

Brig. Gen. Adolphus W. Greely, Chief Signal Officer, to be major-general.

Signal Corps.

Col. James Allen, Signal Corps, to be Chief Signal Officer with the rank of brigadier-general for a period of four years.

PROMOTIONS IN THE ARMY.

Artillery Corps.

First Lieut. Henry H. Sheen, Artillery Corps, to be captain from January 29, 1906.

Second Lieut. Claude E. Brigham, Artillery Corps, to be first lieutenant from January 29, 1906.

POSTMASTERS.

CALIFORNIA.

F. L. Bostwick to be postmaster at Laton, in the county of Fresno and State of California.

FLORIDA.

George W. Bean to be postmaster at Tampa, in the county of Hillsboro and State of Florida.

ILLINOIS.

W. E. Puffer to be postmaster at Odell, in the county of Livingston and State of Illinois.

INDIANA.

A. J. Kitt to be postmaster at Goodland, in the county of Newton and State of Indiana.

John Owen to be postmaster at Noblesville, in the county of Hamilton and State of Indiana.

Edgar A. Simmons to be postmaster at Kokomo, in the county of Howard and State of Indiana.

Fred Snyder to be postmaster at Angola, in the county of Steuben and State of Indiana.

IOWA.

Charles W. Gray to be postmaster at Corning, in the county of Adams and State of Iowa.

Samuel D. Henry to be postmaster at Coon Rapids, in the county of Carroll and State of Iowa.

Harry E. Hull to be postmaster at Williamsburg, in the county of Iowa and State of Iowa.

William F. Kopp to be postmaster at Mount Pleasant, in the county of Henry and State of Iowa.

N. C. Nelson to be postmaster at Essex, in the county of Page and State of Iowa.

Gerald L. Whinery to be postmaster at Iowa Falls, in the county of Hardin and State of Iowa.

KANSAS.

William Chapman to be postmaster at Mound Valley, in the county of Labette and State of Kansas.

Delmar E. Deputy to be postmaster at Manhattan, in the county of Riley and State of Kansas.

Thomas D. Fitzpatrick to be postmaster at Salina, in the county of Saline and State of Kansas.

Frank Fuhr to be postmaster at Meade, in the county of Meade and State of Kansas.

John O. Hanson to be postmaster at Jamestown, in the county of Cloud and State of Kansas.

Frank Harlow to be postmaster at Kingman, in the county of Kingman and State of Kansas.

William A. Hopkins to be postmaster at Solomon, in the county of Dickinson and State of Kansas.

Simon Skovgaard to be postmaster at Greenleaf, in the county of Washington and State of Kansas.

John M. Watson to be postmaster at Frankfort, in the county of Marshall and State of Kansas.

LOUISIANA.

George J. Hollister to be postmaster at Ponchatoula, in the parish of Tangipahoa and State of Louisiana.

MARYLAND.

James P. B. Veirs to be postmaster at Rockville, in the county of Montgomery and State of Maryland.

NEBRASKA.

William W. Hopkins to be postmaster at Oakland, in the county of Burt and State of Nebraska.

NEW JERSEY.

Thomas F. Austin to be postmaster at Millville, in the county of Cumberland and State of New Jersey.

Frank Wanser to be postmaster at Vineland, in the county of Cumberland and State of New Jersey.

NEW YORK.

George R. Vail to be postmaster at Chester, in the county of Orange and State of New York.

Fred M. Woolley to be postmaster at Boonville, in the county of Oneida and State of New York.

NORTH CAROLINA.

Leroy L. Brinkley to be postmaster at Edenton, in the county of Chowan and State of North Carolina.

Atheton B. Hill to be postmaster at Scotland Neck, in the county of Halifax and State of North Carolina.

Ann Z. Pearce to be postmaster at Selma, in the county of Johnston and State of North Carolina.

Stephen A. White to be postmaster at Mebane, in the county of Alamance and State of North Carolina.

NORTH DAKOTA.

James M. Cubbison to be postmaster at Minnewaukon, in the county of Benson and State of North Dakota.

Chester A. Revell to be postmaster at Harvey, in the county of Wells and State of North Dakota.

PENNSYLVANIA.

Richard L. Ashhurst to be postmaster at Philadelphia, in the county of Philadelphia and State of Pennsylvania.

Samuel L. Lewis to be postmaster at York, in the county of York and State of Pennsylvania.

