

to see whether they are qualified above all other men for this special duty. The answer to all that is, "We cannot uncover; we may do so confidentially." I would suppose that before we pass legislation on this subject we should know the character and qualifications of the men in respect to whom we are legislating.

Mr. WELKER. If this bill should become law, of course these appointments would have to be made under its provisions; and the question as to whether, under the law of 1799, the Secretary of the Treasury had authority to do it or not is not a matter that should be stated against the appointments to be made under this bill. The very purpose of this bill is to get rid of this doubt and to make a certainty.

Mr. WOODWARD. Then there is no force in the reason now rendered that their names should not be made known.

Mr. WELKER. I would also suggest that the making public of the names of those gentlemen who have been heretofore serving the country in these places would not make much difference in reference to the passage of this bill, because we suppose that the Secretary would appoint competent men under this bill. It may be that in many places the best men in the country have not been appointed.

Mr. FERRISS. Will the gentleman from Ohio [Mr. WELKER] yield to me for a few moments?

Mr. WELKER. I will.

Mr. FERRISS. This bill is a substitute for a bill which I myself prepared upon certain facts which came to my knowledge during the recess of the holidays. I then ascertained that all of these special agents, with the exception of two or three, were appointed without authority of law, in my judgment. They were appointed in pursuance of the provisions contained in the twenty-second section of the law of 1799, establishing the customs department. Those provisions have been read, giving only an implied authority for agents, and really did not contemplate their appointment as they are now appointed. I became satisfied that those agents are indispensable to the thorough and complete administration of the Treasury Department. But they are now appointed without authority of law. The attention of the Secretary having been called to the matter, he prepared this bill, or caused it to be prepared, and it was introduced and referred to the Committee on Revision of the Laws, which had under consideration the bill which I had introduced, and which proposed to abolish all these agents.

The question to be determined by the House at this time is simply this: whether this practice shall continue, whether these special agents shall be appointed and continue to be appointed without number, *ad libitum*, by the Secretary of the Treasury, with salaries fixed by him at just such rates as he may see fit to give them; or whether they shall be limited, and the expenses of the Government cut down, as they will be by this bill, over a hundred dollars per day? That is the only question to be determined by the House; whether this practice shall continue without authority of law or whether it shall continue in pursuance of law.

Mr. CULLOM. Will the gentleman yield to me for an inquiry?

Mr. FERRISS. Certainly.

Mr. CULLOM. I notice that this bill provides that these men shall act as special agents to examine the books, papers, and accounts of collectors and other officers; to act as a sort of detectives. Yet there seem to be three or four grades of officers or detectives provided for in this bill with three or four grades of salaries. Now, if the duty of all these officers is the same it strikes me there is no reason why the salaries should be different. I would like to have this matter explained, if there is any good reason for it.

Mr. FERRISS. As has been stated by the chairman of the Committee on Retrenchment, [Mr. WELKER,] the Secretary of the Treasury

has divided the country into sixteen customs districts, and in each of these districts one of the officers provided for in this bill is to be appointed and employed for that territory. In every Department of the Government the same distinction is made as to the salaries paid to employés as is contemplated by this bill. There are subordinates to the chief detective employed in this district. The head of a bureau receives greater compensation than the subordinate clerks of that bureau. The distinction in this bill is made upon the same principle.

Mr. CULLOM. That, I think, will be right enough. You provide two at ten dollars a day, and then seventeen at eight dollars a day, and sixteen at six dollars a day, and eighteen at five dollars a day. I do not say the heads of bureaus should not get higher pay, but if all these special agents of these different classes perform the same duties in the different portions of the country it seems to me that their pay ought to be the same.

Mr. FERRISS. I think, Mr. Speaker, this phrase borrowed from the act of 1799, entitled "An act to regulate the collection of the duties on imports and tonnage," imperfectly defines the duties of these officers. Their duties are much broader than those contemplated by that act to which reference is here made. I was about to state another thing: I found on examination of the statutes that there was a law passed in 1862 or 1863 authorizing the appointment of two or three of these special agents to go abroad. I believe three were authorized at the fixed salary of \$2,000 a year and expenses. That is the only act which directly provides for the appointment of agents performing such services as are performed by this large number of agents under the law of 1799. If this bill passes the agents employed under that special act with determinate duties will cease, and no more agents will be appointed under that law. The third section of this bill repeals that law. It declares that no special agents of the Treasury Department shall be appointed in addition to the number specified by this bill in relation to the collection of the customs revenue. If this bill passes it will take the place of that special act. These agents also will take the place of those appointed under the act of 1799. So then, sir, the question to be determined is, whether this number of agents shall be appointed at the salary here fixed, or whether the number shall continue without authority of law and at the will and discretion of the Secretary of the Treasury.

