, N. J.
Cannon,	Haskins,	Moody, Oreg.	Sutherland,
Capron,	Hemenway,	Moss,	Tawney,
Cassel,	Henry, Conn.	Mudd,	Thomas, Iowa
Conner,	Hepburn,	Olmsted,	Tompkins, Ohio
Coombs,	Hill,	Otjen,	Tongue,
Corliss,	Hitt,	Overstreet,	Van Voorhis,
Cousins,	Howell,	Palmer,	Vreeland,
Cromer,	Hull,	Parker,	Wachter,
Curtis,	Irwin,	Patterson, Pa.	Wanger,
Cushman,	Jack,	Payne,	Warner,
Dalzell,	Jones, Wash.	Pearre,	Warnock,
Davidson,	Joy,	Perkins,	Watson,
Draper,	Kahn,	Powers, Mass.	Woods.

NAYS—71.

Adamson,	Finley,	Lewis, Ga.	Rucker,
Ball, Tex.	Fox,	Lindsay,	Scarborough,
Bankhead,	Gilbert,	Little,	Shackleford,
Bartlett,	Hay,	Livingston,	Sims,
Bell,	Henry, Miss.	Lloyd,	Small,
Bowie,	Hooker,	McLain,	Smith, Ky.
Breazeale,	Howard,	Maddox,	Snook,
Burgess,	Jackson, Kans.	Mahoney,	Spight,
Burleson,	Jett,	Mickey,	Stark,
Caldwell,	Johnson,	Moon,	Stephens, Tex.
Candler,	Jones, Va.	Padgett,	Swanson,
Cassingham,	Kitchin, Claude	Patterson, Tenn.	Taylor, Ala.
Clark,	Kitchin, Wm. W.	Randell, Tex.	Thayer,
Cochran,	Kleberg,	Reid,	Wheeler,
Conry,	Kluttz,	Richardson, Ala.	Wiley,
Cowherd,	Lamb,	Richardson, Tenn	Williams, Ill.
De Armond,	Lanham,	Rixey,	Wooten.
Edwards,	Lester,	Robinson, Ind.	

ANSWERED "PRESENT"—24.

Barney,	Davis, Fla.	Hildebrant,	Pierce,
Bellamy,	Deemer,	Holliday,	Scott,
Brantley,	Foster, Vt.	Loud,	Smith, H. C.
Burkett,	Gardner, N. J.	McCall,	Snodgrass,
Crowley,	Griggs,	McClellan,	Southard,
Crumpacker,	Hall,	Naphen,	Steele.

NOT VOTING—156.

Acheson,	Douglas,	Landis,	Ruppert,
Adams,	Dovener,	Lassiter,	Russell,
Allen, Ky.	Driscoll,	Latimer,	Ryan,
Allen, Me.	Eddy,	Lessler,	Selby,
Aplin,	Elliott,	Lever,	Shafroth,
Babcock,	Feely,	Lewis, Pa.	Shallenberger,
Ball, Del.	Fitzgerald,	Littauer,	Sheppard,
Belmont,	Fleming,	Long,	Sherman,
Benton,	Flood,	Loudenslager,	Showalter,
Bingham,	Foerderer,	McAndrews,	Sibley,
Bishop,	Foster, Ill.	McCleary,	Skiles,
Boreing,	Gaines, Tenn.	McCulloch,	Slayden,
Boutell,	Gaines, W. Va.	McDermott,	Smith, S. W.
Bristow,	Gill,	McRae,	Smith, Wm. Alden
Broussard,	Gillet, N. Y.	Marshall,	Sparkman,
Brownlow,	Gillett, Mass.	Martin,	Sperry,
Brundidge,	Glenn,	Maynard,	Stevens, Minn.
Bull,	Goldfogle,	Mercer,	Stewart, N. Y.
Burke, S. Dak.	Gooch,	Meyer, La.	Storm,
Burnett,	Gordon,	Miers, Ind.	Sulloway,
Burton,	Graff,	Miller,	Sulzer,
Butler, Mo.	Graham,	Morgan,	Talbert,
Butler, Pa.	Green, Pa.	Morrell,	Tate,
Calderhead,	Griffith,	Morris,	Tayler, Ohio
Clayton,	Grow,	Mutchler,	Thomas, N. C.
Connell,	Hanbury,	Needham,	Thompson,
Cooney,	Haugen,	Neville,	Tirrell,
Cooper, Tex.	Heatwole,	Nevin,	Tompkins, N. Y.
Cooper, Wis.	Hedge,	Newlands,	Trimble,
Creamer,	Henry, Tex.	Norton,	Underwood,
Currier,	Hopkins,	Pou,	Vandiver,
Dahle,	Hughes,	Powers, Me.	Wadsworth,
Darragh,	Jackson, Md.	Pugsley,	Weeks,
Davey, La.	Jenkins,	Ransdell, La.	White,
Dayton,	Kehoe,	Rhea, Va.	Williams, Miss.
De Graffenreid,	Kern,	Robb,	Wilson,
Dick,	Ketcham,	Roberts,	Wright,
Dinsmore,	Knox,	Robertson, La.	Young,
Dougherty,	Kyle,	Robinson, Nebr.	Zenor.

So the motion to lay the resolution on the table was agreed to.

Mr. REEDER. Mr. Speaker, I desire to state that I did not hear my name called. I was listening for it, but did not hear it.

The SPEAKER. Was the gentleman in his seat and listening when his name was called?

Mr. REEDER. I was here and was aiming to listen to it, but I presume some one was standing in front of me, which prevented my hearing at the time it was called.

The SPEAKER. Was the gentleman listening?

Mr. REEDER. Yes.

The SPEAKER. The Clerk will call the name of the gentleman.

Mr. REEDER'S name was called, and he voted "aye."

Mr. WHEELER. Mr. Speaker, when my name was called I answered "present" on the first call, under the impression that my pair was not present. He is present, and I desire to vote "no."

The SPEAKER. The Clerk will call the name of the gentleman.

Mr. WHEELER'S name was called, and he voted "no."

Mr. HILDEBRANT. Mr. Speaker, I find I am paired with Mr. MAYNARD of Virginia, and the gentleman is absent. I voted "aye" on the motion, and I desire to withdraw that vote and vote "present."

The SPEAKER. The Clerk will call the name of the gentleman.

Mr. HILDEBRANT'S name was called, and he voted "present."

Mr. JOHNSON. Mr. Speaker, I was present, but failed to hear my name called.

The SPEAKER. Was the gentleman in his seat and listening?

Mr. JOHNSON. Yes.

The SPEAKER. The Clerk will call the name of the gentleman.

Mr. JOHNSON'S name was called, and he voted "no."

Mr. SPERRY. Mr. Speaker, I was in the committee room during the roll call, and if I have a vote I desire to vote "aye."

The SPEAKER. The gentleman can not vote.

Mr. BELLAMY. Mr. Speaker, I voted "no," and I find that I am paired. I wish to recall that vote and vote "present."

The SPEAKER. The Clerk will call the name of the gentleman.

Mr. BELLAMY'S name was called, and he voted "present."

The Clerk announced the following pairs:

For the session:

Mr. SHERMAN with Mr. RUPPERT.
Mr. BULL with Mr. CROWLEY.
Mr. MORRELL with Mr. GREEN of Pennsylvania.
Mr. HEATWOLE with Mr. TATE.
Mr. WRIGHT with Mr. HALL.
Mr. DEEMER with Mr. MUTCHLER.
Mr. YOUNG with Mr. BENTON.
Mr. BOREING with Mr. TRIMBLE.
Mr. RUSSELL with Mr. MCCLELLAN.
Mr. HILDEBRANT with Mr. MAYNARD.

Until further notice:

Mr. CONNELL with Mr. FOSTER of Illinois.
Mr. BALL of Delaware with Mr. ALLEN of Kentucky.
Mr. GARDNER of New Jersey with Mr. MOON.
Mr. ALLEN of Maine with Mr. DAVIS of Florida.
Mr. LOUDENSLAGER with Mr. DE GRAFFENREID.
Mr. SHOWALTER with Mr. SLAYDEN.
Mr. DAYTON with Mr. DAVEY of Louisiana.
Mr. SOUTHARD with Mr. NORTON.
Mr. LONG with Mr. HENRY of Texas.
Mr. BURKETT with Mr. SHALLENBERGER.
Mr. GILLETT of Massachusetts with Mr. NAPHEN.
Mr. BINGHAM with Mr. CREAMER.
Mr. POWERS of Maine with Mr. GAINES of Tennessee.
Mr. KETCHAM with Mr. SNODGRASS.
Mr. MCCALL with Mr. ROBERTSON of Louisiana.
Mr. HOLLIDAY with Mr. MIERS of Indiana.
Mr. SKILES with Mr. TALBERT.
Mr. GORDON with Mr. SCOTT.
Mr. GILLETT of New York with Mr. CLAYTON.
Mr. CALDERHEAD with Mr. ROBB.
Mr. BISHOP with Mr. DOUGHERTY.
Mr. BROWNLOW with Mr. PIERCE.
Mr. BOUTELL with Mr. GRIGGS.
Mr. HENRY C. SMITH with Mr. TAYLOR of Alabama.
Mr. BARNEY with Mr. MCRAE.
Mr. WM. ALDEN SMITH with Mr. FEELEY.
Mr. BISHOP with Mr. LAMB.
Mr. GILL with Mr. BURNETT.
Mr. HANBURY with Mr. LEVER.
Mr. BURKE of South Dakota with Mr. BUTLER of Missouri.
Mr. HOPKINS with Mr. GOOCH.

For two weeks:
Mr. WEEKS with Mr. SHEPPARD.
Mr. CRUMPACKER with Mr. GRIFFITH.
Mr. ROBERTS with Mr. BELLAMY.
Mr. CURRIER with Mr. PUGSLEY.
For ten days:
Mr. MILLER with Mr. THOMAS of North Carolina.
Until next Monday:
Mr. ADAMS with Mr. BRANTLEY.
Until June 10:
Mr. FOSTER of Vermont with Mr. POU.
Until June 9:
Mr. DARRAGH with Mr. THOMPSON.
For the day:
Mr. FOERDERER with Mr. UNDERWOOD.
Mr. LESSLER with Mr. NEVILLE.
Mr. DOUGLAS with Mr. KERN.
Mr. TOMPKINS of New York with Mr. BELMONT.
Mr. SAMUEL W. SMITH with Mr. SELBY.
Mr. DOVENER with Mr. MEYER of Louisiana.
Mr. MERCER with Mr. RHEA of Virginia.
Mr. DRISCOLL with Mr. MCCULLOCH.
Mr. ACHESON with Mr. BROUSSARD.
Mr. BABCOCK with Mr. NEWLANDS.
Mr. BRISTOW with Mr. BRUNDIDGE.
Mr. BURTON with Mr. COONEY.
Mr. BUTLER of Pennsylvania with Mr. COOPER of Texas.
Mr. COOPER of Wisconsin with Mr. DINSMORE.
Mr. DICK with Mr. ELLIOTT.
Mr. GAINES of West Virginia with Mr. FITZGERALD.
Mr. GRAFF with Mr. FLEMING.
Mr. GRAHAM with Mr. FLOOD.
Mr. GROW with Mr. GLENN.
Mr. HEDGE with Mr. GOLDFOGLE.
Mr. MARTIN with Mr. KEHOE.
Mr. JENKINS with Mr. MCDERMOTT.
Mr. LANDIS with Mr. LASSITER.
Mr. LEWIS of Pennsylvania with Mr. LATTIMER.
Mr. LITTAUER with Mr. RANSDELL of Louisiana.
Mr. MCCLEARY with Mr. ROBINSON of Nebraska.
Mr. MARSHALL with Mr. RYAN.
Mr. MORRIS with Mr. SHAFROTH.
Mr. NEEDHAM with Mr. SULZER.
Mr. STEVENS of Minnesota with Mr. VANDIVER.
Mr. STEWART of New York with Mr. WHITE of Kentucky.
Mr. SULLOWAY with Mr. WILLIAMS of Illinois.
Mr. WADSWORTH with Mr. WILSON.
Mr. NEVIN with Mr. ZENOR.
For the vote:
Mr. HAUGEN with Mr. SPARKMAN.
The result of the vote was then announced as above recorded.

KATHERINE RAINS PAUL.

Mr. BROMWELL. Mr. Speaker, I have here a conference report on the bill (H. R. 11249) granting an increase of pension to Katherine Rains Paul, with the accompanying statement, reported from the Pension Committee, and I ask that the same be printed in the RECORD.

The SPEAKER. The report and statement will be printed as requested.

The report and statement are as follows:

REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 11249) granting an increase of pension to Katharine Rains Paul, 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 amendment.

H. C. LOUDENSLAGER,
J. H. BROMWELL,
WILLIAM RICHARDSON,
Managers on the part of the House.
J. H. GALLINGER,
J. C. PRITCHARD,
Managers on the part of the Senate.

Statement to accompany report of committee of conference on disagreeing vote of the two Houses on bill H. R. 11249, granting an increase of pension to Katharine Rains Paul.

This bill originally passed the House at $40 per month, but was amended in the Senate to $50 per month. The result of the conference is that the Senate recedes from its amendment and agrees to the forty-dollar rating fixed by the House, and your conferees recommend that the bill pass at $40 per month, as it originally passed the House.

H. C. LOUDENSLAGER,
J. H. BROMWELL,
WILLIAM RICHARDSON,
Managers on the part of the House.

PROTECTION OF THE PRESIDENT.

Mr. RAY of New York. Mr. Speaker, I move that the House do now resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 3653) for the protection of the President of the United States, and for other purposes.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole House, with Mr. GROSVENOR in the chair.

Mr. LANHAM. Mr. Chairman, I yield fifteen minutes to the gentleman from Georgia, Mr. BARTLETT.

Mr. BARTLETT. Mr. Chairman, the discussion of this bill forcibly reminds me and I apprehend equally forcibly reminds the public of the truth of the saying of the great philosopher Montaigne, "that there is more ado about interpreting interpretations than about interpreting things"——

The CHAIRMAN. The gentleman from Georgia will suspend till order is obtained in the committee.

Mr. BARTLETT. Mr. Chairman, if this was something of my own that I had started to say I would not undertake to repeat it, but I have said that the discussion of this bill reminds me, and I venture the assertion that it has reminded the public, that the saying of the distinguished French philosopher Montaigne, uttered years ago, is as true to-day as it was true then, "that there is more ado to interpret interpretations than to inpret things, and more books upon books than upon all other subjects; that we do nothing but comment upon one another." The discussion by the members of the Judiciary Committee and by other members of the House has been to show that they have been engaged this week in interpreting interpretations, and that we have done little else other than to comment upon one another.

The bill came from the Senate in such shape and form, and was so undoubtedly a plain violation of the Constitution of the United States, that the distinguished chairman of the Judiciary Committee [Mr. RAY of New York], speaking for that great committee of the House, has laid down almost as an axiomatic proposition, as a matter beyond doubt, that the Senate bill was unconstitutional; and in order to give to the House and to Congress and to the country a bill which would not be unconstitutional the Judiciary Committee have presented to the House this substitute.

Now, I want to say for myself and for the people whom I represent and for the section of country from which I come that if there is one spot in this great Republic where doctrines of anarchy are neither taught nor tolerated it is the section of country from which I come and the South generally. I want to say that we have such a small percentage of foreign-born population that the red flag of anarchy has never been seen in the South, and I apprehend never will be seen there.

I do not mean to charge by this statement that anarchy is tolerated or approved in any other section of the country, but I mean that we have been so fortunate in our affairs that the doctrines of the anarchists have not found lodgment there, and I assert that the people whom I represent and the people of the South generally will approve of and uphold any legitimate, lawful, and constitutional legislation that will destroy anarchy in this country or that will keep from our borders every anarchist and every teacher of anarchy.

But much as we are opposed to anarchy, much as this whole nation were shocked at the untimely death and dastardly assassination of the late Chief Magistrate of this country; while we would keep from our shores all anarchists; while, so far as I am concerned, I am willing to go to the uttermost limit of the Constitution in the enactment of a law against the anarchists, there is no demand that the President of the United States, the Vice-President of the United States, those who would succeed to the presidency in case of a vacancy, and the foreign ambassadors to this country should be elevated to a higher plane before the law than any other men in the country.

The President of the United States, in his official capacity, in the discharge of his duty, represents this great Government; and I shall, if I have the opportunity, vote to enact such a law as will protect him from the knife or bullet of the assassin, or from any attempt to destroy him because he is the representative head of this Government, or because he undertakes to discharge his official duties, or because it may be charged that he omits to discharge his official duty.

I will go as far as any man in this House for the enactment of such a law as that; but I am unwilling to say that the Government shall invade the domain of the States and enact a law which shall give it the exclusive jurisdiction over such offenders, and I am unwilling to say that a man, simply because he is President of the United States, where an assault be made upon him not because of his official character or because of his doing of some official act or because of his omission to do some official act, shall, as a citizen of the United States, while resident or present in any one of the States of this Union, be any more entitled to protection under the laws of the land than the humblest citizen of the country.

I know full well that the Supreme Court have, in a number of cases, upheld the sections of the Federal statutes which protect officers of the law, marshals, revenue agents, and various others,

including witnesses who have to attend the United States courts and prisoners in the custody of the officers of the United States; and they have upheld those sections because it is the duty of the Government to protect its officers while in the discharge of their duty. I repeat here that I am willing to go as far as any man, Democrat or Republican, in protecting the President of the United States as we protect the other officers of the Government in the discharge of their official duties, but there my power and duty under the Constitution ends.

I now desire to read from a case decided by Judge Jackson while presiding as a circuit judge of circuit court of the United States in the State of Tennessee, and which came up to the Supreme Court and was affirmed. This judge was afterwards a justice of the Supreme Court of the United States and died while filling that high office.

It is the case of The United States against Patrick, in volume 54 of the Federal Reporter. It is pertinent to the question whether the offense contained in the statutes of the United States, section 5508, was within the jurisdiction of the United States court, and he declares this to be the law:

An office is a public employment, and in the performance of its functions the citizen selected to represent the sovereign is in the exercise both of a private right or privilege and public duty, and a conspiracy to hinder, oppress, and injure him in the discharge of such functions can not be regarded as directed solely against the official in his representative character, but must be considered as those against a citizen exercising or enjoying the right or privilege of accepting public employment and engaging in the administration of its functions.

This was a case where a marshal of the United States in Tennessee had been assaulted and killed because he undertook to serve process, and we find sections 5508 and 5509 defining the crime, and then there are sections 5518 and 5520 which contain provisions of like character. In section 5518 I find a statute which I will read. The court has all along undertaken to protect its officer in the discharge of his duty from assault or being attempted to be killed or murdered in the discharge of such duty. Section 5518 reads as follows:

SEC. 5518. If two or more persons in any State or Territory conspire to prevent by force, intimidation, or threat any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district, or place where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties, each of such persons shall be punished by a fine of not less than $500 or more than $5,000, or by imprisonment, with or without hard labor, not less than six months nor more than six years, or by both such fine and imprisonment.

Section 5508 of the Revised Statutes of the United States provides:

If two or more persons shall 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—

shall be subject to fine and imprisonment, etc.

Section 5509 provides that if in the act of violating any provision of the preceding section any other felony or misdemeanor be committed, the offender shall be punished for the same, with such punishment as is attached to such felony or misdemeanor by the laws of the State in which the offense is committed.

It really seems to me that these statutes are ample to protect the President and other officers of the Government, and if the penalties are made greater, that would meet the present demand and remain within the provisions of the Constitution.

We have placed these statutes upon the books, which protect the officer of the Government of the United States, and instead of enlarging these statutes by increasing the penalty, instead of providing that the President under like circumstances, if he shall be assaulted in a State or Territory or anywhere within the jurisdiction of the United States, that the assailant if death ensue shall suffer death, or if the assault does not succeed in accomplishing that he shall be punished as provided in this bill, it is proposed to enact into law the pending bill; and it has been said here in debate—the Senate undertook to enact a law to that effect—that if the President was assailed and killed, whether he was performing any duties at all or not, that the party should be punished as for murder or by death. To such a proposition I can not lend my assent or give my vote.

Now, Mr. Chairman, the Supreme Court of the United States, in discussing these statutes which I have read, and in discussing the right of the citizen, whether he be an officer or simply a citizen, entitled to the immunities and protection and the privileges of the law, have held repeatedly that the right to be protected in the enjoyment of life and property within the State belonged to the citizen of the State, and the duty to give such protection devolved upon the State, and not upon the United States Government.

And they have said, in so many words, that if Congress undertakes to go beyond this and undertakes to make acts crimes which are committed within the State, and does not confine the act to a violation of the rights of the officer of the United States as an official, while he is not discharging his duty simply, then that sort of a law would not be constitutional. Therefore I say I am glad the distinguished chairman of this committee, and the other members of it who have joined with him, boldly declare to the country that the Constitution of the United States is still a living instrument and restrains Congress from invading the domain of the States, even though public clamor may demand otherwise.

I am in favor of protecting the President of the United States from assassination or from any illegal or wanton assault that may be made against him as the head of the Government, because of the fact that he is the President and in discharge of his duty. I am glad the chairman of this committee and the members who followed him rose to the great height of declaring that a law of the country should be enacted in conformity with the Constitution.

The decision I have in my hand (United States *v.* Patrick, 54 Fed. Rep., 339) refers to the case of the United States against Cruikshank (93 U. S. Reports, p. 553), and Judge Jackson, in discussing this very question, says:

It was of these fundamental rights of life and liberty that the court said (in United States *v.* Cruikshank, 92 U. S., 553, 554): "Sovereignty, for this purpose, rests alone with the States. It is no more the duty or within the power of the United States to punish for a conspiracy to falsely imprison or murder within a State than it would be to punish for false imprisonment or murder itself."

And that doctrine has been upheld in the case of Logan *v.* The United States (144 U. S.).

As has been stated, these statutes have been upheld by the Supreme Court of the United States as constitutional, because the court has held that officers who are assaulted, injured, or killed under the circumstances named in the statute are exercising rights secured to them by the laws of the United States, and has upheld indictments as valid which alleged the killing of such officers, or the injuring of them, or the attempt to injure them while exercising such rights. The statutes have been uniformly upheld by the Supreme Court of the United States because of the fact that the person assaulted, injured, or interfered with was either an officer of the United States at the time in the discharge of the duties of such office, or was exercising some right or privilege secured to him by the Constitution or laws of the United States.

In the case of the United States *v.* Waddell (112 U. S., 76), they upheld the jurisdiction of the United States court to try a case in which the defendants were charged with the offense of conspiracy under the provisions of section 5508. The particular right which the citizen was alleged to have been exercising, and against which the conspiracy was alleged to have been formed, was that of remaining on the land which, under the laws of the United States, he had made a homestead entry, a sufficient length of time to entitle him to a patent therefor. The court held that this right being secured to him by the laws of the United States, a conspiracy against him in the enjoyment of this right comes within the provisions of section 5508.

In the case of New Orleans *v.* Abbagnato, (62 Federal Reporter, p. 25; same case, 23 U. S. Court-Appeals, 533); the court maintained the proposition that the preservation of the public peace devolves on the State, upholding the principle in the case in the 92 U. S. Reports, 553, that the duty of protecting its citizens in the enjoyment of equality of rights was originally assumed by the States and remains there.

The principle in the case in 92 United States Reports, 550, that the United States can neither grant nor secure for its citizens any rights or privileges not placed under its jurisdiction by the Constitution, is recognized in the case of Presser *v.* Illinois (116 U. S. Reports, 266). In this case, last cited, the court, in reaffirming the case of Cruikshanks, declares:

For, as was said by the court in Cruikshanks's case (92 U. S. Reports, 542), the Government of the United States, although it is, within the scope of its powers, supreme and above the State, can neither grant nor secure to its citizens any right or privilege not expressly granted, or by necessary implication placed under its jurisdiction. * * * All that can not be so granted or so secured are left to the exclusive protection of the States.

In Logan *v.* The United States (144 U. S., 263) the court upheld the right of the United States Government to prosecute for an assault upon a prisoner while in the custody of a United States marshal under a lawful commitment to be protected against a conspiracy to oppress, injure, or maltreat him, and they held that this was a right implied from the duty and obligation of the Government to protect a citizen while thus in its custody.

This right of a citizen in the custody of a United States marshal under a lawful commitment to answer for an offense against the United States, to be protected against lawless violence was held to be such a right or privilege secured by the Constitution and laws of the United States, as the said section 5508 of the Revised Statutes was intended to protect against a conspiracy to interfere with.

In that case it is expressly declared that said section is not limited to the political rights of citizens. So that it may be asserted

that the United States court can not take jurisdiction of offenses committed wholly within the jurisdiction of a State unless the offense alleged is committed against a citizen to interfere with some right or privilege which is secured to him by the laws of the United States, or is an assault upon an officer because he is in the discharge of the duties of his office, and in that way represents the sovereign power of the United States.

Citations might be multiplied on this subject, but I feel sure that the principle is correctly stated. Therefore the House bill which changes the Senate bill proceeds along the only line upon which legislation is constitutional.

I do not believe that the provisions of the bill should be extended so as to include anyone else than the President of the United States, and possibly the Vice-President, or to make an assault upon their persons or the killing of them an offense within the jurisdiction of the United States when committed within the confines of any State. It would be proper on the lines I have undertaken to argue to make it applicable to such person as may be discharging the duties of the President, in case of a vacancy by the death or resignation of both the President and Vice-President; nor do I believe that the law should be extended to include the ambassadors or ministers of foreign countries.

Everyone understands that this bill is demanded in the shape that it is because the Constitution has limited and defined what acts shall constitute treason, and because the Constitution has prevented acts from being treason which would be considered as treason in a government whose powers are not limited in that regard as ours is. But even in England the acts which constitute treason have never been extended to include any other than those which are aimed at the King or his consort, or their eldest son and heir, for by 25 Edward III treason was defined to be "when a man doth compass or imagine the death of our lord the King, or our lady the Queen, or their eldest son and heir."

By this bill we propose virtually, in fact, to extend the law so as to punish as treason not only assaults upon the President and Vice-President, or the killing of such officers, but to every member of the Cabinet who might under certain circumstances succeed to the Presidency, and to foreign ambassadors.

I desire to discuss briefly the thirteenth section of the bill. Since it is conceded by the chairman of the Committee on the Judiciary of the House, and by a large majority of its members, and since in this debate it has been insisted, I think with great force by able lawyers on the floor, and since the decision of the Supreme Court which I have quoted, and others which have been cited, the United States court can only secure jurisdiction of the offenses proposed to be declared and for which penalties are prescribed in the bill by reason of the fact that the acts are done and the crimes are committed against officers while in the discharge of their official duties, or because of the discharge of some official duties, or the failure to discharge some official duty, then the whole life of the statute depends upon the allegation and proof to be made on the trial of such case, that such act was committed because of the official character of the President, Vice-President, or other official, and to permit that most vital fact, and the very heart of the offense, to be presumed to exist without proof and to cast the burden upon the defendant to disprove it instead of placing it upon the prosecution, as in all criminal trials, as from time immemorial has been required of the prosecution to prove, would be to reverse one of the most ancient, time-honored, and well-established principles of criminal law, followed in every court and laid down for the protection of life and liberty. The humanity of the law provides that persons charged with crime are presumed to be innocent until they are proven by competent evidence to be guilty.

To the benefit of this presumption every defendant is entitled, and this presumption stands as their sufficient protection until and unless it has been removed by evidence proving the guilt beyond a reasonable doubt. And this presumption of innocence, and this requirement that the proof shall be beyond a reasonable doubt, applies to every essential ingredient of a crime. This last proposition has become axiomatic in the administration of criminal law. How unusual, how foreign to every conception of criminal procedure, would be this provision which permits that the very essence of the crime should not be proven, but should be presumed to be established! This provision is not like a presumption of law, but it is a presumption of fact, which the prosecution declares to exist as a fact sufficient to authorize the jury to convict, and the judge to sentence to death, when the jury so finds upon that presumption.

It is in no way similar to the presumption of law that malice shall be inferred where an unlawful killing has been proven and the attending circumstances do not demonstrate or show facts from which the crime may be reduced, justified, or excused. The taking of human life is unlawful. Therefore the law says that when it has been shown to the satisfaction of a jury that the defendant on trial for murder has taken life, as alleged in the indictment, the law presumes that he did it with malice aforethought, and therefore the crime is murder, and it devolves upon the defendant to prove that it is some lesser grade of homicide or that he was justified.

How different here in this section? The United States court would not have jurisdiction unless it should appear that the party accused and on trial committed the acts alleged against President or Vice-President or the other officials named in the bill, because of the fact of their official character, or because of the fact that they had done something in their official capacity, or omitted to do something in their official capacity. If it should appear at any time in the trial, either from the evidence of the prosecution or of the defense, that the accused did not do so, but that he was actuated for other reasons, and that the acts alleged to be done were not done on account of the official character of the person assaulted or killed, or on account of some official act, then the court would be compelled to direct an acquittal, because the United States court, under the Constitution, would have no jurisdiction to try such a case.

Therefore, to presume the very essence of this crime, so far as the United States court and its jurisdiction is concerned, would permit the mere reading of the indictment and proof of the act to give jurisdiction of the offense to the United States court. It would be, in fact, starting the trial with the presumption that the defendant was guilty of an offense against the United States, when all the humanity of the law and the theory of the law and the principles of the law have for centuries required that the presumption in criminal cases should be that the defendant is innocent of any crime or of any necessary ingredient of the crime for which he is being tried.

The text-books state it as unquestioned that the principle that there is a presumption of innocence in favor of the accused is the undoubted law, axiomatic and elementary, and that its enforcement lies at the foundation of the administration of our criminal law. This principle just stated has been referred to as a matter of course in the decisions of the Supreme Court of the United States and in the courts of the several States of the Union. I refer to some of them:

Taylor on Evidence, Vol. I, chap. 5, 26–27.
Best on Presumption, part 2, Chap. I, 63–64.
Greenleaf on Evidence, part 5, sec. 29.
Wharton on Evidence, sec. 1244.
Lillienthal *v.* United States, 96 U. S., 237.
Hopt *v.* Utah, 120 U. S., 430.
The Commonwealth *v.* Webster, 5 Cushing, 295.
And authorities might be multiplied ad infinitum.

Greenleaf traces this presumption to Deuteronomy, and says that it was substantially embodied in the laws of Sparta and Athens. Whether this be correct or not, it is true that the Roman law laid down this maxim of criminal administration, as the following extracts from the Roman law will show:

Let all accusers understand that they are not to prefer charges unless they can be proven by proper witnesses or by conclusive documents, or by circumstantial evidence which amounts to indubitable proof and is clearer than day. (Code LIV, T. xx, 1, l. 25.)

The noble (divus) Trajan wrote to Julius Frontonus that no man should be condemned on a criminal charge in his absence, because it was better to let the crime of a guilty person go unpunished than to condemn the innocent. (Dig. XLVIII, Tit. 19, l. 5.)

In all cases of doubt the most merciful construction of facts should be preferred. (Dig. L. L., Tit. XVII, l. 56.)

In criminal cases the milder construction shall always be preserved. (Dig. L. L., Tit. XVII, l. 192, s. 1.)

It is related of the Emperor Julian that Numerius, governor of Narbonensis, was on trial before the Emperor and that the trial was public. The defendant contented himself with denying his guilt, and there was not sufficient proof against him. His adversary, seeing from the failure of the proof that an acquittal was inevitable, could not restrain himself, and exclaimed, "Oh, illustrious Cæsar! If it is sufficient to deny, what hereafter will become of the guilty?" To which Julian replied: "If it suffices to accuse, what will become of the innocent?"

And this rule of the Roman law, together with other fundamental and humane maxims found in that system, has been preserved in the canon law; and the practice of these principles in the trial of criminals has existed in the common law from the earliest times.

We find the following in the writings of Fortescue:

Who, then, in England can be put to death unjustly for any crime, since he is allowed so many pleas and privileges in favor of life? None but his neighbors, men of honest and good repute, against whom he can have no probable cause of exception, can find the person accused guilty. Indeed, one would much rather that twenty guilty persons should escape the punishment of death than one innocent person should be condemned and suffer capitally.

Lord Hale, in 1678, in 2 Hale's Pleas of the Crown, page 290, says:

In some cases presumptive evidence goes far to prove a person guilty, though there be no express proof of the fact to be committed by him, but then it must be very warily pressed, for it is better five guilty persons should escape unpunished than one innocent person should die.

So we find in Blackstone, second book, chapter 2, page 358:

The law holds that it is better that ten guilty persons escape than that one innocent suffer.

In the case of McKinley, tried in 1817, 33 St. Tr., 275, 506, Lord Gillies says:

It is impossible to look at it (a treasonable oath, which it was alleged that McKinley had taken) without suspecting and thinking it probable it imports an obligation to commit a capital crime. That has been and is my impression. But the presumption in favor of innocence is not to be reargued by mere suspicion. I am sorry to see in this information that the public prosecutor treats this too lightly. He seems to think that the law entertains no such presumption of innocence. I can not listen to this. I can see that this presumption is to be found in every code of law which has reason and religion and humanity for a foundation. It is a maxim which ought to be inscribed in indelible characters in the heart of every judge and juryman.

And he goes on to say that to overturn this presumption there must be legal evidence of guilt, carrying home a degree of conviction short only of absolute certainty.

Recalling the words of this judge, uttered nearly a century ago. I ask that this House remember this maxim of the law, so ancient, so venerable, so safe, and so wise, which has its foundation upon reason and religion and humanity; which ought to be inscribed, in the language of this English Lord and judge, in indelible characters in the heart of every judge and juryman, and it should be inscribed in the heart of every law maker, especially the law makers of the greatest Republic on earth.

And I appeal to you to be slow to enact a law which reverses this humanity of the law—this wise principle of the law—which has been revered by the wisest sages and judges of all ages and climes and handed down as one of the inalienable rights of the citizen, and that we shall do no act, even in our desire to punish the assassination of or assaults upon our Chief Magistrate, which will destroy this great principle of law in the administration of criminal justice, and thus put ourselves out of harmony with all the humane nations of the earth in the administration of our criminal statutes.

Let it be said of the law now, as it was said by the great Englishman, Hooker, who lived in the fifteenth century:

Of law there can be no less acknowledged than that her seat is the bosom of God, her voice the harmony of the world. All things in heaven and earth do her homage—the very least as feeling her care, and the greatest as not exempted from her power.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARTLETT. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

Mr. RAY of New York. That has already been granted.

Mr. BARTLETT. The extension is for five days. I ask that the Chair put my request to extend my remarks in the RECORD, which will give me a greater time.

The CHAIRMAN. The Chair is of opinion that the time having been settled by the House, the Committee of the Whole can not extend that time. The gentleman can make his request for extension in the House.

Mr. PATTERSON of Tennessee. Mr. Chairman, the supposed necessity for the measure now pending arises from the assassination of President McKinley, and the universal feeling of horror which swept over the entire country, demanding preventive and suppressive legislation against anarchy and anarchists.

The recent address of Mr. Secretary Hay, commemorative of the life and character of William McKinley, was delivered in this Chamber before an inspiring audience, embracing, as it did, a notable assemblage of citizens, the ambassadors and ministers of foreign countries, the executive chiefs of all the departments of the Republic, the Senators of sovereign States, and the Representatives of the American people.

On the passage of the resolution to return a vote of thanks to the distinguished eulogist of the lamented President I had the pleasure of casting my vote in the affirmative. In doing so I wished it to stand as an expression of appreciation of a most masterly address, couched in pure and vigorous English, and which, I think, is a distinct contribution to the best in our literature.

Indeed, I am not quite sure that there is anything finer of a similar character in the language than the portrayal of the early life and environment of William McKinley, and the character of the stock from which he sprung, that sturdy, virtuous, and independent middle class, from which has come the best we have in the arts of peace and war, and on whom is the surest and chiefest reliance of a representative republic.

In thus casting my vote I believed I was recording the will of the people whose representative I am, and whose honored guest the President was in the spring before his death, and that it was an expression of their regard for that true and upright man—the President of all our country, from whose lips nothing but kind words had ever fallen, and in whose gentle heart nothing but kind thoughts had ever abided.

The feeling of sorrow pervaded all classes, and was human, personal, and universal.

The wonder and pity of it was that any man in all the world could have been found willing to take the life of this kind, good man.

Joined with this was a deep, fierce, and just resentment against those enemies of organized society who advocate murder as a means of redress for wrongs, and in secret and at night hatch in their disordered brains foul plots of assassination.

So deep was this feeling that if at the time anyone should have been heard to rejoice at the death of the President or approve the dastardly deed by which he was taken off he would have been the object of bitter hatred and his life would scarcely have been safe.

To the honor and eternal pride of the whole South, chastened as she has been by great sorrows, but still struggling on through the shadows to the light; misrepresented, as she often has been; calumniated, as she sometimes is by the conscienceless partisan, there was not in all her borders such a man to be found or marked for her displeasure.

Indeed, in this part of your country, Mr. Chairman, the anarchist has never been bred, and throughout its length and breadth a President of the United States can "scatheless walk," just as a woman could in England in Alfred's day.

What is called anarchy is the child of despair and discontent, born of Old World absolutism, where hereditary titles—not culture and accomplishment—are the badges of nobility, and where distinctions of class have withered the hopes of man and held him down with weights which he can not lift.

Discontent, in the large sense which implies hatred of government and those charged with executive duty, finds its beginning in special privileges accorded the few, in artificial distinctions of class, whether they be hereditary or the result of unequal laws, and has its consummation in blind and unreasoning destruction.