John F. Parrish to be postmaster at Cresson, in the county of Cambria and State of Pennsylvania.

TEXAS.

Ferman Carpenter to be postmaster at Franklin, in the county of Robertson and State of Texas.

VERMONT.

Frederick Chapman to be postmaster at Woodstock, in the county of Windsor and State of Vermont.

Ralph E. Jones to be postmaster at Richmond, in the county of Chittenden and State of Vermont.

VIRGINIA.

Hansford Anderson to be postmaster at West Point, in the county of King William and State of Virginia.

Royal E. Cabell to be postmaster at Richmond, in the county of Henrico and State of Virginia.

WASHINGTON.

Frank E. Pells to be postmaster at Ballard, in the county of King and State of Washington.

Charles A. Phillips to be postmaster at Wilbur, in the county of Lincoln and State of Washington.

Charles C. White to be postmaster at Waterville, in the county of Douglas and State of Washington.

WEST VIRGINIA.

Henry E. Munday to be postmaster at Shepherdstown, in the county of Jefferson and State of West Virginia.

WISCONSIN.

Allan Beggs to be postmaster at Hudson, in the county of St. Croix and State of Wisconsin.

George Graham to be postmaster at Tomah, in the county of Monroe and State of Wisconsin.

Hugh McInnes to be postmaster at Edgerton, in the county of Rock and State of Wisconsin.

Andrew Noll to be postmaster at Chilton, in the county of Calumet and State of Wisconsin.

Joseph J. Schultz to be postmaster at Kewaunee, in the county of Kewaunee and State of Wisconsin.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 7, 1906.

The House met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

MILITARY RESERVATION IN ALABAMA.

Mr. HULL. Mr. Speaker, I am instructed by the Committee on Military Affairs to report back the bill (H. R. 133) for use of the military reservation in Alabama for the erection of a public building, with the recommendation that the bill and accompanying report be referred to the Committee on Public Buildings and Grounds.

The SPEAKER. Without objection, the bill will be referred to the Committee on Public Buildings and Grounds.

There was no objection.

RAILROAD RATE REGULATION.

Mr. HEPBURN. Mr. Speaker, I move that the House now resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 12987—the railroad rate bill.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the

Whole House on the state of the Union, with Mr. VREELAND in the chair.

Mr. ADAMSON. Mr. Chairman, I now yield to the gentleman from Alabama [Mr. BANKHEAD].

Mr. BANKHEAD. Mr. Chairman, from the time when legislatures and parliaments first began to legislate public highways have been held to be common carriers. The turnpikes and the ferryboats have been regulated by law, and the amount they can legally exact for their service is fixed by statute. The old mill on the creek, where I used to carry corn to be made into meal, was regulated by law, and one-eighth was the limit the miller could exact as toll. There is no difference in principle between a turnpike or plank road 1 mile long and a railroad 1,000 miles long. They both exist under a charter granted by the State; both are public highways; both are used by the people upon the payment of just and reasonable toll. It has always been deemed necessary for the protection of the public who use turnpikes and ferryboats to put them under the supervision of the law. Who can say, then, that the vast railroad systems of the country should not be made amenable to the law? It seems to be too plain for argument that all public highways and common carriers are subject to regulation by law in the interest of the people who created them.

The right to regulate railroads by law being conceded, the only remaining question is, How shall that right be exercised? The bill under consideration is an amendment to an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission. Therefore we have the whole question of railroad regulation before us, the principal object being to enlarge the powers of the Interstate Commerce Commission and to give them authority to enforce their orders and decrees. The bill now being considered is a great improvement on the present law. It comes to us with the unanimous approval of the Interstate Commerce Committee, after a long and patient investigation. It is free from party bias, and bears evidence of an earnest effort to treat the railroads fairly and to protect the interests of the great body of shippers and consumers of the country. It may be that all the evils complained of will not be corrected by the enforcement of the provisions of this bill. Indeed, no reasonable man expects that; but it is a long step in that direction and deserves a fair and patient trial. It is true that some of the evils so justly complained of are not reached by this bill, and perhaps can not be. The great annoyance and loss to shippers which arise from the unreasonable delay in settling overcharges by the railroads, the impolite and oftentimes curt replies made to questions asked for information by shippers and passengers, and the failure of railroads to make proper and convenient connections and to stop their trains where the public interests demand that they should be stopped are very irritating and frequently grossly insulting. I presume, however, that these are matters falling within the province and jurisdiction of State commissions and must be dealt with by them, if at all.