Mr. WELKER. I now yield to the gentleman from Vermont, [Mr. POLAND,] chairman of the Committee on Revision of the Laws.

Mr. POLAND. Mr. Speaker, this bill originated in the Committee on Revision of the Laws. I quite agree with my friend from New York [Mr. FERRISS] that it is a great perversion of the old law of 1799, so large a number of these officers should have been appointed. Such a number was never contemplated by that act; but it has grown up by a half century's practice that such a large number has been employed. If the Secretary of the Treasury has power to make any appointment at all his power is perfectly unlimited in point of number and in point of compensation. We felt the number should be limited, and that there should also be a limitation by law of the compensation they should receive. For the purpose of being informed on the subject we not only had the letter of the Secretary of the Treasury before us, but we called the Secretary of the Treasury before the committee, and had a full conference on the subject. This bill, as drawn and presented by the Committee on Revision of the Laws, was with the full concurrence of the Secretary of the Treasury, and met the approval of the committee. It was established that at least this number is necessary. The service they are to perform is detective service. They are not only to examine the books and papers of collectors of customs, but they are to act as detective officers all along

the frontier of this great country where there are importations.

A word in relation to the objection of my friend from New York, [Mr. BROOKS.] He says there is no necessity for any of these agents abroad where we have consuls. What do consuls do? The law demands that every importer shall bring a consular certificate. He carries his bill as he himself makes it to the consul and gets the consular certificate. The invoices are never examined by the consuls. It is made by law no part of their duty to examine these bills of the importers, who carry them to the consuls, make oath to them, and receive their certificates. The consul's duties are merely ministerial. These special agents of the Treasury Department are experts and are well acquainted with the market values of the products imported from abroad, and will be able to furnish the collectors at our various ports with information, so as to guard against fraudulent invoices and save the Government from loss of revenue. I hope the bill will pass.

Mr. WELKER. I now move the previous question.

Mr. CULLOM. I ask the gentleman to allow me to offer an amendment, which I send to the Clerk's desk to be read.

Mr. WELKER. I will hear it.

The Clerk read as follows:

Strike out all of section two after the enacting clause and insert the following:

That said special agents shall each receive a *per diem* of six dollars per day in addition to expenses necessarily and actually incurred; and the Secretary of the Treasury is hereby authorized to make such rules and regulations, not inconsistent with law, for the government of said special agents as he may deem expedient and necessary.

Mr. WELKER. I decline to yield for the purpose of having that amendment offered. I do so because I consider the graduation proposed in the bill of great importance in the administration of the affairs of the Department. By those having control of the Department this is deemed indispensable for the purpose of preventing frauds on the Government.

Mr. HOOPER, of Massachusetts. I ask the gentleman to yield to me to offer an amendment.

Mr. WELKER. I will hear it.

The Clerk read as follows:

In section one, line eleven, after the word "Secretary," insert the following words: "within the United States or its immediate borders."

Mr. WELKER. I do not yield to have that amendment offered, for the reason which I have already stated. I demand the previous question.

On seconding the previous question there were—ayes sixty-three, noes not counted.

So the previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WELKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WELKER. I now yield to my colleague on the committee, [Mr. JENCKES.]

DEPARTMENT OF JUSTICE.

Mr. JENCKES. I am instructed by the Committee on Retrenchment to report back, with the recommendation that it do pass, the bill (H. R. No. 1328) to establish a department of justice.

The question was on ordering the bill to be engrossed and read a third time.

The bill was read. In its first section it proposes to establish an executive department of the Government of the United States, to be called the department of justice, of which the Attorney General shall be the head. His duties, salary, and tenure of office shall remain as now fixed by law, except so far as they may be modified by this act.