It may be doubted whether the type of anarchists such as has been found in European countries—willing to bring general ruin as a cure for present evils—has ever been produced in this country in any considerable number, and where such a one has been found he has been subject to the influence and association of persons who have brought their perverted theories from across the seas to impregnate with their malign doctrines weak and disordered minds.

The assassin of President McKinley was of this perverted class, and while it was not clear—or at least not proven after a careful investigation—that his assassination was the result of a conspiracy, yet it is equally certain that he had become the instrument of vengeance as a result of disordered conception and stirred to bloody deeds by alien teachings which he had heard and read.

There may be a reason, but not an excuse, for the existence of anarchy in the Old World, but there is neither reason nor excuse for its existence in this country.

While we have abuses and laws not always just—many of them quite otherwise—both unfair, vexatious, and burdensome, still we have the forum of free discussion and lawful criticism and hold within our keeping in popular and free suffrage and equal representation the right of modification and redress.

Anarchy can never flourish in this country except as an exotic so long as we preserve the freedom of the press and of speech and government rests upon the consent of the governed, freely expressed. It may become a home product if we fetter free speech and divide by law our people into classes and surround our high officials with new and strange prerogatives of royalty.

If it were possible to-day to wipe out anarchy and her foul brood once and forever from American soil, I should willingly cast my vote to this end, for the anarchist is a universal murderer and anarchy means universal ruin.

But in attempting to legislate against anarchy we may accomplish all that laws can accomplish without straining the timbers of the Constitution, interfering with the rights of the States, or overturning the wise and approved precedents of centuries.

The bill under consideration proposes not to deal with anarchy alone, but with the killing of Presidents and other officers by anyone, whether anarchist or not, prescribing penalties which must follow, and conferring jurisdiction upon the Federal courts.

It is regrettable that the Judiciary Committee of the House has not seen fit to present separate bills covering both subjects, so that those who are in favor of suppressive legislation against anarchy might so record their votes and not be required at the same time to approve certain other provisions of the bill to which they unqualifiedly dissent.

Whether there was or not a purpose to embrace a wide variety of subjects in one bill—some good, others bad—with the belief that the general sentiment in favor of legislation on anarchy would be sufficiently strong to carry the bad with the good, I do not know, but the fact remains that we can not vote for parts of the bill without voting for all it contains, and those of us who believe in preserving the jurisdiction of the States in powers not yielded to the Federal Government, and that no discrimination in class shall be made by law, are forced to the position where

our opinions can not be freely expressed on all the subjects embraced in the proposed legislation.

There are many members on this floor, and I believe they are in the majority, who will vote for the bill as a whole under the compulsion forced by the committee, fearing a misconstruction of their motives if they should cast a vote in the negative.

As for myself, I am unwilling to be driven to a position that neither my conception of right nor public duty will approve and surrender my convictions on vital principles of government.

The reasons which impel me to this course will be given as I proceed with the discussion of the bill.

It contains 13 sections, and all of those relating to unlawful conspiracies or other acts by which violence is counseled against officials—either in this or in foreign countries—as well as those to prevent the coming of anarchists to this country, I approve without reserve, and therefore need not specifically refer to them.

The particular features of the bill to which I object are as follows:

SECTION 1. That any person who unlawfully, purposely, and knowingly kills the President of the United States while he is engaged in the performance of his official duties, or because of his official character, or because of any of his official acts or omissions, shall suffer death.

SEC. 2. That any person who unlawfully, purposely, and knowingly kills the Vice-President of the United States, or any officer of the United States entitled by law to succeed to the Presidency, while he is engaged in the performance of his official duties, or because of his official character, or because of any of his official acts or omissions, shall suffer death.

SEC. 3. That any person who unlawfully, purposely, and knowingly kills any ambassador or minister of a foreign State or country accredited to the United States, and being therein, and while engaged in the performance of his official duties, or because of his official character, or because of any of his official acts or omissions, shall suffer death.

* * * * * * *

SEC. 13. That in all prosecutions under the provisions of the first seven sections of this act it shall be presumed, until the contrary is proved, that the President of the United States, or the Vice-President of the United States, or other officer of the United States entitled by law to succeed to the Presidency, as the case may be, was, at the time of the commission of the alleged offense, engaged in the performance of his official duties. Nothing in this act contained shall be construed as an admission or declaration that there is a time when either of such officers, during the tenure of his office, is not engaged in the performance of his official duties.

JURISDICTION AND POWERS OF STATE GRANTED TO FEDERAL GOVERNMENT.

My first objection is that the jurisdiction of the States is usurped by the Federal Government in rights which are inherent and in powers not yielded to the General Government.

Under our system of government there is a jurisdiction or sovereignty of the State and a jurisdiction or sovereignty of the General Government. Each is supreme within its own sphere, and neither, if the just balance of powers is to be preserved, can encroach upon the rights and the powers of the other.

Within its borders the rule is that the State is a sovereign, subject only to the Federal Constitution, and that in territory belonging to the Federal Government its power is supreme with the same qualification.

Over crimes committed in harbors, in Territories, in the District of Columbia, and, in short, on all property belonging to the United States this jurisdiction is complete and exclusive.

Over crimes committed in the States against State laws their jurisdiction is also exclusive, subject only to the qualification that the offense is not also directed against the General Government.

To illustrate, the crime of murder committed in a State, and other offenses against its laws, are punishable by the law of the State, while if they occur in territory owned by the Government its laws would punish the crime.

A citizen of a State, however, owes a double allegiance and is subject to two sovereignties. Thus, if he counterfeits a coin, he offends against both; for it is a fraud against the State, but primarily against the Government which stamps and emits the coin.

In United States *v.* Cruikshank (92 U. S., 542–554) the court enunciates these propositions, refering to the Federal Government:

The government thus established and defined is to some extent a government of the States in their political capacity. It is also, for certain purposes, a government of the people. Its powers are limited in number, but not in degree. Within the scope of its powers, as enumerated and defined, it is supreme and above the States, but beyond it has no existence. It was erected for special purposes and endowed with all the powers necessary for its own preservation and the accomplishment of the ends its people had in view. It can neither grant nor secure to its citizens any right or privilege not expressly or by implication placed under its jurisdiction.

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The people of the United States resident within any State are subject to two governments, one State and the other national, but there need be no conflict between the two. The powers which one possesses the other does not. They are established for different purposes and have separate jurisdictions. Together they make one whole, and furnish the people of the United States with a complete Government, ample for the protection of all their rights at home and abroad.

True, it may sometimes happen that a person is amenable to both jurisdictions for one and the same act. Thus, if a marshal of the United States is unlawfully resisted while executing the process of the courts within a State, and the resistance is accompanied by an assault on the officer, the sovereignty of the United States is violated by the resistance, and that of the State by the breach of the peace in the assault. So, too, if one passes counterfeit coin of the United States within a State, it may be an offense against the United States and the State; the United States because it discredits the coin, and the State because of the fraud upon him to whom it is passed. This does not, however, necessarily imply that the two governments possess powers in common, or bring them into conflict with each other. It is the natural consequence of a citizenship which owes allegiance to two sovereignties and claims protection from both. The citizen can not complain, because he has voluntarily submitted himself to such a form of government. He owes allegiance to the two departments, so to speak, and within their respective spheres must pay the penalties which each exacts for disobedience to its laws. In return, he can demand protection from each within its own jurisdiction.

In the case above cited the following language occurs:

The very highest duty of the States when they entered into the Union under the Constitution was to protect all persons within their boundaries in the enjoyment of these "unalienable rights with which they were endowed by their Creator." Sovereignty for this purpose rests alone with the States. It is no more the duty or within the power of the United States to punish for a conspiracy to falsely imprison or murder within a State than it would be to punish for false imprisonment or murder itself.

In the Neagle case (135 U. S.), when a United States marshal shot and killed Terry for assaulting Mr. Justice Field in the dining room of a railway station in California, and for also making a hostile demonstration against himself when he attempted to prevent a continuation of the assault, the court held that at the time Justice Field was in the performance of his official duties, though at table, as he had just returned from holding court and was then proceeding on his way to another court, in session; and held, under the circumstances, that the United States court had jurisdiction as for an offense against the Federal Government.

Chief Justice Fuller and Mr. Justice Lamar dissented from the conclusions of the majority. There would have been no jurisdiction, confessedly, on the part of the Government had not Mr. Justice Field been engaged at the time in the discharge of his official duties, and had the homicide occurred at a time when he was not so engaged the jurisdiction of the State of California would have been exclusive.

The committee, in its report on the pending bill, recognizes this, and so when sections 1, 2, and 3 were framed it was designed to enact legislation to accord with the majority opinion in the Neagle case, the correctness of which many eminent lawyers have doubted and still doubt, and to declare against the killing of the President, the Vice-President, or any officer in the line of Presidential succession, or foreign ministers and ambassadors while in the performance of their official duties; and section 13 was prepared so that the presumption would be that there was never a time when such officials—excepting only foreign ministers and ambassadors—were not engaged in the performance of official duties.

So far as the status of the President is concerned, I am inclined to agree with the opinion expressed by some, that there is never a time when he is not, in a sense, engaged in the performance of official duty, though whether in the sense that would give the Federal court jurisdiction if he were killed under any and all circumstances may well be doubted.

As the executive head of the nation the duties of the President are of a continuous character during his tenure of office, and he is the Commander in Chief of the Army and Navy. It would be certain, however, that if the President himself should commit a felony in a State, his official character would not exempt him from punishment under State laws. It will be seen that the qualifying word "official" runs through all the enumerations of the sections quoted, and without this, if I understand the report of the chairman of the committee, he is of the opinion that the proposed law would be unconstitutional.

But it can never be said by anyone—and no one has said it—that the Vice-President or Cabinet officers or foreign ambassadors or ministers are always engaged in the performance of official duties.

The sole duty of the Vice-President is to preside over the deliberations of the Senate, and when that body adjourns his duty ceases and begins again on its reassembling.

Cabinet officers, who are appointees of the President at will and not constitutional officers, can not be said in any sense to be always so engaged; and as for ambassadors and ministers, they owe no allegiance to this Government and their official duties pertain to their own sovereign and in no way relate to any duty to the Federal Government, save as imposed by custom, international law, or the direction of their sovereign.

Then, under the conditions of this bill, how is the word "official," as applied to character, acts, duties, and omissions of the officers enumerated in the sections above quoted to be determined?

To meet this emergency and to confer the jurisdiction upon the Federal courts, section 13 of this remarkable bill was provided, creating the presumption in favor of the officer that he was engaged at the time in the performance of official duty, without any

preliminary inquiry at all on habeas corpus, as was resorted to in the Naegle case, to determine the fact as a necessary one before Federal jurisdiction was assumed. So that in this section, save as to ambassadors and ministers, it is presumed until the contrary is proven, and then, in order to make the jurisdiction secure, this legal incongruity and absurdity follows: "Nothing in this act shall be construed as an admission or declaration that there is a time when either of such officers during the tenure of his office is not engaged in the performance of his official duties."

The distinguished members of the Judiciary Committee who framed this bill have been caught and involved in the net of their own ingenuity.

The question recurs: How and when is the extent of jurisdiction to be determined?

When the crime occurs, if the prisoner is held by the State and its jurisdiction is assumed and the Federal courts claim the jurisdiction, a conflict at once occurs, the result being that the Federal power will control the person of the prisoner at the end of contempt proceedings or after the exercise of superior power, and the jurisdiction of the State will be completely ousted.

When this has been done and the Federal court shall assume the jurisdiction, how then shall the question be determined whether the official at the time was in the performance of his official duties?

Following the practice, if a plea to the jurisdiction is interposed and the prisoner should claim that the officer killed was not in the discharge of his official duty, the presumption will be that he was, and this presumption is further made practically indisputable as a matter of fact, for nothing in the provision is to be taken as an admission that at any time the officers named are not in the discharge of their official duties.

The result is that the right of the prisoner is gone to be tried in the jurisdiction where the crime was committed, and the State is left powerless to support its own dignity and to acquit or convict the prisoner as the facts may appear to deserve. So that no matter under what circumstances the homicide may have occurred, whether the result of a mere personal quarrel or not, disassociated entirely from all official character, acts, or duties, it will be presumed to have been committed for one or all of these reasons, and this presumption the prisoner must overcome, with the trial as matter of law in the part of section 13 above quoted, that the presumption can be overcome.

In the case of the President, who may for some purposes be treated from an impersonal standpoint, there may be some show of reason for a presumption of this character, though not to be admitted at all times; but in the case of the Vice-President and Cabinet officers, who mingle freely with the people and have personal business relations which bring them into daily contact with their fellow-citizens when not actually engaged in the performance of official duties, such a presumption is not only absurd to a degree, but wrong from every legal and moral standpoint.

In such cases, at least, the authority of the State should be left supreme with the presumption in favor of the innocence of the accused, which is the humanity and the reason of the law.

To enact against this presumption of innocence and to presume guilt before it is proven is a strange graft upon the stock of the common law as well as shocking to our conception of human rights.

Thus not only are the sacred rights of the citizen invaded, but the authority and reserved right of the State to preserve its own sovereignty, to punish the guilty and acquit the innocent, is usurped by the Federal Government, that great and grasping power which is all too ready to absorb the rights of both citizen and State, becoming stronger day by day with what it feeds upon.

If a State should pass a law conferring jurisdiction for the killing of a governor or any other State official on territory belonging to the United States Government, upon the ground that the killing was a blow aimed at the State, such an act would hardly receive serious consideration; and yet the principle of both is the same. If delay, dilatory pleading, and conflicting jurisdiction, by which a trial for the murder of an official may be prolonged, is a desirable thing, then this bill furnishes all the means of vexation and delay and defeats its very purpose.

NO NECESSITY TO CONFER THIS JURISDICTION ON THE FEDERAL COURT.

I believe the bill is unconstitutional, but if it is not there is no necessity, either real or apparent, to take away from the States this jurisdiction and confer it upon the General Government.

A reason might exist if each sovereign State did not have ample laws, coupled with extreme penalties, against murder in every form, whether the person killed is a private citizen or an officer of the State or nation.

For one, I am unwilling to concede that there is a State in the American Union which would not or could not deal swift and condign punishment to the murderer of a President.

Why, then, is this invasion of the sovereign powers of States thought to be necessary, and what is the justification?

What seemed to be in the mind of the committee, judging from the report of the chairman, was that the punishment was not uniform, though it is not to be doubted that the States would do their full duty in punishing crimes of this character, and, indeed, this is admitted by the chairman of the committee in his speech before the House.

In every State in the Union, with possibly two exceptions, murder is punishable by death, and life imprisonment is substituted in the exceptions.

When the State has taken the life the law can go no further; the penalty is paid to the uttermost; and there are many who think that imprisonment for life in solitary confinement is a punishment exceeding that of death itself.

I do not think it can be assumed that the punishment for the crime mentioned will be more certain in one jurisdiction than the other. If past history on this subject shall be a criterion, and the presumption will be resolved in favor of the State courts.

A comparison of the crimes and trials of Guiteau, the assassin of President Garfield, and Czolgosz, the assassin of President McKinley, are instructive.

President Garfield was shot in the District of Columbia, and therefore the United States Government had exclusive jurisdiction. President McKinley was shot at Buffalo, N. Y., and therefore the State of New York had exclusive jurisdiction, the Governmentnot participating or being in any way represented at the trial.

Garfield was shot July 2, 1881; died September 19, 1881.

The trial of Guiteau began November 14, 1881; verdict rendered January 25, 1882, and he was hanged on June 30, 1882.

McKinley was shot September 6, 1901; died September 14, 1901.

The trial of Czolgosz begun September 13, 1901; verdict returned September 24, 1901; sentenced September 26, 1901, and he was electrocuted October 29, 1901.

The State court tried and convicted the assassin of McKinley in two days, while the Federal court in the District of Columbia required nearly two and one-half months to accomplish a similar result with the assassin of Garfield.

It required but a month and five days to execute Czolgosz after his conviction in the State court, and five days less than five months for the execution of Guiteau.

The proceedings in the State court were dignified and orderly, while those in the Federal court at Guiteau's trial were almost a reproach.

I do not mean that under the circumstances the comparison here instituted would necessarily be in favor of the State court, and it is only instituted to show that no presumption either way can legitimately be indulged in.

In my opinion the spectacle afforded by the great State of New York in the trial of the assassin of President McKinley in its own court, conducted by its own officers without Federal intervention of any sort, testifies alike to the wisdom and justice of State sovereignty, as well as to the universal condemnation of the foul deed of the assassin, and the ability of the State to deal swift justice.

What the State of New York so well did I believe every other State in the American Union would do, and to take away from the State the duty and patriotic privilege of punishing the murderer of a President is neither necessary nor wise.

OBJECTIONS TO THE QUALIFYING TERMS DESCRIBING THE OFFENSES AND THE BROAD SCOPE OF THE LAW.

What the people have demanded is legislation against anarchy, and not the creation of new offenses and jurisdictions.

Let the qualifying words in sections 1, 2, and 3 be observed, and the question will at once recur, Why were they used instead of the descriptive terms of the common law which have been sanctioned by "precedent unto precedent?"

The words "unlawfully, purposely, and knowingly," as used in the bill, are incomplete to describe a capital offense, and are neither apt nor scientific.

At common law malice aforethought, either express or implied, has always been held necessary to constitute the capital offense of murder, and it is believed that it will be found in all State statutes, or words of equivalent import.

This essential ingredient should have been retained, and in this respect the Senate bill, for which the measure under consideration was substituted, is preferable.

The only word, as used in the three sections quoted above, which would make the killing of the officers named an indictable offense at common law is the term "unlawful." If an indictment should be forced using the words "purposely and knowingly" alone to charge a defendant with either murder or manslaughter, it would be quashed on motion, and judgment or conviction would be arrested, for no verdict would be permitted to stand under the circumstances.

Coupled with the words "purposely and knowingly," if the other word "unlawfully" were used in an indictment for murder, it would still be faulty pleading and not correctly describe the capital offense at common law.

The correct words of description, which have a fixed and definite meaning, are discarded for the uncertain and indefinite words of the bill. The word "unlawful" is not convertible and is not the equivalent of "malice aforethought."

To illustrate the effect of these criticisms: A man may kill another both purposely and knowingly and not be guilty of any crime, for his act may be excusable, as where a sheriff hangs under the mandate of the law or a man takes the life of another in his lawful and necessary self-defense.

The word "unlawfully," too, admits of degrees and varies with circumstances. A man may unlawfully kill another and still not be guilty of a capital offense. The other circumstances connected with the homicide may greatly mitigate the offense, and where the act may be unlawful, yet it would not justify the severest punishment.

A premeditated, willful, and deliberate homicide is unlawful; so is one committed in the heat of passion produced by adequate provocation, and yet it would be a monstrous and bloody law which would not observe the distinction and which would prescribe the same measure of punishment for both offenses.

It is true the common law is not adopted by the Federal court except as it is adopted by statute, yet the Federal courts do look for and find their analogies and reasons in the common law, and in every case of murder in their jurisdiction have charged the jury on the ingredients of the common law necessary to constitute the crime.

If one citizen should kill another, not an official named in the bill, unlawfully, but without malice or deliberation, no matter how valuable the life of the citizen may be to his family or society, the homicide would not amount to murder; yet if he should kill under the same circumstances one of the excepted class he must suffer the extreme penalty, if the courts do not give a more humane construction to the provisions of this bill than has been given by the terms employed.

Can such a law and such distinctions meet with patience and toleration in a Republic of equal laws? If it can be justified in the case of the President, upon whose life so much of the welfare of society and even government itself depends, can it be further justified in the case of the Vice-President?

But the class has been extended to limits far beyond these important and constitutional officers. It embraces Cabinet officials who may succeed to the Presidency in case of the death of the President and Vice-President and to foreign ambassadors and ministers accredited by other countries to the United States Government.

In the case of Cabinet officers, the reason assigned is that they are in line of Presidential succession, which it is intended to preserve by this bill; and in the case of foreign ambassadors and ministers, that diplomatic reasons have controlled.

The alleged justification is as absurd as it is unnecessary.

Seven Cabinet officers are in line with the succession to the Presidency, in the following order: Secretary of State, Secretary of the Treasury, Secretary of War, Attorney-General, Postmaster-General, Secretary of the Navy, and Secretary of the Interior.

In ordinary times the succession of even the first named would be too remote to require special legislation for his protection, and at no time can it scarcely be conceived how any sort of condition would prevail that would justify this character of legislation in in favor of the other Cabinet officers.

Indeed, unless there was a simultaneous killing of the President, Vice-President, and Secretary of State, the Secretary of the Treasury would never be in line of succession, because if only the President and Vice-President were killed at the same time the Secretary of State would become President and would fill his Cabinet by appointing a new Secretary of State, who would be in line of succession before any of the other Cabinet officers named, and the remoteness of the probability of the other Cabinet officers in line with the Presidential succession ever becoming, under any circumstances, the President of the United States by reason of the death or disability of those who precede them in official rank may be determined by those who will take the time to reason out the remote possibilities.

And why should the ambassador or foreign minister be placed upon a different or higher plane than our own citizens when they come as the accredited agents of other governments? They are entitled to the full protection of our laws and no more. To enact otherwise is a species of ostentatious and unnecessary legislation which must be distasteful to the American who has been taught to believe in the equality of human rights and to deny the monarchical distinction of class.

But these are not all the legitimate criticisms of this pernicious bill.

In what sense shall the word "knowingly" as used in the three sections quoted be taken? As referable to the mental condition of the assailant or to the fact of knowledge on his part that he was killing one of the officials named.

At common law it is not necessary for the person committing the homicide to know the person whom he kills, and the descriptive words employed refer to the mental status of the assailant, and by this analogy the same rule would here apply to the word "knowingly."

The chairman of the committee takes this view of the proper construction of the word "knowingly;" and since a part of these remarks were delivered on the floor of the House, an amendment was voted down which provided that before a person should be convicted under the provisions of this bill he should know the official character of the person killed.

So we have the admission of the chairman of the committee, as well as a legislative declaration, that it is not essential that the official character of the officer killed should have been known, and if this bill be constitutional, and the courts should construe the legislative intent as the lawmaking body has construed it, a President and the other officials are always engaged in the performance of official duty, and it will be made a capital offense to kill either of them, though no deliberation or malice appears and where the slayer is ignorant of the official character of the person slain.

I shall be mistaken if public opinion will endure this drastic and Draconian measure, masquerading as it does in the livery of social order, which confuses the jurisdiction of the courts and aims a blow at the reserved powers of sovereign States not less deadly than the one aimed at the dearest rights of the American citizen.

IS THE SERVANT GREATER THAN HIS MASTER?

The effect of some legislation has been to favor certain classes of our people, but this is the first time in the history of our Government that we have ever created a distinction by law or attempted to separate the official from the body of the people.

It is the first time we have ever declared that the man clothed with authority by the people shall stand apart from them in another atmosphere, upon a higher plane, and be subject to different laws.

It marks a new era and shakes the ancient pillars of the Republic.

My own respect for the office of President of the United States is exalted, and so is that of the American people, and I have no objection to all proper and necessary safeguards to protect the life of the individual who occupies that high station.

But I do protest against the declaration that the President, the Vice-President and Cabinet officers in the line of succession, and foreign ambassadors and ministers are to be put into an inner circle and surrounded with more than regal safeguards.

Even in monarchical England it was held "no treason to kill the king when he was not in the possession of government or acting as king."

Likewise, it was not treason to kill the officers of the king unless "being in their places and doing their offices."

Before the law the stature of all citizens of the Republic is equal, and if a "cubit be added" to one and not to all it is the beginning of the end to free and equal government, and our grand experiment is at last a failure.

In my opinion there is much of human right as well as republican life involved in this measure, and the note of alarm can not be sounded too soon or too often.

If the principle is once established that man the President is greater than man the citizen we have indeed assumed the regal garb.

Such a measure as this will cause more evil than it will ever cure and breed more anarchy than it will ever suppress.

We have now no aristocracy of birth; let us not create one by law.

"There is no divinity which doth hedge about a king," and none should hedge about the servants of the people. [Loud applause.]

Mr. Chairman, I should like very much if I could get an extension of time.

The CHAIRMAN. The Chair will remind the gentleman that under the rule adopted that is not possible.

Mr. PATTERSON of Tennessee. In about ten minutes I would conclude.

Mr. LANHAM. So far as I am concerned, I should have no objection to the extension; but I am unable to yield to the gentleman any further time.

Mr. RAY of New York. I do not see how the committee can extend the time limited by the House. I would gladly yield to the gentleman further time if I could.

Mr. PATTERSON of Tennessee. Though I intended to make more extended remarks, I would like to proceed for about ten minutes, if there be no objection.

Mr. RAY of New York. I do not see how it can be done, as the House itself has fixed the time. I submit the matter to the Chair.

The CHAIRMAN. The Chair is obliged to rule that the House having fixed the time, it is not possible for the Committee of the Whole to extend it.

Mr. PATTERSON of Tennessee. Well, Mr. Chairman, I will then ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman has that privilege already.

Mr. LANHAM. Mr. Chairman, I yield fifteen minutes to the gentleman from Alabama [Mr. RICHARDSON].

Mr. RICHARDSON of Alabama. Mr. Chairman, I do not flatter myself at all that I can add anything of interest or of information to the discussion that has already taken place on this subject. I am satisfied, from the variety of legal opinions that have been given during this discussion, as to what would naturally arise in a case brought under this bill if it becomes a law, that it would be unwise to pass it in its present state. Able and distinguished lawyers have given able and learned views of the construction of this bill, and so they would in a court of justice. They differ here, and so they would differ on a trial of the defendant who assassinated the President. Why? Because there are conditions and limitations in this bill, one of which is when he is in the discharge of his official act, another is when he is in his official character. Another is when he has omitted to do something or has done something for which he is murdered. I contend that those three conditions are simply adding to the opportunity of the defendant to escape under a technicality, and I believe that the Congress of the United States can only meet the demands of the people in this respect by passing a plain, simple, easily understood and easily construed law to the effect that any person who unlawfully, willfully, and purposely kills the President of the United States is guilty of murder in the first degree and shall suffer the penalty of death. That is the kind of a bill that I want to vote for. I am not disposed to stand here and split legal hairs and weave fine-spun theories upon one thing and another when the act of killing the President is aimed at the very life of the Government.

I believe that we find warrant and authority in the Constitution to protect the President against the attack of the assassin. We should earnestly avoid encumbering this bill with loopholes of construction.

Mr. Chairman, we all admit that it was the sad death of Mr. McKinley that instigated and inspired this demand that is made by the people that a suitable, plain, and efficient law shall be placed upon our statute book for the protection of the life of our President. It is right and becoming that we should respond to this demand. I have no hesitancy in saying on this floor that in my humble opinion no national event of a personal nature ever transpired in the history of this country that cast such universal gloom over the land as the sad and untimely death of President McKinley.

It appealed to the tenderest and strongest chords of love, sorrow, and indignation in the hearts of the American people, and it was right that it should. I recall now, Mr. Chairman, a public occasion in which his personality impressed itself in a most remarkable manner upon an immense audience. It was at the beginning of his Southern Pacific tour, when he received, in fact, the first ovation of his trip from the public, in the town where I live, Huntsville, Ala.

It was my pleasure, pride, and honor to present him to our people, and the first thing that he said in greeting me was, "How many people do you think are here?" I said, "Mr. President, possibly 10,000 are here to greet you." I never will forget the smile that passed over his face as he gazed upon that large audience. He said to me, "They tell me that the Federal and the Confederate veterans have marched down here arm in arm to greet me to-day. Point me where they are."

I did, and I pledge you my word that I have never heard in the history of this country grander, nobler, more patriotic, and broader American sentiments than he uttered there that day, addressing those noble veterans of the two armies of the blue and the gray. He spoke as one inspired by a love of country that knew no sections. In glowing words he spoke of the sons of Federals and Confederates who followed our flag in Cuba and charged the hills of San Juan. In breathless suspense his audience hung on his glowing words and his splendid tributes. Not a word or syllable fell from his lips but that of peace, love, and happiness. I have never seen an immense audience drawn so closely to a man as he drew that Southern crowd that day. Again, a large portion of that same audience that greeted him at the depot on the 30th of April gave expression to their admiration and esteem, for hardly ninety days had elapsed before many of those same people who had greeted him at that depot met at the memorial services to express their sorrow for his untimely death.

On that sad occasion, when the day of his greeting and the sentiments that he breathed in the presence of that Southern crowd were referred to, there was not a dry eye in that whole Southern audience. The South honored and had profound respect for President McKinley. He treated us just and fairly. He was a brave and a magnanimous soldier, and he loved his country and all its people. I am justified and authorized in the proper way and spirit to draw a contrast between the grand, noble, and patriotic sentiments that President McKinley expressed on that occasion, the 30th of April, 1901, and sentiments recently uttered by President Roosevelt on a recent national and notable occasion.

It was a beautiful day in spring, the last day of May—Memorial Day. Nature seemed to be hushed in honored silence for the occasion which thousands of good people had gathered to honor and celebrate. With the thronging, pressing thousands I found my way to Arlington and watched and listened with profound interest and honor to the touching and beautiful ceremonies. I stood with fully a thousand citizens with uncovered heads around a mound at Arlington Cemetery which contained the remains of over 2,000 brave Union soldiers, whose names were unknown, who gave their lives for the defense of the flag in the great civil war. They had been tenderly removed from the battlefields of the South and placed in one common grave. There slept in that mound more than 2,000 brave, noble, and unknown men who had died on different battlefields for their country. Everyone seemed inspired by the solemnity of that occasion. The contrast that I desire to make I will now proceed to read:

> There were abuses, and to spare, in the civil war. Your false friends then called Grant a "butcher," and spoke of you who are listening to me as mercenaries, as "Lincoln's hirelings." Your open foes—as in the resolution passed by the Confederate congress in October, 1862—accused you, at great length and with much particularity, of "contemptuous disregard of the usages of civilized war;" of subjecting women and children to "banishment, imprisonment, and death;" of "murder," of "rapine," of "outrages on women," of "lawless cruelty," of "perpetrating atrocities which would be disgraceful to savages;" and Abraham Lincoln was singled out for especial attack because of his "spirit of barbarous ferocity." Verily, these men who thus foully slandered you have their heirs to-day in those who traduce our armies in the Philippines, who fix their eyes on individual deeds of wrong so keenly that at last they become blind to the great work of peace and freedom that has already been accomplished.

It would have been well for the President to have read Mr. Lincoln's great speech at Gettysburg. The question arises in the mind of everyone on the floor of the House—yes, it has quietly passed through the minds of millions of brave and generous men of the North—could President McKinley have been induced to utter at any time, and especially on Memorial Day, sentiments and expressions such as these—expressions that were drawn from the fierce days of passion when the brave men of the North and South met each other in bloody conflict? The emphatic answer comes, "Never." I sincerely regret that the President was led into such strenuous indiscretion. The President certainly forgot that many of the "heirs to-day" of the men from whom he was quoting were sleeping their last sleep at Arlington, having lost their lives in the Spanish-American war under the flag of our country. Who, we ask, are the "heirs to-day" of the men to whom the President referred? It is the South. Probably the country would have been better pleased if the President had devoted more of his speech to the memory of Mr. McKinley.

I will not, Mr. Chairman, so far forget the environments and proprieties that are about me here to-day, in my position as a Representative on the floor of this House, as to be induced to characterize this language used by the President as it justly deserves. It came from the President of the United States on a most solemn memorial occasion, the day of honor to the thousands of brave Union dead that had fallen in defense of the flag of the Union. I dare say, Mr. Chairman, that it would have been far more appropriate and agreeable for the President to have referred to the liberal and patriotic terms that General Grant gave to General Lee and his brave and exhausted soldiers at the surrender at Appomattox, which did more to bring reconciliation to the contending sections of our country than anything else that has transpired since that memorable event. I speak of the Federal soldiers, because it was my duty and my pride to meet them on many of the bloodiest battlefields of the South.

There is not a Federal soldier within the hearing of my voice on this floor who would have uttered such sentiments here or elsewhere—much less have done it on Memorial Day at Arlington. I say, and you will agree with me, that the proprieties of the occasion were violated. I felt and I believe, and now state, for the President of the United States to refer to what was said about Mr. Lincoln in the heat of blood, when we were taking each other's lives, forty-odd years nearly after the war had ceased, was certainly unbecoming, and the country has accepted it in that light. No man in this country has greater reverence and respect for the honor of the position of President than I have, and for that reason I am ready and willing here to-day to do anything that is within reason, as I have indicated, to protect his life and the life of the Vice-President.

The President in his Memorial Day speech was certainly in one of his most strenuous moods, for he not only thrust his officia

hand into the bloody days of the war, but he referred on that Memorial Day to the very cheap political stock in trade that is used against the South on all convenient occasions. Here is what our President said about us:

From time to time there occur in our country, to the deep and lasting shame of our people, lynchings carried on under circumstances of inhuman cruelty and barbarity—a cruelty infinitely worse than any that has ever been committed by our troops in the Philippines; worse to the victims, and far more brutalizing to those guilty of it. The men who fail to condemn these lynchings, and yet clamor about what has been done in the Philippines, are indeed guilty of neglecting the beam in their own eye while taunting their brother about the mote in his. Understand me. These lynchings afford us no excuse for failure to stop cruelty in the Philippines. Every effort is being made, and will be made, to minimize the chances of cruelty occurring.

Of course no one has ever intimated that the lynchings of the South afford "any excuse for failure to stop cruelty in the Philippines." Everybody regrets that there has occurred cruelties on the part of any of our soldiers in the Philippines. We all realize that cruelties are incidents of war, not chargeable to the entire Army, however. But what, I ask our President, has lynchings in the North or South to do with the criticisms that some people have passed on General Smith's order in the Philippines or the application of the so-called "water cure." It is well known that the able and distinguished Senator from Massachusetts, Senator HOAR, has criticised the cruelties perpetrated in the Philippines with much severity, charging it as a result of our Philippine policy. The distinguished gentleman from Pennsylvania [Mr. SIBLEY] was, I believe, the first and bitterest denouncer on the floor of the House of General Smith and his order. Both of these distinguished gentlemen are Republicans.

No people have ever suffered more from this outrage than the people of the South. Yes, they have suffered more than the negro has, but think you that it is likely that we on our part will accept an admonition and a chiding administered in that way and for such a purpose on so solemn an occasion about that which we deplore more than do the people of the North? We know, Mr. Chairman, that each scene of horror, such as shock the sensibilities of the world, is but the bloody sequel of deflowered Southern womanhood and the destruction of a happy home in the South. The people of the South know and feel that lynching degenerates to a spirit of lawlessness. We would gladly stop it. But what will you do about it?

Why, the gentleman from Wisconsin [Mr. JENKINS], in the discussion of this bill, in a kind and lovable spirit and manner said that he believed that if the assassination of Mr. McKinley had occurred in the South that Czolgosz, the assassin, would have been strung up to the first lamp-post and the courts would not have been troubled with him. The people of the South are generous, brave, and impulsive. They despise a low, cowardly, mean, sneaking act, and swift and sure sometimes is their vengeance. They admired and honored President McKinley, and I don't think his assassin would have been in a comfortable position in "Dixie's Land." But the President knew, when he referred to lynching, that the Constitution gave no warrant for Federal interference in the criminal jurisprudence of the several States, but yet on this national Memorial Day he referred in no uncertain words to this sensitive and inflammable subject. It looks to me inappropriate and unwise as well as unjust. It smacked verily of political purpose and the future. I do not defend nor apologize for the lynchings in the South.

And now, Mr. Chairman, I object to this bill, and will hurriedly present my reasons. I object to it, as I have said, because it preserves conditions. I see that my time is rapidly drawing to a close. I object to the eighth and ninth sections of this bill, and I say to the gentlemen here who are supporting it that if it had been the law at the time of the Armenian slaughters by the Sultan of Turkey quite every local minister in this country would have been made liable to twenty years behind the bars. Section 8 provides:

SEC. 8. That any person who advocates, advises, or teaches the duty, necessity, or propriety of the unlawful killing or assaulting of one or more of the officers (either of specific individuals or officers generally) of the Government of the United States, or of the government of any civilized nation, because of his or their official character, or who openly, willfully, and deliberately justifies such killing or assaulting, with intent to cause the commission of any of the offenses specified in the first nine sections of this act, shall be fined not less than $500 nor more than $5,000, or imprisoned not less than one nor more than twenty years, or both.

This is ostensibly aimed at anarchists, but can anyone deny that thousands of native-born Americans of good standing and character can be sent to the penitentiary for twenty years and fined $5,000 for expressing an opinion?

I ask, Mr. Chairman, where is the necessity for this Government of ours to protect the Czar of Russia in his own kingdom? What have we to do with the protection of Nicholas the Czar of all the Russias? I say that if this law had been in force at the time of the Armenian slaughters the criticisms made by the pulpits and Christian people throughout this country would have laid them liable to imprisonment for saying that the Sultan of Turkey ought to be dethroned and killed. Yet this bill purports on its face to be a measure for the protection of the President of the United States. What business, I ask, Mr. Chairman, is it of ours to protect a monarch on his throne or the Czar of Russia in his own unlimited dominions? Yet this bill proposes to do that, when the demand of the country is that Congress shall frame a law to protect the life of our President.

What business is it of the lawmakers of this country to protect autocrats and monarchs on their thrones? We can treat them courteously and protect them when they come to our country officially. That is all right. Sir, this Republic of ours, of which we have just cause to be proud, stands the world over as the greatest living protest against the rule of kings, queens, czars, and emperors. There are to-day thousands and thousands of liberty-loving Americans who would rejoice to see a democratic free government supplant and overthrow every crowned head in Europe. This is natural. And yet we are called on in this bill to protect, shelter, guard, and, indeed, foster these monarchs and royal personages in their own homes.