Mr. Chairman, no amount of public criticism could compel me to vote for a measure that to my mind was unjust and unfair to the railroads and that would prevent them from earning a fair rate of interest on their actual investment.

Mr. Justice Harlan, in the Nebraska case, said in part:

A railroad is a public highway, and none the less so because constructed and maintained through the agency of a corporation deriving its existence and powers from the State. Such a corporation was created for public purposes. It performs a function of the State. Its authority to exercise the right of eminent domain and to charge tolls was given primarily for the benefit of the public. It is under governmental control, though such control must be exercised with due regard to the constitutional guaranties for the protection of its property. It can not be, therefore, admitted that a railroad corporation maintaining a public highway under the authority of the State may fix a rate with a view solely to its own interests and ignore the rights of the public. But the rights of the public would be ignored if rates for the transportation of persons or property on a railroad are exacted without reference to the fair value of the property used for the public or the fair value of the services rendered, but in order simply that the corporation may meet operating expenses, pay the interest on its obligations, and declare a dividend to its stockholders.

This, to my mind, is a temperate and well considered deliverance from one of the most distinguished jurists in the country.

But, Mr. Chairman, transportation methods have been greatly revolutionized in this country since railroad construction began in earnest in the fifties. Then the railroad builder was a pioneer. The country, as a rule, was sparsely settled, and large cities were unknown, as compared with the present time. So it was that railroads were encouraged and given a free hand, and were permitted to fix and collect such tolls as seemed to their promoters to be necessary to encourage their construction.

The gentleman from Michigan [Mr. TOWNSEND], who opened the discussion for the committee on this bill, so well described

the conditions that existed in the early days of railroad transportation in this country that I quote from his speech, as follows:

When the fathers established the Government of the United States and adopted the Constitution as its bill of rights, they wisely delegated to Congress control over all commerce among the States. At that time there were but thirteen colonies from which States could be made, and they occupied the little territory east of the Alleghenies and in New England. Commerce then was limited, but the means for transportation were so crude that its movements were more difficult than those of to-day. As a legal basis of procedure in the exercise of government the common law was adopted, and that law treated common carriers as public servants and subject to governmental control, and provided that all rates and regulations charged or imposed by them should be just and reasonable.

From the time when man produced more than he consumed and desired other than what he produced, carriers became important. Settlements were made in the New World on the seashores and on the banks of rivers where transportation by water was possible, but each man at first was his own carrier, and he exchanged his for his neighbor's products. With thrift and enterprise a surplus greater than the needs of immediate neighborhood exchanges was created, and the common carrier became a necessity. At first the Government, recognizing the need, entered into the business of carrying products for the benefit of the people; highways were built, boat lines established, and canals dug. These were operated either without charge to the people or by imposing a charge upon the user of the means of transportation. In the early forties the railroad was born, and regions remote from navigable waters were opened up to settlement. Some wild dreamer of the Revolutionary times may have had a vision of the twentieth-century commerce, but such vision was never expressed, and certainly it never entered into the mind of the statesmen of early days what wonderful things were to come to pass. Then wants were simple and desire was modest. The luxuries of yesterday have become necessities of to-day. Inventive genius has revolutionized past ideals and ancient methods; ignorance, superstition, and religious fanaticism and bigotry, which once blocked the way of progress and blinded the eyes of genius, have been ruthlessly crushed to death beneath advancing civilization, which has strengthened with contest and grown wise and audacious with experience, until to-day nothing is sacred but eternal right and nothing impossible to him who wills.

Mr. Chairman, in the early fifties only a few miles of railroad were built and in operation in this country, transporting a few thousand tons of freight and a very limited number of passengers. In fifty years we have considerably more than 200,000 miles of railroad in operation, carrying annually many million tons of freight and 1,000,000,000 passengers. Trade statistics for the year 1905 show a phenomenal degree of prosperity and increase of business conducted by the railroads. It is estimated that if the product of the farms, mines, and factories had been moved at one time it would have filled 33,184,857 freight cars. These cars, if made up into one train, would extend for a distance of 224,400 miles, or a distance equal to nine times around the earth. If this train, with the locomotives necessary to haul it, should be started out into space on a trip to the moon, the leading engine would be puffing through the valleys of the earth's satellite before the conductor's caboose had rolled out of the freight yard at the starting point. To store the engines and cars would require every mile of railroad in the United States. These vast and bewildering figures demonstrate the necessity for regulation and control. We all recognize the fact that without railroads the country would be relegated to the primitive methods of transportation and travel, and no man in his senses desires that. Railroads are the greatest agencies known to man when development and progress are considered. That the capital invested in these great arteries of trade and commerce should yield a just return to the owners no fair-minded man will question; but when they insist that they should be permitted to earn large dividends on fictitious values, on bonds and stock several times the real value of the property, the people, who have been so liberal in the past in bestowing benefits and franchises on railroads, have just cause for complaint.