The second section provides that there shall be in said department an officer learned in the law, to assist the Attorney General in the performance of his duties, to be called the solicitor general, and who, in case of a vacancy in the office of Attorney General, or in his absence or disability, shall have power to exercise all the duties of that office. There shall also be continued in said department the two other officers, learned in the law, called the assistants of the Attorney General, whose duty it shall be to assist the Attorney General and solicitor general in the performance of their duties, as now required by law.

The third section provides that from and after the time when this act takes effect the Solicitor of the Treasury and his assistants, the Solicitor of Internal Revenue, the Naval Solicitor and Judge Advocate General, and the clerks, messengers, and laborers employed in the office of the Attorney General, and in the offices of the Solicitor of the Treasury, Naval Solicitor, and Solicitor of Internal Revenue, and the law office in the Department of State, now designated as the examiner of claims in said Department, shall be transferred from the Departments with which they are now associated to the department of justice; and said officers shall exercise their functions under the supervision and control of the head of the department of justice.

The fourth section provides that questions of law submitted to the Attorney General for his opinion, except questions involving a construction of the Constitution of the United States, may be by him referred to such of his subordinates as he may deem appropriate, and he may require the written opinion thereon of the officer to whom the same may be referred; and if the opinion given by such officer shall be approved by the Attorney General, such approval so indorsed thereon shall give the opinion the same force and effect as belong to the opinions of the Attorney General.

The fifth section provides that whenever the Attorney General deems it necessary, he may require the solicitor general to argue any case in which the Government is interested before the Court of Claims; and as to cases coming by appeal from the Court of Claims to the Supreme Court of the United States, it shall be the duty of the Attorney General and solicitor general to conduct and argue them before that court as in other cases in which the United States is interested. And the Attorney General may, whenever he deems it for the interest of the United States, conduct and argue any case in any court of the United States, or may require the solicitor general or any officer of his department to do so. And the solicitor general, or any officer of the department of justice, may be sent by the Attorney General to any State or district in the United States to attend to the interests of the United States in any suit pending in any of the courts of the United States, or in the courts of any State, or to attend to any other interest of the United States; for which service they shall receive, in addition to their salaries, their actual and necessary expenses while so absent from the seat of Government, the account thereof to be verified by affidavit.

The sixth section provides that whenever a question of law arises in the administration either of the War or Navy Department, the cognizance of which is not given by statute to some other officer from whom the head of either of these Departments may require advice, the same shall be sent to the Attorney General, to be by him referred to the proper officer in his department provided for in this act, or otherwise disposed of as he may deem proper. And each head of any Department of the Government may require the opinion of the Attorney General on all questions of law arising in the administration of their respective Departments.

The seventh section provides that the duties enjoined upon the Auditor of the Post Office

Department by the fourteenth section of the act entitled "An act to change the organization of the Post Office Department, and to provide more effectually for the settlement of the accounts thereof," passed July 2, 1886, shall hereafter be performed by some officer of the department of justice, to be specially designated, under the direction of the Attorney General, who shall also have the care of prosecutions for mail depredations and penal offenses against the postal laws.

The eighth section provides that the Attorney General is hereby empowered to make all necessary rules and regulations for the government of said department of justice, and for the management and distribution of its business.

The ninth section provides that the several officers hereinbefore transferred from the other Departments to the department of justice shall hold their respective offices until their successors are duly qualified; and the solicitor general, and, whenever vacancies occur, the assistants of the Attorney General and all the solicitors and assistant solicitors mentioned in this act, shall be appointed by the President, by and with the advice and consent of the Senate. All the other officers, clerks, and employes in the said department shall be appointed and be removable by the Attorney General.

The tenth section provides that the following annual salaries shall be paid to the officers hereinbefore mentioned: to the solicitor general, \$7,500; to each of the assistants of the Attorney General, \$5,000 each; to the solicitor of the internal revenue, \$5,000; and to the other officers the salaries and fees now allowed by law; and the Attorney General shall be allowed a stenographic clerk, with an annual salary of \$2,000, and he may appoint three additional clerks of the fourth class.