Surely the great Judiciary Committee of the House is not serious in this matter. I dare say under the provisions of this bill quite one-half of the members of this House could have been convicted for expressions of sympathy for the Boers in their brave and heroic struggle for freedom, and whose flag has just gone down in defeat. The bill says not merely a person who advocates, advises, or teaches the duty, necessity, or propriety of the unlawful killing or assaulting of one or more of the "officers generally," but one who "justifies" such assault is also guilty.

I can not follow the extraordinary meaning and scope of the words used in this section. It is a plain, open assault of the most aggravated character upon the rights of the citizen. It is a bold attempt to make the Federal courts the censors of public opionion. All of this is done under the mistaken effort to protect the life of the President of the United States. We must protect the President, but not in this way. Why, under the provisions of this section under the term "officers generally" one-half of the white people of the South could have been made liable to its penalties in the past, because a negro postmaster falls under the designation of "officers generally."

Under this section any provocation given to strike or assault a negro postmaster would be an offense and twenty years in jail would be given to the offender and the same to the man who justified the assault on the negro postmaster. It is not unfrequently the case that such characters are required to "move away." Such a law in the hands of a partisan Federal judge could be used as an engine of destruction, oppression, and tyranny. Jefferson warned us against the extension of the powers of the Federal courts.

I now, in conclusion, briefly call attention to section 9 of the bill, which reads:

That any person who conspires with any other person or persons, or requests, advises, or encourages any other person or persons, to unlawfully assault or kill within or without the United States the chief executive or chief magistrate of any other civilized nation having an organized government because of his official character shall be punished as follows.

The punishment is made death if the party assulted dies. If he does not die, twenty-five years in penitentiary. If such attempt is not made on the life of the foreign official, then the offender shall be imprisoned not less than five years for thinking about it or having mentioned it probably to some one else. This section truly Russianizes the United States.

The word "encourages" as used in this section has a broad and significant meaning. Under it I believe that a man quoted in an interview and published in a newspaper as saying that the Czar of Russia was a tyrant and ought to be shot because he ruthlessly and cruelly expelled the Jews from his dominions, and the Czar was afterwards killed by an assassin at his capital, and it was shown that the assassin had read the interview before the perpetration of the crime, then the man giving the interview would be adjudged guilty of having encouraged the death of the Czar.

That interview would certainly mean encouragement. I am free to say that I can not believe that anyone seriously believes that a citizen of this country could really be punished or imprisoned about expressing an opinion unfriendly to the rule of a monarch in a foreign land. Our Constitution protects us fully against such a wrong as that. Why then harass and annoy the citizens with such laws? The American Congress can be relied on fully, I think, to put its foot on such legislation.

I am opposed, Mr. Chairman, to section 3 of this bill, which throws around foreign ambassadors and ministers the same protection it does to the life of our President. We will treat all of that class all right, but the President of this country ought to be protected in his life not because his life is more sacred or valuable than the humblest citizen of the land, but because he is the official head of our Government, and an assault on his life is an attack on our Government.

[Here the hammer fell.]

Mr. LANHAM. Mr. Chairman, I believe I have now fifteen minutes remaining.

The CHAIRMAN. The gentleman has fifteen minutes remaining.

Mr. LANHAM. I will apportion that time in this way: I yield five minutes to my colleague from Texas [Mr. KLEBERG] and the ten minutes remaining to my colleague on the Committee on the Judiciary [Mr. SMITH of Kentucky]. The Chair can recognize them in that order.

Mr. KLEBERG. Mr. Chairman, I shall address myself especially to the sections which deal with the subject of the suppression of anarchy. In doing so I wish it known, first of all, that there is not a member on this floor who more deprecates that kind of organization in our midst and who is more willing to go, as far constitutionally as we can, than I am to suppress it, as far as Federal legislation will do it, leaving the balance of it to the States.

I am willing to prevent all that by any necessary amendment to the immigration laws, and to keep them from becoming citizens, and leave the balance of it with the State. But in this bill I object to a certain clause in it, which is dangerous to the liberties of our people and the press, and especially I refer to section 9, and the words used in that section which refer to this subject in these words: "Any person who shall encourage another to commit an assault upon a foreign ruler or the highest executive of a foreign nation," etc., dealing exclusively with foreign rulers. Now, I say there is nothing in this section which deals in the remotest degree with an attack upon the President, the Vice-President, or any other officer of the United States, and the entire section is foreign to the purpose of the bill.

SEC. 9. That any person who conspires with any other person or persons, or requests, advises, or encourages any other person or persons to unlawfully assault or kill, within or without the United States, the chief executive or chief magistrate of any other civilized nation having an organized government, because of his official character, shall be punished as follows: If an attempt to commit such act is made and the death of any person results therefrom, such offender shall suffer death. If such attempt does not result in death, such offender shall be fined not less than five hundred nor more than five thousand dollars, or be imprisoned not less than five nor more than twenty-five years, or both. If such attempt is not made, such offender shall be fined not less than five hundred nor more than five thousand dollars, or be imprisoned not less than one nor more than five years, or both.

But we have there the words that "anyone who encourages an assault on or killing of a foreign ruler," etc. Now, I say that under the powers of judicial construction in the courts that these words are dangerous words and should be expunged from this bill. Under the judicial power of construction it could be construed to mean that, directly or indirectly, anyone by the use of printed matter in the newspapers, or words spoken in the heat of passion, or resolutions passed at a political meeting inveighing against foreign rulers and which possibly will incite to action some man who hates rulers and who would possibly be impelled to go and make an assault upon a foreign ruler—it would subject the speaker or writer to punishment of death.

An orator, a public speaker, a newspaper, when attacking such ruler for abuse of power abroad, a person on American soil would be amenable under this law to a prosecution by a foreign ruler, a king, a czar, or an emperor, or what not, who could ask under such a law for the punishment of all persons who had been encouraging another person indirectly in print or by speech unintentionally, and we would see this country turned over by sleuth-hounds, newspaper offices ransacked, orators and public speakers upon the stump possibly arrested and thrown in jail, actions of conventions questioned, and our citizens generally brought under the ban of suspicion that they had possibly encouraged, either directly or indirectly, some rattle-brained man who felt it his duty to assault a foreign potentate. Not only this, but in the closing clause of that section, if the assault is not even committed, if nothing comes of it, a person so encouraging shall be imprisoned and be liable to a fine.

Now, I say I do not wish to reflect upon the committee, but this does seem to me to be an attempt to interfere with the liberty of free speech and the freedom of the press, and though it will pass muster of its constitutionality in the courts, because there is nothing on the face of this section which would bear possibly that construction of its unconstitutionality, yet under the power of judicial construction it can easily be warped to mean that very thing—that is, abridge the liberty of speech and the press in the manner pointed out by me. Now, even if an editor uses intemperate language, or a public speaker, or any man in a political meeting, or by resolution, should criticise a foreign ruler by words which would go to incite action upon the part of somebody to commit this crime, that would make them amenable to a prosecution.

Now, I protest against the idea of placing the rights and liberties of American citizens under the surveillance and control of a foreign potentate. I am willing and ready to furnish all means to protect foreign representatives who come to this country, and to extend them due civility. I am willing even to submit to a special embassy to go to a coronation of a foreign potentate, but when it comes to the suppression of free speech and a proposition to interfere with the freedom of the press and to place a foreign censorship over them, then I draw the line, and as an American citizen, born to the manor, free, white, and 21, I protest in the name of American liberty-loving citizenship, and stand by free speech and the freedom of the press. [Loud applause.]

Mr. SMITH of Kentucky. Mr. Chairman, it was not my purpose to participate in the general debate upon this bill, and I must now do so, if at all, without previous preparation; hence if my remarks shall be lacking in continuity of thought or aptness of expression I am sure there will be no disposition to criticise them.

When the Committee on the Judiciary of the House was appointed and organized at the beginning of this session there were a score or more bills relating to the subjects covered by the substitute offered now for the pending Senate bill awaiting its consideration. No doubt that the introduction of many, perhaps all, of them was superinduced by the cruel, treacherous, and shocking assassination of our late amiable and lamented President McKinley, just as experience has often heretofore shown the propriety or necessity of important legislation. If, however, there are those here who entertain apprehension that the proposed legislation has been hastily considered and reported by the committee, I wish to assure them that within my five years' service on that committee no measure has received a more critical examination, thorough analysis, and exhaustive consideration than was given by it to this subject and the various bills relating thereto.

I do not approve every provision in this substitute, but it represents the deliberate thought, patriotic purpose, and best judgment of the majority of the members of the committee. Not being one of their number, I may say of the faithful and eminently competent members who supported the provisions of the substitute in toto as reported, that they were untouched and unmoved by any sentiment or purpose other than by a skillful, comprehensive, and constitutional enactment to punish crimes most heinous in character and effectively prevent the spread of the doctrines, the increasing frequency of their deadly deeds, and, if possible, exterminate anarchy and anarchists from our jurisdiction.

Often an intellectual pigmy may with ease and readiness criticise that which has required all the capacities of giant intellects to construct, and I trust that gentlemen will remember in this instance that the problem to be solved is most intricate and the task assigned the committee was exceedingly difficult. And while the substitute presented may not be, and, in my opinion, is not perfect, yet there can be no doubt that it is very much superior to the Senate bill.

In the consideration of this question it is of the utmost importance that gentlemen keep constantly in mind our system of dual governments—the State and Federal.

The duties and powers of each, their relation to each other, and the relation of each to the citizen in the State must not be forgotten or ignored in the very laudable and determined effort to protect the Government and destroy anarchy.

The Federal Government can exercise no power other than those delegated to it by the Constitution, but the State government has all powers not denied to it by its own or the Federal Constitution, while each is supreme within the spheres assigned them under our complex system. In the case of McCulloch *v.* The State of Maryland (4 Wheat., 405) Chief Justice Marshall declared:

This Government (that of the United States) is acknowledged by all to be one of enumerated powers.

Chief Justice Waite in the case of The United States *v.* Cruikshank stated:

The Government of the United States is one of delegated powers alone. Its authority is defined and limited by the Constitution. All powers not granted to it by that instrument are reserved to the States and the people. (92 U. S.)

In his opinion, concurred in by Chief Justice Fuller, Justice Lamar, In re Neagle (135 U. S., p. 77), says:

Nor do we question the general propositions that the Federal Government established by the Constitution is absolutely sovereign over every foot of soil and every person within the national territory within the sphere of action assigned it, and that within that sphere its Constitution and laws are the supreme law of the land," etc.

Citations in purport similar to these could be given without limit, but it would be a waste of time to read them.

Every citizen of a State is likewise a citizen of the United States. He has a dual citizenship and owes allegiance to and is charged with many important and distinct duties to each of these sovereignties, which, or any of which, if not voluntarily observed may be coerced from him by the government entitled thereto.

In the opinions of the Supreme Court in the Slaughterhouse Cases and the case of Boyd *v.* Thayer (143 U. S.) it is said:

Every citizen of a State is ipso facto a citizen of the United States.

In the Slaughterhouse Cases (16 Wall., p. 74) this language appears:

It is quite clear that there is a citizenship of the United States and a citizenship of a State which are distinct from each other and which depend upon different characteristics or circumstances in the individual.

So in the case of The United States *v.* Cruikshank (92 U. S., 542) the court said:

The people of the United States resident within any State are subject to two governments, one State and the other national, but there need be no conflict between the two. The powers which one possesses the other does not. They are established for different purposes and have separate jurisdictions. Together they make one whole, and furnish the people of the United States with a complete government, ample for the protection of all their rights at home and abroad.

True, it may sometimes happen that a person is amenable to both jurisdictions for one and the same act. Thus, if a marshal of the United States is unlawfully resisted while executing the process of the courts within a State, and the resistance is accompanied by an assault on the officer, the sovereignty of the United States is violated by the resistance, and that of the State by the breach of the peace, in the assault. So, too, if one passes counterfeit coin of the United States within a State, it may be an offense against the United States and the State; the United States because it discredits the coin, and the State because of the fraud upon him to whom it is passed. This does not, however, necessarily imply that the two governments possess powers in common or bring them into conflict with each other. It is the natural consequence of a citizenship which owes allegiance to two sovereignties and claims protection from both. The citizen can not complain, because he has voluntarily submitted himself to such a form of government. He owes allegiance to the two departments, so to speak, and within their respective spheres must pay the penalties which each exacts for disobedience to its laws. In return, he can demand protection from each within its own jurisdiction.

But there are also duties and obligations owing by these governments to the citizen. In return for his allegiance the citizen is entitled to protection in all his rights, privileges, and immunities from them. It is true that under our system neither one of them has undertaken to protect the citizen in all these, but those not assigned to the protection of the one are committed to the guardianship of the other, and thus though some in State and others in Federal jurisdiction, all these are guarded and guaranteed by a power supreme within its proper sphere of operation. As said in the case of Minor *v.* Hoppersett (21 Wallace, 162):

Allegiance and protection are in this connection reciprocal obligations. The one is compensation for the other; allegiance for protection and protection for allegiance.

In this and kindred legislation it is therefore expedient always that we determine at the outset whether the power invoked has been delegated to the Federal Government, and unless authority for its exercise can be found in the Constitution Congress should stop at the threshhold, for I still believe that in a faithful, intelligent observance of that instrument abides the highest, the best, and, in truth, the only hope for the preservation of republican institutions in this country.

However pleasant and interesting to myself, if not to you, it might be, I will not on this occasion undertake the discussion in detail of the distribution of powers between the State and Federal governments, even to the extent that it would be pertinent to do so. I may say that it is my fixed and deliberate opinion that the State alone is primarily vested with the authority and charged with the grave responsibility of protecting those within its borders in life and limb; that the Federal Government is utterly powerless, and under the Constitution must remain so, to punish for homicide and like crimes committed within the States when there is no other fact upon which to base the jurisdiction than that the victim was a citizen of the United States.

That the States may carry out and discharge such fundamental and essential functions faithfully and well, the Federal Constitution has laid upon them sundry limitations and inhibitions conducive to the ends of justice, and has guaranteed to each a republican form of government. So that the inherent ability of the State government to fulfill its obligations in such matters is reinforced by these provisions of the Federal Constitution, and there can be no such thing as general failure so long as there shall be vitality and vigor in the American system. Now let us see what has been determined by the Supreme Court of the United States touching this matter.

One of the earliest cases bearing upon that question was that of Corfield *v.* Coryell, in the United States circuit court for the district of Pennsylvania. Mr. Justice Washington delivered the opinion, and therein declared:

We feel no hesitation in confining these expressions to those privileges and immunities which are in their nature fundamental, which belong of right to the citizens of all free governments, and which have at all times been enjoyed by citizens of the several States which compose this Union from the time of their becoming free, independent, and sovereign. What these fundamental principles are it would be more tedious than difficult to enumerate. They may, however, be all comprehended under the following general heads: Protection by the Government; * * * the enjoyment of life and liberty, with the right to acquire and possess property of every kind and to pursue and obtain happiness and safety, subject, nevertheless, to such restraints as the Government may prescribe for the general good of the whole. (4 Washington C. C., 371.)

True it is this case was decided in a circuit court, but the opinion was rendered by a member of the Supreme bench, and it has been frequently approved by the Supreme Court.

In the Slaughterhouse Cases (16 Wall.) Justice Miller, having quoted the language of Justice Washington as I have stated it, said:

It would be the vainest show of learning to attempt to prove by citation of authority that up to the adoption of the recent amendments no claim or pretense was set up that those rights depended on the Federal Government for their existence or protection beyond the very few express limitations which the Federal Constitution imposed upon the States—such, for instance, as the prohibition against ex post facto laws, bills of attainder, and laws impairing the obligations of contracts. But with the exceptions of these and a few other restrictions, the entire domain of the privileges and immunities of citizens of the States, as above defined (by Washington), lay within the constitutional and legislative power of the States and without that of the Federal Government.

The learned justice then puts certain questions intended to bring out the fallacy of the contention that the fourteenth amendment had wrought such change as to render the former construction inapplicable and commented thereupon, after which he proceeded to say:

We are convinced that no such results were intended by the Congress which proposed these amendments nor by the legislatures of the States which ratified them.

But the able and distinguished justice did not stop at his approval of Justice Washington's enumeration of rights left to the care of the local jurisdiction, but he pointed out some of the rights, privileges, and immunities of a citizen of the United States as such. Among them he mentioned the right to travel to the seat of government to assert claims or transact business, free access to the seaports, to demand the care and protection of the Federal Government over his life, liberty, and property when on the high seas or within foreign jurisdictions, to the habeas corpus, and to use the navigable waters of the United States, as well as a number of others.

In the case of Maxwell *v.* Dow (176 U. S., 591) the Supreme Court, speaking through Mr. Justice Peckham, refers to Justice Miller's opinion in the Slaughterhouse Cases at much length, and among other things, says:

The definition of the words "privileges and immunities," as given by Mr. Justice Washington, was adopted in substance in Paul *v.* Virginia (8 Wall., 168) and Ward *v.* Maryland (12 Wall., 418). These rights, it is said in the Slaughterhouse cases, have always been held to be the class of rights which the State governments were created to establish and secure. The opinion upon the matters actually involved and maintained by the judgment in the case has never been doubted or overruled by any judgment of this court.

Perhaps the most direct and specific utterance upon the question by the Supreme Court is to be found in the opinion in the case of The United States *v.* Cruikshank (92 U. S., 542), in which it is declared:

The very highest duty of the States when they entered into the Union under the Constitution was to protect all persons within their boundaries in the enjoyment of these "unalienable rights with which they were endowed by their Creator." Sovereignty, for this purpose, rests alone with the States. It is no more the duty or within the power of the United States to punish for a conspiracy to falsely imprison or murder within a State than it would be to punish for false imprisonment or murder itself.

There are many other cases that have been or will be quoted by other gentlemen in the discussion sustaining this proposition, and altogether it seems to me to be well established that it is beyond the constitutional power of Congress to enact any law that will confer jurisdiction on the Federal courts to try anyone for homicide committed in a State merely because his victim was a citizen of the United States. There is no attempt by the committee to justify the constitutionality of this bill upon that theory. It must and does rest upon the power and the duty of preserving and protecting itself against those who would obstruct, resist, or destroy it. The Government does not consist alone of the Constitution and the laws, but of officers as well. Without the written Constitution the Government would no doubt be bad, but without officers there can be no government, while with both, as we now have, it is no better than the people are entitled to have.

When the citizen of a State enters into and becomes part of the machinery of the Federal Government he without ceasing to be a citizen becomes a public servant and is clothed with a new and distinct though artificial existence or official character, so that such an one has not only a dual citizenship but dual capacity—individual and official—and is at some times engaged in the discharge of official duties and at other times exercising rights and privileges pertaining to himself as a citizen wholly and completely apart from his official position. I may very appropriately say in this connection that I do not concur in the opinion of the honorable chairman of the Judiciary Committee that the President is always engaged in the discharge of his official duties.

While I have not the least doubt of the exclusive authority of the State to the extent I have indicated, yet I as sincerely believe that the Federal Government has the constitutional power to do so, and should be charged with the duty of protecting its officers in their proper official service and character. If officers essential to, and the only agencies by which, the Government can execute its functions, can be obstructed, resisted, and assassinated with no power on its part to protect them, prevent or punish such deeds, then in truth it is without a parallel in all governments present and past the world has ever known.

It is no sufficient answer to say that when such inexcusable and sometimes heinous crimes occur in the States they will be promptly and severely dealt with in the State courts. I have the utmost confidence in and greatest respect for these local tribunals. But they must enforce the law as it is written in the State statutes. The lack of uniformity in the punishment fo.

any given crime under the statutes of the various States, and the absolute inadequacy of the punishment prescribed by the statutes of some of the States for such crimes are full answers to that contention. Had President McKinley survived his wounds his assailant could not have been punished with longer imprisonment than ten years, and had he been as cruelly assassinated as he was in certain other States the extreme punishment would have been life imprisonment. The American people would have characterized such results as worse than farcical or contemptible. But the real answer to that claim is, that it is a sound rule in political economy that every government shall have the jurisdiction to punish offenses committed against itself. It might as well be claimed that offenses committed in and against one State should be cognizable in the courts of another, or that offenses against any State should be punished in the courts of the United States, as to assert that offenses against the latter should be tried in the State court.

No one has been heard to deny that to strike down a Federal officer while he is engaged in his official duty interferes with and obstructs the Government, or that to do so because of his official character or conduct is a blow aimed at the Government itself.

It is upon the theory that the Government has the constitutional power to preserve and protect itself that Congress should pass some legislation on this subject.

Mr. BARTLETT. Will the gentleman allow me, if it will not interrupt him?

Mr. SMITH of Kentucky. No, it will not interrupt me; I am speaking extemporaneously.

Mr. BARTLETT. This provision of the bill which protects not only the President but the Vice-President, and so on down the line, does not the gentleman think the extending of the law—for it is extending the law virtually, to include the killing of the Vice-President and the members of the Cabinet and the ambassadors—is going much further than even the English people ever went when they defined treason as an attempt to take the life of the King, his consort, and his oldest son; in other words, by extending this along down the line, we virtually make that treason which was never done in England?

Mr. SMITH of Kentucky. I believe the provisions in this bill reach further than did the law of England against treason.

Mr. BARTLETT. Is it not a fact that this bill protects the President and makes it virtually treason, because the Constitution does not permit you to call it treason?

Mr. SMITH of Kentucky. I presume so. If the power had existed under the Constitution to have made these things denounced in this bill against the President and his Cabinet who are in the line of succession treason, it might have been preferable, and I think this bill ought to be characterized "A bill to prevent the obstruction of the Government." This is what I think it ought to be entitled, for I think that is what it is. Its design is to prevent the obstruction of the performance of the duties of certain officials of the Federal Government, and not, as some gentlemen who have spoken on the other side seem to think, that it is against the murder or the killing of a citizen. That is but an incident of the crime sought to be punished by this measure.

Mr. RAY of New York. My colleague will remember that among the amendments we propose to the bill is one which prevents crimes against the Government, which embraces the idea of the gentleman.

Mr. SMITH of Kentucky. That is true.

Mr. Chairman, the Supreme Court of the United States in the Cruikshank case substantially held that it was within the constitutional power of Congress to enact such laws as this, for in that decision it is said:

> The Government thus established and defined is to some extent a government of the States in their political capacity. It is also for certain purposes a government of the people. Its powers are limited in number, but not in degree. Within the scope of its powers, as enumerated and defined, it is supreme and above the States, but beyond it has no existence. It was erected for special purposes and endowed with all the powers necessary for its own preservation and the accomplishment of the ends its people had in view. It can neither grant nor secure to its citizens any right or privilege not expressly or by implication placed under its jurisdiction.

In re Neagle both opinions held that the Federal Government has under the Constitution the full and complete power to protect itself. In the dissenting opinion it is stated:

> We recognize that the powers of the Government within its sphere, as defined by the Constitution and interpreted by the well-settled principles which have resulted from a century of wise and patriotic analysis, are supreme; that these supreme powers extend to the protection of itself and all of its agencies, as well as to the preservation and the perpetuation of its usefulness, and that these powers may be found not only in the expressed authorities conferred by the Constitution, but also in the necessary and proper implications.

So said Chief Justice Fuller and Justice Lamar.

The criticism that the substitute prescribes the death penalty not only for murder but for certain other homicides that are under the statutes of the various States punishable by imprisonment for life in some and a term of years in others has some force. I think it would be wiser and more conservative to make the description of the crimes to be denounced in the first three sections correspond with that of murder, and I shall at the proper time offer the amendments necessary to accomplish this change. These crimes as defined in the substitute, however, approximate murder so nearly and are so manifestly inspired by an evil intent and design against the Government itself that the defeat of this measure can not be justified on that ground. It is urged by some that he who kills one of the high officials embraced by the terms of this bill should be punished more severely than for the killing of a plain citizen upon the idea that their lives are more important to the public than is the life of the nonofficial.

This fact may be and doubtless is true, but it does not follow as a logical sequence in sound public policy that the culprit should be any more harshly dealt with in the one case than in the other. Men in every community vary in their importance; some have more reputation, some have more money, some have more sense, some have more charity, and in a hundred other respects they differ in importance, but I never heard of any demand in any State, for any such an adjustment of criminal statutes that the punishment of criminals would be regulated according to the standing in any particular or generally of the victim.

There is neither good policy nor sufficient reason for the section relative to the foreign ambassadors and ministers. Those diplomats are neither citizens nor officers of the United States, and when, so far as life and property are concerned, the same protection is given them under existing conditions as are secured to our own citizens every international obligation and duty has been fulfilled. I can but feel that its retention is indicative of an unhealthy condition of public sentiment, and shall support a motion to strike it out. I also think that section 13 should, on general principles, be stricken from the bill.

Mr. BARTLETT. Will the gentleman allow me to interrupt him for a moment?

Mr. SMITH of Kentucky. Yes, sir.

Mr. BARTLETT. Is it not true, with reference to this bill, that in order to give jurisdiction to the United States court, or the trial of a case at all, the very heart of the offense is the assault upon or killing of the President or other officer, either because he is an officer of the United States or because he was engaged in the discharge of his official duties? Without that, according to the report of the committee as made by its chairman, the bill would not be constitutional. But this section proposes absolutely to presume that the very essence of the case is proven without a word of truth having been submitted. Is not that true?

Mr. SMITH of Kentucky. Well, yes; it creates a presumption in favor of a jurisdictional fact; but should the section be retained it can not result in any greater detriment to an accused than to require him to answer in a Federal instead of a State court. The presumption there declared is applicable only when the unlawful killing is charged to have been committed when the officer was engaged in the discharge of his official duties. That the accused unlawfully, purposely, and knowingly killed a Federal official must be established beyond a reasonable doubt by evidence. If that shall have been done, then he is punishable for a crime in the State court, or if such deed is shown to have been committed while the official was engaged in his official duties he would under this act be subject to Federal jurisdiction. Hence the only immediate result will be to affect the question of jurisdiction.

I have thus pointed out briefly the principal objections that can be urged against the committee's substitute. Upon the whole, however, this measure has considerable merit. It will provide not only a uniform but a commensurate punishment for those crimes. Its provisions relative to the teachings of anarchy and the conspiracies and crimes resulting therefrom are most excellent and commendable and will no doubt receive the approval of the people who have appreciated the necessity for and earnestly urged the enactment of stringent legislation on the subject. [Applause.]

Mr. RAY of New York. I yield the residue of my time to the gentleman from Maine [Mr. LITTLEFIELD].

Mr. LITTLEFIELD. Mr. Chairman, I yield a moment to the gentleman from Kansas [Mr. SCOTT].

Mr. SCOTT. Mr. Chairman, as one not trained in "the lawless science of the law," unskilled in the dialectics of its books and schools, I hesitate to avail myself of the opportunity afforded me by the courtesy of the distinguished gentleman from Maine [Mr. LITTLEFIELD] to engage in the discussion of the pending measure. The sentiment of the great and patriotic State which I have the honor to represent on this floor is so united and earnest, however, in support of the objects sought to be gained by the passage of this bill that I feel as if I should be remiss in my duty if I should fail to give expression to it here.

I can easily understand the attitude of gentlemen on the other

side of this Chamber who have arrayed themselves in almost unanimous opposition to this measure. With a fidelity to the traditions of their party which does credit to their heart, if not to their intelligence, they have gone to the melancholy grave at Appomattox and conjured forth the poor ghost of State's rights and have thrust it forward here as justification for their opposition to a measure which seeks to give the nation's protection to the nation's President. "We must not trench upon the rights and powers of the States with Federal legislation," these gentlemen assert. "There is no 'dignity which doth hedge about a king' in this great country," they say, "and therefore a statute which seeks to give him special protection violates every principle and tradition of our history."

I say I can understand such an attitude as this on the part of gentlemen on the other side, for I have read the history of the Democratic party; but I must say, and I am very glad to say, I can not sympathize with it. As an academic proposition I think I have a fair understanding of the relations existing between the several States and the Federal Government, and their respective powers and privileges; but as a practical question it has never worried me. No intelligent American needs to be told that the proper adjustment of the relations which should exist between the States and the General Government was the first and greatest of the problems which confronted the makers of the Constitution; but why, at this stage of our national life, State lines should be held of any importance except as a mere political convenience to facilitate the operations of self-government among the people has been to me always a curious thing.

No citizen of Kansas has ever been accused of lacking a proper degree of State pride; but I never heard or heard of any citizen of that State expressing a feeling of jealousy or suspicion toward the United States of America, or protesting that the Federal Government was trespassing upon the rights of the sovereign State of Kansas. Kansas was settled in large part by ex-soldiers of the Union Army. They went out there with the idea somewhat firmly fixed in their minds that they had settled for all time the question as to whether the United States was one sovereignty or forty-five; and they are still of that opinion. The idea, therefore, that in passing a law authorizing the Federal courts to take jurisdiction of an assault upon the life of the President Congress would be authorizing the General Government to usurp a function that should be left to New York or Ohio or Arkansas or any other State would simply never occur to the mind of a citizen of Kansas.

I have no sympathy either with the objection to this measure which is grounded on the proposition that the life of the President is no more precious than the life of any other citizen and is therefore not entitled to special protection. When one man is singled out from among 80,000,000 of people, and by the free, uncoerced, and uncorrupted franchise of his fellow-citizens is chosen as their Chief Executive and becomes vested with powers and duties and responsibilities upon the proper exercise and discharge of which the happiness and prosperity of the whole nation may largely depend, is it not idle to assert that the life of this man is of no greater value to the nation than the life of any private citizen?

It is of infinitely greater value, not only because of the vastly important functions which the President exercises, but because he stands as the representative of the sovereignty of the nation, so that an assault upon him has the element of treason as well as of murder in it, combining thus the two highest crimes known to human jurisprudence. Who among us can not recall the mingled feelings with which we heard of the assassination of William McKinley? The feeling of grief, first, for the loss of a man we so much loved, and then the sentiment of rage that an impious hand had been lifted against our country. Not one of us but felt that the whole nation had been outraged and insulted. The feeling was less in degree, perhaps, but it was the same in kind as if a foreign warship had fired without cause upon a merchant vessel flying the American flag.

In this latter case, supposing it should ever happen, is there one among us who would be content to leave it to the State whose citizens might happen to own the merchant vessel to exact retribution from the power whose warship had offended? Would not every American citizen instantly demand that the whole power of the nation should be invoked to avenge the insult which all the people had suffered by the assault upon their flag? Well, is not an attack upon the President because he is President as much an insult to all the people as an attack upon a ship which bears our flag? And is there any more reason why we should be content to let a single State take entire jurisdiction of the crime in one case than in the other? An assault upon the President because he is President is a crime against the nation. A crime against the nation should be placed within the jurisdiction of the courts which represent the nation. This Congress should serve notice on all the foul breed of anarchy that when any one of them assaults the nation through the nation's head he will have every American citizen, through the nation's courts, to reckon with.

While I disagree utterly, therefore, with the views entertained upon the other side of this Chamber, I regret very much to find myself unable to approve without qualification the bill which the majority of the Committee on Judiciary has presented for our consideration. The first section of this bill reads as follows:

> That any person who unlawfully, purposely, and knowingly kills the President of the United States while he is engaged in the performance of his official duties, or because of his official character, or because of any of his official acts or omissions, shall suffer death.

The gentleman from Indiana [Mr. CRUMPACKER] has given notice that at the proper time he will move to amend this section by striking out the words "while he is engaged in the performance of his official duties, or because of his official character, or because of any of his official acts or omissions;" so that it will read: "That any person who unlawfully, purposely, and knowingly kills the President of the United States shall suffer death"—and I most earnestly hope this motion will prevail.

I am aware, of course, that the qualifying words which this amendment proposes to strike out were inserted because, in the judgment of the majority of the committee, they were deemed necessary to insure the constitutionality of the act, and I have listened most attentively to the very able and exhaustive arguments by which the distinguished chairman of the committee and his colleagues have sought to enforce this view of the question.

But I must confess that I remain unconvinced. In the first place, I think it will be conceded that all the Supreme Court opinions which have been so voluminously cited in this debate have been utterances of interpretation and not of exposition. The Supreme Court has undoubtedly declared in numerous instances that statutes enacted for the protection of United States officers while in the discharge of their duties are constitutional, but it has in no case cited here declared that a statute enacted for the protection of such officials during the entire term of their office would not be constitutional. And I submit that, to the lay mind at least, the declaration of the court that Federal courts can properly take jurisdiction of assaults committed upon a Federal officer while in the performance of his duty by no means warrants the implication that the Federal courts could not also take jurisdiction of an assault committed upon a Federal officer while not in the immediate discharge of his duty, provided such a case were covered by a properly enacted statute.

With all due deference to the eminent lawyers who have discussed this question so learnedly, it seems to me they have lost sight of the broad, common-sense, patriotic proposition that a sovereign nation has an absolute right to protect its sovereignty. And yet this is a proposition, let me suggest, that the Supreme Court of the United States has never lost sight of. At every great crisis in our national history, when it was proposed to take some step which had not been taken before, but upon which the continued progress and prosperity, and perhaps the very life, of the nation depended, there have always been timorous or short-sighted counselors who sought to prevent the step by blocking the way with the Constitution.

It is enough to cite the constitutional objections that were raised to the purchase of Louisiana, to the greenback act, to the credit-strengthening act, to the proposal to hold the islands acquired from Spain as territory, and not as a Territory of the United States. But the Supreme Court has always vindicated the sovereignty of the United States. It has always held that whatever act was essential to and inherent in national sovereignty could be properly exercised by this nation. Why should we fear, then, that this great tribunal would now deny to the nation the very first and highest right of sovereignty, the right to protect the life of its Chief Executive, the right to preserve the orderly administration of its affairs?

Does anyone imagine that the Supreme Court would quibble and haggle and split hairs when the question before it was one of inherent national right? If this amendment should prevail and an assault should be committed upon some future President, and the assailant should allege as his defense that he committed the assault at a time when the President was not engaged in the performance of his duty, does anybody believe for a single moment that the Supreme Court would recognize the validity of such defense and declare that Congress had exceeded its powers in attempting to protect the President at all times? The President can not always be engaged in the actual performance of his duty. He must eat and drink and take his recreation as other men. But can it be insisted that there is any time when his death would not disturb the machinery of government and bring anguish to the people?

Let it be remembered always that it is the Government of the United States, the free institutions which we have builded here, and not merely the life of a man, that we are endeavoring by this

bill to protect. Was it any less an assault on these institutions that Abraham Lincoln was shot at a theater; that James A. Garfield was struck down as he was departing upon a journey of pleasure and recreation; that William McKinley was treacherously murdered while extending the hand of friendship and good will to his fellow-citizens in a city far distant from the seat of government? Not one of these men could by any reasonable construction of language be said to have been engaged in the performance of his duties at the moment chosen by the assassin to take his life; and yet who can deny that the assault upon them in each instance was just as much an attack upon the Government and just as great a shock to the orderly administration of the nation's business as if the fatal shot had broken in upon the very midst of an Executive act?

The President can not be always in the performance of his duty, but his duty is always upon him, and whoever makes impossible his performance of to-morrow's duty commits as great a crime as he who strikes him down with to-day's duty half fulfilled. Strike out from this first section the words, "while he is engaged in the performance of his official duties, or because of his official character, or because of his official acts or omissions," and you leave to the Supreme Court no task except to declare whether or not this nation has a right to punish an offense against its official head—a right which is of the very essence of national sovereignty, and which it is inconceivable to me could ever be denied. Leave these words in, and you not only suggest to the man who assaults the President the line of his defense, but you impose upon the court the determination of questions of motive, about which there can always be endless quibbling and contention.

Leave these words in and you warn the would-be assassin that he must commit the assault at some time when the President is taking his rest or his recreation, and that he must allege as a reason for it some private grievance wholly outside of the President's official acts, omissions, or character. Why go to such length to make it easy for the man who commits the greatest crime possible to any human being to escape punishment? I agree perfectly with the gentleman from Massachusetts [Mr. POWERS] that any man capable of committing so great a crime is not likely to be deterred by the severity of the penalty, and that the greatest good we hope to accomplish by the passage of this measure is its moral effect. That being true and conceded, let us give it the greatest possible moral effect by making its terms direct and unequivocal. Let us declare, without condition or qualification, that the life of the President during his entire term of office belongs to the nation: that it is in the nation's keeping; that an attack upon it is a crime against the nation which the nation's courts will surely and swiftly and severely punish.

While I very earnestly hope, therefore, that the qualifying words in section 1, and wherever they occur in subsequent sections, may be stricken out, yet whether they are or not, I shall most cordially support this bill. I disagree utterly with the declaration of my friend from Georgia [Mr. ADAMSON] that this bill is the "inconsiderate outcome of hysteria" rather than the product of cool deliberation and the triumph of wise statesmanship. The people of the United States do not become hysterical, Mr. Chairman, but they do sometimes become terribly in earnest. This bill is here, it is true, in response to a popular demand; but that demand springs not from hysteria or fear.

It is the expression of a grim, resolute, and well-considered determination that this nation must be liberated, if liberation is possible, from the noisome and alien breed of anarchy; liberated from the terror by night, from the pestilence that walketh in darkness, from the destruction that wasteth at noonday. Not for the fear that anarchy may overthrow government; not for the fear that so many wise and great may fall at the hand of the assassin that none shall be left wise and great enough to administer the affairs of state; but because the people have a right to the life and service of those whom they choose to execute their will, and because the men thus chosen have the right to feel that no extraordinary danger hangs over their heads.