The enactment of legislation looking to the control and regulation of these great aggregations of capital and to prevent extortion and discrimination has been the Democratic contention for many years. The first party declaration on this subject was made in 1896 by the Democratic convention at Chicago. I had the honor of representing in part the State of Alabama in that convention as a delegate at large. The delegation did me the honor of electing me as their representative on the resolutions committee, and I was one of the subcommittee which framed the following plank in the platform adopted by the convention, which reads as follows:

[Declaration from Democratic platform, 1896.]

The absorption of wealth by the few, the consolidation of our leading railroad systems, and the formation of trusts and pools require a strict control by the Federal Government of those arteries of commerce. We demand the enlargement of the powers of the Interstate Commerce Commission, and such restriction and guaranties in the control of railroads as will protect the people from robbery and oppression.

Again, in 1900, we declared:

[Declarations from Democratic platform, 1900.]

CORPORATE INTERFERENCE IN GOVERNMENT.

Corporations should be protected in all their rights and their legitimate interests should be respected, but any attempt by corporations to

interfere with the public affairs of the people, or to control the sovereignty which creates them, should be forbidden under such penalties as will make such attempts impossible.

INTERSTATE COMMERCE COMMISSION.

We favor such an enlargement of the scope of the interstate-commerce law as will enable the Commission to protect individuals and communities from discriminations and the public from unjust and unfair transportation rates.

And again, in 1904, we said:

[Declarations from Democratic platform, 1904.]

TRUSTS AND UNLAWFUL COMBINES.

Individual equality of opportunity and free competition are essential to a healthy and permanent commercial prosperity, and any trust, combination, or monopoly tending to destroy these by controlling production, restricting competition, or fixing prices should be prohibited and punished by law. We especially denounce rebates and discriminations by transportation companies as the most potent agency in promoting and strengthening these unlawful conspiracies against trade.

INTERSTATE COMMERCE.

We demand an enlargement of the powers of the Interstate Commerce Commission to the end that the traveling public and shippers of this country may have prompt and adequate relief for the abuses to which they are subjected in the matter of transportation. We demand a strict enforcement of existing civil and criminal statutes against all such trusts, combinations, and monopolies, and we demand the enactment of such further legislation as may be necessary to effectually suppress them.

During all these years the Republican platforms were silent upon this question. The credit for the initiative therefore belongs to the Democratic party, and your humble servant was a party to its inauguration. From that day to this I have voted for every measure that came before Congress looking to these needed reforms.

Mr. Chairman, the meat in this bill is contained in sections 15, 16, and 20.

SECTION 15.

It is this section that confers upon the Commission the power to establish or fix a rate or to declare what shall be a proper charge in certain instances. The section empowers the Interstate Commerce Commission to determine and prescribe what, in its judgment, will be a just and reasonable rate, and the amount fixed by the Commission is the maximum or highest rate that the railroad can charge. The Commission is empowered by this section to make regulations in respect to transportation that are just, fair, and reasonable, and to make orders that the carrier shall cease and desist from the violation of such regulations, and invests the Commission with power to enforce its orders and decrees by severe fines and penalties. It would seem, Mr. Chairman, that the bill has conferred upon the Commission all the power that Congress can give, and if it does not accomplish all that is expected it will be the fault of the courts and not the House of Representatives.