The eleventh section provides that all moneys hereafter drawn out of the Treasury upon the requisition of the Attorney General shall be disbursed by such one of the clerks herein provided for the Attorney General as he may designate; and so much of the first section of the act making appropriations, passed March 3, 1859, as provides that moneys drawn out of the Treasury upon the requisition of the Attorney General shall be disbursed by such disbursing officer as the Secretary of the Treasury may designate is hereby repealed.

The twelfth section provides that it shall be the duty of the Attorney General to make an annual report to Congress, in January each year, of the business of the said department of justice, and any other matters appertaining thereto that he may deem proper, including the statistics of crime under the laws of the United States, and, as far as practicable, under the laws of the several States.

The thirteenth section provides that the superintendent of the Treasury building shall provide such suitable rooms in the Treasury building as may be necessary to accommodate the officers and clerks of the said department, or, to the extent that that may be found impracticable, to provide such rooms in some other building in the vicinity of said Treasury building.

The fourteenth section provides that the Attorney General may require any solicitor or officers of the department of justice to perform any duty required of said department or any officer thereof; and the officers of the law department, under the direction of the Attorney General, shall give all opinions and render all services requiring the skill of persons learned in the law necessary to enable the President and heads of the Executive Departments to discharge their respective duties; and shall, for and on behalf of the United States, procure the proper evidence for, and conduct, prosecute, or defend all suits and proceedings in the Supreme Court of the United States, and in the Court of Claims, in which the United States, or any officer thereof, is a party or may be interested. And no fees shall be

allowed or paid to any other attorney or counselor at law for any service herein required of the officers of the department of justice.

The fifteenth section provides that the supervisory powers now exercised by the Secretary of the Interior over the accounts of the district attorneys, marshals, clerks, and other officers of the courts of the United States shall be exercised by the Attorney General, who shall sign all requisitions for the advance or payment of moneys out of the Treasury, on estimates or accounts, subject to the same control now exercised on like estimates or accounts by the First Auditor or First Comptroller of the Treasury.

The sixteenth section provides that the Attorney General shall have supervision of the conduct and proceedings of the various attorneys for the United States in the respective judicial districts, who shall make report to him of their proceedings, and also of all other attorneys and counselors employed in any cases or business in which the United States may be concerned.

The seventeenth section provides that it shall not be lawful for the Secretary of either of the Executive Departments to employ attorneys or counsel at the expense of the United States; but such Departments, when in need of counsel or advice, shall call upon the department of justice, the officers of which shall attend to the same; and no counsel or attorney fees shall hereafter be allowed to any person or persons, besides the respective district attorneys and assistant district attorneys, for services in such capacity to the United States, or any branch or department of the Government thereof, unless authorized by law, and then only on the certificate of the Attorney General that such services were actually rendered, and that the same could not be performed by the Attorney General or solicitor general, or the officers of the department of justice, or by the district attorney. And every attorney and counselor who shall be specially retained under the authority of the department of justice to assist in the trial of any case in which the Government is interested shall receive a commission from the head of said department as a special assistant to the Attorney General, or to some one of the district attorneys, as the nature of the appointment may require, and shall take the oath required by law to be taken by the district attorney, and shall be subject to all the liabilities imposed upon such officers by law.

The eighteenth section provides that the Attorney General shall from time to time cause to be edited and printed an edition of one thousand copies at the Government Printing Office of such of the opinions of the law officers herein authorized to be given as he may deem valuable for preservation, in volumes which shall be as to the size, quality of paper, printing and binding, of uniform style and appearance, as nearly as practicable, with the eighth volume of said opinions, published by Robert Farnham in the year 1868, which volume shall contain proper head-notes, a complete and full index, and such foot-notes as the Attorney General may approve. Such volumes shall be distributed in such manner as the Attorney General may from time to time prescribe.

The nineteenth and last section provides that this act shall take effect and be in force from and after the 1st day of July, 1870.

The SPEAKER. The morning hour has expired.

ORDER OF BUSINESS.

Mr. SCHENCK. Before moving that the House resolve itself into Committee of the Whole on the special order I wish to ask that there be unanimous consent that the Committee of the Whole take a recess from half past four to half past seven o'clock.

The SPEAKER. That can be ordered by a majority of the House.

Mr. INGERSOLL. Before the gentleman