I can not see in this measure, Mr. Chairman, any menace to free speech or free press or to the exercise of any other right guaranteed us in the Constitution. A hundred years of self-government has made it easy for us to draw the line between legitimate criticism of public officials and public policies and seditious assault upon the Government itself. That line must be drawn. The law is for the lawless, and those who are law abiding need not fear it. The law against larceny does not harm the man who does not steal.

A law which closes the gates of Castle Garden against an avowed anarchist, which drives from our borders those already here, which prohibits the utterance of an anarchistic speech or the publication of anarchistic literature, and which punishes with death an attack upon the life of the President or anyone in line of succession to him, will put no restraint upon the man who has not treason and murder in his heart.

Let us write such a law upon our statute books; let us serve notice that this nation will defend itself no less against the bullet of the secret assassin than against the guns of the open enemy. Nothing less will be the measure of our duty; nothing less will meet the patriotic demand and the just expectation of the people. [Loud applause.]

Mr. LITTLEFIELD. Mr. Chairman, I desire to congratulate the committee upon the fact that this debate upon the pending question is the first illustration in my Congressional experience of debate in Committee of the Whole on the state of the Union being confined to the question pending before the committee. It has been suggested as a reflection upon this body that it had ceased to be a deliberative body. I also congratulate the committee upon the fact that this debate has demonstrated that the House still is a deliberative body, because the debate has not only been confined to the pending question, but it has been full, clear, able, and complete, and every member of the House who has desired to express an opinion upon this question has had full opportunity to do so. And it simply illustrates that it is always within the power of the House to thus conduct itself in a purely deliberative manner, notwithstanding the rules of the House, against which some of us sometimes inveigh. Upon every question this course could be pursued if the committee so desired. This would lead to a better attendance on the committee, as in such case the members might well expect to get some information on pending questions. On the contrary, however, the practice has become well-nigh universal, when in Committee of the Whole, to ignore the question and discuss everything from the precession of the equinoxes to the wherefore of the aurora borealis. The result is a lack of interest, no debate, no attendance, no benefit.

I perhaps may make here a personal digression. I desire to say that, so far as I am concerned, I have never been oppressed, depressed, compressed, or suppressed [laughter] by either the Speaker or the Committee on Rules. I have felt obliged on some occasions in my legislative capacity to differ from the Speaker and the Committee on Rules; and it may be fair for me to go further and say that, notwithstanding that fact, I have always been treated by the Speaker and the Committee on Rules like a gentleman; and I hope I have been able to reciprocate in kind. So that personally I have no complaint to make of any of the rules of the House. I have not found them interfering with or impeding myself in the discharge of my humble duties as the representative of my constituents.

The widespread and general dissemination, without control or regulation, of the anarchistic doctrines of assassination and murder that culminated in the foul, wicked, and infamous assassination of William McKinley, of saintly memory, not only profoundly moved mankind the world around, but attracted the attention of all civilized countries to the existence of the propaganda of attack upon organized government by the murder of its official head. It directed the attention of our own people to the question as to whether or not it was possible for the great legislative body of this nation to place upon the statute books any legislation that would at least tend in some degree to more adequately protect the officers of the Government and correct this crying public evil. In response to these suggestions many bills were introduced by the members of this House and referred to the Judiciary Committee. The Judiciary Committee began early its investigation of this question and its consideration of these various measures.

I concur most fully in the suggestion of the gentleman from Kentucky [Mr. SMITH] that during my short experience, while I have had the honor to be a member of this great committee, there is no question that has received at the hands of this committee the careful deliberation, the full investigation that this measure has received, which has been reported to the House. The committee felt, and I now feel, that it was its duty when these new propositions were suggested for its consideration, to examine not only the Constitution, but the law of the land, the decisions of the courts, in order that the committee might report as the result of its deliberations not alone a wise, conservative, judicious measure, but one that would be clearly within constitutional limitations.

Now, the question before the committee is this: The Senate has passed a bill and has sent it to the House. It came before the Judiciary Committee. The gentleman from California [Mr. LOUD] is not entirely correct in stating that the House bill is better, in his opinion, because of more delay and deliberation and is of a more conservative tone by reason of the delay, because really the committee on the part of the House reported this bill to the House, if I remember correctly, some time before the Senate committee even reported its bill to the Senate. The Senate bill was finally presented to the House and referred to the Judiciary Committee, and that committee reported the Senate bill back with the recommendation that the bill of the committee be substituted for the Senate bill, and a little later I purpose calling attention to the

considerations which led the committee to take this course. I full well appreciate and understand that this is a question about which not only lawyers, but laymen, may intelligently and honestly differ.

The committee feels that it has recommended to the House the proper legislation. The committee does not feel that its deliberations are binding upon this House. The committee does hope that when the House fully understands this question and appreciates the work that the committee has done that the House will at least feel that the committee has made an effort to thoroughly, faithfully, honestly, intelligently, and patriotically investigate these questions and then give to the House the results of its investigation. And I wish to say this: Every member of this committee, although two of the committee do not agree with the balance of us upon the committee, but every man upon this committee, in my judgment, has been actuated by the same honest and patriotic motives. It is hardly to be expected, perhaps, that 17 men might unite upon a new and difficult legal proposition.

I purpose directing my discussion of this bill to the jurisdictional phase of it, and I may say here that the principal reason why the committee does not believe that the Senate bill should be adopted is because in its first section, in two important particulars, the committee believes it to be unconstitutional. I have said that the committee may be wrong, but we think we are right, and I will do the best I can in the time allotted to me to try and give the House the reasons, so far as they have not already been given—and they have been very ably given by the chairman of the committee—why we take this view; but in two important features, we think, in the jurisdictional part of the bill the Senate bill is unconstitutional. We believe that the House bill is within safe constitutional limitations.

The committee feels and I feel that upon a new question like this it is the duty of this committee to give to this House a measure that it believes and knows to be within constitutional limitations, and it is its duty not to give to this House nor to recommend to this House a measure that is of doubtful constitutionality, assuming it to be doubtful, or which may be in the nature of a legislative guess as to what the courts may hereafter hold, because later, when time shall test this measure, no matter what view we may take of this legislation from its practical standpoint, every man and every lawyer in this body wants to feel that he has voted for a sound constitutional proposition. He does not want to take any chances upon the construction that the court may be called upon hereafter to make.

Every lawyer on the committee believes that the committee's bill with its definitions of jurisdiction is constitutional, with one exception, perhaps, and I desire to state this fairly, and I want to say here I have no motive in stating any of these questions other than fairly. I shall esteem it a kindness if any member of this House at any time while I am discussing this question finds himself confronted with anything that he does not understand or with any question he desires to have answered will interrupt me and I will be only too glad to make answer if I am able to. I will do the best I can. It is the duty of a committee whose members stand upon this floor supporting an important bill to give to the House freely and fairly and frankly all the information it has upon questions of rights and questions of law. Now, that I will try to do.

I say every man upon the committee, with the possible exception of the gentleman from Wisconsin [Mr. JENKINS], concedes that the committee bill is constitutional. I think the gentleman from Wisconsin does say that in his judgment we reach the limit of constitutional power when we protect the lives of the President and Vice-President, and that we have no power to go further. We have three great departments of the Government, the executive, the legislative, and the judicial, and from the standpoint of the gentleman from Wisconsin [Mr. JENKINS] we have no power to protect the legislative coordinate branch, we have no power to protect the judicial coordinate branch, and we have no power to protect the great executive branch except at its head; but the vast army of officers, from the President away down through to the humblest officer, all of whom constitute and make a part of that coordinate branch known as the executive, and all of whom are essential to the exercise of the powers and the discharge of the functions of the Federal Government, those men my friend from Wisconsin feels that we have not the power to protect, and the only power that the great Government of the United States has is to protect simply two officers connected with its executive coordinate branch. The legislative branch might be destroyed, the judicial branch might be destroyed, and all of the executive branch destroyed except the President and Vice-President, and yet the Republic is paralyzed in its power to protect its existence and its operations as a Government, because, as my friend says, we can not go beyond the President and Vice-President.

Well, now, the committee do not agree with the gentleman from Wisconsin. We do not feel that we are hampered by that limitation. We are not so "cabined, cribbed, and confined." The matter has been discussed by every gentleman upon the committee, and the committee does not divide upon political ground, and I have this to say—and it ought to be said, because some suggestion has been made in relation to politics in connection with the bill—I ought to say that the Democrats upon this committee, in the subcommittee and in the full committee, labored as long and as zealously, as intelligently and as patriotically in perfecting this measure as did the Republicans. The distinguished gentleman from Texas [Mr. LANHAM] who, if his deserts receive their just reward, will go up higher when he leaves this House—and I am very glad to know that such undoubtedly will be the fact—although he does not believe in the policy or the wisdom or necessity of this measure, gave us in the committee the benefit of his great intelligence and learning in perfecting the terms of the bill—in getting it into legal and proper constitutional shape.

Under these circumstances, gentlemen, we come before this House and propose to leave with you the results of our work. What is the first great distinction between the two bills? The Senate bill is unconstitutional, first, because it prohibits the killing of the President and other officers without any limitations, qualifications, or restrictions. The House bill contains three express limitations, prescribing, as we believe—and of course we may be wrong—prescribing, as we believe, the limits of our constitutional power. What are they? That the President must be in the performance of duties of his office, or the killing must be by reason of his official character, or it must be because of some act or omission of his. Now, there is a part of the distinction between the two bills.

The Senate bill is unlimited, without any restriction or condition whatever. It is sought to justify the Senate bill by the clause of the Constitution, and I am very glad to call attention to it for a moment—the clause that authorizes Congress to enact all necessary and proper laws to carry into effect the foregoing powers. I read now from the remarks of the gentleman from Wisconsin [Mr. JENKINS]. He quoted the great case of McCullough *v.* Maryland, one of the early cases defining the constitutional limitations of power, the opinion being written by that architect of the Constitution, that supreme man in laying down the law of the land, Chief Justice Marshall. Chief Justice Marshall in reference to that clause of the Constitution said this:

In order to determine as to the power of Congress, let the end be legitimate—

Now, mark you—

let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end—

Now, mark again—

which are not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional.

Now, I submit this to the committee. It hardly does for a lawyer, talking to lawyers, to stand here and say that the Constitution says that we can pass all laws necessary and proper, and it is necessary and proper that the President should be protected, and therefore we can protect him at all times, under all circumstances, in all places. Why? Because Mr. Chief Justice Marshall said that we could pass all laws that were "necessary and proper," and what? And "*within the scope of the Constitution.*" Simply to say that they are necessary and proper, and that the purpose is necessary and proper, carries you nowhere. You reach no result. As a matter of logical reasoning you have demonstrated nothing. You have demonstrated no proposition until you have gone further and demonstrated that your proposed law is "*within the scope of the Constitution.*"

Now note, gentlemen, and when I make this statement I do not desire to misquote any gentleman. I have listened to all this debate. I have heard every speech, and I have admired the ability displayed on this floor. I have admired the interest that members have taken, and the desire which they have manifested to perfect this measure. The committee welcome that. The committee welcome criticism from any quarter. The committee do not pretend, or at least I do not pretend, to be infallible upon propositions of this kind. I give the House the best I can give them. I am ready to hear from any member of the House, however humble he may be, upon any of these propositions; any suggestion he may have to make, because I do not deny that he may be able to give light upon them.

Mr. OLMSTED. Then I would like to make a suggestion or at least ask the gentleman a question as to the use and the meaning of this word "knowingly."

Mr. LITTLEFIELD. Will the gentleman pardon me? If he will call my attention to that after the discussion of the constitutional question——

Mr. OLMSTED. I think this comes in on the point where you are.

Mr. LITTLEFIELD. It carries me off the line of my argument, and I ask the gentleman to please withhold that for the present.

Mr. OLMSTED. I think it is right in that line.

Mr. LITTLEFIELD. I am discussing the jurisdictional definition.

Mr. RICHARDSON of Alabama. I do not want to interrupt you, but I should like to ask you a question.

Mr. LITTLEFIELD. I would rather not, unless it is on the question I am discussing now. It does not interfere, but I suggest this: I am discussing now the jurisdictional features of the bill, and unless the gentleman's question relates to that, I would rather he would waive it and call my attention to it later, because I would like to get clearly before the House the views of the committee upon this jurisdictional question.

Mr. SNODGRASS. Will the gentleman state what constitutional warrant the committee found for the provision against offenses committed against foreign governments?

Mr. LITTLEFIELD. I will reach that a little later, if the gentleman will call my attention to it then.

Mr. SMITH of Iowa. I should like to ask the gentleman this question, if he will yield.

Mr. LITTLEFIELD. I yield to the gentleman.

Mr. SMITH of Iowa. If the President's duties are absolutely successive for years and continuous, I do not understand why it is that you contend that Congress has not the same power to protect the people in the right to have him perform his duty that is to be done to-morrow the same as the official duty he is performing to-day.

Mr. LITTLEFIELD. Well, I do not know whether I will be able to clear that up satisfactorily to my friend, but I will do the best I can, and if I do not succeed in throwing any light upon it I will be willing to hear the suggestions of the gentleman on this proposition; but I think I will reach that before I conclude.

Mr. RICHARDSON of Alabama. An inquiry on the jurisdictional question.

Mr. LITTLEFIELD. Will the gentleman excuse me? Will it suit the gentleman's purpose just as well to wait until I finish my argument upon this branch of the constitutional question?

Mr. RICHARDSON of Alabama. Certainly.

Mr. LITTLEFIELD. I think that would be more satisfactory to the House and myself also, and I will be very glad to answer the gentleman's question then. I was making this suggestion: I think that the suggestion made by my friends who believe that the committee's bill does not go far enough could be fairly summarized in this declaration—that it is necessary to properly protect the President, and therefore we have the power to enact the necessary and proper laws for that purpose. My answer is simply this: They must go further and demonstrate that their law is within the scope of the Conititution. This they have not done. I think I have stated in a general way the proposition we are undertaking to maintain.

How do we meet the question? The committee says first, and as has been suggested by my distinguished friend from Texas, that this is a dual government, with a State jurisdiction and a Federal jurisdiction. There is a peace of the State and a peace of the United States. There is a State power and a Federal power. State duties and functions and Federal duties and functions. Each jurisdiction is exclusive and supreme within its legitimate scope, and neither can nor does infringe upon the other. Citizens are subject to the State jurisdiction and are protected in the exercise of their rights and privileges as such by State legislation. It is the addition of the Federal official function that entitles them to the protection of the Federal power and that authorized the assertion of power for that purpose. We have full common-law jurisdiction in the States. There is no common-law criminal jurisdiction in the United States. The only power that we get for the enactment of criminal legislation by the Federal Congress is a constructive power.

There is no affirmative language in the Constitution that authorizes the enactment of a statute making any offense a crime against the Federal law. It exists only by reason of the inherent power of the Government of the United States to secure the execution of its laws, the protection of the Government, and the performance of their powers and functions by its officials, in order that the Government may be carried on. That is the limitation, that is the inherent power that authorizes the enactment of any Federal legislation making offenses a crime.

Hence is derived the power to protect its officers in the exercise of those powers and the discharge of those functions; in other words, in the discharge of their duties.

It can protect the government from any attacks made upon it by assaults upon its officials by reason of their official capacity.

To this extent its criminal jurisdiction by construction extends so far as its officers are concerned.

Beyond these limits it does not go, because the necessity which justifies the assertion of the jurisdiction does not exist beyond these limits. For these contingencies the bill in terms expressly provides.

The question is whether the bill of the committee comes within these essential limitations. Upon this line I wish to call attention here to the fact, because it tends to sustain the theory of the committee's bill, that this legislation is not, as suggested by my friend from Texas, a new departure. It is not by any means the first time the United States has exercised this constructive jurisdiction by declaring offenses against officials in the discharge of their duties to be a crime against Federal law. My friend quoted—and it indicated well his research—a statute passed in 1790 defining murder in the exclusive jurisdiction of the United States. In the very same Congress, in 1790, on April 30, the President approved a statute, found in the Revised Statutes as section 5398, which imposed a penalty upon every person—

who knowingly and willfully obstructs, resists, or opposes any officer of the United States in serving or attempting to serve or execute any mesne process or warrant, or any rule or order of any court of the United States, or any other legal or judicial writ or process, or assaults, beats, or wounds any officer or other person duly authorized in serving or executing any writ, rule, order, process, or warrant, etc.

So that at the very threshold, at the beginning, the Government began exercising this constructive power to protect its officers in the discharge of their duties. Now, I hold in my hand an abstract of all the legislation of this Government upon this line, wherever they have undertaken to exercise this constructive power in connection with its officers. I will quote them in their chronological order:

Act of March 3, 1863 (12 Stat., 731), an act for enrolling and calling out the national forces, and for other purposes.

SEC. 25. *And be it further enacted*, That if any person shall *resist any draft of men enrolled under* this act into the service of the United States, or shall counsel or aid any person to resist any such draft, *or shall assault or obstruct any officer in making such draft* or in the performance of any service in relation thereto, or shall counsel *any person to assault or obstruct any such officer*, or shall counsel any drafted men not to appear at the place of rendezvous, or willfully dissuade them from the performance of military duty as required by law, such person shall be subject to summary arrest by the provost-marshal, and shall be forthwith delivered to the civil authorities, and upon conviction thereof be punished by a fine not exceeding $500, or by imprisonment not exceeding two years, or by both of such punishments.

SEC. 5447. Every person who *forcibly assaults, resists, opposes, prevents, impedes, or interferes* with any officer of customs or his deputy, or any person assisting him, *in the execution of his duties*, or any person authorized to make searches or seizures, *in the execution of his duty*, or who rescues or attempts to rescue, or causes to be rescued any property which has been seized by any person so authorized, or who, before, at, or after such seizure, in order to prevent the seizure or securing of any goods, wares, or merchandise by any person so authorized, staves, breaks, throws overboard, destroys, or removes the same, shall be fined not less than $100 nor more than $2,000, or be imprisoned not less than one month nor more than one year, or both; and every person who discharges any deadly weapon at any person authorized to make searches or seizures, or uses any deadly or dangerous weapon *in resisting him in the execution of his duty*, with intent to commit a bodily injury upon him, or to deter or prevent him from discharging his duty, shall be imprisoned at hard labor for a term not more than ten years or less than one year. (Approved July 18, 1866.)

SEC. 5516. Every person who *willfully obstructs, hinders, or prevents any officer* or other person *charged with the execution of any warrant or process* issued under the provisions of sections 1984 and 1985, title "Civil Rights," or any person lawfully assisting him, from arresting any person for whose apprehension a warrant or process may have been issued; or *rescues* or *attempts to rescue such person from the custody of the officer or other person lawfully* assisting when so arrested pursuant to the authority herein given; or aids, abets, or assists any person so arrested *to escape from the custody of the officer* or other person legally authorized to arrest the party; or harbors or conceals any person for whose arrest a warrant or process has been issued, so as to prevent his discovery and arrest, after notice or knowledge of the fact that a warrant has been issued for the apprehension of such person, shall, for any such offense, be subject to a fine of not more than $1,000, or imprisonment not more than six months, or both. (Approved May 31, 1870.)

SEC. 5522. Every person, whether with or without any authority, power or process, or pretended authority, power or process, of any State, Territory, or municipality, *who obstructs, hinders, assaults, or by bribery, solicitation or otherwise, interferes with* or *prevents* the supervisors of election, or either of them, or the marshal or his general or special deputies, or either of them, *in the performance of any duty required of them*, or either of them, or which he or they, or either of them, *may be authorized to perform by any law of the United States, in the execution of process or otherwise*, or by any of the means above mentioned *hinders* or *perverts* the free attendance and presence at such places of registration or at such polls of election, or full and free access and egress to and from such place of registration or poll of election, or in going to and from any such place of registration or poll of election, or to and from any room where any such registration or election or canvass of votes, or of making any returns or certificates thereof, may be had, or who molests, interferes with, removes, or ejects from any such place of registration or poll of election, or of canvassing of votes cast thereat, or of making returns or certificates thereof, any supervisor of election, the marshal or his general or special deputies, or either of them, or who threatens or attempts, or offers to do so, or refuses or neglects to aid or assist any supervisor of election, or the marshal or his general or special deputies, or either of them, *in the performance of his or their duties*, when required by him or them, or either of them, to give such aid and assistance, shall be liable to instant arrest without process, and shall be punished by imprisonment not more than two years, or by a fine of not more than $3,000, or by both such fine and imprisonment, and shall pay the cost of his prosecution.

(Approved February 28, 1871.)

SEC. 5472. Any person who *shall rob any carrier, agent, or other person intrusted with the mail*, of such mail, or any part thereof, shall be punishable by imprisonment at hard labor for not less than five years and not more than ten years; and if convicted a second time of a like offense, or if, in effecting such robbery the first time, the robber shall wound the person *having custody of the mail*, or put his life in jeopardy by the use of dangerous weapons, such offender shall be punishable by imprisonment at hard labor for the term of his natural life.

SEC. 5473. Any person who shall attempt *to rob the mail by assaulting the person having custody thereof*, shooting at him or his horse, or threatening him with dangerous weapons, and shall not effect such robbery, shall be

punishable by imprisonment at hard labor for not less than two years and not more than ten years.
(Approved June 8, 1872.)
SEC. 3869. Every person who *willfully and maliciously injures, tears down, or destroys any letter box, pillar box*, or other receptacle established by the Postmaster-General for the safe deposit of matter for the mail or for delivery, or who *willfully and maliciously assaults any letter carrier, when in uniform, while engaged on his route in the discharge [of his duty as a letter carrier*, and every person who willfully aids or assists therein, shall for every such offense be punishable by a fine of not less than $100, and not more than $1,000, or by imprisonment for not less than one year and not more than three. (Approved June 8, 1872.)

Mr. CRUMPACKER. May I interrupt the gentleman?

Mr. LITTLEFIELD. Yes.

Mr. CRUMPACKER. Has there ever been any legislation protecting the President of the United States from interference in the discharge of any of his official duties?

Mr. LITTLEFIELD. That comes to a question whether there is any precise precedent for this. Congress has never undertaken such extensive unlimited power. No; I do not think that there is.

Mr. RAY of New York. I beg the gentleman's pardon, but the gentleman from Maine just read one statute where it says "any officer of the United States."

Mr. LITTLEFIELD. That is true; but I thought the gentleman from Indiana meant the President specifically.

Mr. RAY of New York. It says "any officer of the United States."

Mr. LITTLEFIELD. Oh, yes; I understood the gentleman from Indiana to ask if the President of the Uuited States was mentioned by name.

Mr. RAY of New York. The President is an officer of the United States, and is included in that term; it takes in every officer.

Mr. CRUMPACKER. In view of the statement of the gentleman from New York, I would like to ask him is there any or has there been any legislation during the history of this country that would punish any interference with the President of the United States in the discharge of the functions of his office?

Mr. LITTLEFIELD. Eo nomine?

Mr. CRUMPACKER. No; by interpretation. Is there any statute that would cover the President of the United States to protect him against the interference in the discharge of his official duty?

Mr. LITTLEFIELD. I will say that I doubt very much if there is, except by a very strained construction.

Mr. LANHAM. I think that is true. Now, may I ask the gentleman a question?

Mr. LITTLEFIELD. Certainly.

Mr. LANHAM. In any of the instances the gentleman from Maine has cited, in the statutes to which he has referred, is there any legislation proposed where the Federal Government takes cognizance of a crime involving the personal violence within the limits of the State?

Mr. LITTLEFIELD. Oh, yes; these statutes nearly all relate to Federal officers operating within the limits of a State.

Mr. LANHAM. Yes; but they refer to obstructions or the resistence to the processes of officers of the United States; but I mean for any crime like personal violence—assault and battery or murder?

Mr. LITTLEFIELD. No; that specific, distinct crime that the gentleman refers to is not covered by these statutes.

Mr. LANHAM. So that the point I make is that this is a new departure.

Mr. LITTLEFIELD. In that respect it is a new departure, and I will have occasion to call attention to it when I read from the decisions of the court in the case of Yarborough in the United States Court Reports. I will show that the new departure is justified by reason of the fact which the committee believe, with all due respect to my friend from Texas, that there to-day exists an exigency that properly requires the exercise of this power, although heretofore it may not have been exercised.

The history of this legislation has been that in the experience of the Government in the development of its history that whenever under the circumstances necessity for legislation of this kind existed Congress has always responded with the legislation.

Beginning with 1790, and then in 1863, 1871, and 1872, step by step and so on as the exigencies have arisen, Congress has risen to the occasion and passed the legislation. And now we think that circumstances exist and exigencies have arisen which should call into exercise by legislation this power which has lain dormant during the history of the Republic.

I want to say this, so far as the gentleman from Indiana is concerned, that I shall not contend and I do not contend that there is any decided case that stands on all fours with the proposition suggested by the Senate bill, because the Congress of the United States has never yet assumed such power—and that is a fact of some significance—in any of these instances where legislation has been passed. If the theory of the Senate bill is sound it would have been entirely competent for the Government to have provided against assaults on officers without reference to what they were doing or where they were, or to its effect upon the operations of the Government. It would have been entirely competent to punish such assaults; but it is significant, it is worth something, it is entitled to some force, that never before now has it ever been attempted to reach out and exercise this broad, general, and unlimited jurisdiction and protect the officer simply because he was an officer, independent of the consequences and independent of the question as to whether the assault was made upon him by reason of his official character.

Of course there could not be any case precisely in point. But it is not the purpose of cases that have been decided by the courts to enable a lawyer to take down books from his shelves and find cases on all fours with and fitting exactly the case before him. This is not necessary in order that he may reach a conclusion as to the state of the law. This suggestion that there is no specific case in point reminds me of a gentleman who practiced law in my vicinity and who was what is known as a "case lawyer," and I wish to show what was his conception as to the use which was to be made of adjudicated cases. A client came into his office one day and inquired whether or not he had a perfect title to a calf that was in controversy. My friend, who was a "case lawyer" and who had a large library, took down his books and began looking over them to see whether there was any other calf in the books. Unfortunately for his client he could not discover another calf in the books. So he shut them up in derision, and when his client called again he informed him that "there was no law on calves." He had not found any specific identical case agreeing absolutely with the one in hand. That incident may serve to illustrate the idea of some gentlemen that we must find in this instance a case exactly parallel which has been decided by the courts.

The purpose of precedents and decisions of the courts is not necessarily to furnish cases that are on all fours with cases that may subsequently arise that rest upon the same facts. That is not a scientific conception of the law—that is not the way in which the law is scientifically investigated. The real purpose of decisions and conclusions of the courts is to ascertain the principles upon which cases have been decided, which, when ascertained and declared, may be subsequently applied to other conditions and other facts when they arise. It is the ascertainment, declaration, and application of fundamental principles declared and announced by the courts in accordance with the perfection of human reason that dignifies the great profession to which we belong as one of the noblest professions in the world. This involves the exercise of reason.

Now, although there is not any case precisely in point, precisely deciding this specific matter in specific language, I hope to be able to satisfy this committee that the canons of constitutional construction as laid down by the courts in other cases govern and control this proposition here; and if so, wisdom and caution and conservatism requires us to adopt the conclusions of the committee.

Before reaching the discussion of these cases, I want to call attention to one suggestion which has been made here and made with a good deal of force. It is not necessary to undertake to "whistle down the wind" any suggestion which may be made upon either side of a great question as important as this is. It is suggested that the President has vested in him the executive power under the Constitution, and therefore occupies a different position legally from any other executive officer. There is force in this suggestion.

The Constitution does provide that in the President shall be vested the executive power. But the Constitution does not provide that the President is that coordinate branch of the Government called the Executive. The very same article of the Constitution which provides that the executive power shall be vested in the President provides also that the President may call for the opinion of the head of each of the Executive Departments. The Constitution in express terms contemplates, not that the President is *all* that there is of the executive department, but recognizes that there are heads of the Executive Departments; that the executive powers extend beyond the President of the United States. He holds the greatest office, the most dignified, the most honorable in the world—a position upon which are imposed more duties and in which is vested more power than in any other officer known to the Constitution and laws. But that does not demonstrate that there is any distinction in law, in legal character, between his office and the great army of subordinate officers who are called executive officers and without whom the functions of the Government could not be discharged.

If it were true that the President of the United States himself is *eo nomine* this coordinate branch of the Government—and there is force in the suggestion at first blush—if that were true, I submit whether or not the killing of the President of the United States would not for the time being obliterate the executive part of the Government. But does it do so? The killing of the President of

the United States does not for one moment hinder the discharge, except so far as he is personally concerned, of any of the executive functions of the Government.

It was the highest tribute ever paid to American institutions and constitutional government when it appeared that even the death of William McKinley at Buffalo never for a moment disturbed the discharge of the executive duties upon the part of any executive officer. Had the President been himself the source and inspiration of all executive power, the killing of William McKinley would have destroyed for the time being the executive branch of the Government. But as James A. Garfield well said at the time of the assassination of President Lincoln—and this illustrates the legal propriety of the declaration—"God reigns, and the Government still lives." The great army of executive officers still went on in the exercise of their powers and the discharge of their duties. There was not even a tremble in the executive functions.

For this reason it seems to me, Mr. Chairman—I may be wrong about it—that the same legal considerations apply to one office that apply to the other. Practical considerations, political considerations, sentimental considerations are transcendentally annexed to the office of the President as compared with others below him in the Executive Departments.

Mr. BROMWELL. Will the gentleman permit me to ask him a question at this point?

Mr. LITTLEFIELD. Certainly.

Mr. BROMWELL. As I understand it, the argument of the gentleman is that the destruction of the President alone would not be a blow at the executive branch of the Government?

Mr. LITTLEFIELD. Not entirely.

Mr. BROMWELL. Because there is some one provided for by the Constitution who is to succeed him, and those successors are provided for by law. Now, let us imagine a case which is possible. It may be a remote contingency, but let us suppose that the President, Vice-President, and all the others who are provided for by law as successors should in one conspiracy, as it were, say in a railroad train or at a public meeting, be assassinated. Then there is no one provided for by law to succeed to the executive branch of the Government. Will the gentleman elucidate his views as to the condition of affairs under such a contingency as that, which is entirely possible?

Mr. LITTLEFIELD. Certainly, and I am very glad to have the gentleman make the suggestion. I do not rest my proposition upon that sole ground. If I did, there would be considerable force in the suggestion of the gentleman. It is true that in case of the death of the President there are now in existence, ready to take up the discharge of his duties simply by taking an oath, at least half a dozen officers in the line of succession, but of course, when exhausted, you would have the condition of hiatus suggested by my friend from Ohio; but I go further than that. The President, the Vice-President, the members of the Cabinet are not the only executive officers. For instance, the President is mentioned in the Constitution, and, by the way, that is the suggestion of my friend from Wisconsin [Mr. JENKINS] and where his line of demarcation was drawn. He excludes the others, because they are not mentioned by name; but the Speaker of the House of Representatives is mentioned by name, the President pro tempore of the Senate is mentioned by name, the Senators are mentioned by name, and the Representatives and the judges of the Supreme Court, all of whom he would eliminate; but I go further. I say that below the President and the Vice-President and Cabinet officers there is a vast army who are also executive officers.

Mr. BROMWELL. But can any of those executive officers fill the office of President?

Mr. LITTLEFIELD. Not at all.

Mr. REEVES. I would like to ask the gentleman a question.

Mr. LITTLEFIELD. Certainly.

Mr. REEVES. If I gather the force of the gentleman's argument, it is this, in a word, and I wish to restate it, that if the entire executive function was embodied in the President, then the difficulties of jurisdiction that the gentleman's committee has met with would not exist, and it might make a law or a statute punishing the assassin of the President because he was President. Did I catch the gentleman right?

Mr. LITTLEFIELD. No; that is not my proposition.

Mr. REEVES. Pardon me just a moment, and I will not interrupt the gentleman again. I caught that as the spirit of the gentleman's argument, it being a jurisdictional one, and if that were true—and I make this suggestion for the further consideration of the gentleman—even though not all of the executive powers are vested in the President, still the striking down of the President would at least be a crippling of the executive powers of the executive branch, and if that were all vested in him and because of that you could punish the man for killing him, it would follow necessarily that if you partially destroyed them you could do it, legally and equitably, I think.

Mr. LITTLEFIELD. I do not concede; and if the gentleman will follow me as I go along, he will see that I do not think the authorities would sustain the proposition that even if the President was the sole Executive he could be protected beyond the discharge of his official duties or by reason of his official capacity—note that—or by reason of some act or omission of his. I think that is the definite limitation made by the courts as they lay down the canons of construction. The argument I have been trying to make—and I am glad the gentleman makes the suggestion, because I do not like to be misunderstood—is that there is no legal distinction between the lower office and the higher office. The President is at the head of the Executive Department, and a fourth-class postmaster may be at the foot. They are both a part of it. My purpose in making these suggestions is to try and demonstrate this and for the purpose of applying to this part of the question the cases I am going to cite construing statutes, in some instances relating to inferior offices; but in construing them the courts laid down fundamental propositions, canons of construction, and I shall try to show that in my judgment there is no legal distinction between the highest and the lowest, because they are all executive officers and essential parts of the Executive.

Mr. BROMWELL. If the full line of succession to the Presidency were wiped out, according to the suggestion of mine a while ago, in order that anyone else may exercise the office of President of the United States under the Constitution, Congress would have to legislate, and the President of the United States would have to sign a statute which provided for the succession. All persons who were competent to act with Congress in signing and approving any act that we could pass would have been wiped out. How could the legislative branch alone, under the Constitution, create an office or provide a successor for the Presidency, when all who are now provided for by law should have ceased to exist?

Mr. LITTLEFIELD. I do not know that we could.

Mr. BROMWELL. Then would there not be a hiatus in the Government——

Mr. LITTLEFIELD. That might be so——

Mr. BROMWELL. Which would render our action absolutely void.

Mr. LITTLEFIELD. That might be so. Of course that is an extreme illustration. With the extreme and absolutely impossible illustration of the gentleman that might be so, and it may be that would demonstrate a casus omissus under those unsupposable circumstances that the gentleman refers to. I concede that, but it does not determine the question whether or not the jurisdiction of Congress in passing legislation is or is not circumscribed, in my judgment. Of course I am very glad to have the suggestion of the gentleman. Now, I wish to call attention briefly to some authorities that tend to establish the distinction between the State sovereignty and Federal sovereignty, State and Federal jurisdiction, and, as I submit, lay down this canon of construction. I will refer to some cases that have already been referred to.

In the case of the United States *v.* Cruikshank (92 U. S., 542–553), the court said, pages 553–554:

> The very highest duty of the States, when they entered into the Union under the Constitution, was to protect all persons within their boundaries in the enjoyment of these "unalienable rights with which they were endowed by their Creator." Sovereignty, for this purpose, rests alone with the States. It is no more the duty or within the power of the United States to punish for a conspiracy to falsely imprison or murder within a State than it would be to punish for false imprisonment or murder itself.

This clearly defines State sovereignty and states some of the limitations upon Federal sovereignty.

In the case of the United States *v.* Fox (95 U. S., 670–672) in the same line the court held:

> There is no doubt of the competency of Congress to provide by special penalties for the enforcement of all legislation—

Now, I wish the committee to mark this—

> all legislation necessary or proper to the execution of powers with which it is intrusted.
>
> Any act committed with a view of evading the legislation of Congress passed in the execution of any of its powers, or of fraudulently securing the benefit of such legislation, may properly be made an offense against the United States. But an act committed within a State, whether for a good or a bad purpose, or whether with an honest or a criminal intent, can not be made an offense against the United States unless it have some relation to the execution of a power of Congress or to some matter within the jurisdiction of the United States. An act not having any such relation is one in respect to which the State can alone legislate—

Unless what?—

> unless it have some relation to the execution of a power of Congress or to some matter within the jurisdiction of the United States. An act not having any such relation is one in respect to which the State can alone legislate.

What is the execution of a power by an official except the discharge of his duties?

Well, this lays it down in a general way; but we have another case which lays it down very much more definitely and specifically. Further along in the Cruikshank case the court held that the criterion to determine the jurisdiction was whether the officer was in the discharge of his duty. They say this:

> Thus if a marshal of the United States—

If I have established a parallel between the lowest and highest, this applies here—

Thus, if a marshal of the United States is unlawfully resisted while executing the process of the courts within a State, and the resistance is accompanied by assault on the officer, the sovereignty of the United States is violated—

By what?—

by the resistance, and that of the State by the breach of the peace in the assault.

And the court said substantially the same thing in Ex parte Yarborough (110 U. S., 657, 658):

It is very true that while Congress at an early day passed criminal laws to punish piracy with death, and for punishing all ordinary offenses against person and property committed within the District of Columbia, and in forts, arsenals, and other places within the exclusive jurisdiction of the United States, it was slow to pass laws protecting officers of the Government from personal injuries inflicted while in discharge of their official duties within the States. This was not for want of power, but because no occasion had arisen which required such legislation, the remedies of the State courts for personal violence having proved sufficient.

Mr. REEVES. Will the gentleman pardon me again?

Mr. LITTLEFIELD. Certainly.

Mr. REEVES. I do not want constantly to interrupt. Is not that decision from which you have read an interpretation of an existing statute?

Mr. LITTLEFIELD. Yes; but it lays down a rule of construction.

Mr. REEVES. But pardon me——

Mr. LITTLEFIELD. Yes.

Mr. REEVES. It lays down a rule of construction of that statute?

Mr. LITTLEFIELD. No.

Mr. REEVES. Oh, yes; pardon me.

Mr. LITTLEFIELD. Well, I do not agree with the gentleman.

Mr. REEVES. I do not agree with the gentleman.

Mr. LITTLEFIELD. The court is construing that section. I do not wish to be offensive to the gentleman——

Mr. REEVES. No; certainly not.