Section 15 is as follows:

SEC. 15. That the Commission is authorized and empowered, and it shall be its duty, whenever, after full hearing upon a complaint made as provided in section 13 of this act, or upon complaint of any common carrier, it shall be of the opinion that any of the rates, or charges whatsoever, demanded, charged, or collected by any common carrier or carriers, subject to the provisions of this act, for the transportation of persons or property as defined in the first section of this act, or that any regulations or practices whatsoever of such carrier or carriers affecting such rates, are unjust or unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this act, to determine and prescribe what will, in its judgment, be the just and reasonable and fairly remunerative rate or rates, charge or charges, to be thereafter observed in such case as the maximum to be charged; and what regulation or practice in respect to such transportation is just, fair, and reasonable to be thereafter followed; and to make an order that the carrier shall cease and desist from such violation, to the extent to which the Commission find the same to exist, and shall not thereafter publish, demand, or collect any rate or charge for such transportation in excess of the maximum rate or charge so prescribed, and shall conform to the regulation or practice so prescribed. Such order shall go into effect thirty days after notice to the carrier and shall remain in force and be observed by the carrier, unless the same shall be suspended or modified or set aside by the Commission or be suspended or set aside by a court of competent jurisdiction. Whenever the carrier or carriers, in obedience to such order of the Commission or otherwise, shall publish and file joint rates, fares, or charges, and fail to agree among themselves upon the apportionment or division thereof, the Commission may after hearing make a supplemental order prescribing the portion of such joint rate to be received by each carrier party thereto, which order shall take effect as a part of the original order.

The Commission may also, after hearing on a complaint, establish through routes and joint rates as the maximum to be charged, and prescribe the division of such rates as hereinbefore provided, and the terms and conditions under which such through routes shall be operated, when that may be necessary to give effect to any provision of this act, and the carriers complained of have refused or neglected to voluntarily establish such through routes and joint rates, provided no reasonable or satisfactory through route exists.

SECTION 16.

Section 16 of the bill confers extraordinary powers upon the Commission. If any transportation company fails or refuses to obey the orders of the Commission, they may apply to any court of competent jurisdiction for a writ of injunction, and by this process they may stop the running of trains or the receipt

or delivery of freights until the railroad renders complete obedience to the orders of the Commission. This seems to be a very near approach to actual control and direction by the Government.

Section 16 is as follows:

If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares, and charges as provided in this section or any part of the same, such common carrier shall, in addition to other penalties herein prescribed, be subject to a writ of mandamus, to be issued by any circuit court of the United States in the judicial district wherein the principal operating office of said common carrier is situated or wherein such offense may be committed, and if such common carrier be a foreign corporation in the judicial circuit wherein such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section; and such writ shall issue in the name of the people of the United States, at the relation of the Commission appointed under the provisions of this act; and the failure to comply with its requirements shall be punishable as and for a contempt; and the said Commission, as complainant, may also apply, in any such circuit court of the United States, for a writ of injunction against such common carrier to restrain such common carrier from receiving or transporting property among the several States and Territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several States and Territories of the United States as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act.

SECTION 20.

Section 20 is far-reaching in its provisions and effect, and confers extraordinary power upon the Commission.

The section reads as follows:

SEC. 20. That the Commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this act, and from the owners of all railroads engaged in interstate commerce as defined in this act, to prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the Commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipments; the number of employees and the salaries paid each class; the accidents to passengers, employees, and other persons, and the causes thereof; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such reports shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts affecting the same as the Commission may require; and the Commission may, in its discretion, for the purpose of enabling it the better to carry out the purposes of this act, prescribe a period of time within which all common carriers subject to the provisions of this act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to the provisions of this act, including the accounts, records, and memoranda of the movement of traffic as well as the receipts and expenditures of moneys. The Commission shall at all times have access to all accounts, records, and memoranda kept by carriers subject to this act, and it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the Commission, and it may employ special agents or examiners, who shall have authority, under the order of the Commission, to inspect and examine any and all accounts, records, and memoranda kept by such carriers. This provision shall apply to receivers of carriers and operating trustees.

In case of failure or refusal on the part of any such carrier, receiver, or trustee to keep such accounts, records, and memoranda on the books and in the manner prescribed by the Commission, or to submit such accounts, records, and memoranda as are kept to the inspection of the Commission or any of its authorized agents or examiners, such carrier, receiver, or trustee shall forfeit to the United States the sum of \$500 for each such offense and for each and every day of the continuance of such offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in this act.

Any person who shall willfully make any false entry in the accounts of any book of accounts or in any record or memoranda kept by a carrier, or who shall willfully destroy, mutilate, alter, or by any other means or device falsify the record of any such account, record, or memoranda, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the carrier's business, or shall keep any other accounts, records, or memoranda than those prescribed or approved by the Commission, shall be deemed guilty of a misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than \$1,000 nor more than \$5,000, or imprisonment for a term not less than one year nor more than three years, or both such fine and imprisonment.