Mr. LITTLEFIELD. The court is construing a statute. I agree with the gentleman on that point. But the court does not confine the application of the rule laid down to that statute. They lay down a general principle and then try the particular statute by that principle. Now I come to the case of Ex parte Siebold.

Mr. LANHAM. May I interrupt the gentleman?

Mr. LITTLEFIELD. Yes.

Mr. LANHAM. The last decision you quoted, in the Cruikshank case, it is said that the sovereignty of the United States was violated by the resistance. The sovereignty of the State was violated by the assault. Suppose it had been a murder. Would not the sovereignty of the State have been violated in that case? Can not the State have jurisdiction of the murderer, notwithstanding there was resistance to some officer?

Mr. LITTLEFIELD. Undoubtedly the State would have had jurisdiction of the murderer. There is no question about that at all. These jurisdictions are unquestionably concurrent, operate at the same time and in the same place upon the same act.

Mr. RAY of New York. If my colleague will permit?

Mr. LITTLEFIELD. Certainly.

Mr. RAY of New York. It is true that in that case the Supreme Court was determining whether or not a certain statute was constitutional, whether Congress had or had not gone beyond its constitutional power in enacting that statute. They were not construing that statute at all. The gentleman is mistaken. They were deciding whether or not an act passed by Congress was constitutional. Now, it became necessary for them to state and determine whether Congress had gone beyond its constitutional powers. Therefore it became necessary to determine what the power of Congress was in protecting its citizens and its officers; and so Chief Justice Waite defines there the power and jurisdiction of Congress in enacting just such statutes as we are trying to enact here, and uses that language in defining the jurisdiction and power of Congress and not in construing the statute. He was not construing it at all.

Mr. LANHAM. But he announced the indisputable proposition that the State had jurisdiction over the assault and person.

Mr. RAY of New York. He points out the distinction between the power of the State and that of the United States. He says that if an officer of the United States is assaulted while engaged in the performance of his duty that the jurisdiction and power of the State is offended against because of the assault, the assault and battery, but the jurisdiction of the United States is resisted and offended against because of the resistance to the officer.

Mr. LANHAM. I understand.

Mr. RAY of New York. And he then says the State may punish, the United States may punish, both for the same act, but it is not the same offense, and the ground upon which they are based is entirely different.

Mr. LANHAM. And yet the different jurisdictions are well defined.

Mr. RAY of New York. But the idea that the court is construing is incorrect. The court was determining whether the statute was constitutional and whether or not Congress has exceeded its powers.

Mr. REEVES. May I interrupt the gentleman for a moment?

Mr. LITTLEFIELD. Certainly.

Mr. REEVES. The chairman of the Committee on the Judiciary has not only wiped me out but the gentleman who is addressing the House by his statement about the Supreme Court.

Mr. RAY of New York. If the gentleman will read he will see what I have stated is absolutely true.

Mr. REEVES. My friend will not assume that he is the only one who can read. Several of us have read that case with earnestness, and I am one of them; and I want to say to the chairman of the Committee on the Judiciary that the Supreme Court was construing a statute in the quotation read by the gentleman addressing the House. That other views of the subject were considered in the same opinion is true, but in that part of the quotation that the gentleman read they were construing the statute, and that can not be gainsaid if you will look to the language quoted. It is so plain that any man can see it, and so being wiped off the map here with my friend——

Mr. RAY of New York. I wish to state that all they determined in that case was that the statute enacted by Congress was unconstitutional and void, because we had exceeded our power. Now, I ask my colleague from Maine whether that is not true?

Mr. LITTLEFIELD. That the court were construing a statute, and in construing that made these remarks I have quoted.

Mr. RAY of New York. Did not they determine it to be unconstitutional?

Mr. LITTLEFIELD. Yes.

Mr. RAY of New York. Was not that the question, whether or not it was constitutional?

Mr. LITTLEFIELD. That is true.

I do not understand that the gentleman from Illinois on this proposition is disturbed—at least I hope he is not any more disturbed by this than I am.

Mr. REEVES. Not in the least.

Mr. LITTLEFIELD. If the committee please, I call attention to another case, in which the court was passing upon the constitutionality of a statute. Now, I want to say that in the heat of this argument I may be drastic in my statement, and if so I have no objection to any gentleman calling my attention to it. In the case of Ex parte Siebold (100 U. S., 394)—in this case the court were considering the constitutionality of a Federal election law. I wish to be thoroughly understood about this. They held it to be constitutional, and in holding it to be constitutional the questions involved here were discussed by the court, and I think—now, I may be wrong about this—but I know that in that discussion the court laid down the canon of constitutional construction in reference to this matter of Federal jurisdiction. The opinion was rendered by Mr. Justice Bradley, and it was afterwards cited and approved by Mr. Justice Miller. I do not make an extravagant statement when I say that Mr. Justice Miller is conceded to be at least one of the greatest constitutional lawyers that ever sat in the highest tribunal known to our law. And it is also cited with approval by my distinguished friend from Wisconsin; and although I no not agree with his legal views I do not take the ground that that dilutes the authority. I find it in his speech.

In this case, in the opinion of the court, Judge Bradley, discussing the constitutionality of the statute, held it constitutional, and in doing so the court used this language, referring to the question of unconstitutionality:

Somewhat akin to the argument which has been considered is the objection that the deputy marshals authorized by the act of Congress to be created and to attend the elections are authorized to keep the peace, and that this is a duty which belongs to the State authorities alone. It is argued that the preservation of peace and good order in society is not within the powers confided to the Government of the United States, but belongs exclusively to the States. Here again we are met with the theory that the Government of the United States does not rest upon the soil and the territory of the country. We think that this theory is founded on an entire misconception of the nature and powers of that Government.

Now we reach a proposition to which I would like the careful attention of the committee, because it lays down the canon of construction to which I have referred.

We hold it to be an incontrovertible principle that the Government of the United States may, by means of physical force, exercised through its official agents, execute on every foot of American soil the powers and functions that belong to it. This necessarily involves the power to command obedience to its laws, and hence the power to keep the peace to that extent.

Now, that sentence, "*execute the powers and functions that belong to it*" I call particular attention to. It does not say "be prepared to execute," it does not say be "charged with the power of executing." It says "the Government of the United States may, by means of physical force, exercised through its official agents, *execute* on every foot of American soil the powers

and functions that belong to it." It does not relate to a passive but an active condition. In other words, discharge the duties vested in the official agents. Now, what does the court further say:

This necessarily involves the power to command obedience to its laws, and hence the power to keep the peace *to that extent*.

What does that language mean? "The power to keep the peace." What, generally? Indefinitely? At all times, under all circumstances? In all places, without any reference to qualification? No. "*To that extent.*" To what extent? To the extent that these powers are exercised by official agents and may be *executed* on every foot of American soil—execute powers and functions that belong to the Government. In other words, to the extent that the officers of the Government discharge the duties of their office. Now it seems to me—and I submit this with all due humility and caution—it seems to me that the fair construction of that language defines exactly the limit of the constitutional power. It is not a construction of a statute, but I submit it lays down a broad fundamental rule of construction. With that rule standing in the face of the Judiciary Committee, announced by Mr. Justice Bradley, a very able lawyer, and concurred in by Justice Miller, the Judiciary Committee did not feel that they could report a bill that went beyond "*that extent*," because it seemed to them that, according to the fair ordinary reading and construction of language, that is what it meant.

Mr. CRUMPACKER. May I ask the gentleman a question?

Mr. LITTLEFIELD. With pleasure.

Mr. CRUMPACKER. I understand the decision that the gentleman has just read holds that the Federal Government has the right to enforce the law and protect its officers in the execution of the Federal powers. Now, let me ask the gentleman if it is not true that the Federal Government can only execute its powers through citizens who have been chosen to office.

Mr. LITTLEFIELD. Yes.

Mr. CRUMPACKER. And if these citizens who have been chosen, while they occupy the office are assassinated, the Federal Government has no means of executing the powers and functions of that office?

Mr. LITTLEFIELD. No; assuming they are all out.

Mr. CRUMPACKER. Now, is not the gentleman forced to concede, under the doctrine of that case, that the Federal Government has the power to protect men who have been constitutionally selected to carry on its operations in order that it may carry out the functions for which it was created?

Mr. LITTLEFIELD. Not at all, because the court does not say so; the court does not so hold. The court expressly limits it to the power of executing the duties of the office.

Mr. CRUMPACKER. How can they when all the officers are assassinated?

Mr. LITTLEFIELD. This is not a question of being charged with the duty; it is the actual discharge of the duty.

Mr. CRUMPACKER. The gentleman then admits that the Government has not the inherent power to preserve its own existence and protect its constitutional agents through which it must execute its laws.

Mr. LITTLEFIELD. I beg the gentleman's pardon. My attention was just called away by the gentleman from New York, and I lost the thread of the gentleman's conundrum.

Mr. CRUMPACKER. The gentleman from Maine says that he admits that a condition of things may exist in regard to the executive officers where they might all be assassinated and the Government would be without any means of enforcing these laws, and yet he insists the Government has no power to protect these officers in regard to preserving the constitutional means of enforcing its laws and carrying on its operations?

Mr. LITTLEFIELD. Now, I will tell the gentleman what I mean. I mean that the court here says that this jurisdiction is limited to the execution of the official function of the officer; the court said that it can not be extended beyond that. I mean that if the proposition of the gentleman from Indiana is sound, there is no sense whatever in this proposition laid down by the court; there was no occasion to lay it down. It is "full of sound and fury, signifying nothing;" because, if the Federal Government has power to protect its officers at all times, here and everywhere, without reference to whether they are discharging their official duties, whether they are awake or asleep, whether they are at work or otherwise—how idle it was for Mr. Justice Bradley and Mr. Justice Miller to carefully and after great consideration impose express limitations upon a power which, on the theory of the gentleman from Indiana, is absolutely unlimited.

I would be more than glad, as far as I am concerned, and every man on the Judiciary Committee would be more than glad, if we could feel it safe for the Government to exercise in this respect an unlimited power, when Mr. Justice Bradley and Mr. Justice Miller have expressly imposed limitations upon that specific power. But we do not think we would be discharging our duties as a great committee of this House in recommending legislation in the teeth of those express limitations, as declared by those two eminent justices.

Let me enforce and emphasize the distinction by quoting a little further the remarks of Mr. Justice Bradley:

This power to enforce its laws and execute its functions in all places does not derogate from the power of the State to execute its laws at the same time and in the same places. The one does not exclude the other except where both can not be executed at the same time. In that case the words of the Constitution itself show which is to yield. "This Constitution and all laws which shall be made in pursuance thereof * * * shall be the supreme law of the land."

This concurrent jurisdiction which the National Government necessarily possesses to exercise its powers of sovereignty in all parts of the United States is distinct from that exclusive power which, by the first article of the Constitution, it is authorized to exercise over the District of Columbia and within those places within a State which are purchased by consent of the legislature thereof, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings. There its jurisdiction is absolutely exclusive of that of the State, unless, as is sometimes stipulated, power is given to the latter to serve the ordinary process of its courts in the precinct acquired.

Without the concurrent sovereignty referred to, the National Government would be nothing but an advisory government. Its executive power would be absolutely nullified.

Now, I have a few words to say about the Neagle case. The quotation which I have read from the Siebold case is cited with approval by Justice Miller in the Neagle case. My friend from Texas [Mr. LANHAM], who is a very good lawyer, does not believe in the authority of the Neagle case. I do not propose to assume here in connection with this discussion the burden of sustaining the sound constitutional validity of the decision in the Neagle case. I do not think, however, that the main criticism which was made by my friend from Texas on that case is not a very vital one against its soundness and its validity as announcing constitutional and legal principles.

The gentleman from Texas criticised that case mainly because of what? Because of the rather extraordinary fact that Neagle was removed by writ of habeas corpus by the Supreme Court of the United States from the jurisdiction of the State of California, where he had been indicted for the crime of murder, and for this reason he never had a trial by jury. Now, that is true. But if the gentleman from Texas could have examined more thoroughly the opinion in that case he would have found that this fact of removing a man from the jurisdiction of a State court by habeas corpus was by no means new or unprecedented in the history of the Republic. That was the gentleman's principal objection to the action in this case—the fact that the man did not have what, as the gentleman contends, he was entitled to have—a trial by his peers—a trial by a jury of his countrymen.

Well, in the first place the trial by jury in a State court is not one of the rights guaranteed to the State, and in the next place I say such interference with the action of a State tribunal was not without precedent. It appears that there were at least two or three precedents where the Supreme Court by the exercise of its strong arm through the writ of habeas corpus had reached out and taken men out of the jurisdiction of a State. These cases arose under the fugitive slave law, when men hunting slaves had been guilty of breaches of the peace—offenses against the peace of the State, and had been arrested and indicted and were about to be tried before the State tribunals because of such breaches of the peace. The Supreme Court of the United States in at least two or three cases reached out its strong arm by habeas corpus took the slave hunter from the jurisdiction of the State; released him—set him free—deprived the State of the right of a trial by jury.

So far as I am concerned, it does not affect the opinion in the Neagle case because the courts in those fugitive slave law cases did hold that the slave hunter was in the exercise of a power or duty pursuant to the law of the United States and were therefore subject to its jurisdiction, while they also held that Neagle was acting under the authority of the United States; that he had prevented a justice of the Supreme Court from being killed by Terry; and the court held that it was not paralyzed by reason of any condition or circumstances, but was able to reach out by habeas corpus and relieve Neagle, equally as well as a man operating under the fugitive slave law, from the operation of the local jurisdiction of the State. So far as trial by jury is concerned, the case certainly stands without any practical impeachment.

Very briefly, what was the Neagle case? And a statement of it will tend to illustrate the distinction between State and Federal jurisdiction. The Neagle case was simply this: Neagle was a deputy marshal of the United States. A decision had been rendered by a United States court and read by Mr. Justice Field, a member of the Supreme Court, against the rights contended for by Mr. Terry and his wife. Terry was in the court at the time this decision was rendered and undertook to make an assault with a bowie knife upon Justice Field.

Neagle was one of the deputy marshals that deprived him of his bowie knife and carried him from court, and Terry afterwards suffered six months' imprisonment for contempt of court. Mr.

Justice Field, having gone down to Los Angeles to hold circuit court was on his return from Los Angeles to San Francisco stopped at Fresno in the morning for breakfast.

It was apprehended that Terry would make an assault upon him, and the Attorney-General of the United States had instructed the marshal in the district of California to have a deputy marshal present to take care and charge of and to protect Mr. Justice Field while in the State of California against what were well known to be impending assaults on the part of Terry. As Field and Neagle stepped into the restaurant in Fresno, Terry and his wife left the same train and went into the restaurant and sat at another table. The justice sat at his table. Terry stepped up behind him, cuffed him once on either side of his head. Neagle rose up and said, "Stop; I am an officer," and Terry put his hand in his bosom for the purpose, undoubtedly, of drawing a bowie knife, and Neagle fired two shots and Terry fell dead. Meanwhile his wife had gone into the train to get a satchel, which turned out afterwards to contain a revolver. Under these circumstances the question was whether or not Neagle was acting under the authority of the United States or by virtue of any statute of the United States. There was no express statute authorizing the marshal to protect the judge of the circuit court or the judge of the Supreme Court, and upon this state of facts the court held, referring to the fact that what was done by Neagle would be a justification, as follows:

But such a justification would be a proper subject for consideration on a trial of the State for murder in the courts of the State of California, and there exists no authority in the courts of the United States to discharge the prisoner while held in custody by the State authorities for this offense, unless there be found in aid of the defense of the prisoner some element of power and authority asserted under the Government of the United States.

The question was, What was "some element of power and authority asserted under the Government of the United States?"

I ask the gentleman from Illinois to note this. The court laid stress upon the fact, not that Field was a justice of the Supreme Court of the United States, not that he was a judge of the circuit court of the United States and an officer of the United States and an important officer of the United States, but what?

This element is said to be found in the facts that Mr. Justice Field, when attacked, *was in the immediate discharge of his duties as a judge of the circuit court of the United States* within California.

And the court held on these facts, that inasmuch as the court was still in session at San Francisco and that Mr. Justice Field had gone down to Los Angeles for the purpose of holding two or three days there, and was on his return from Los Angeles to San Francisco when assaulted, he was in the discharge of his duties as a judge of a court of the United States, as he could not get from one court to the other without traveling, and therefore they held that Neagle was acting under the authority of the United States. They went further, and it is very significant, and I call the attention of the committee to this. There was another ground upon which the court based its jurisdiction to issue habeas corpus under these circumstances, and that was this—and I ask the notice of my friend from New Jersey [Mr. PARKER] to this, who referred to this case.

The gentleman from Vermont called my attention to the fact that if there had been a Federal statute applying to this case in terms there would not have been any occasion for this analysis on the part of the court. That would depend on how the Federal statute read, and that was the distinction, by the way, that Mr. Justice Lamar, with whom concurred Mr. Chief Justice Fuller, held. Mr. Justice Lamar did not dissent from the reasoning of the majority at all, but he simply dissented because there was no express statute of the United States authorizing a deputy marshal to thus protect a justice of the Supreme Court, no matter what the circumstances were. There was no "law," he said. The statute in relation to habeas corpus provides that a man must be confined in pursuance of an act done under some law of the United States. There was no express law, except as may be held expressed in the matter to which I am just now going to call your attention.

Mr. Justice Lamar dissented on the ground that there was no law within the meaning of that section, no statute, which, of course, covers the suggestion of my friend from Vermont. But here is the statute of the United States which the court also relied upon in reaching its conclusion. They based it on two grounds: First, that the Attorney-General had authorized the deputy marshal to protect the justice and that he was therefore acting under the authority of the United States, and second, on this ground:

Marshals and their deputies shall have in each State the same powers in executing the laws of the United States as sheriffs and their deputies in such States may have by law in executing the laws thereof. (R. S. U. S., sec. 788; In re Neagle, 135 U. S., 68.)

It turned out that the State of California had a statute reading thus:

The sheriff must, first, preserve the peace.

And there were other sections to which I need not call attention. Now, upon this the court held as follows.

This involves the specific question, with this construction, whether or not Mr. Justice Field, under these circumstances, was in the peace of the United States or in the peace of the State alone.

And if my friend from New Jersey will bear with me for the suggestion, I handed him this book when he was making his remarks to the House, and, referring to a statute quoted at this place, he took occasion to read it. My citation was marked, but he did not read my citation. I do not know that he went so far as to see it, but it would not have helped his contention any if he had read it.

Here is what the court say:

That there is a peace of the United States; that a man assaulting a judge of the United States while in the discharge of his duties violates that peace.

That was not construing any statute. It can not be held that it was. The statute said that the sheriff must preserve the peace, and it said that the marshal had the same powers and duties that the sheriff in California had. The question was what was "the peace." Now, I submit to my friend from Indiana and my friend from Illinois that it would have been very easy for the court to have said that Mr. Justice Field was an officer of the United States; that he held the office of judge; he was essential to the discharge of the functions of the judicial branch; that he was a part of the machinery of Government, and that wherever he was he held the office and whatever he was doing he held the office, and he was, therefore, by reason of being an officer of the United States, within the peace of the United States. But they did not say that. Now, what did they say?

Mr. REEVES. Will you pardon me again?

Mr. LITTLEFIELD. Certainly.

Mr. REEVES. If the Supreme Court had held what you have suggested, then it would have been simply a species of common-law holding. Now, I use that expression advisedly. It would have been a species of common-law holding. But the fact is, there was no statute in existence at that time to enable the court to take this man away from the State jurisdiction by virtue of the statute.

Mr. LITTLEFIELD. Unless this statute did it.

Mr. REEVES. Pardon me. And as there was no statute, and they did not act upon a statute, it can not be logically held, I contend that there could not have been one. It does not reach down to the bottom of it. I beg the gentleman's pardon for the interruption.

Mr. LITTLEFIELD. Certainly. I understand the gentleman's suggestion and I appreciate the force of it. I can not agree with him, however. In my point of view—now, I may be wrong—when the court were defining the keeping of the peace, and defining what was a breach of the peace of the United States, it was necessary to define that peace. It did not require the construction of any statute. It was simply a question of saying whether or not there was a peace of the United States and what that peace was. If there was a violation of that peace, the peace of the United States, then Neagle could be removed on habeas corpus. If there was not any peace of the United States, or if the justice was not within the peace of the United States, then Neagle could not be removed on habeas corpus. It was not the construction of a statute. It was simply defining the constitutional proposition as to whether there was or was not a peace of the United States. And here is what the court said——

Mr. RAY of New York. Will the gentleman allow me to interrupt him?

Mr. LITTLEFIELD. Let me finish this and then I will be glad to yield. Here is what the court said. Do I make myself clear on that?

Mr. REEVES. Perfectly so.

Mr. LITTLEFIELD (reading):

That there is a peace of the United States, and that a man assaulting a judge of the United States—

Here is the qualification—

while in the discharge of his duties violates that peace; that in such case the marshal of the United States stands in the same relation to the peace of the United States which the sheriff of the county does to the peace of the State of California are questions too clear to need argument to prove them.

Now, the court did this—and I will yield to the gentleman in just a moment—the court in this case spent more than half the space occupied in their opinion in demonstrating, first, this proposition in relation to what was the peace of the United States, under what circumstances it existed, under what circumstances the United States had the Federal power to conserve it and protect a man within it, and in further demonstrating that Mr. Justice Field was in the peace of the United States. I think the gentleman will concede that if by reason of his official character all of these results could have been accomplished that work was certainly unnecessary on the part of the court. I do not say that is conclusive. I do not claim that it absolutely ends it, but it seems to me—and I am speaking with all frankness to my friend from Illinois—it seems to me that it is vastly persuasive, and certainly

raises a very serious question as to whether the unlimited proposition could be sustained by the court, and is for practical purposes of legislation conclusive.

Mr. REEVES. Inasmuch as you addressed me, will you permit me for a moment?

Mr. LITTLEFIELD. Certainly.

Mr. REEVES. Now, I agree with you, and the court did do just what you have said, and it was the only thing the court could do and take the fellow out.

Mr. LITTLEFIELD. That is right.

Mr. REEVES. That is the point. Now, my thought is this: That if there had been a statute they need not have resorted to this almost sophistry to get him out of there unless perchance the statute would have been unconstitutional.

Mr. RAY of New York. Now, I desire to correct the gentleman.

Mr. LITTLEFIELD. Well, I yield to the gentleman from New York.

Mr. RAY of New York. The gentleman has now stated twice—I thought at first I did not hear him correctly, and I wanted to inquire of the gentleman—he has stated that there was not a statute that would enable the authorities of the United States to take control of the matter. Do I understand him correctly? To take the deputy marshal from the jurisdiction of the State of California?

Mr. REEVES. Do you want me to answer you?

Mr. RAY of New York. I want you to state whether there was a statute?

Mr. REEVES. I say there was no Federal United States statute at that time.

Mr. RAY of New York. For what?

Mr. REEVES. Now, let me finish. To justify the Federal court in taking this officer—this deputy marshal—from the State jurisdiction by a writ of habeas corpus.

Mr. RAY of New York. That is where the gentleman is wrong. I will read to my friend, or I will hand the book to my friend, giving the proceedings there, and you will find there was a statute fully justifying this, justifying them in taking him from the jurisdiction of the State of California.

Mr. LITTLEFIELD. I have just quoted it.

Mr. RAY of New York. The only point in the case of no statute was this: There was no statute written upon the statute book which made it the duty, in express terms, of the deputy marshal of the United States to protect a justice of the Supreme Court either in the discharge of his duty or otherwise. That is the absence of a statute that he referred to. And now, if the gentleman has the case and wants to go on with his argument, I will hand it to the gentleman from Illinois to show him.

Mr. REEVES. You need not show it to me. I have seen it perhaps as often as you have.

Mr. RAY of New York. Then you ought not to state that there is no statute giving them the right of the writ of habeas corpus.

Mr. REEVES. I do not accept the judgment of the chairman of the Committee on the Judiciary upon this subject, and he need not worry himself as to whether or not I have read this decision. I know well what I have said, and I will not ask my friend to yield longer; but if the gentleman from New York had followed logically and carefully and understandingly what the gentleman from Maine has just been arguing, we would not have this misunderstanding about it.

Mr. RAY of New York. No; the question is different.

Mr. LITTLEFIELD. I think, perhaps, unless the gentleman insists——

Mr. RAY of New York. I do not care to interrupt you further. Go on.

Mr. LITTLEFIELD. Very well.

Mr. RAY of New York. I want to point out to my friend——

Mr. REEVES. Sit down right here.

Mr. SNODGRASS. Mr. Chairman, will the gentleman allow me to ask him a question?

The CHAIRMAN. Does the gentleman yield to the gentleman from Tennessee?

Mr. LITTLEFIELD. While the law school is being conducted I will go on with my remarks

Mr. LACEY. I would like to hear from the gentleman from Maine, as his time is rapidly expiring——

The CHAIRMAN. Does the gentleman yield to the gentleman from Tennessee?

Mr. LITTLEFIELD. I yield to the gentleman from Iowa.

The CHAIRMAN. The Chair asked the gentleman from Maine if he yielded to the gentlemen from Tennessee?

Mr. LITTLEFIELD. I stated I would yield to the gentleman from Iowa.

Mr. LACEY. These constitutional questions are very interesting, and we have a number of them——

The CHAIRMAN. The gentleman will please suspend. The Chair has asked the gentleman from Maine if he will yield to the gentleman from Tennessee.

Mr. LITTLEFIELD. No; I yielded to the gentleman from Iowa first, and then I will yield later to the gentleman from Tennessee.

The CHAIRMAN. But the gentleman from Tennessee had asked properly under the rule, and has the right either to be yielded to or refused.

Mr. LITTLEFIELD. Well, now, have I the right to yield to the gentleman from Iowa?

The CHAIRMAN. If you so desire.

Mr. LITTLEFIELD. I will now exercise that right, and later exercise the right of yielding to the gentleman from Tennessee.

The CHAIRMAN. That is all right.

Mr. LACEY. These formalities having been concluded——

Mr. LITTLEFIELD. The cloud having been brushed away.

Mr. LACEY. I would ask my friend to give us his views about the benefits that will be derived under the two bills that we are discussing. However interesting the discussion on the constitutional questions may be, what we want to know is how much better off Mr. McKinley would have been had there been such a change in the law made two years ago? I wish the gentleman would point out to us the difference between this particular bill of the House and the Senate, and the benefits under existing circumstances of either. The House would like to hear a discussion of that feature of the subject.

Mr. LITTLEFIELD. Whether it is any particular improvement?

Mr. LACEY. In other words, to explain to the committee whether it would have given President McKinley another chance for his life or given Czolgosz another chance for his life? I would be very glad for you to answer the suggestion in that respect.

Mr. LITTLEFIELD. This bill, in my judgment, would beyond all question have adequately protected the President of the United States. One of the purposes or one of the reasons for the bill is the lack of uniform legislation. We have in the United States four States in which the death penalty is not imposed, and I am going to call attention to that feature now. We have seventeen other States in which life imprisonment may be substituted for it. I think I know what the gentleman from Iowa has in his mind. This law, if enacted, of course operates uniformly, and imposes the death penalty in all cases of killing the President of the United States. Now, then, if it had been enacted in these terms, would it have protected the President of the United States at Buffalo?

Mr. MORRIS. Will the gentleman permit me a question?

Mr. LITTLEFIELD. Perhaps after I answer this question it may answer the gentleman's question; if not, I will yield to him then. I do not think personally the President of the United States at that time was in the discharge of his official duties. It may be that I am wrong. A great many able men, a great many learned lawyers, think that the President is always in the discharge of his duties by virtue of the peculiarity of his office and the multitudinous duties devolving upon him. If it be true, then as a matter of law the President at that time was in the discharge of his official duties; and if that be true, then this bill would have fully protected him because of that feature, because it punishes the offense when he is in the performance and the actual discharge of his duties.

If, as a matter of fact, it be true, that he is always in the discharge of his duties, it would protect him, because the fact could be easily established. On the other hand, assuming my view is correct and that he is not always in the discharge of his official duties, then this bill would have protected the President of the United States in the case of the assault of Czolgosz, because there can be no question whatever that the assault made by Czolgosz was not an assault upon President McKinley as an individual, but was an assault upon the Government of the United States through McKinley as the President of the United States, by reason of the fact of his being President, and the bill expressly covers a case where the assault is committed by reason of his official character.

Now, it may be contended that in the case of the death of each of the Presidents who have had their names put upon the roll of martyrs in the service of their country—it may be contended that neither of them was in the actual discharge of duties when assassinated, but it can not be contended for a moment in the case of either that the assault was not committed by reason of the official character of the President. The great wrong we are seeking to prevent, the great injury we are seeking to remedy, the great difficulty that brings about this legislation, is what? It is a cult, it is a society, it is a theory, that does what? That instigates the murder of the Chief Magistrate of the country because they are Chief Magistrates of the country, and in every instance of that sort this bill would fully and completely protect them under that clause that prohibits an assault or a killing by reason of his official capacity. It is possible, although vastly improbable and infinitesimally improbable; it is probable that you might find a case

that was not covered by one of these three provisions, "while he is engaged in the performance of his official duties, or because of his official character, or because of any of his official acts or omissions."

Mr. LACEY. Will the gentleman permit me a question?

Mr. LITTLEFIELD. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has thirty-five minutes.

Mr. LACEY. I will not take up much of the gentleman's time.

Mr. LITTLEFIELD. I will yield to the gentleman.

Mr. LACEY. Under the provisions of this bill, instead of having a plain, simple case, as the assassin of President McKinley was called upon to meet, you would have had his attorney placed in the position of first meeting the question of whether he killed McKinley because he was President, and, second, whether the President was in the discharge of his official duty. It seems to me we would be furnishing acute lawyers with two additional defenses to use in this case instead of helping in the protection of the President. Does not the gentleman think there is danger in this form of the bill by weakening the protection?

Mr. LITTLEFIELD. It does not seem to me so. Even if there was danger it does not go to the jurisdictional features of the bill, as the gentleman will concede. It seems to me to be reasonable, that where the President of the United States is killed, there is no difficulty in establishing the offense, the corpus delicti, the identity of the assailant. I do not believe, as a practical proposition, that these necessary elements of jurisdiction, although they do involve questions of fact—I do not believe that these elements of jurisdiction involve questions of fact that would disturb a jury one-sixteenth part of a minute in reaching a conclusion that the man was guilty.

Mr. PALMER. Suppose this bill had been the law at the time President McKinley was killed, and suppose the gentleman from Maine had been called on to draw an indictment under it for that offense, would he not have been obliged to aver that Czolgosz killed Mr. McKinley knowing that he was the President of the United States?

Mr. LITTLEFIELD. No, not necessarily; the element of being in the discharge of his duties might not be thus qualified.

Mr. PALMER. Then I do not read your bill aright. Under the bill the offense must be done "willfully, purposely, and knowingly."

Mr. LITTLEFIELD. Yes; those are the qualifying words.

Mr. PALMER. How could you have proved, or how could the State of New York have proved in that case, that Czolgosz knew that he was killing the President of the United States?

Mr. LITTLEFIELD. The gentleman from Pennsylvania [Mr. PALMER] does not think it would be necessary to have direct evidence of that fact?

Mr. PALMER. Yes; if the fact was averred in the indictment.

Mr. LITTLEFIELD. Direct evidence?

Mr. PALMER. Certainly.

Mr. LITTLEFIELD. Would not circumstancial evidence have been sufficient?

Mr. PALMER. What circumstances?

Mr. LITTLEFIELD. I can not stop to detail all the circumstances that existed; but from the facts and circumstances in connection with the assault the inference was absolutely irresistible that Czolgosz knew that Mr. McKinley was the President of the United States and killed him for that reason. He had never seen Mr. McKinley; he did not know him. Mr. McKinley was standing there holding a reception, and Czolgosz, approaching with a revolver concealed under a handkerchief, fired a shot at the President of the United States. What reason did he have for making the assault? That is a question that would have to be argued before the jury. What occasion could he have had for the assault? And if it could be made to appear that there could have been no other motive than that Mr. McKinley was the President of the United States, by the familiar process of exclusion, my friend from Pennsylvania [Mr. PALMER], if he had held in that case the position which he so honorably held in the State of Pennsylvania, could have secured a verdict at the hands of the jury, because no other reason could have been assigned for the assault than that Mr. McKinley was President of the United States. That is my suggestion in answer to the gentleman's question.

Mr. PALMER. The gentleman concedes, of course, that anything averred in the indictment must be proved beyond reasonable doubt. Now, would not the gentleman have been obliged to aver, in an indictment drawn under this bill, that the President was in the exercise of his official duty?

Mr. LITTLEFIELD. Yes.

Mr. PALMER. Now, is it a fact that the President, while opening the fair at Buffalo, was in the exercise of his official duty?

Mr. LITTLEFIELD. No; I do not think that he was, although that might perhaps be held to be an official function, as he was there in his official character.

Mr. PALMER. But if that were averred in the indictment, must it not be proved?

Mr. LITTLEFIELD. No; there is an alternative proposition. Either he must have been in the performance of his official duty or the killing must have been by reason of his official character. Either would have been sufficient.

A MEMBER. How could you aver an alternative?

Mr. LITTLEFIELD. You could make three separate counts. I have been prosecuting attorney, and I have often drawn indictments. I presume the gentleman knows I am correct.

A MEMBER. Certainly you are right.

Mr. SNODGRASS. I desire to suggest to the gentleman that, in addition to discussing these other questions, he devote some of his attention to section 9 of the bill, where it undertakes to provide for offenses against the representatives of foreign nations.

Mr. LITTLEFIELD. I think on that point I shall have to ask the gentleman to excuse me because of want of time. I fear because of interruptions (for which I always desire to yield as amiably as possible) I shall only have time to make a brief statement. The gentleman wishes me to show what power we have to make special provision for the punishment of those who kill ambassadors in this country. Well, Mr. Chairman, ambassadors represent, of course, in their persons their home governments. Their governments are present in their persons. In the case of United States *v.* Arjona (120 U. S. Reps., p. 479) the court held that a statute prohibiting the counterfeiting of bonds, notes, and securities of a foreign government was valid by reason of international comity and by reason of the power that we are entitled to exercise under international law. The committee thought that if we could punish the counterfeiting of bonds, notes, and securities of a foreign country, it would be very surprising if we could not punish an assault upon a foreign government itself when it is here in the person of its ambassadors.

These extracts show what reasons the court gave for their conclusion:

> The law of nations requires every nation to use "due diligence" to prevent a wrong being done within its own dominion to another nation with which it is at peace, or to the people thereof; and because of this the obligation of one nation to punish those who within its own jurisdiction counterfeit the money of another nation has long been recognized. (P. 484.)
>
> A right secured by the law of nations to a nation or its people is one the United States as a representative of this nation is bound to protect. Consequently a law which is necessary and proper to afford this protection is one that Congress may enact, because it is one that is needed to carry into execution a power conferred by the Constitution on the Government of the United States exclusively. There is no authority in the United States to require the passage and enforcement of such a law by the States.
>
> Therefore the United States must have the power to pass it and enforce it themselves or be unable to perform a duty which they may owe to another nation and which the law of nations has imposed on them as part of their international obligations.
>
> This, however, does not prevent a State from providing for the punisment of the same thing, for here, as in the case of counterfeiting the coin of the United States, the act may be an offense against the authority of a State as well as that of the United States. (P. 487.)

To resume for a moment on the main question. It is said that the President is a part of the machinery of the Government, and that you can not destroy the machinery in whole or in part without crippling the Government to that extent, and that therefore killing an officer is an attack upon the Government.

If, upon that theory, it be assumed, as we do not think it properly can be, that every killing of an officer irrespective of the discharge of his duties is an interference with or an impeding the Government and an attack upon the Government, it necessarily follows that it is so by reason of the official character of the person killed, as otherwise the killing of the particular person would have no connection with the Government. Then, as a man is presumed to intend the probable consequences of his act, he would in that case be presumed to have intended to attack the Government, and as he could attack the Government only by reason of the official capacity of the person killed, he would be presumed to have killed him by reason of his official capacity, a condition expressly provided for by this bill.

COURT CAN NOT CONSTRUE EXCEPTIONS INTO THE STATUTE.

While it seems to be conceded that if the Senate bill is too broad in its definition of jurisdiction it would be held unconstitutional, a brief reference to the law on that question should be made. It could not be sustained upon the ground that although going beyond the House bill, it includes the jurisdiction described in the House upon the theory that the greater includes the less. This would require the court to read into the act the limitations and restrictions which it has uniformly held it will not do, as the cases clearly show.

Upon this question United States *v.* Reese (92 U. S., 214) is in point. In that case the court had under consideration the constitutionality of the third and fourth sections of the act of May 31, 1870, chapter 114, now constituting sections 2007, 2008, and 5506 of the Revised Statutes. The third section of the act made it an offense for any judge, inspector, or other officer of election, whose duty it was, under the circumstances therein stated, to

receive and count the vote of *any citizen*, to wrongfully refuse to receive and count the same; and the fourth section made it an offense for any person, by force, bribery, or other unlawful means, to hinder or delay *any citizen* from voting at any election or from doing any act required to be done to qualify him to vote.

The ground of the decision was that the sections referred to were broad enough not only to punish those who hindered and delayed the enfranchised colored citizen from voting, on account of his race, color, or previous condition of servitude, but also those who hindered or delayed the free white citizen. The court, speaking by the Chief Justice, said:

It would certainly be dangerous if the legislature could set a net large enough to catch all possible offenders and leave it to the courts to step inside and say who could be rightfully detained and who should be set at large. This would, to some extent, substitute the judicial for the legislative department of the Government. The courts enforce the legislative will, when ascertained, if within the constitutional grant of power. *But if Congress steps outside of its constitutional limitation and attempts that which is beyond its reach,* the courts are authorized to, and when called upon must, annul its encroachment upon the revered rights of the States and the people.

An attempt was made there as here to limit the statute by *construction, so as to make it operate only on that which Congress might rightfully prohibit and punish;* but to this the court said (p. 221);

For this purpose we must take these sections as they are. We are not able to reject a part which is unconstitutional and retain the remainder, *because it is not possible to separate that which is unconstitutional, if there be any such, from that which is not. The proposed effect is not to be attained by striking out or disregarding words that are in the section, but by inserting those that are not now there.* Each of the sections must stand as a whole or fall all together. The language is plain. There is no room for construction, unless it be as to the effect of the Constitution. *The question then to be determined is whether we can introduce words of limitation into a penal statute so as to make it specific, when, as expressed, it is general only.*

This was answered in the negative, the court remarking:

To limit this statute in the manner now asked for would be to make a new law, not to enforce an old one.

This precise point was again passed on and emphasized in Baldwin *v.* Franks (120 U. S., pp. 685–686).

The court there said:

In United States *v.* Harris (106 U. S., 629) it was decided that this section was unconstitutional, as a provision for the punishment of conspiracies of the character therein mentioned, within a State. It is now said, however, that in that case the conspiracy charged was by persons in a State against a citizen of the United States and of the State to deprive him of the protection he was entitled to under the laws of that State, no special rights or privileges arising under the Constitution, laws, or treaties of the United States being involved; and it is argued that, although the section be invalid so far as such an offense is concerned, *it is good for the punishment of those who conspire to deprive aliens of the rights guaranteed to them in a State by the treaties of the United States.*

In support of this argument reliance is had on the well-settled rule that a statute may be in part constitutional and in part unconstitutional, and that under some circumstances the part which is constitutional will be enforced and only that which is unconstitutional rejected. *To give effect to this rule, however, the parts—that which is constitutional and that which is unconstitutional—must be capable of separation, so that each may be read by itself.*

This statute, considered as a statute punishing conspiracies in a State, *is not of that character, for in that connection it has no parts within the meaning of the rule.* Whether it is separable, so that it can be enforced in a Territory, though not in a State, is quite another question and one we are not now called on to decide. *It provides in general terms for the punishment of all who conspire for the purpose of depriving any person or any class of persons of the equal protection of the laws or of equal privileges or immunities under the laws. A single provision, which makes up the whole section, embraces those who conspire against citizens as well as those who conspire against aliens, those who conspire to deprive one of his rights under the laws of a State and those who conspire to deprive him of his rights under the Constitution, laws, or treaties of the United States. The limitation which is sought must be made, if at all, by construction, not by separation. This, it has often been decided, is not enough.*

THE JURISDICTIONS ARE CONCURRENT.

That the same act will, under this statute, constitute an offense under the law of the State as well as the United States is no objection to this legislation, and the idea is not novel.

The people of the United States resident within any State are subject to two governments, one State and the other national, but there need be no conflict between the two. The powers which one possesses the other does not. They are established for different purposes and have separate jurisdictions. Together they make one whole and furnish the people of the United States with a complete government, ample for the protection of all their rights at home and abroad.

True, it may sometimes happen that a person is amenable to both jurisdictions for one and the same act. Thus, *if a marshal of the United States is unlawfully resisted while executing the process of the courts within a State,* and the resistance is accompanied by *an assault on the officer,* the sovereignty of *the United States is violated by the resistance* and that *of the State by the breach of the peace in the assault.* So, too, if one passes counterfeit coin of the United States within a State, it may be an offense against the United States and the State; the United States because it discredits the coin, and the State because of the fraud upon him to whom it is passed. This does not, however, necessarily imply that the two governments possess powers in common, or bring them into conflict with each other. It is the natural consequence of a citizenship which owes allegiance to two sovereignties and claims protection from both. The citizen can not complain, because he has voluntarily submitted himself to such a form of government. He owes allegiance to the two departments, so to speak, and within their respective spheres must pay the penalties which each exacts for disobedience to its laws. In return, he can demand protection from each within its own jurisdiction. (United States *v.* Cruikshank, 92 U. S., 550.)

CONVICTION OR ACQUITTAL IN ONE NO BAR IN THE OTHER JURISDICTION.

That there is no conflict in these jurisdictions, and that a trial resulting in either a conviction or an acquittal in either tribunal has no legal effect upon a subsequent trial in the other jurisdiction is well settled by authority as well as reason. While the act may be the same, the offense in one case is against the State sovereignty and in the other against Federal sovereignty.

ONE ACT CONSTITUTING DISTINCT CRIMES AGAINST DIFFERENT SOVEREIGNTIES.

(7) When an act is a violation of the criminal law of two different governments, jeopardy or punishment under the law of one government will not bar a prosecution and punishment under the law of the other. In such case the one act creates two separate and distinct crimes. It follows that in the United States, if the same act is a transgression of the laws of two States, or of a State and the United States, a trial in one jurisdiction for a violation of its law will not prevent a prosecution in the other jurisdiction for the act regarded as a violation of the law of the latter.

(8) ONE ACT VIOLATING BOTH A STATE LAW AND A MUNICIPAL ORDINANCE.

So it is the almost universally accepted doctrine that where an act violates both a municipal ordinance and a State law a prosecution under one will not bar a prosecution under the other.

(9) ONE ACT VIOLATING BOTH A MILITARY AND A GENERAL LAW.

An act criminal both by military and general law is subject to be tried either by a military or civil court, and a conviction or acquittal in the one court can not be pleaded as a bar to a prosecution in the other. (American and English Encyclopædia of Law, 2d ed., vol. 17, p. 604, pp. 7, 8, 9).

EXTRATERRITORIAL CRIME.

I come to the second question to which I wish to call attention, and this is this proposition. The Senate bill contains in its last clause of section 1, an effort to punish a foreigner for committing an offense in a foreign country upon a foreigner, entirely outside of the jurisdiction of the United States. I know that the bill may be susceptible of a different construction, but I understand it to be the purpose of those who drew the clause to confer upon the Government of the United States the power to punish in this country a man who assassinates in England the King of England. Now, I submit that is an attempt to exercise an entirely unconstitutional power. It is attempted to be justified in the Senate by the statement that an offense of that sort is an offense against the law of nations, and I am briefly going to call attention to that.

Mr. REEVES. Mr. Chairman, I wish to ask unanimous consent, before we go any further, that the gentleman may be permitted to conclude his remarks, and I do it now for this reason, that he has been interrupted and is now so hurried that he can not state his position as he wants to, and after consultation with him I make this request.

The CHAIRMAN (Mr. TOMPKINS of Ohio). The Chair will state to the gentleman from Illinois that the Chair regrets that the suggestion can not be complied with for the reason that the House has fixed the time when this debate shall end. I will state to the gentleman from Maine that he has twenty minutes remaining.

Mr. PARKER. Mr. Chairman, I would like to ask the gentleman a question.

The CHAIRMAN. Does the gentleman yield to the gentleman from New Jersey?

Mr. LITTLEFIELD. Certainly.

Mr. PARKER. I want to ask whether that section of the Senate bill to which the gentleman referred does not refer to crimes committed here, as, for instance, if Edward VII should come to this country, or William of Germany, and he should be killed here by somebody who maliciously caused his death, or if they sent poison by mail from here which caused the death of either one of these sovereigns; is not that the meaning of the section?

Mr. LITTLEFIELD. I will say in answer to my friend from New Jersey that the bill is susceptible in one sense of the construction that the gentleman from New Jersey places upon it, and if the bill read as follows: "That any person who shall, within the limits of the United States or any place subject to the jurisdiction thereof, willfully or maliciously kill or cause the death of the President or Vice-President or any officer thereof upon whom the powers and duties of the President may devolve, or any sovereign or chief magistrate of any foreign country," the inference would be practically conclusive; but it does not so read.

Mr. PARKER. It ought to read so.

Mr. LITTLEFIELD. Yes, it ought to read so; and the reason why it does not so read, I am authoritatively advised, is because the Senate actually intends by this section to punish a crime committed entirely outside of the jurisdiction of the United States, because by reason of a mistaken conception of the law they say the offense is an offense against the law of nations. I shall have to hurry upon this because I can not elaborate as I would like to in the time that I have, and I hope that I will not be interrupted.

Mr. PARKER. I do not think the gentleman need elaborate on that. I think everybody in the House agrees with him.

Mr. LITTLEFIELD. Every member of the House may not be of the opinion of my friend from New Jersey, because all of the members of the Senate committee and the lawyers in the Senate were of the other opinion, and those same lawyers that sent down here this indefinite description and unlimited jurisdiction under this jurisdictional section in this bill—sent down as a constitutional proposition the proposition that you can punish a foreigner for an offense committed in a foreign country upon a foreigner

entirely outside of this jurisdiction. The same Senate and the same committee send us the same propositions. I do not think that everybody concedes, as does my friend from New Jersey, that this last clause is clearly unconstitutional. I do not say that it destroys all the weight to be given to the opinion of the Senate on the clause of the Senate bill which I have been discussing, but it tends strongly in that direction. The provisions of the Constitution under which this last clause is sought to be justified are these:

To define and punish piracies and felonies committed on the high seas and offenses against the law of nations. (Constitution, Art. I, sec. 8, p. 10.)

These are two other provisions of the Constitution which should be quoted in this connection:

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed, but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed. (Constitution, Art. III, sec. 2, p. 3.)

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense. (Constitutional amendment, Art. VI.)

Clearly this is not an offense on the high seas. It is said to be an offense against the law of nations. Now, what is the law of nations? The law of nations is simply international law. And what is international law? It is the law between—inter, between. Between what and whom? Between separate and independent sovereignties; the law that governs and controls and regulates the rights of independent sovereignties as between each other. How, then, can an offense against a municipal law and one sovereignty be in any sense an offense against the law that regulates the rights of independent sovereignties as between each other? It does not interfere with the relations of each other. It has no connection whatever with international law or with the law of nations. The law of nations is defined by the various writers on international law, as follows:

LAW OF NATIONS.

By this law we are to understand that code of public instruction which defines the rights and prescribes the duties of nations in their intercourse with each other. (Kent Com., Vol. I, p. 1.)

That collection of rules—customary, conventional, and judical—which independent states appeal to for the purpose of determining their rights, prescribing their duties, and regulating their intercourse in peace and war, imposed by opinion and based upon the consent of nations. (Kent on International Law, p. 6.)

International law has been defined as the rule which determines the conduct of the general body of civilized states in their dealings with one another. (Amer. and Eng. Enc. Law, vol. 16, p. 1124.)

International law is the system of rules which regulates the intercourse and determines the rights and obligations of sovereign States. (Minor's Institutes, Vol. I, p. 22.)

International law, as understood among civilized nations, may be defined as consisting of those rules of conduct which reason deduces as consonant to justice from the nature of the society existing among independent nations with such definitions and modifications as may be established by general consent. (Wheaton's Int. Law (Boyd), p. 21.)

International law may be defined as the rules which determine the conduct of the general body of civilized States in their dealings with one another. (Lawrence, Principles Int. Law, p. 1.)

International law is the body of rules prevailing between the States. It may also be described as the body of rules governing the relations of a State to all outsiders, whether other States or private persons not its own subjects. (Westlake, International Law, p. 1.)

Thence arises a third kind of law to regulate this mutual intercourse called the "law of nations," which, as none of these States will acknowledge a superiority in the other, can not be dictated by any, but depends entirely upon the rules of natural law or upon mutual compacts, treaties, leagues, and agreements between these several communities, in the construction also of which compacts we have no other rule to resort to but the law of nature, being the only one to which all the communities are equally subject, and therefore the civil law very justly observes "that rule which natural reason has dictated to all men is called the law of nations." (Blackstone, Vol. I, page 44, Cooley.)

In a more limited sense, which is that usually understood, the term "law of nations" expresses those rules which govern the conduct of States in their relation with each other. (Manning Laws of Nations, p. 2.)

International law is the system of moral principles and positive rules by which the conduct of States, one toward another, is or ought to be determined. (Creasey First Platform Int. Law, p. 1.)

The law of nations is a complex system composed of various ingredients. It consists of general principles of right and justice equally suitable to the government of individuals in a state of natural equality and the relations and conduct of nations, of a collection of usages, customs, and opinions, the growth of civilization and commerce, and of a code of positive law. (Maine Int. Law, p. 33.)

The law of nations (which I may venture to define as the public opinion of the government of the civilized world with reference to the rights which any State would be justified in vindicating for itself by a resort to arms) is no doubt incorporated into the common law which binds the courts of the country. (Holland Studies in International Law, p. 194.)

The ablest of writers to whom I allude admits that the great purpose of international law is to maintain right against national wrongdoers. (Creasey First Platform of Int. Law, sec. 76.)

By the law of nations we mean such rules as nations or civil societies are obliged to observe in their intercourse with one another. (Rutherford's Institute, p. 13.)

Offenses against the law of nations are defined as follows:

The violation of a treaty of peace.
Violation of passports.
Violation of ambassadors. (Kent's Com., Vol. I, p. 182.)

PIRACY.

Pirates have been regarded by all civilized nations as the enemies of the human race and the most atrocious violators of universal law of society. (Ibid, 184.)

SLAVE TRADE.

Whether it (slave trade) is to be considered as an offense against the law of nations, independent of compact, has been a grave question much litigated in the courts charged with the administration of public law. (Kent, Vol. I, pp. 182 to 192.)

Criminal laws can not operate extraterritorially.

I want to call attention now briefly to what the authorities say, in order that the RECORD may show precisely what has been held in connection with the punishment of extraterritorial crime.

Bishop on Criminal Law says:

But to punish a foreign murderer simply because his victim came among us to die is to usurp the functions of the foreign government. We often see foreign governments omitting what we deem to be their duty, but to jump uninvited into every vacuum of this sort would be to make ourselves a nuisance in the family of nations. (Vol. I, sec. 116.)

In the words of a learned New Jersey judge, "an act to be criminal must be alleged to be an offense against the sovereign of the government." This is the very essense of crime punishable by human law. How can an act done in one jurisdiction be an offense against the sovereignty of another. (Ibid., sec. 112.)

But by a very ancient principle of English common law adopted in this country all crimes are strictly local and the offenders are justiciable only in the countries where the criminal act is done. Therefore English and American law would generally refuse to try and punish a British or American citizen on his return home for a criminal offense perpetrated by him in a foreign territory. (International Law, Pomeroy, p. 205.)

That is Pomeroy's International Law; but some nations extend the operation of their laws so as to reach offenses committed upon their subjects on foreign territory.

In this procedure municipal law only is concerned, and not international law; and as might be supposed, laws differ greatly in their provisions. (Woolsey, International Law, p. 78.)

By the common law of England, which has been adopted in this respect in the United States, criminal offenses are considered as altogether local and justiciable only by the courts of that country where the offense is committed. (Wheaton, International Law (Boyd), p. 154.)

But some nations extend the operation of their laws so as to reach crimes committed by their subjects upon foreign territory. In this procedure municipal law only is concerned and not international, and as might be supposed laws greatly differ in their provisions. (Woolsey, International Law, p. 78.)

Owing to differences in their constitutional systems a more limited control is asserted by Great Britain and the United States, whose criminal jurisprudence rests upon the general principle common to both that crimes are territorial and justiciable only in the courts of the country where committed. (International Public Law, Taylor, sec. 195.)

It is evident that a state can not punish an offense against its municipal laws committed within the territory of another state unless by its own citizens. (Wheaton, International Law (Boyd), p. 154.)

Without special agreement among the states none can arrest or punish subjects of the others for offenses committed outside its own jurisdiction, even though they are regarded as offenses by the law of the state to which the offender belongs. This is so clear that no attempt has been made to assume a kind of international jurisdiction over acts declared to be piracy by municipal laws, except in the one case of the slave trade. (Lawrence, Principles of International Law, sec. 123.)

A state has authority over foreigners within its territory, not over foreigners abroad. An attempt to punish an alien within the territory for an offense committed before he came to it is an attempt to exercise jurisdiction over acts done in another state, and is thus contrary to the very principle of territorial jurisdiction on which it is based. In similar cases a state can punish its own citizens, but its right to do so is based upon the personal claim it has to their allegiance wherever they may be.

There is no personal tie in the case of aliens; and it may justly be contended that any attempt to exercise over them such jurisdiction as we are considering would give grounds for remonstrance from the state of which they were subjects. (Lawrence, Principles of International Law, p. 220.)

But although a state takes no cognizance of offenses beyond its limits and against the laws of another country, it nevertheless can punish the crimes of its own citizens under its own laws, if within their reach, no matter where the crime may have been committed. (Baker, International Law, p. 77.)

So much for the elementary writers.

Discussing whether the slave trade was against the law of nations, the court in *The Antelope* (10 Wheat., 121) lays down rules which clearly exclude murder in a foreign country as an offense against the law of nations.

This which was the usage of all could not be pronounced repugnant to the law of nations, which is certainly to be tried by the tests of general usage. That which has received the assent of all must be the law of all.

Whatever might be the answer of a moralist to this question, a jurist must search for its legal solution in those principles of action which are sanctioned by the usages, the national acts, and the general assent of that portion of the world of which he considers himself as a part, and to whose law this appeal is made. If we resort to this standard as the test of international law, the question, as has already been observed, is decidedly in favor of the legality of the trade.

The courts of no country execute the penal laws of another. (Ibid, 123.)

It is conceded that the legislation of every country is territorial; that beyond its own territory it can only affect its own subjects and citizens. It is not easy to conceive a power to execute a municipal law or to enforce obedience to that law without the circle in which that law operates.

Said Mr. Chief Justice Marshall in Rose & Himley, 4 Cranch, 218.

Directly in point is the discussion of the court in United States *v.* Pirates (5 Wheaton, 192), where they were considering whether a statute could be extended to a murder committed on the high seas, a place over which, in a sense, we have at least concurrent jurisdiction, and to that extent the law might not be extraterritorial. The court said:

The question whether murder committed at sea, on board a foreign vessel, be punishable by the laws of the United States, if committed by a foreigner upon a foreigner, is one which involves a variety of considerations.

Page 195:

The reasonable presumption is that the legislature intended to legislate only on *cases within the scope of that power.*

Page 195:

Robbery on the sea is considered as an offense within the criminal jurisdiction of all nations. It is against all and punished by all; and there can be no doubt that the plea of autrefois acquit would be good in any civilized state, though resting under prosecution instituted in the courts of any other civilized state.

Not so with the crime of murder. It is an offense too abhorrent to the feelings of man to have made it necessary that it also should have been brought within this universal jurisdiction. And hence punishing it, when committed within the jurisdiction or (what is the same thing) in the vessel of another nation, *has not been acknowledged as a right*, much less an obligation. It is punishable under the laws of each state, and I am inclined to think that an acquittal in this case would not have been a good plea in a court of Great Britain. Testing my construction of this section, therefore, by the rule that I have assumed, I am led to the conclusion that it does not extend the punishment for murder to the case of that offense committed by a foreigner upon a foreigner in a foreign ship.

Page 197: If by calling murder piracy it might assert a jurisdiction over that offense committed by a foreigner in a foreign vessel, what offense might not be brought within their power by the same device? The most offensive interference with the governments of other nations might be defended by the precedent.

Upon the whole, I am satisfied that Congress never intended to punish murder in cases with which they had no right to interfere nor leave unpunished the crime of piracy in any cases in which they might punish it.

There is no elementary writer, there is no judge, there is no decision holding that any statute can be passed in any country that affects a foreigner committing an offense in a foreign country upon a foreigner.

There are authorities that hold that the jurisdiction of a State may follow its subjects into a foreign country and punish its subjects for acts committed there. There are cases that hold that an offense committed in a foreign country against the sovereign of the country that is undertaking to punish him may be taken cognizance of; but there is no case, there is no elementary writer, there is no judge of any court holding that an offense committed by a foreigner in a foreign country upon a foreigner is justiciable anywhere except in the foreign country where committed; but this is what the Senate bill undertakes to do.

Mr. Chief Justice Marshall while a member of Congress made a celebrated speech in which, having occasion to discuss this question, he used the following language:

Suppose a duel attended with death in the fleet of a foreign nation or in any vessel which returned safe to port. Could it be pretended that any government on earth other than that to which the fleet or vessel belonged had jurisdiction in the case, or that the offender could be tried by the laws or tribunals of any other nation whatever? Suppose a private theft by one mariner from another, and the vessel to perform its voyage and return in safety, would it be contended that all nations have equal cognizance of the crime and are equally authorized to punish it?

* * * * * * *

But an offense which in its nature affects only a particular nation is only punishable by that nation.

* * * * * * *

But piracy, under the law of nations, which alone is punishable by all nations, can only consist in an act which is an offense against all. No particular nation can increase or diminish the list of offenses thus punishable.

* * * * * * *

It has already been shown that the legislative jurisdiction of a nation extends only to its own territory and to its own citizens, wherever they may be. Any general expression in a legislative act must necessarily be restrained to objects within the jurisdiction of the legislation passing the act.

* * * * * * *

To have tried him for the murder would have been mere mockery. To have condemned and executed him, its court having no jurisdiction, would have been murder.

If John Marshall was correct, the Senate bill if enforced would result in judicial murder.

The gentleman asks me what I think of a section in our bill that prohibits conspiracies here against foreign magistrates abroad. That contemplates an offense committed within our jurisdiction against magistrates elsewhere; but the Senate bill goes vastly beyond that. Now, not only is this the law of the land, but it is in accord with the universal unbroken practice of the Republic.

The Cutting case is the most extreme illustration of the application of these principles that we have in our history. The Cutting case was simply this: A man by the name of Cutting, in 1886, living in El Paso, Mexico, published in Mexico a libel upon a citizen of Mexico. He was arrested in Mexico, and he entered into a conciliation, a scheme they have there for the purpose of avoiding punishment in case of a prosecution of that sort. The very next day he went across the line of Mexico into El Paso, Tex., and there published the same libel in Texas upon the same citizen of Mexico.

Mexico had a statute providing that an offense committed against a citizen of Mexico, even though in a foreign country, could be justiciable in Mexico. Upon that proposition the United States declared its position, and I call the attention of the distinguished body that sits elsewhere to its indignant declarations. The President of the United States, Grover Cleveland, called attention to it in his message. He acted, I have no doubt, under the advice of his Attorney-General. I do not remember whether it was Attorney-General Harmon or Attorney-General Olney. He said:

The admission of such a pretension would be attended with serious results, invasion of the jurisdiction of this Government, and highly dangerous to our citizens in foreign lands; therefore I have denied it and protested against its attempted exercise as unwarranted by the principles of law and international usage. * * * Whatever the degree to which extraterritorial criminal jurisdiction may have been formerly allowed by consent and reciprocal agreement among certain of the European States, no such doctrine or practice was ever known to the laws of this country or of that from which our institutions have been mainly derived.

Secretary Bayard, in the same case, wrote:

The proposition that Mexico can take jurisdiction of its author on account of its publication in Texas is wholly inadmissible, and is peremptorily denied by this Government.

He further said:

In the absence of any treaty of amity between the United States and Mexico providing for trial of the citizens of the two countries, respectively, the rules of international law would forbid the assumption of such power by Mexico as is contained in the Penal Code at 186, above cited. The existence of such power was and is denied by the United States.

Mr. J. B. Moore, an able writer on international law, who made an exhaustive statement of the Government's case, says this:

I shall now show that such claim has been pronounced by the highest judicial tribunal in France to be unwarranted by the principles of international law.

The legislation of France was relied on as a precedent for the law under which a citizen of the United States could be punished for an offense committed in the United States against a citizen of Mexico. The French court of last resort has held that—

The French tribunals are without power to judge foreigners for acts committed by them in a foreign country; that their incompetence in this regard is absolute and permanent; that it can be waived neither by the silence or consent of the accused.

This is what Chief Justice Story said in the case of Apollen, 9 Wheat., 362.

The laws of no nation can justly extend beyond its own territories except so far as regards its own citizens. They can have no force to control the sovereignty of any other nation within its own jurisdiction, and however general and comprehensive the phrase used in our municipal laws may be, they must always be restricted in construction to places and persons upon whom the legislature have authority and jurisdiction.

Now, there is the practice in the United States, there is the law of the land, and in the teeth of it the Senate has sent down to us a bill containing this provision, and the Judiciary Committee——

Mr. WARNOCK. Section 3 is the only section in the Senate bill that provides against an offense in a foreign nation.

Mr. LITTLEFIELD. If the gentleman will excuse me. Section 1 is somewhat ambiguous. I do not say that it of necessity applies only to an offense committed in a foreign country, but I am advised it is intended to.

Mr. WARNOCK. But the language reads——

Mr. LITTLEFIELD. I know how the language reads.

Mr. WARNOCK. "That any person who shall, within the limits of the United States or any place subject to the jurisdiction thereof."

Mr. LITTLEFIELD. It does not read that way.

Mr. WARNOCK. But that is the first part. That is the part that comes in another section.

Mr. LITTLEFIELD. Well, did the gentleman hear me when I began the discussion?

Mr. WARNOCK. Yes; and I have all along been wanting to call your attention to it.

Mr. LITTLEFIELD. That statute is for the purpose of defining the offenses, they are stated in two alternatives. The description in the first alternative is "to kill or cause the death of the President of the United States." Then the next offense in the alternative is "or the Vice-President of the United States or any officer thereof upon whom the powers and duties of the President may devolve." These relate back to the place described, if it read this way, "or the sovereign or chief magistrate," the inference would he irresistible; but it does not so read in the Senate bill. In the first instance they used the word "kill," and the definition is "willfully and maliciously kill or cause the death." As to the sovereign, they changed the description of the offense, and say "willfully and maliciously cause the death." Now, I am advised—I want to be frank with the gentleman; I do not say that it is a necessary construction; I do not say that the language can compel that result and no other—but I am advised on an authority on which I absolutely rely that that clause is intended to accomplish that result.

Mr. WARNOCK. It can not exceed what it says.

Mr. OLMSTED. But penal statutes are to be strictly construed.

Mr. LITTLEFIELD. The Senate intended to accomplish this result to which I have called attention. I agree with my friend from Pennsylvania; I do not think the language is conclusive. I agree with you that the criminal law is to be construed strictly, and that the language might not accomplish what was intended to be accomplished by it; but inasmuch as we know that it is in the

clause, we feel it to be our duty to call the attention of the House to the real intent of the act. I hope I may make the point plain. I have no disagreement with my friends. These are the only suggestions I have to make in reference to the constitutionality of this measure. Now, just a few moments and I will pass to another question. Did the gentleman from Minnesota have a question he wanted to ask me?

Mr. MORRIS. The gentleman has already answered almost the entire question which I expected to ask. But this one further suggestion: In section 1 the Judiciary Committee, by this bill, provides that "any person who unlawfully, purposely, and knowingly kills the President of the United States while he is engaged in the performance of his official duties, or because of his official character, or because of any of his official acts or omissions, shall suffer death." As I understood the gentleman from Maine, in his view President McKinley at Buffalo was not in the performance of his official duty.

Mr. LITTLEFIELD. I would not state that as an absolute proposition, because I would not go so far as that.

Mr. MORRIS. The gentleman thinks there is a question about it?

Mr. LITTLEFIELD. Yes.

Mr. MORRIS. Well, let us assume that he was not. Now, come to the next proposition, "or because of his official character." As I understood the gentleman, he said that surely Czolgosz had killed McKinley because of his official character. Now, what was the proof that Czolgosz had killed McKinley because of his official character?

Mr. LITTLEFIELD. In that case the proof was absolutely overwhelming. There was in the development of what followed declaration after declaration by Czolgosz himself. Now, then, if the gentleman will excuse me, of course the gentleman from Minnesota does not think that it would be incumbent on the Government to prove direct declarations by the assassin that he intended to kill him by reason of his official character. The gentleman will concede that if the circumstances of the case were such as to lead the jury to that conclusion, that would be sufficient.

Mr. MORRIS. But the gentleman from Maine will also concede that Czolgosz was a very obscure man and that very few people had ever heard of him before.

Mr. LITTLEFIELD. Yes.

Mr. MORRIS. Now, suppose he had made no declaration; suppose he had gone to the President and shot him dead.

Mr. LITTLEFIELD. Yes.

Mr. MORRIS. And had said nothing about it, had been arrested and brought up for trial, would the gentleman say it would be incumbent on the Government to prove that he killed the President because of his official character?

Mr. LITTLEFIELD. Undoubtedly.

Mr. MORRIS. How would the Government prove it?

Mr. LITTLEFIELD. I do not think the Government would have the slightest earthly difficulty. Now, we do not want to get too much disturbed about the technical part of this matter. Does the gentleman from Minnesota think that he would succeed if he were standing in court defending Czolgosz under these circumstances when he could not show any other motive on the part of Czolgosz?

Mr. MORRIS. The mere killing of the President would not furnish the presumption.

Mr. LITTLEFIELD. No; all the circumstances would be taken into account. All the circumstances taken into consideration would disclose that there was no other reason or purpose for the killing.

Mr. MORRIS. The position of the gentleman from Maine is that there would have been a presumption that he killed him because of his official character.

Mr. LITTLEFIELD. There is no presumption about it. Can not the gentleman from Minnesota distinguish between a presumption and a conclusion drawn from the circumstances of the case? Circumstantial evidence is relied upon in all trials, in all courts, in all countries. It does not involve any presumption,

Mr. MORRIS. But the only circumstances would have been the killing of the President.

Mr. LITTLEFIELD. No, not by any means. Some of the circumstances would be that McKinley was present there as President of the United States. He was being introduced to the people as President of the United States. He was standing there as President of the United States, and Czolgosz was introduced to him, as were the other people, as President of the United States. It would have been shown that he had no acquaintance with him; that he had no occasion to assault him—no occasion for any grudge against him. When a man kills a President at a public reception of this kind, what is the inference? Under all these circumstances, how long would it take a jury of twelve intelligent men to arrive at the conclusion that it was by reason of his official character that he was killed? [Loud applause.]

I have discussed the principal legal objections to the Senate bill. I have just a word as to the seventh section, providing for a bodyguard for the President. Its only prototype in history, so far as I know, is the Pretorian guard of infamous memory. Under this section the Secretary of War could detail the whole Army for that purpose. Although the President is under the Constitution the Commander in Chief of the Army, this bill proposes to authorize the Secretary of War to make such regulations as he may see fit prescribing their duties. He can thus make them subject to his orders instead of the President's, and, inasmuch as he is further authorized to keep them a profound secret, the Secretary of War is thus enabled to become a military dictator if he chooses. This savors of imperialism run mad.

SENATE BILL WITH HOUSE AMENDMENTS.

The parts printed in brackets [ ] show the bill as passed Senate.

An act (S. 3653) for the protection of the President of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That any person who shall, within the limits of the United States or any place subject to the jurisdiction thereof, willfully and maliciously kill or cause the death of the President or Vice-President of the United States, or any officer thereof upon whom the powers and duties of the President may devolve under the Constitution and laws, or who shall willfully and maliciously cause the death of the sovereign or chief magistrate of any foreign country, shall be punished with death.]

[SEC. 2. That any person who shall, within the limits of the United States or any place subject to the jurisdiction thereof, attempt to commit either of the offenses mentioned in the foregoing section shall be punished with death.]

[SEC. 3. That any person who shall, within the limits of the United States or any place subject to the jurisdiction thereof, aid, abet, advise, or counsel the killing of the President or Vice-President of the United States, or any officer thereof upon whom the powers and duties of the President may devolve under the Constitution and laws, or shall conspire with any other person to accomplish the same, or who shall aid, abet, advise, or counsel the killing of the sovereign or chief magistrate of any foreign country, or shall conspire with any other person to accomplish the same, shall be punished by imprisonment not exceeding twenty years.]

[SEC. 4. That any person who has conspired as aforesaid may be indicted and convicted separately, although the other party or parties to the conspiracy are not indicted or convicted.]

[SEC. 5. That any person who shall, within the limits of the United States or any place subject to the jurisdiction thereof, by spoken words, or by written or printed words, uttered or published, threaten to kill or advise or counsel another to kill the President or Vice-President of the United States, or any officer thereof upon whom the powers and duties of the office of President of the United States may devolve under the Constitution and laws, shall be punished by imprisonment not exceeding ten years.]

[SEC. 6. That any person who shall willfully and knowingly aid in the escape of any person guilty of either of the offenses mentioned in the foregoing sections shall be deemed an accomplice after the fact, and shall be punished as if a principal, although the other party or parties to said offense shall not be indicted or convicted.]

[SEC. 7. That the Secretary of War is authorized and directed to select and detail from the Regular Army a sufficient number of officers and men to guard and protect the person of the President of the United States without any unnecessary display.]

[And the Secretary of War is authorized and directed to make special rules and regulations as to dress, arms, and equipment and duties of said guard, and shall publish only such parts of said rules and regulations as he may deem proper.]

[That the additional expenses of such guard so detailed shall be paid out of the Treasury, on accounts to be certified by the Secretary of War to the Secretary of the Treasury.] That any person who unlawfully, purposely, and knowingly kills the President of the United States while he is engaged in the performance of his official duties, or because of his official character, or because of any of his official acts or omissions, shall suffer death.

SEC. 2. That any person who unlawfully, purposely, and knowingly kills the Vice-President of the United States, or any officer of the United States entitled by law to succeed to the Presidency, while he is engaged in the performance of his official duties, or because of his official character, or because of any of his official acts or omissions, shall suffer death.

SEC. 3. That any person who unlawfully, purposely, and knowingly kills any ambassador or minister of a foreign state or country accredited to the United States, and being therein, and while engaged in the performance of his official duties, or because of his official character, or because of any of his official acts or omissions, shall suffer death.

SEC. 4. That any person who attempts to commit either of the offenses defined in sections 1, 2, and 3 of this act shall be imprisoned not less than ten years.

SEC. 5. That any person who, while engaged in an unlawful attempt to inflict grievous bodily harm upon the President of the United States, or the Vice-President of the United States, or any officer entitled by law to succeed to the Presidency, while he is engaged in the performance of his official duties, or because of his official character, or because of any of his official acts or omissions, inflicts injuries on such President, Vice-President, or other officer which cause death, shall be imprisoned for life. If such injuries do not cause death, such offender shall be imprisoned not less than five years.

SEC. 6. That any person who aids, abets, incites, or conspires with another to commit either of the offenses mentioned in sections 1, 2, 3, 4, and 5 of this act shall be deemed a principal offender.

SEC. 7. That any person who knowingly harbors, conceals, or aids, with intent that he may avoid or escape from arrest, trial, conviction, or punishment, any person who has committed either of the offenses mentioned in the preceding sections of this act shall be imprisoned for not less than one nor more than twenty-five years.

SEC. 8. That any person who advocates, advises, or teaches the duty, necessity, or propriety of the unlawful killing or assaulting of one or more of the officers (either of specific individuals or officers generally) of the Government of the United States, or of the government of any civilized nation, because of his or their official character, or who openly, willfully, and deliberately justifies such killing or assaulting, with intent to cause the commission of any of the offenses specified in the first nine sections of this act, shall be fined not less than $500 nor more than $5,000, or imprisoned not less than one nor more than twenty years, or both.

SEC. 9. That any person who conspires with any other person or persons, or requests, advises, or encourages any other person or persons to unlawfully

assault or kill, within or without the United States, the chief executive or chief magistrate of any other civilized nation having an organized government, because of his official character, shall be punished as follows: If an attempt to commit such act is made and the death of any person results therefrom, such offender shall suffer death. If such attempt does not result in death, such offender shall be fined not less than $500 nor more than $5,000, or be imprisoned not less than five nor more than twenty-five years, or both. If such attempt is not made, such offender shall be fined not less than $500 nor more than $5,000, or be imprisoned not less than one nor more than five years, or both.

SEC. 10. That this act shall apply to all offenses hereinbefore specified when committed within any State or other place subject to the jurisdiction of the United States.

SEC. 11. That no person who disbelieves in or who is opposed to all organized government, or who is a member of or affiliated with any organization entertaining and teaching such disbelief in or opposition to all organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, shall be permitted to enter the United States or any Territory or place subject to the jurisdiction thereof. This section shall be enforced by the Secretary of the Treasury under such rules and regulations as he shall prescribe: *Provided*, That no such person shall be allowed to enter as an immigrant.

That any person who knowingly aids or assists any such person to enter the United States or any Territory or place subject to the jurisdiction thereof, or who connives or conspires with any person or persons to allow, procure, or permit any such person to enter therein, except pursuant to such rules and regulations made by the Secretary of the Treasury, shall be fined not less than $500 nor more than $5,000, or imprisoned for not less than one nor more than five years, or both.

SEC. 12. That no person who disbelieves in or who is opposed to all organized government, or who is a member of or affiliated with any organization entertaining and teaching such disbelief in or opposition to all organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, or who has violated any of the provisions of this act, shall be naturalized or be made a citizen of the United States.

All courts and tribunals and all judges and officers thereof having jurisdiction of naturalization proceedings or duties to perform in regard thereto shall, on the final application for naturalization, make careful inquiry into such matters, and before issuing the final order or certificate of naturalization cause to be entered of record the affidavit of the applicant and of his witnesses so far as applicable, reciting and affirming the truth of every material fact requisite for naturalization. All final orders and certificates of naturalization hereafter made shall show on their face specifically that said affidavits were duly made and recorded, and all orders and certificates that fail to show such facts shall be null and void.

That any person who procures naturalization in violation of the provisions of this section shall be fined not less than $500 nor more than $5,000, or shall be imprisoned not less than one nor more than ten years, or both, and the court in which such conviction is had shall thereupon adjudge and declare the order or decree and all certificates admitting such person to citizenship null and void. Jurisdiction is hereby conferred on the courts having jurisdiction of the trial of such offense to make such adjudication.

That any person who knowingly aids, advises, or encourages any such person to apply for or to secure naturalization, or to file the preliminary papers declaring an intent to become a citizen of the United States, or who in any naturalization proceeding knowingly procures or gives false testimony as to any material fact, or who makes an affidavit false as to any material fact required to be proved in such proceeding, shall be fined not less than five hundred nor more than five thousand dollars, or imprisoned not less than one nor more than ten years, or both.

SEC. 13. That in all prosecutions under the provisions of the first seven sections of this act it shall be presumed, until the contrary is proved, that the President of the United States, or Vice-President of the United States, or other officer of the United States entitled by law to succeed to the Presidency, as the case may be, was, at the time of the commission of the alleged offense, engaged in the performance of his official duties. Nothing in this act contained shall be construed as an admission or declaration that there is a time when either of such officers, during the tenure of his office, is not engaged in the performance of his official duties.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. MERCER having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 5140. An act granting an increase of pension to Dudley Cary; and

S. 6040. An act granting an increase of pension to John W. Craine.

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

H. R. 7034. An act for the relief of Navajo County, Ariz.;

H. R. 8736. An act ratifying the act of the Territorial legislature of Arizona approved March 2, 1901, providing a fund for the erection of additional buildings for the University of Arizona;

H. R. 10819. An act for the relief of George T. Winston, president of the North Carolina College of Agriculture and Mechanic Arts, and W. S. Primrose, chairman board of trustees;

H. R. 1992. An act granting the right of way to the Alafia, Manatee and Gulf Coast Railway Company through the United States light-house and military reservations on Gasparilla Island, in the State of Florida;

H. R. 949. An act for the relief of Charles H. Robinson;

H. R. 14241. An act granting an increase of pension to Peter Dugan;

H. R. 14184. An act granting an increase of pension to Andrew J. Fogg;

H. R. 14146. An act granting an increase of pension to John Murphy;

H. R. 13613. An act granting an increase of pension to Charles G. Howard;

H. R. 13450. An act granting an increase of pension to Henry Hunt;

H. R. 13398. An act granting an increase of pension to George G. Sabin;

H. R. 13296. An act granting an increase of pension to Francis Scott;

H. R. 13217. An act granting an increase of pension to Thomas W. Dodge;

H. R. 11831. An act granting an increase of pension to John W. Acker;

H. R. 11812. An act granting an increase of pension to Martin Boice;

H. R. 11686. An act granting a pension to Eleanore F. Adams;

H. R. 11495. An act granting a pension to Mary A. Bailey;

H. R. 11252. An act granting an increase of pension to Edwin M. Gowdey;

H. R. 11052. An act granting a pension to Nelson Johnson;

H. R. 10773. An act granting a pension to Archer Bartlett;

H. R. 10752. An act granting a pension to Harriet T. Milburn;

H. R. 9592. An act granting a pension to Emily Briggs;

H. R. 8924. An act granting an increase of pension to George W. Mathews;

H. R. 8003. An act granting an increase of pension to Louisa M. McFarlane;

H. R. 7704. An act granting an increase of pension to Christianna Leach;

H. R. 7687. An act granting an increase of pension to Charles C. Washburn;

H. R. 7076. An act granting an increase of pension to Leath Gilliland;

H. R. 6030. An act granting an increase of pension to William G. De Garis;

H. R. 5984. An act granting an increase of pension to William H. Van Riper;

H. R. 5273. An act granting an increase of pension to James Van Zant;

H. R. 5186. An act granting a pension to John Conter;

H. R. 3910. An act granting a pension to Dennis J. Kelly;

H. R. 3733. An act granting an increase of pension to Israel Haller;

H. R. 3678. An act granting an increase of pension to John Washburn;

H. R. 3241. An act granting an increase of pension to Hinkley G. Knights;

H. R. 2606. An act granting an increase of pension to Albert H. Steifenhofer;

H. R. 2430. An act granting a pension to Lizana D. Streeter;

H. R. 351. An act granting an increase of pension to Robert Carpenter;

H. R. 12796. An act providing for free homesteads in the Ute Indian Reservation in Colorado; and

H. R. 12085. An act providing for the completion of a light and fog-signal station in the Patapsco River, Maryland.

The message also announced that the Senate had passed with amendments the bill (H. R. 13676) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1903, and for other purposes; in which the concurrence of the House of Representatives was requested.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 4071) granting an increase of pension to George C. Tillman.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 4927) granting an increase of pension to Hattie M. Whitney.

PROTECTION OF THE PRESIDENT.

The committee resumed its session.

Mr. RAY of New York. Mr. Chairman, I ask unanimous consent that we dispense with the reading of the Senate bill and come at once to the substitute.

The CHAIRMAN. The gentleman from New York asks unanimous consent to dispense with the reading of the Senate bill for amendment. Is there objection?

Mr. CRUMPACKER. Mr. Chairman, before that matter is decided, I desire to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CRUMPACKER. The Judiciary Committee reported a substitute for the Senate bill. Now, my inquiry is whether the substitute will be read for amendment, and is an amendment eligible after each section is read?

The CHAIRMAN. The Chair will state, in the first instance, that the Senate bill must be read by sections for amendment; that,

however, can be waived by unanimous consent. Then amendments will be competent to the sections of the Senate bill. When that is disposed of the substitute offered by the House will be read, which is one amendment, and that amendment will be pending, and amendments may be offered to the amendment that is pending.

Mr. CRUMPACKER. The inquiry, Mr. Chairman, was this: Can amendments be offered to the substitute before the entire substitute is read?

The CHAIRMAN. They can not unless by unanimous consent.

Mr. RAY of New York. As I understand, each section must be amended as reached.

The CHAIRMAN. The gentleman from New York [Mr. RAY] asks unanimous consent that the reading of the Senate bill by sections may be dispensed with. Is there objection?

Mr. LACEY. I object.

The Clerk read the following sections of the Senate bill:

Be it enacted, etc., That any person who shall, within the limits of the United States or any place subject to the jurisdiction thereof, willfully and maliciously kill or cause the death of the President or Vice-President of the United States, or any officer thereof upon whom the powers and duties of the President may devolve under the Constitution and laws, or who shall willfully and maliciously cause the death of the sovereign or chief magistrate of any foreign country, shall be punished with death.

SEC. 2. That any person who shall, within the limits of the United States or any place subject to the jurisdiction thereof, attempt to commit either of the offenses mentioned in the foregoing section shall be punished with death.

SEC. 3. That any person who shall, within the limits of the United States or any place subject to the jurisdiction thereof, aid, abet, advise, or counsel the killing of the President or Vice-President of the United States or any officer thereof upom whom the powers and duties of the President may devolve under the Constitution and laws, or shall conspire with any other person to accomplish the same, or who shall aid, abet, advise, or counsel the killing of the sovereign or chief magistrate of any foreign country, or shall conspire with any other person to accomplish the same, shall be punished by imprisonment not exceeding twenty years.

Mr. OLMSTED. Mr. Chairman, what has become of the amendment to strike out the whole of the first section?

The CHAIRMAN. The amendment reported by the committee is one amendment to strike out all after the enacting clause and insert a substitute. But these several sections may be amended as we go along.

Mr. COCHRAN. I move to amend by striking out the last word. It goes without saying, Mr. Chairman, that this bill will be enacted into law by the concurrence of both sides of the Chamber, and by an overwhelming majority of the members of this body.

Mr. RAY of New York. I rise to a parliamentary inquiry. I did not understand that we were to have any more discussion until the amendment of the committee was read.

The CHAIRMAN. The gentleman from Missouri [Mr. COCHRAN] has moved to strike out the last word.

Mr. RAY of New York. Has the entire amendment been read?

The CHAIRMAN. The Clerk is reading the original Senate bill, the bill now pending before the committee. The Chair has ruled that the entire Senate bill——

Mr. COCHRAN. I rise to a parliamentary inquiry. Have I the floor?

The CHAIRMAN. The gentleman from New York [Mr. RAY] has made a parliamentary inquiry.

Mr. COCHRAN. Then I want it understood that my five minutes are not being used up in this way.

Mr. RAY of New York. I simply wanted to know the order of proceeding. I understood the Chair to hold that the proposition to strike out the Senate bill was one amendment.

The CHAIRMAN. The amendment reported by the Committee on the Judiciary is one amendment—to strike out all after the enacting clause and insert a substitute for the entire bill. Now, the rule is that we must perfect the original bill before the substitute is voted upon.

Mr. RAY of New York. I understand that; but, as I understood, the Chair was now about to recognize the gentleman from Missouri before the reading of the amendment.

The CHAIRMAN. The gentleman from Missouri himself offers an amendment to perfect the original bill, which he has the right to do, just as it would be entirely competent to move to strike out any one of these sections as read, or to add words or to strike out words, or to insert a new section. When the end of the bill is reached, then the amendment proposed by the committee will be in order.

Mr. RAY of New York. If it is all one amendment, how can we commence to discuss it before it has been read?

The CHAIRMAN. The "one amendment" to which the gentleman refers has not yet been offered and can not be offered until the Senate bill is read through, for the manifest reason that the amendment proposes to strike out the entire bill.

Mr. RAY of New York. Now, the parliamentary inquiry is this: During the reading of the measure which we propose to strike out is it proper to stop at the end of each section and amend that section?

The CHAIRMAN. It certainly is. The Chair so rules. The gentleman from Missouri [Mr. COCHRAN] will proceed.

Mr. COCHRAN. Mr. Chairman, it may be taken for granted that this bill will pass without very much division on this floor. This is evidenced by the fact that we have been allowed three days in which to debate it. Who expects that a measure about which there was any disagreement on this floor will be discussed for three days?

Why, sir, had there been a division on party lines on this question that august, interesting, and useful instrument of repression known as the Committee on Rules would have brought in a rule prohibiting the right of amendment, limiting debate to two or three hours, and the triumvirate would have justified the ruling on the ground that it is useless to waste the time of this body in useless discussion. Instead of three days we would have been limited to about two hours, and had the measure originated in the House it would have been sent over to the Senate to be amended and perfected there.

When the country witnesses this discussion of three days and notices the fact that the distinguished gentleman from Maine [Mr. LITTLEFIELD] held forth for a full hour and three-quarters at the end of a three days' discussion, and, reading the CONGRESSIONAL RECORD, discovers that had this bill been read the very day it was brought in here and the roll called, it would have received an overwhelming majority of the membership, it may learn therefrom the kind of measures and upon which the right of free and full discussion is accorded to the members of this body.

I want to congratulate the gentlemen on that side who are charged with the conduct of public affairs upon the fact that once in a while a measure comes in here upon which opinion is so united that they dare to send it to the country with their reasons fully stated for indorsing it, and I want to congratulate them also upon the fact that once in a while a measure comes upon this floor where they do not fear discussion.

This measure would pass this body by an overwhelming vote, discussion or no discussion, and receive the approbation of the country, discussion or no discussion. Why discuss it so elaborately for three long days, when both sides of the Chamber almost unanimously agree that at least the purpose and object of the bill are entirely praiseworthy and deserving of support?

If every member of this body has not lent it their unqualified support it is because some of them doubt the propriety of legislation clothing the Federal courts with jurisdiction of offenses committed in States. Furthermore, up to this writing experience and observation has shown that whoever lifts his finger against the Chief Magistrate of this country is sure of condign punishment. Undoubtedly it is true that nothing could kill Czolgosz more effectually than he was killed by a New York sheriff.

As to whether the passage of repressive legislation will suppress anarchy in this country, I have my own particular views. I believe that as long as we open our ports to all kinds of immigration, as long as our industrial affairs are so ordered that after admitting unnumbered thousands of unfit immigrants into this country and piling them up by scores in single rooms in tenement houses and garrets in our cities and impounding them in improper quarters in mining regions, where they have no opportunity, even if they had the desire, to learn the nature and beneficence of our institutions, and few of whom desire to become Americans for the sake of being Americans, you will have anarchists in this country.

Anarchy is the child of misery. The accursed creed can find no lodgment in the mind of a man reared in our country, unless he is an utter pervert, but if we are going to allow the steamship companies and the corporation agents to ransack the four corners of the earth for the unfit, to bring them here in enormous numbers, and thrust them upon our people, investing them with the elective franchise and threatening our laborers with reduction to their level, depend upon it you have not heard the last of anarchy. [Applause.]

[Here the hammer fell.]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. TIRRELL having taken the chair as Speaker pro tempore, a message in writing from the President of the United States was communicated to the House of Representatives by Mr. B. F. BARNES, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills of the following titles:

On June 3, 1902:

H. R. 10144. An act to donate to the State of Alabama the spars of the captured battle ships Don Juan d'Austria and Almirante Oquendo; and

H. R. 989. An act to authorize the Light-House Board to pay to Chamblin, Delaney & Scott the sum of $1,704.46 cents.

On June 5, 1902:

H. R. 8752. An act authorizing the board of supervisors of Santa Cruz County, Ariz., to issue bonds for the erection of a court-house and jail for said county; and

H. J. Res. 113. Joint resolution authorizing the use and improvement of Governors Island, Boston Harbor.

On June 6, 1902:

H. J. Res. 172. Joint resolution authorizing the Secretary of War to loan to the Morgan Memorial Association, of Winchester, Va., certain Revolutionary trophies at Allegheny Arsenal, Pittsburg, Pa.;

H. R. 357. An act for the relief of Levi Maxted;

H. R. 2901. An act to remove the charge of desertion borne opposite the name of Abram Williams;

H. R. 13359. An act making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes; and

H. R. 14018. An act to increase the limit of cost of certain public buildings, to authorize the purchase of sites for public buildings, to authorize the erection and completion of public buildings, and for other purposes.

PROTECTION OF THE PRESIDENT.

The committee resumed its session.

The Clerk read as follows:

SEC. 7. That the Secretary of War is authorized and directed to select and detail from the Regular Army a sufficient number of officers and men to guard and protect the person of the President of the United States without any unnecessary display.

Mr. OLMSTED. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. OLMSTED. If we permit the reading of all of the sections of this bill without amendment, and then vote down the committee amendment striking out the whole bill and inserting other matter, shall we have lost the opportunity of amending the Senate bill?

The CHAIRMAN. Most undoubtedly. There is nothing left of the Senate bill to amend except section 7.

Mr. OLMSTED. Then I want to call attention to my first parliamentary inquiry, when the Chair stated there was an amendment pending to strike out the whole of the first section. The Chair, as I understand, replied that the whole bill should first be read. I wish now, if it is not too late, to make the point that the committee amendment must be considered as applying only in the first instance to the first section read, and must be voted upon.

The CHAIRMAN. The gentleman from Pennsylvania could hardly have misinterpreted the Chair.

Mr. OLMSTED. Perhaps I did not hear distinctly.

The CHAIRMAN. The Chair stated that the original bill, the Senate bill, was the bill under consideration in the House, and that it would be read through, subject to amendment, prior to the proposition to strike out all after the enacting clause; and section by section it has been read, excepting section 7, in the midst of which we now are.

Mr. OLMSTED. Then I will ask unanimous consent to go back to the first section for the purpose of striking out two words.

The CHAIRMAN. Will not the gentleman wait until this section has been disposed of? Then the Chair will recognize the gentleman to make the request.

The Clerk read as follows:

And the Secretary of War is authorized and directed to make special rules and regulations as to dress, arms, and equipment and duties of said guard, and shall publish only such parts of said rules and regulations as he may deem proper.

That the additional expenses of such guard so detailed shall be paid out of the Treasury, on accounts to be certified by the Secretary of War to the Secretary of the Treasury.

Mr. RAY of New York. Mr. Chairman, I move to strike out the section read.

The CHAIRMAN. Section 7?

Mr. RAY of New York. No; to strike out all of the sections read. We have now read down to the end of section 7.

Mr. CRUMPACKER. I raise the point of order upon the motion.

The CHAIRMAN. The gentleman need not make the point of order. That can not be done. We are taking this section by section. We are now on the seventh section. If the gentleman has any motion to make to amend that section or to strike it out, it is in order.

Mr. CRUMPACKER. I desire to move to strike out this section.

Mr. RAY of New York. Wait a moment. Let me understand the Chairman of the committee. I understand the Chair to hold that the other sections are agreed to.

The CHAIRMAN. They are not agreed to, for the simple reason that there is pending an amendment, recommended by the committee, to strike out all after the enacting clause and to insert other matter in the nature of a substitute; but the other sections of the Senate bill have been passed over, so far as the perfecting of them is concerned——

Mr. RAY of New York. Is there not an amendment pending?

The CHAIRMAN. The Chair will repeat what he has said. The other sections have been passed by the committee, for the purpose of perfecting the pending bill. They are now perfected, so far as they stand in the bill. The gentleman from New York can now move to strike this section out or to amend this section. The gentleman from Indiana [Mr. CRUMPACKER] has already moved to strike it out. When that is disposed of the Chair will entertain the request of the gentleman from Pennsylvania [Mr. OLMSTED]. The gentleman from Indiana moves to strike out section 7.

Mr. RAY of New York. I should like to know, Mr. Chairman, if I can, when the time comes, for this amendment——

The CHAIRMAN. The Chair has ruled upon that. The gentleman from Indiana [Mr. CRUMPACKER] moves to strike out section 7 of the bill.

Mr. CRUMPACKER. I want to say a word on this section. I think it ought to go out of the bill, so that in the event that the Committee of the Whole votes down the substitute or House bill the bill will be in fairly acceptable shape. This section provides for a sort of military bodyguard of unlimited size, to be uniformed and decorated in such manner as the Secretary of War sees fit. I think the section ought to go out of the bill.

The CHAIRMAN. The question is on the motion of the gentleman from Indiana, to strike out section 7 of the Senate bill.

The motion was agreed to.

The CHAIRMAN. Now the gentleman from Pennsylvania [Mr. OLMSTED] asks unanimons consent to recur to the first section of the bill for the purpose of offering an amendment which the gentleman will state.

Mr. OLMSTED. Striking out the words "who shall," in line 8.

Mr. RAY of New York. To that I object.

The CHAIRMAN. Objection is made. The question now is upon the motion of the committee, to strike out all after the enacting clause and insert the following, which the Clerk will read.

Mr. SMITH of Kentucky. Mr. Chairman, I want to know when it will be in order to offer amendments to the substitute?

The CHAIRMAN. At the end of the reading of the entire substitute, which the Chair holds to be one amendment.

Mr. PARKER. May we give notice of these amendments?

The CHAIRMAN. It is not necessary to give notice.

Mr. PARKER. As a member of the committee, I desire to offer an amendment to the first, second, and third sections.

The CHAIRMAN. After the committee amendment has been read the Chair will recognize all gentlemen to offer amendments to it.

The Clerk proceeded to read the substitute, as follows:

That any person who unlawfully, purposely, and knowingly kills the President of the United States while he is engaged in the performance of his official duties, or because of his official character, or because of any of his official acts or omissions, shall suffer death.

Mr. LANHAM. Now, Mr. Chairman, at the proper time I wish to move to strike out this section of the House bill and offer an amended section.

The CHAIRMAN. The Chair will state to the gentleman from Texas that the Chair holds this amendment reported by the committee to be one amendment, and at the end of the reading of that amendment it is subject to amendment at any place in the amendment.

Mr. LANHAM. And then I can be recognized to strike out any section of the bill I may see proper?

The CHAIRMAN. Certainly.

Mr. THAYER. Can not we expedite matters? We all know what this substitute is, and I ask unanimous consent that it be not read.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent that the substitute be not read. Is there objection?

Mr. FINLEY. I object.

The CHAIRMAN. Objection is made by the gentleman from South Carolina.

Mr. PARKER. Mr. Chairman, I ask unanimous consent that amendments may be offered at the end of each section, so that we may understand better what we are doing.

The CHAIRMAN. The gentleman from New Jersey asks unanimous consent that the substitute be considered by sections. Is there objection?

Mr. RAY of New York. Now, Mr. Chairman, before that is done, I want to see if I understand the Chair and the Chair understands us, so that we may know what we are going to do. I will state it as I understand it, if I can have quiet, so that the Chair can distinctly understand me and I understand the Chair. I

understand now we have come to the committee amendment, and that we can amend that as we see fit, and after we have amended it, and after this committee has got through with the amendment, they can then substitute it for the first six sections of the Senate bill or not, as they see fit.

The CHAIRMAN. That is correct; and the Chair understands the gentleman from New York.

Mr. RAY of New York. Now we read the House substitute as a whole and then go to work and amend it by offering amendments at any place?

The CHAIRMAN. That is correct, except that now the gentleman from New Jersey asks unanimous consent to consider the substitute by sections.

Mr. RAY of New York. But no right will be lost to any gentleman to amend the House substitute by that course.

Mr. LANHAM. I think it will be better to follow the suggestion offered by the gentleman.

The CHAIRMAN. If the request of the gentleman from New Jersey is agreed to and the committee goes through the bill by sections, it will not then be in order to reamend the amendment. The course will then be to agree to the substitute as amended.

Mr. RAY of New York. The substitute, the House amendment, as amended by this committee, to the Senate bill.

The CHAIRMAN. Now, let the Chairman be distinctly understood. This is a substitute amendment by sections, and under the rules of the House it makes it necessary to read the entire amendment and then amend it in the different parts at the liberty of the committee. The gentleman from New Jersey asks unanimous consent to consider this substitute by sections for amendments. Is there objection?

Mr. LACEY. Mr. Chairman, there are some gentlemen who would like to adopt the Senate part of the amendment already made and add it to the bill—sections 11 and 12—in other words, the anti-anarchy features of the House bill. Will there be an opportunity to do that?

The CHAIRMAN. The Chair thinks the opportunity is already lost. Is there objection? [After a pause.] The Chair hears none.

Mr. PARKER. Mr. Chairman, I move an amendment.

The Clerk read as follows:

On page 3, lines 23 and 24, and lines 1 and 2, page 4, strike out the words "while he is engaged in the performance of his official duties, or because of his official character, or because of any of his official acts or omissions."

Mr. PARKER. Mr. Chairman, may we have stated how the section will read?

The CHAIRMAN. The Clerk will report the section as it will read when amended.

The Clerk read as follows:

That any person who unlawfully, purposely, and knowingly kills the President of the United States shall suffer death.

Mr. PARKER. Mr. Chairman, I move this amendment here with a good House present, ready to meet the question that we have already discussed. We all believe, and we feel it our duty to the people, that this House ought to declare in the name of the United States that that man shall suffer death who kills the President unlawfully: that is, without a lawful reason, who kills him purposely, and who kills him knowingly.

That man should suffer death if he has no lawful reason, whether or not his reason be to interfere with the President on account of his official action or on account of his official acts or omissions, and this whether he is signing a message and is doing his duty as President or whether he is simply resting and sleeping, recruiting the energies which will allow him to do that duty. It needs no argument. Let us have a vote. We have argued it already. [Applause.]

Mr. RAY of New York. Mr. Chairman, so much has been said by gentlemen opposed to the limitations in this bill to the effect that the decisions do not hold that Congress may enact laws to protect its officers only when they are engaged in the performance of their official duties, or because of their official character, or because of official acts done or omitted, that it is well to call attention specifically to what the courts have held and decided on that subject; also to the concessions made by the learned and distinguished lawyers and jurists who have argued the question in the courts. So far as I can find, it has never been contended by any lawyer of eminence or any jurist anywhere that the power of the United States extends further than I have stated, and further than stated in the bill. Since the murder of President McKinley at Buffalo, yielding to the popular cry and seeking to gratify the public fury awakened by that atrocious act, lawyers and judges have speculated whether or not Congress could go further for the protection of officers of the Government than to protect them in the discharge of their duties and from assaults because of their official character or official acts. They have not held that this could be done.

Turning to the leading case, In re Neagle, 135 U. S., page 1, we find that the case was argued in the Supreme Court of the United States in behalf of the Government of the United States by that learned and distinguished lawyer, the superior of whom is not living, Joseph H. Choate, of New York City, now our ambassador to the Kingdom of Great Britain. The brief of Mr. Choate is full and complete. It was necessary to show, and everyone who has read the case concedes and knows that it was necessary to show, in order to authorize the discharge of Neagle from the custody of the criminal courts of California, which was done, that Mr. Justice Field was at the time of the assault committed upon him engaged in the performance of his official duty, not performing an official act, but engaged in the performance of his official duty, or that he was attacked because of something done by him in his official character or because of his official character. Mr. Choate, representing the United States, conceded this. He says:

What we assert is that it is not only within the lawful power, but is the plain duty, of the President when informed that the due and regular administration of justice on one of the Federal circuits is about to be interfered with by a threatened attack on the Federal judge assigned by law to administer it, and actually engaged in that service, to provide for adequate means for his protection.

Mr. Choate further says:

In obedience to these laws he was at the time and place of the attack traveling from one California circuit, where he had been holding court, to the other, where he was about to hold it. He was therefore at the time and place of the attack in the direct and immediate discharge of his official duties just as much so as if he had been sitting in court in San Francisco.

The learned Attorney-General of the United States, W. H. H. Miller, made the same concession in his brief, and says, when stating the case for the Government and defining the powers of the Government to protect its officers:

It was the duty of the executive department of the United States to guard and protect, at any hazard, the life of Mr. Justice Field in the discharge of his duty.

When the court came to pronounce its decision, it stated clearly and emphatically the grounds, and the only grounds, upon which the Government of the United States could interfere, and says:

This element (of authority asserted under the Government of the United States) is said to be found in the facts that Mr. Justice Field when attacked was in the immediate discharge of his duty as judge of the circuit courts of the United States within California; that the assault upon him grew out of the animosity of Terry and wife arising out of the previous discharge of his duty as circuit justice in the case for which they were committed for contempt of court, and that the deputy marshal of the United States who killed Terry in defense of Field's life was charged with a duty under the law of the United States to protect Field from the violence which Terry was inflicting and which was intended to lead to Field's death.

The court then concedes that the first proposition, to wit, that Mr. Justice Field when attacked was in the immediate discharge of his duty as judge of the circuit court of the United States within California, was absolutely essential to the establishment of the fact that the jurisdiction and power of the United States Government to protect him had been infringed, and then proceeds at length to prove that he was engaged in the performance of his official duties, even though not performing an official act.

No sane man can suppose for an instant that these concessions would have been made by the Attorney-General of the United States and by Mr. Choate and by the entire court had they entertained for a moment the belief that the power of the United States to protect its officers extends to that protection on the ground simply that they are officers of that Government and irrespective of what they are doing at the time or of the reasons of the assault committed upon them.

In the course of the argument, which occupies 36 printed pages, Mr. Justice Miller, in writing the opinion, more than a dozen times states that the power of the United States Government to protect Mr. Justice Field grew out of the fact that he was engaged in the discharge of his official duties, and at page 69 says, "That there is a peace of the United States; that a man assaulting a judge of the Umted States while in the discharge of his duties violates that peace," etc., are questions too clear to need arguments to prove them.

In United States *v.* Cruikshank (92 U. S., 550–1) the court said, speaking generally of the power of Congress to protect the officers of the Government:

Thus, if a marshal of the United States is unlawfully resisted while executing the process of the courts within a State, and the resistance is accompanied by an assault on the officer, the sovereignty of the United States is violated by the resistance and that of the State by the breach of the peace in the assault. So, too, if one passes counterfeit coin of the United States within a State, it may be an offense against the United States and the State—the United States because it discredits the coin and the State because of the fraud upon him to whom it is passed. This does not, however, necessarily imply that the two governments possess powers in common or bring them into conflict with each other.

In the Neagle case the court further says:

It is urged, however, that there exists no statute authorizing any such protection as that which Neagle was instructed to give Judge Field in the present case, and indeed no protection whatever against a vindictive or malicious assault growing out of the faithful discharge of his official duties; and that the language of section 753 of the Revised Statutes, that the party seeking the benefit of the writ of habeas corpus must in this connection show that he is "in custody for an act done or omitted in pursuance of a law of

the United States," makes it necessary that upon this occasion it should be shown that the act for which Neagle is imprisoned was done by virtue of an act of Congress. It is not supposed that any special act of Congress exists which authorizes the marshals or deputy marshals of the United States in express terms to accompany the judges of the Supreme Court through their circuits and act as a bodyguard to them, to defend them against malicious assaults against their persons.

In the view we take of the Constitution of the United States, any obligation fairly and properly inferable from that instrument or any duty of the marshal to be derived from the general scope of his duties under the laws of the United States is "a law" within the meaning of this phrase. It would be a great reproach to the system of government of the United States, declared to be within its sphere sovereign and supreme, if there is to be found within the domain of its powers no means of protecting the judges in the conscientious and faithful discharge of their duties from the malice and hatred of those upon whom their judgments may operate unfavorably.

It is very clear that the President of the United States is not always performing official or Executive acts. He has been criticised for the delivery of the following address, cut from the Washington Post of Saturday, May 31, 1902, and delivered by the President at Arlington May 30, 1902, Memorial Day:

[The Washington Post, Saturday, May 31, 1902.]

PRESIDENT ROOSEVELT'S MEMORIAL ADDRESS.

Mr. Commander, comrades, and you, men and women of the United States, who owe your being here to what was done by the men of the great civil war, I greet you and thank you for the honor done me in asking me to be present this day.

It is a good custom for our country to have certain solemn holidays in commemoration of our greatest men and of the greatest crises in our history. There should be but few such holidays. To increase their number is to cheapen them. Washington and Lincoln—the man who did most to found the Union and the man who did most to preserve it—stand head and shoulders above all our other public men, and have by common consent won the right to this preeminence. Among the holidays which commemorate the turning points in American history Thanksgiving has a significance peculiarly its own. On July 4 we celebrate the birth of the nation, on this day, the 30th of May, we call to mind the deaths of those who died that the nation might live, who wagered all that life holds dear for the great prize of death in battle, who poured out their blood like water in order that the mighty national structure raised by the far-seeing patriotism of Washington, Franklin, Marshall, Hamilton, and the other great leaders of the Revolution, great framers of the Constitution, should not crumble into meaningless ruins.

You whom I address to-day and your comrades who wore the blue beside you in the perilous years during which strong, sad, patient Lincoln bore the crushing load of national leadership, performed the one feat the failure to perform which would have meant destruction to everything which makes the name America a symbol of hope among the nations of mankind. You did the greatest and most necessary task which has ever fallen to the lot of any men on this Western Hemisphere. Nearly three centuries have passed since the waters of our coasts were first furrowed by the keels of the men whose children's children were to inherit this fair land. Over a century and a half of colonial growth followed the settlement, and now for over a century and a quarter we have been a nation.

During our four generations of national life we have had to do many tasks, and some of them of far-reaching importance, but the only really vital task was the one you did, the task of saving the Union. There were other crises in which to have gone wrong would have meant disaster, but this was the one crisis in which to have gone wrong would have meant, not merely disaster, but annihilation. For failure at any other point atonement could have been made, but had you failed in the iron days the loss would have been irreparable, the defeat irretrievable. Upon your success depended all the future of the people on this continent and much of the future of mankind as a whole.

You left us a reunited country. You left us the right of brotherhood with the men in gray, who with such courage and such devotion for what they deemed the right fought against you. But you left us much more even than your achievement, for you left us the memory of how it was achieved. You, who made good by your valor and patriotism the statesmanship of Lincoln and the soldiership of Grant, have set as the standards for our efforts in the future both the way you did your work in war and the way in which, when the war was over, you turned again to the work of peace. In war and in peace alike your example will stand as the wisest of lessons to us and our children and our children's children.

Just at this moment the Army of the United States, led by men who served among you in the great war, is carrying to completion a small but peculiarly trying and difficult war in which is involved, not only the honor of the flag, but the triumph of civilization over forces which stand for the black chaos of savagery and barbarism. The task has not been as difficult or as important as yours; but, oh, my comrades, the men in the uniform of the United States, who have for the last three years patiently and uncomplainingly championed the American cause in the Philippine Islands, are your younger brothers, your sons. They have shown themselves not unworthy of you, and they are entitled to the support of all men who are proud of what you did.

These younger comrades of yours have fought under terrible difficulties and have received terrible provocation from a very cruel and very treacherous enemy. Under the strain of these provocations I deeply deplore to say that some among them have so far forgotten themselves as to counsel and commit, in retaliation, acts of cruelty. The fact that for every guilty act committed by one of our troops a hundred acts of far greater atrocity have been committed by the hostile natives upon our troops, or upon the peaceable and law-abiding natives who are friendly to us, can not be held to excuse any wrongdoer on our side. Determined and unswerving effort must be made, and is being made, to find out every instance of barbarity on the part of our troops, to punish those guilty of it, and to take, if possible, even stronger measures than have already been taken to minimize or prevent the occurrence of all such instances in the future.

Is it only in the army of the Philippines that Americans sometimes do acts that cause the rest of the Americans regret?

From time to time there occur in our country, to the deep and lasting shame of our people, lynchings carried on under circumstances of inhuman cruelty and barbarity—a cruelty infinitely worse than any that has ever been committed by our troops in the Philippines; worse to the victims, and far more brutalizing to those guilty of it. The men who fail to condemn these lynchings, and yet clamor about what has been done in the Philippines, are indeed guilty of neglecting the beam in their own eye, while taunting their brother about the mote in his. Understand me. These lynchings afford us no excuse for failure to stop cruelty in the Philippines. Every effort is being made, and will be made, to minimize the chances of cruelty occurring.

But keep in mind that these cruelties in the Philippines have been wholly exceptional, and have been shamelessly exaggerated. We deeply and bitterly regret that any such cruelties should have been committed, no matter how rarely, no matter under what provocation, by American troops. But they afford far less justification for a general condemnation of our Army than these lynchings afford for the condemnation of the communities in which they have taken place. In each case it is well to condemn the deed, and it is well also to refrain from including both guilty and innocent in the same sweeping condemnation.

In every community there are people who commit acts of well-nigh inconceivable horror and baseness. If we fix our eyes only upon these individuals and upon their acts, and if we forget the far more numerous citizens of upright and honest life and blind ourselves to their countless deeds of wisdom and justice and philanthropy, it is easy enough to condemn the community. There is not a city in this land which we could not thus condemn if we fixed our eyes purely upon its police record and refused to look at what it had accomplished for decency and justice and charity. Yet this is exactly the attitude which has been taken by too many men with reference to our Army in the Philippines; and it is an attitude both absurd and cruelly unjust.

The rules of warfare which have been promulgated by the War Department and accepted as the basis of conduct by our troops in the field are the rules laid pown by Abraham Lincoln when you, my hearers, were fighting for the Union. These rules provide, of course, for the just severity necessary in war. The most destructive of all forms of cruelty would be to show weakness where sternness is demanded by iron need. But all cruelty is forbidden, and all harshness beyond what is called for by need. Our enemies in the Philippines have not merely violated every rule of war, but have made of these violations their only method of carrying on the war. We would have been justified by Abraham Lincoln's rules of war in infinitely greater severity than has been shown. The fact really is that our warfare in the Philippines has been carried on with singular humanity. For every act of cruelty by our men there have been innumerable acts of forbearance, magnanimity, and generous kindness. These are the qualities which have characterized the war as a whole. The cruelties have been wholly exceptional, on our part.

The guilty are to be punished, but in punishing them let those who sit at ease at home, who walk delicately and live in the soft places of the earth, remember also to do them common justice. Let not the effortless and the untempted rail overmuch at strong men who with blood and sweat face years of toil and days and nights of agony, and at need lay down their lives in remote tropic jungles to bring the light of civilization into the world's dark places The warfare that has extended the boundaries of civilization at the expense of barbarism and savagery has been for centuries one of the most potent factors in the progress of humanity. Yet from its very nature it has always and everywhere been liable to dark abuses.

It behooves us to keep a vigilant watch to prevent these abuses and to punish those who commit them; but if because of them we flinch from finishing the task on which we have entered, we show ourselves cravens and weaklings, unworthy of the sires from whose loins we sprang. There were abuses and to spare in the civil war. Your false friends then called Grant a "butcher" and spoke of you who are listening to me as mercenaries, as "Lincoln's hirelings." Your open foes—as in the resolution passed by the Confederate congress in October, 1862—accused you, at great length and with much particularity, of "contemptuous disregard of the usages of civilized war;" of subjecting women and children to "banishment, imprisonment, and death;" of "murder," of "rapine," of "outrages on women," of "lawless cruelty," of "perpetrating atrocities which would be disgraceful to savages;" and Abraham Lincoln was singled out for especial attack because of his "spirit of barbarous ferocity." Verily, these men who thus foully slandered you have their heirs to-day in those who traduce our armies in the Philippines, who fix their eyes on individual deeds of wrong so keenly that at last they become blind to the great work of peace and freedom that has already been accomplished.

Peace and freedom—are there two better objects for which a soldier can fight? Well, these are precisely the objects for which our soldiers are fighting in the Philippines. When there is talk of the cruelties committed in the Philippines, remember always that by far the greater proportion of these cruelties have been committed by the insurgents against their own people, as well as against our soldiers, and that not only the surest but the only effectual way of stopping them is by the progress of the American arms. The victories of the American Army have been the really effective means of putting a stop to cruelty in the Philippines. Wherever these victories have been complete—and such is now the case throughout the greater part of the islands—all cruelties have ceased, and the native is secure in his life, his liberty, and his pursuit of happiness. Where the insurrection still smolders there is always a chance for cruelty to show itself.

Our soldiers conquer; and what is the object for which they conquer? To establish a military government? No. The laws we are now endeavoring to enact for the government of the Philippines are to increase the power and domain of the civil at the expense of the military authorities, and to render even more difficult than in the past the chance of oppression. The military power is used to secure peace in order that it may itself be supplanted by the civil government. The progress of the American arms means the abolition of cruelty, the bringing of peace, and the rule of law and order under the civil government. Other nations have conquered to create irresponsible military rule. We conquer to bring just and responsible civil government to the conquered.

But our armies do more than bring peace, do more than bring order. They bring freedom. Remember always that the independence of a tribe or a community may, and often does, have nothing whatever to do with the freedom of the individual in that tribe or community. There are now in Asia and Africa scores of despotic monarchies, each of which is independent, and in no one of which is there the slightest vestige of freedom for the individual man. Scant indeed is the gain to mankind from the "independence" of a blood-stained tyrant who rules over abject and brutalized slaves. But great is the gain to humanity which follows the steady though slow introduction of the orderly liberty, the law-abiding freedom of the individual, which is the only sure foundation upon which national independence can be built. Wherever in the Philippines the insurrection has been definitely and finally put down there the individual Filipino already enjoys such freedom, such personal liberty, under our rule, as he could never even dream of under the rule of an "independent" Aguinaldian oligarchy.

The slowly learned and difficult art of self-government, an art which our people have taught themselves by the labor of a thousand years, can not be grasped in a day by a people only just emerging from conditions of life which our ancestors left behind them in the dim years before history dawned. We believe that we can rapidly teach the people of the Philippine Islands not only how to enjoy, but how to make good use of their freedom; and with their growing knowledge their growth in self-government shall keep steady pace. When they have thus shown their capacity for real freedom by their power of self-government, then, and not till then, will it be possible to decide whether they are to exist independently of us or be knit to us by ties of common friendship and interest. When that day will come it is not in human wisdom to foretell. All that we can say with certainty is that it would be put back an immeasurable distance if we should yield to the counsels of unmanly weakness and turn loose the islands, to see our victorious foes butcher with revolting cruelty our betrayed friends, and shed the blood of the most humane, the

most enlightened, the most peaceful, the wisest, and the best of their own number—for these are the classes who have already learned to welcome our rule.

Nor, while fully acknowledging our duties to others, need we forget our duty to our own country. The Pacific seaboard is as much to us as the Atlantic; as we grow in power and prosperity so our interests will grow in that farthest west which is the immemorial east. The shadow of our destiny has already reached to the shores of Asia. The might of our people already looms large against the world horizon, and it will loom ever larger as the years go by. No statesman has a right to neglect the interests of our people in the Pacific; interests which are important to all our people, but which are of most importance to those of our people who have built populous and thriving States on the western slope of our continent.

This should be no more a party question than the war for the Union should have been a party question. At this moment the man in highest office in the Philippine Islands is the vice-governor, Gen. Luke Wright, of Tennessee, who gallantly wore the gray in the civil war and who is now working hand in hand with the head of our army in the Philippines, Adna Chaffee, who in the civil war gallantly wore the blue. Those two, and the men under them, from the North and from the South, in civil life and in military life, as teachers, as administrators, as soldiers, are laboring mightily for us who live at home. Here and there black sheep are to be found among them; but taken as a whole they represent as high a standard of public service as this country has ever seen. They are doing a great work for civilization, a great work for the honor and the interest of this nation, and above all, for the welfare of the inhabitants of the Philippine Islands. All honor to them; and shame, thrice shame, to us if we fail to uphold their hands!

The delivery of that able and patriotic address was not an Executive or an official act, but who will say he was not even there engaged in the performance of his official duties? He had power at that time to halt in his remarks to sign or give orders to the Army, to give directions for the performance of executive acts by his subordinates.

Had he been assaulted or killed while delivering that address the offense would have been within this proposed law if on the statute books.

The danger of these words of limitation are wholly imaginary. In the Cruikshank case the case involved the question of the constitutionality of a law, not its construction. The question was the power of Congress to legislate for the protection of persons within a State, and hence the dividing line between the sovereignty of the State and that of the United States in defining and punishing offenses against anyone was necessarily to be determined, and was determined by the Supreme Court, Mr. Justice Waite giving the opinion of the court. Those who for present political effect would write a law in the book known to be of doubtful constitutionality are not legislating wisely.

It is far better to be safe in our legislation, for it might be a calamity to enact an unconstitutional statute on this subject.

Mr. ALEXANDER. Mr. Chairman, I very much hope this amendment will not obtain. When this section was proposed in the Judiciary Committee I think every man, certainly every Republican member of the committee, was opposed to it, with the possible exception of the chairman, who had given it long and careful study before it was brought to our attention; but the more we studied the question the more important and necessary became these words of limitation. I am not going to discuss the constitutional question, which has already been dwelt upon long and ably by the chairman of the committee and the gentleman from Massachusetts [Mr. POWERS] and the gentleman from Maine [Mr. LITTLEFIELD]. They have gone over it line upon line and decision after decision until the law ought to be knocked into the head of every man in the House if it was not there before. [Laughter.]

Mr. Chairman, gentlemen object to these words of limitation, especially the phrase "while he is engaged in the performance of his official duties," fearing that it will place upon the Government the burden of proving that he is engaged in the performance of an official duty, notwithstanding section 13 of the bill, which provides that it shall be presumed until the contrary is proven that the President or other officer included in the bill was, at the time of the commission of the offense, engaged in the performance of his official duties. It is possible a case might arise when the President, at the time of assault, might not be in the performance of his official duties. Every case that the ingenuity of man can fancy has been used in illustration, but none of them within the range of probability, or even possibility, seemed to have established an exception to the rule laid down by the courts that an officer is in the discharge of his official duty at any time when he is charged with the performance of that duty.

A distinguished lawyer supposes that the President goes to New York on business and stops at a private house overnight where no one knew him or of his official character. While he is asleep a burglar breaks into his chamber, and the President resists the burglar, and the burglar, not knowing who he is or his official charactor, kills him.

Yet the gentleman admits that although this is a case where the President is not actively engaged in the performance of his official duties, still he is charged with the official duties, and therefore he is in and about the discharge of his official duties, and this law would protect him and protect the Government.

The able chairman of the Judiciary Committee is authority for the statement that the Supreme Court of the United States has decided in several cases that the officer is in the discharge of his official duty at any time when he is charged with the performance of that duty. So far as concerns the President, it is almost impossible to conceive a condition of circumstances when he is not so engaged. The executive authority is vested in him, and it is his duty to execute the law at all times and to see that it is executed, and therefore there is no time when he is not engaged in and about the performance of his official duties.

While so engaged he may be doing other things—eating, sleeping, walking, riding, going to church, or to theater for recreation, or amusing children, for illustration. These may not be official acts, but he does not cease to be officially acting, as the Supreme Court suggests in the Neagle case. "We are of the opinion," says the majority report of the Judiciary Committee, "that the President of the United States, from the moment his term of office commences to the moment his term ends, is engaged in the performance of his official duties necessarily; that the courts must and would so hold as a matter of law because of the powers vested in and duties imposed upon him."

But why, then, raise the question of the President being officially engaged, it is asked, by inserting words of limitation in the bill, since the President is the constitutional means of carrying on the operations of the Government, and therefore his assassination at any time, anywhere, or regardless of what he may be doing, deprives the Federal Government of the constitutional agency of carrying on and executing its laws?

This is all very well in theory, and it would be an easy solution of the matter if it were absolutely good law; but there are many able lawyers who do not believe that the President is always, everywhere, and under all circumstances engaged in the performance of his official duties, and they think it wise and better to set aside experimental legislation and deal only with safe legislation.

Now, why are these words "while he is engaged in the performance of his official duties" inserted in this section of the bill and in the four subsequent sections of the measure? The explanation is neither mysterious nor difficult, but plain and simple.

No one denies that the United States is without jurisdiction of the crime of murder or assault committed in a State unless the sovereignty of the United States is violated by being resisted or attacked, and such sovereignty is resisted or attacked only when an officer of the United States is opposed or interfered with in the performance or because of the performance of his duty. In other words, if one resist an officer for what he is doing or attacks him for what he has done, he attacks and infringes upon the sovereignty of the United States. This gives the United States jurisdiction in the case.

Mr. Chairman, there is no difference between the President of the United States and a United States marshal, so far as Federal jurisdiction is concerned. The President is greater in degree, but Federal jurisdiction is acquired within a State where the President is killed the same as when a United States marshal is killed.

Mr. TAWNEY. Are not the duties of the two officers defined in a different way? Are not the duties of a United States marshal defined by statute, while the duties of the President of the United States are defined by the Constitution?

Mr. ALEXANDER. That is true, but Federal jurisdiction in a State is obtained over one exactly as it is over the others. The sovereignty of the United States must be infringed or resisted, and it is resisted in the case of a United States marshal the same at it is in the case of the President.

Mr. TAWNEY. Is not the President a representative of the sovereignty of the people at all times during his occupancy of the Presidential office?

Mr. ALEXANDER. Oh, it is all very well to talk about "a representative of the sovereignty;" but sovereignty must be infringed and resisted before the Federal courts can have jurisdiction of a crime committed within the jurisdiction of a State.

Mr. TAWNEY. Is not that sovereignty infringed when the life of the representative of that sovereignty is taken, no matter where or under what circumstances?

Mr. ALEXANDER. Well, I hold that President McKinley was in the performance of his official duties when his life was taken at Buffalo.

Mr. TAWNEY. So do I.

Mr. ALEXANDER. But there are eminent men in this country who do not so believe. I believe that President Lincoln was in the performance of his official duties when he was stricken in a theater; but there are eminent lawyers in this country who do not so believe. Every decision of the Supreme Court of the United States clearly indicates that Congress has jurisdiction to enact laws punishing offenses against and assaults committed upon officers of the United States only when they are engaged in the performance of their official duties or when the assault is made because of their official character or because of an official act done or omitted.

The killing or assaulting of a United States officer simply because he is an officer would be insufficient to bring the crime within the jurisdiction of the United States. In the Neagle case the court held "that in the protection of the person and the life of Mr. Justice Field, while in the discharge of his official duties, Neagle was authorized to resist the attack of Terry upon him."

The decision also clearly holds that if Terry had attacked Justice Field because of his prior official act or because of his official character, the offense would have been against the sovereignty of the United States, and that Neagle would have had the right to resist it. There was no law of Congress punishing the killing of a justice of the Supreme Court when such killing occurred within a State. The Supreme Court simply defined what constitutes a breach of the sovereignty of the United States under the Constitution by reason of an assault on an officer of the United States when engaged in the performance of his official duties.

At the time of the attempted assault Justice Field was engaged in eating his breakfast. Was this being engaged in the performance of such duties? The court regarded this point so material that the opinion considers it at length, to the extent of two or three pages, showing that it was important, if not vital, and the court held that Justice Field was acting in his official capacity as justice even when eating his breakfast at the hotel on his way to hold court in a distant city.

Now, Mr. Chairman, it may be, and probably is, true that the President is always engaged, constructively or otherwise, in the performance of his official duties, but a statute of the United States defining and punishing an offense against the United States, when the act is committed within a State, ought to be so framed as to show on its face that it can only apply to offenses of which the United States has jurisdiction.

Hence the importance, if it be true that there is a time when the President is not engaged in the discharge of his official duties, that the words of limitation be included in the act. It is well enough to theorize and philosophize, but when a safe way is marked out through decisions of the Supreme Court, it seems unwise to attempt to find a shorter and easier one through theoretical constitutional constructions. [Applause.]

[Here the hammer fell.]

Mr. RAY of New York. Now I rise to a point of order; it is that debate on this amendment is exhausted. I call for a vote.

Mr. SMITH of Kentucky. I move to amend by striking out the last word.

Mr. RAY of New York. I raise the point of order that that is not in order. The gentleman from New Jersey [Mr. PARKER] has proposed an amendment, which has been read, and has been discussed on both sides. I now call for a vote.

Mr. OLMSTED. I move to amend the amendment of the gentleman from New Jersey by striking out also the word "shall."

Mr. SMITH of Kentucky. I have been recognized, I believe.

The CHAIRMAN. The point of order is made by the gentleman from New York [Mr. RAY] that the amendment proposed by the gentleman from Kentucky is not in order because it is an amendment in the third degree. The Chair will sustain the point of order. The gentleman from Kentucky will be at liberty later to offer an original amendment.

Mr. PARKER. May I ask unanimous consent to close debate?

Mr. RAY of New York. I make the point that debate is already exhausted and we are entitled to a vote on the amendment.

Mr. PARKER. Very well.

Mr. PAYNE. I ask unanimous consent that the debate may extend for fifteen minutes.

Mr. RAY of New York. If that time is to be equally divided, I have no objection.

Mr. PARKER. In that case we shall have to adjourn before the vote is taken.

The CHAIRMAN. The gentleman from New York [Mr. PAYNE] asks unanimous consent that debate on this amendment be extended for fifteen minutes.

Mr. PARKER. I want to get a vote on this question to-night. I object to fifteen minutes; I will consent to ten.

Mr. OLMSTED. I object to ten. [Laughter.]

The CHAIRMAN. The question is on the motion of the gentleman from New Jersey [Mr. PARKER] to strike out from section 1 the words which the Clerk will read.

The Clerk read as follows:

While he is engaged in the performance of his official duties, or because of his official character, or because of any of his official acts or omissions.

The question being taken, there were—ayes 71, noes 73.

Mr. PARKER. I ask for tellers.

Tellers were ordered; and Mr. PARKER and Mr. RAY of New York were appointed.

The committee again divided; and the tellers reported—ayes 63, noes 89.

So the amendment of Mr. PARKER was rejected.

Mr. SMITH of Kentucky. Mr. Chairman, I offer the following amendment, which I ask to have read.

The Clerk read as follows:

Amend by striking out of section 1 of the substitute the words "unlawfully, purposely, and knowingly" and inserting in lieu thereof the words "wilfully and with malice aforethought."

Mr. SMITH of Kentucky. Mr. Chairman, one of the objections to this bill, in my opinion, is in the fact that it fixes a greater punishment for the killing of a President than it does for the killing of a private citizen. I believe that as a matter of sound public policy a man ought to be punished as much for the killing of one as he ought to be punished for the killing of another person. The fact that a man is the President of the United States does not any more justify the fixing of a death penalty for the crime of manslaughter committed upon his person than it does to authorize the death penalty for the crime of manslaughter against a private citizen. In other words, let us have one common punishment for the same criminal act, whether it is to be tried in the Federal court or whether it is cognizable in a State court.

I believe that it is entirely proper to pass the jurisdiction of these offenses over to the Federal courts, but I want to fix for the commission of these crimes the same punishment that the judgment of the people throughout nearly all of the States of the Union have fixed for the commission of the like crimes. This first section of the substitute will include in it many grades of what is known in the States as manslaughter. I venture the assertion here that it includes grades of homicide that are not punished in any State of this Union by death, and some that are not in some States punishable by imprisonment in the penitentiary. Then, why, gentlemen of the committee, should you punish with death when committed here? I believe, Mr. Chairman, that this first section ought to be amended so as to require that the killing of the President to be set out therein shall be equivalent to the crime of murder as defined by the common law, and then give to it the punishment usually fixed for murder. One good feature of this bill is to be found in the uniformity that it secures in the punishment of these crimes against the President.

It may be admitted that this bill very properly passes the jurisdiction from the State to the Federal courts to try the crimes defined in it. I believe as a sound proposition of political economy that the Federal Government ought to have the power to punish offenses committed against itself. I believe the striking down of an official of the Federal Government is a crime against it, and I am perfectly willing that the Federal courts shall have the jurisdiction of such crimes; but I insist that in fixing the penalty you shall fix the penalty that the consensus of opinion of the intelligent people of this country throughout all the States has fixed for a like crime, and when that is done you have done your full duty, in my opinion. [Applause.]

Mr. RAY of New York. Mr. Chairman, the gentleman from Kentucky, a member of the committee, proposes to strike out the words "purposely and knowingly" and substitute the words "wilfully and with malice aforethought." Now, I desire to say, and I think that I violate no confidence when I say it, that the committee first had in the bill the words "with malice aforethought." Those words are not easily understood by laymen. Of course lawyers and men familiar with legal phraseology know what they mean. These words used in the bill would embrace a little more and reach further than the words proposed, perhaps.

Now, we use the word "unlawfully," and why? Simply to show that the person shall not be punished if his act is either excusable or justifiable. "Purposely and knowingly." Now, to state that if a man purposely kills the President and knowingly does it, the words, to an extent, are a repetition and approach tautology, but if you look up the legal meaning of the two words in criminal law, you will find they are not identical in import or meaning. Therefore we retained the two. They are stronger than the words "with malice aforethought." The words used by the committee would embrace some killings of the President to be punished with death, would punish with death some slayers of the President that the words of the gentleman from Kentucky would not.

Mr. PALMER. What words?

Mr. RAY of New York. I will not stop now to define. The man who has taken the cases and read the definitions of those two words in legal phraseology will find, as the gentleman from Kentucky said, that the words we use in this bill would embrace what in some States is defined as manslaughter only, or murder in the second degree, but the words he proposes to substitute could only include a killing when you are able to prove that the act was committed with malice aforethought and from a premeditated and deliberate design to effect the death of the President. The gentleman [Mr. PALMER] asks "what words?" The words used by the committee, the meaning of which are plain to most men, and I trust their meaning is not unknown t othe gentleman.

We think that is requiring too much, and therefore I ask the

committee to retain these words, because we believe they are not too strong, but because they are stronger than the words proposed by the gentleman from Kentucky [Mr. SMITH] for the prevention of crime against the Government and against the President of the United States. We think the use of these words is wise, and as they were taken from the bill proposed by the Attorney-General of the United States we claim no proprietorship. We want a constitutional bill, and the decided vote of this committee shows that, but the use of the words proposed expresses the idea plainly, and there can be no difficulty in understanding them, and their use does not violate any principle of law. Read the statute to a jury, "unlawfully, purposely, and knowingly," and each man knows what is intended. Give him the words "with malice aforethought" and he is at sea, and the judge must explain, and even then some men will be in the dark.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Kentucky [Mr. SMITH].

The amendment was rejected.

Mr. LANHAM. Mr. Chairman, I move to strike out the first section.

The CHAIRMAN. If the gentleman will forward his amendment to the desk, it will be offered and remain unacted upon until the section is perfected.

Mr. MORRELL. Mr. Chairman, I should like to have added to the section the matter which I send to the Clerk's desk.

The Clerk read as follows:

Add at the end of section 1 the following:

"The President of the United States, the Vice-President of the United States, or other officers of the United States entitled by law to succeed to the Presidency, shall be considered as being in the performance of their official duties during the tenure of their respective offices."

Mr. MORRELL. Mr. Chairman, to my mind it is absolutely and utterly impossible to divorce the individual from the office. The man who strikes at the individual while he occupies the position of President, Vice-President, or any of the officers in the line of succession, strikes at the head of this Government, and all of the results which follow are the same, no matter whether the crime is committed while the victim is performing his official duties or while he is performing a private function. Therefore I would like to have the amendment adopted.

The CHAIRMAN. The question is upon agreeing to the amendment of the gentleman from Pennsylvania [Mr. MORRELL].

Mr. RAY of New York. Mr. Chairman, the amendment would not be so very objectionable, perhaps, although I could not hear it carefully, but it is simply a repetition of what the committee has proposed in section 13, which I will not take the time to read, only it is not nearly as broad as section 13 proposed by the committee.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Pennsylvania.

The question being taken, on a division (demanded by Mr. MORRELL) there were—ayes 27, noes 78.

Accordingly the amendment was rejected.

Mr. LANHAM. Now, Mr. Chairman, I offer my motion to strike out the section.

The CHAIRMAN. The gentleman from Texas offers an amendment, which will be reported by the Clerk.

The Clerk read as follows:

Strike out section 1 of the committee amendment.

Mr. LANHAM. Mr. Chairman, I have no disposition to make any argument in favor of the amendment. I have already said all I well could say against the proposed legislation, so far as the criminal features of it are concerned. I do not believe that if it were enacted into law it would protect a single hair of the head of any President of the United States now or hereafter. I believe it is unnecessary and unwise legislation, for the many reasons I have heretofore stated upon this floor.

I intend to follow up this amendment, if adopted, with a proposition to eliminate from the bill the other features kindred to this section.

The CHAIRMAN. The question is on the motion of the gentleman from Texas, to strike out the first section of the amendment proposed by the committee.

The question being taken, the Chairman announced that the noes appeared to have it.

Mr. LANHAM. Mr. Chairman, I simply want to see what the sentiment is upon this proposition, and I ask for a division.

The committee divided; and there were—ayes 25.

The CHAIRMAN. On the question the ayes are 25. Does the gentleman desire the negative vote taken?

Mr. LANHAM. In view of the fact that a majority of the committee are manifestly opposed to the amendment, I withdraw the request.

The CHAIRMAN. The noes have it, and the amendment is disagreed to.

The Clerk read as follows:

SEC. 2. That any person who unlawfully, purposely, and knowingly kills the Vice-President of the United States, or any officer of the United States entitled by law to succeed to the Presidency, while he is engaged in the performance of his official duties, or because of his official character, or because of any of his official acts or omissions, shall suffer death.

Mr. PATTERSON of Tennessee rose.

Mr. RAY of New York. Mr. Chairman, I move that the committee do now rise.

Mr. PATTERSON of Tennessee. Mr. Chairman, I have an amendment.

Mr. RAY of New York. The amendment of the gentleman from Tennessee will be pending.

The CHAIRMAN. Does the gentleman from Tennessee desire to offer his amendment before the vote is taken?

Mr. RAY of New York. I move that the committee do now rise.

Mr. PARKER. Mr. Chairman, a parliamentary inquiry. If the committee rises now, will this section be subject to amendment in the morning?

The CHAIRMAN. Undoubtedly.

Mr. PATTERSON of Tennessee. I understood the Chair to recognize me for the purpose of offering the amendment.

The CHAIRMAN. The gentleman from New York at the same time moved that the committee do now rise. That is a preferential motion, and if the gentleman will withhold his amendment he will be recognized in the morning.

Mr. PATTERSON of Tennessee. I will be recognized on the amendment in the morning?

The CHAIRMAN. Certainly.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. GROSVENOR, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (S. 3653) and had come to no resolution thereon.

MILITARY ACADEMY APPROPRIATION BILL.

Mr. HULL. Mr. Chairman, the Military Academy appropriation bill has come over from the Senate, and I ask unanimous consent to take the bill from the Speaker's table and put it in conference.

The SPEAKER. The gentleman from Iowa asks unanimous consent to take from the Speaker's table the Military Academy appropriation bill, disagree to the Senate amendments, and ask for a conference. Is there objection?

Mr. RICHARDSON of Tennessee. Mr. Chairman, I desire to ask the gentleman if the members of the minority of the committee have been consulted in respect to that motion.

Mr. HULL. No, sir; they have not.

Mr. RICHARDSON of Tennessee. Then I object.

The SPEAKER. Objection is made.

SEIZURE OF BRITISH SCHOONERS E. R. NICKERSON AND WARY.

The SPEAKER laid before the House the following message from the President of the United States; which was read, referred to the Committee on War Claims, and ordered to be printed:

To the Senate and the House of Representatives:

I transmit herewith a report by the Secretary of State in regard to certain claims of British and German subjects growing out of the seizure of the British schooners *E. R. Nickerson* and *Wary* during the late war with Spain, which seizure was held by the prize court to be illegal and made without probable cause.

I recommend that an appropriation be made by Congress to pay the said claims in the amounts and to the persons named by the Secretary of State.

THEODORE ROOSEVELT.

WHITE HOUSE,
Washington, June 6, 1902.

ENROLLED BILLS SIGNED.

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

H. R. 11599. An act to redivide the district of Alaska into three recording and judicial divisions; and

H. R. 14380. An act to authorize the construction of a bridge across Waccamaw River at Conway, in the State of South Carolina, by Conway and Seashore Railroad Company.

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

S. 259. An act to establish a light-house and fog-signal station at Semiahmoo Harbor, Gulf of Georgia, Puget Sound, State of Washington;

S. 312. An act providing that the circuit court of appeals of the eighth judicial circuit of the United States shall hold at least one term of said court annually in the city of Denver, in the State of Colorado, or in the city of Cheyenne, in the State of Wyoming, on the first Monday in September in each year, and at the city of St. Paul, in the State of Minnesota, on the first Monday in June in each year; and

S. 3800. An act to grant certain lands to the State of Idaho.

SENATE BILLS AND HOUSE BILL WITH SENATE AMENDMENTS REFERRED.

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

S. 5140. An act granting an increase of pension to Dudley Cary—to the Committee on Invalid Pensions.

S. 6040. An act granting an increase of pension to John W. Craine—to the Committee on Invalid Pensions.

H. R. 13676. An act making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1903, and for other purposes with Senate amendments—to the Committee on Military Affairs.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. ELLIOTT (on request of Mr. SCARBOROUGH), indefinitely, on account of important business.

To Mr. MCANDREWS, for ten days, on account of important business.

To Mr. CASSINGHAM, for six days, on account of important business.

LEVI HATCHETT.

Mr. GIBSON. Mr. Speaker, I present a conference report on the bill (S. 2975) and ask that the report and statement be printed in the RECORD.

The SPEAKER. The request will be complied with.

The conference report is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2975) granting an increase of pension to Levi Hatchett, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from its amendment.

HENRY R. GIBSON,
A. B. DARRAGH,
RUD. KLEBERG,
Managers on the part of the House.

WM. J. DEBOE,
E. W. CARMACK,
Managers on the part of the Senate.

The statement of the House conferees is as follows:

The Senate bill (S. 2975) increased the pension of Levi Hatchett to $24. The House amended the Senate bill by striking out "$24" and inserting "$17." The result of the conference agreement is that the House recedes, and this leaves the bill as it passed the Senate.

HENRY R. GIBSON,
RUD. KLEBERG,
Conferees on part of the House.

Mr. PAYNE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

And accordingly (at 5 o'clock and 5 minutes p. m.) the House adjourned.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of War, transmitting a copy of a communication from the Quartermaster-General of the Army submitting a list of steamship lines and shipowners to whom information was furnished regarding conditions of sale of the Army transport *Egbert*—to the Committee on Military Affairs, and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of the Interior submitting an estimate of appropriation for payment of certain deputy surveyors—to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. MCCLELLAN, from the Committee on the Library, to which was referred the joint resolution of the House (H. J. Res. 6) in relation to monument to prison-ship martyrs at Fort Greene, Brooklyn, N. Y., reported the same with amendment, accompanied by a report (No. 2349); which said joint resolution and report were referred to the Committee of the Whole House on the state of the Union.

Mr. EDDY, from the Committee on the Public Lands, to which was referred the joint resolution of the House (H. J. Res. 196) empowering the State of Minnesota to file its selections for indemnity school lands upon public lands in Minnesota, otherwise undisposed of in townships, immediately upon the survey thereof in the field and prior to the approval and filing of the plat and survey thereof, reported the same with amendment, accompanied by a report (No. 2351); which said bill and report were referred to the House Calendar.

Mr. MANN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill of the House (H. R. 14691) to authorize the construction of a pontoon bridge across the Missouri River, in the county of Cass, in the State of Nebraska, and in the county of Mills, in the State of Iowa, reported the same with amendments, accompanied by a report (No. 2361); which said bill and report were referred to the House Calendar.

ADVERSE REPORTS.

Under clause 2 of Rule XIII, adverse reports were delivered to the Clerk, and laid on the table, as follows:

Mr. GROSVENOR, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the House (H. R. 7945) to extend the lien for mariners' wages to the masters of vessels, reported the same adversely, accompanied by a report (No. 2352); which said bill and report were ordered to lie on the table.

He also, from the same committee, to which was referred the bill of the House (H. R. 8202) to extend the lien for mariners' wages to masters of vessels, reported the same adversely, accompanied by a report (No. 2353); which said bill and report were ordered to lie on the table.

He also, from the same committee, to which was referred the bill of the House (H. R. 8588) to extend the lien for mariners' wages to the masters of vessels, reported the same adversely, accompanied by a report (No. 2354); which said bill and report were ordered to lie on the table.

He also, from the same committee, to which was referred the bill of the House (H. R. 9048) to extend the lien for mariners' wages to the masters of vessels, reported the same adversely, accompanied by a report (No. 2355); which said bill and report were ordered to lie on the table.

He also, from the same committee, to which was referred the bill of the House (H. R. 8589) to amend the navigation laws, reported the same adversely, accompanied by a report (No. 2356); which said bill and report were ordered to lie on the table.

He also, from the same committee, to which was referred the bill of the House (H. R. 8197) providing for investigation of the conduct of officers of steam vessels by jury trial, reported the same adversely, accompanied by a report (No. 2357); which said bill and report were ordered to lie on the table.

He also, from the same committee, to which was referred the bill of the House (H. R. 8200) to extend the lien for mariners' wages to the masters of vessels, reported the same adversely, accompanied by a report (No. 2358); which said bill and report were ordered to lie on the table.

He also, from the same committee, to which was referred the bill of the House (H. R. 8196) providing for investigation of the conduct of officers of steam vessels by jury trial, reported the same adversely, accompanied by a report (No. 2359); which said bill and report were ordered to lie on the table.

He also, from the same committee, to which was referred the bill of the House (H. R. 7947) providing for the investigation of the conduct of officers of steam vessels, reported the same adversely, accompanied by a report (No. 2360); which said bill and report were ordered to lie on the table.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Interstate and Foreign Commerce was discharged from the consideration of the bill (H. R. 14830) for the relief of the estate of Peter H. Knight, and the same was referred to the Committee on War Claims.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. RICHARDSON of Tennessee: A bill (H. R. 14947) to amend an act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890—to the Committee on the Judiciary.

By Mr. GIBSON: A bill (H. R. 14962) to provide for the erection of a public building at Morristown, Tenn.—to the Committee on Public Buildings and Grounds.

By Mr. STEPHENS of Texas: A resolution (H. Res. 292) providing for an investigation by the Secretary of the Interior touching the taxation of personal property, occupations, franchises, etc., in the Indian Territory—to the Committee on Indian Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BURTON: A bill (H. R. 14948) granting an increase of pension to John Wilson—to the Committee on Invalid Pensions.

By Mr. BOWERSOCK: A bill (H. R. 14949) granting an increase of pension to William J. Shepard—to the Committee on Invalid Pensions.

By Mr. KAHN: A bill (H. R. 14950) for the relief of the Alaska Commercial Company—to the Committee on Claims.

By Mr. PADGETT: A bill (H. R. 14951) for the relief of John V. Wright—to the Committee on Claims.

By Mr. PEARRE: A bill (H. R. 14952) granting an increase of pension to L. S. Grove—to the Committee on Invalid Pensions.

By Mr. POWERS of Massachusetts: A bill (H. R. 14953) granting an increase of pension to Mrs. Charles H. Cushman—to the Committee on Pensions.

Also, a bill (H. R. 14954) granting an increase of pension to Michael Finnerty—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14955) granting a pension to John C. Currier—to the Committee on Invalid Pensions.

By Mr. RICHARDSON of Tennessee: A bill (H. R. 14956) for the relief of the heirs of John T. Lawrence, deceased—to the Committee on War Claims.

By Mr. RODEY: A bill (H. R. 14957) granting an increase of pension to Mathias Custer—to the Committee on Invalid Pensions.

By Mr. SPARKMAN: A bill (H. R. 14958) granting an increase of pension to Lewis S. George—to the Committee on Invalid Pensions.

By Mr. WILLIAMS of Illinois: A bill (H. R. 14959) granting increase of pension to Alexander T. Sulinyer—to the Committee on Pensions.

By Mr. LANDIS: A bill (H. R. 14960) granting an increase of pension to Joel M. Street—to the Committee on Invalid Pensions.

By Mr. GIBSON: A bill (H. R. 14961) granting a pension to W. E. Sharp—to the Committee on Pensions.

By Mr. BARTHOLDT: A bill (H. R. 14963) granting an increase of pension to Hermann Tuerk—to the Committee on Invalid Pensions.

By Mr. RICHARDSON of Tennessee: A resolution (H. Res. 290) referring to the Court of Claims the claim of the heirs of John T. Lawrence, deceased—to the Committee on War Claims.

By Mr. OTJEN: A resolution (H. Res. 291) referring to the Court of Claims House bills Nos. 6511, 9380, 10014, 5042, 8262, 9479, 5717, 5720, 10127, 10128, 10081, 1764, 2211, 8377, 3276, 10123, 10867, 5564, 8330, 12030, 8265, 8006, 13965, 5493, 5491, 5502, 5507, 5508, 5484, 11143, 12747, 12748, 13603, 13903, 8264, 10349, 6715, 3279, 7421, 12445, 13518, 13521, 3423, 5976, 14901, 3613, 3719, 1773, 7438, and 11051—to the Committee on War Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BARNEY: Petition of the Milwaukee Convention of Congregational Churches of Wisconsin, for a law forbidding gambling and sale of lottery tickets by telegraph—to the Committee on the Judiciary.

By Mr. BARTHOLDT: Papers to accompany House bill granting an increase of pension to Hermann Tuerk—to the Committee on Invalid Pensions.

By Mr. BROMWELL: Petition of citizens of Wyoming, Ohio, urging the passage of Senate bill 1890, the per diem pension bill—to the Committee on Invalid Pensions.

By Mr. BUTLER of Pennsylvania (by request): Petitions of Nottingham Monthly Meeting of Friends; Woman's Christian Temperance Union of Oxford; Baptist Church, United Presbyterian Church, Methodist Episcopal Church, Presbyterian Church, and Second Presbyterian Church, colored, all of Oxford, Pa., for prohibition in the islands, and further and full trial of the anticanteen law—to the Committee on Insular Affairs.

Also (by request), petitions of the Woman's Christian Temperance Union and various churches of Oxford, Pa., above named, in relation to polygamous marriages—to the Committee on the Judiciary.

By Mr. DRAPER: Resolutions of West Side Lodge, No. 320, International Association of Machinists, of New York, favoring the construction of war vessels at the Government navy-yards—to the Committee on Naval Affairs.

By Mr. GIBSON: Papers to accompany House bill granting a pension to W. E. Sharp—to the Committee on Pensions.

By Mr. GROSVENOR: Petition of 21 citizens of Pike Run, Vinton County, Ohio, favoring a bill to modify the pension laws—to the Committee on Invalid Pensions.

By Mr. HOWELL: Resolutions of the board of water commissioners of Hoboken, N. J., indorsing House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Bordentown, N. J., for a Sunday law for the national capital—to the Committee on the District of Columbia.

By Mr. KERN: Resolutions of Mine Workers' Union No. 688, of Birkner Station, Ill., for more rigid restriction of immigration—to the Committee on Immigration and Naturalization.

Also, resolutions of Team and Livery Drivers' Union No. 237, Federal Labor Union No. 8165, Retail Clerks' Association No. 371, United Mine Workers' Union No. 705, and Mine Examiners' Mutual Aid Association No. 18, all of O'Fallon, Ill., favoring the passage of the Grosvenor anti-injunction bill—to the Committee on the Judiciary.

By Mr. LINDSAY: Resolutions of West Side Lodge, No. 320, International Association of Machinists, of New York, favoring the construction of war vessels in the United States navy-yards—to the Committee on Naval Affairs.

By Mr. PAYNE: Petition of Jane C. Palmer and others, of Penn Yan, N. Y., for an amendment to the Constitution preventing polygamous marriages—to the Committee on the Judiciary.

By Mr. RUPPERT: Resolutions of West Side Lodge, No. 320, International Association of Machinists, of New York, favoring the construction of war vessels at the Government navy-yards—to the Committee on Naval Affairs.

By Mr. TAYLER of Ohio: Petitions of posts of the Grand Army of the Republic of East Liverpool, Canton, Leetonia, Canal Fulton, Alliance, North Gearytown, and Post No. 600, Department of Ohio, favoring the passage of House bill 3067—to the Committee on Invalid Pensions.

Also, petitions of citizens of Youngstown, Ohio, for an amendment to the Constitution preventing polygamous marriages—to the Committee on the Judiciary.

By Mr. VAN VOORHIS: Resolutions of Central Trades and Labor Council, Zanesville, Ohio, and Trades and Labor Assembly of Marietta, Ohio, indorsing House bill 6279, to increase the pay of letter carriers—to the Committee on the Post-Office and Post-Roads.

By Mr. WILLIAMS of Illinois: Paper in support of bill to increase the pension of Alexander T. Sulinger—to the Committee on Pensions.

Also, paper to accompany House bill granting a pension to James M. Blades—to the Commitee on Invalid Pensions.

SENATE.

SATURDAY, *June 7, 1902.*

Prayer by Rev. F. J. PRETTYMAN, of the city of Washington.

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

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

RENTAL OF BUILDINGS.

The PRESIDENT pro tempore laid before the Senate a communication from the Postmaster-General, transmitting, in response to a resolution of the 22d ultimo, certain information relative to quarters rented by the Post-Office Department, giving the location, area of floor space occupied, and the annual rental thereof; which was referred to the Committee on Appropriations, and ordered to be printed.

He also laid before the Senate a communication from the Interstate Commerce Commission, transmitting, in response to a resolution of the 22d ultimo, certain information relative to quarters rented by the Interstate Commerce Commission, giving the location, area of floor space occupied, and the annual rental thereof; which was referred to the Committee on Appropriations, and ordered to be printed.

MESSAGE FROM THE HOUSE.

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

A bill (H. R. 9290) granting a pension to Frances L. Ackley; and

A bill (H. R. 11249) granting an increase of pension to Katharine Rains Paul.

The message also announced that the House had passed a concurrent resolution authorizing the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the sundry civil appropriation bill (H. R. 13123)