Mr. Chairman, the sections of the bill I have referred to and will print in my remarks contain the essential features of the bill. The other sections provide the machinery by which the Commission may put into operation and enforce these provisions. It seems unnecessary to consume any more time in this discussion. It is now up to the Commission and the courts. We have given the Commission all the power we can confer. We have endeavored to give them power to enforce their orders. We believe that good results will follow, and that our efforts to regulate and control common carriers will be successful.

The President, in his annual message at the opening of the Fifty-ninth Congress, dealt at length with the question of rail-

road rate legislation, and I beg to quote in part what he so forcibly says:

In order to insure a healthy social and industrial life every big corporation should be held responsible by and be accountable to some sovereign strong enough to control its conduct. I am in no sense hostile to corporations. This is an age of combination, and any effort to prevent all combination will be not only useless, but in the end vicious, because of the contempt for law which the failure to enforce law inevitably produces. We should, moreover, recognize in cordial and ample fashion the immense good effected by corporate agencies in a country such as ours, and the wealth of intellect, energy, and fidelity devoted to their service, and therefore normally to the service of the public, by their officers and directors. The corporation has come to stay, just as the trade union has come to stay. Each can do and has done great good. Each should be favored so long as it does good. But each should be sharply checked where it acts against law and justice.

The immediate and most pressing need, so far as legislation is concerned, is the enactment into law of some scheme to secure to the agents of the Government such supervision and regulation of the rates charged by the railroads of the country engaged in interstate traffic as shall summarily and effectively prevent the imposition of unjust or unreasonable rates. It must include putting a complete stop to rebates in every shape and form. This power to regulate rates, like all similar powers over the business world, should be exercised with moderation, caution, and self-restraint; but it should exist, so that it can be effectively exercised when the need arises.

The first consideration to be kept in mind is that the power should be affirmative and should be given to some administrative body created by the Congress. If given to the present Interstate Commerce Commission or to a reorganized Interstate Commerce Commission, such Commission should be made unequivocally administrative. I do not believe in the Government interfering with private business more than is necessary. I do not believe in the Government undertaking any work which can with propriety be left in private hands. But neither do I believe in the Government flinching from overseeing any work when it becomes evident that abuses are sure to obtain therein unless there is governmental supervision. It is not my province to indicate the exact terms of the law which should be enacted; but I call the attention of the Congress to certain existing conditions with which it is desirable to deal.

In my judgment the most important provision which such law should contain is that conferring upon some competent administrative body the power to decide, upon the case being brought before it, whether a given rate prescribed by a railroad is reasonable and just, and if it is found to be unreasonable and unjust, then, after full investigation of the complaint, to prescribe the limit of rate beyond which it shall not be lawful to go—the maximum reasonable rate, as it is commonly called—this decision to go into effect within a reasonable time and to obtain from thence onward, subject to review by the courts. It sometimes happens at present, not that a rate is too high, but that a favored shipper is given too low a rate. In such case the Commission would have the right to fix this already established minimum rate as the maximum; and it would need only one or two such decisions by the Commission to cure railroad companies of the practice of giving improper minimum rates. I call your attention to the fact that my proposal is not to give the Commission power to initiate or originate rates generally, but to regulate a rate already fixed or originated by the roads, upon complaint and after investigation. A heavy penalty should be exacted from any corporation which fails to respect an order of the Commission. I regard this power to establish a maximum rate as being essential to any scheme of real reform in the matter of railway regulation. The first necessity is to secure it; and unless it is granted to the Commission there is little use in touching the subject at all.

Illegal transactions often occur under the forms of law. It has often occurred that a shipper has been told by a traffic officer to buy a large quantity of some commodity and then after it has been bought an open reduction is made in the rate, to take effect immediately, the arrangement resulting to the profit of the one shipper and the one railroad and to the damage of all their competitors; for it must not be forgotten that the big shippers are at least as much to blame as any railroad in the matter of rebates. The law should make it clear, so that nobody can fail to understand, that any kind of commission paid on freight shipments, whether in this form or in the form of fictitious damages, or of a concession, a free pass, reduced passenger rate, or payment of brokerage, is illegal. It is worth while considering whether it would not be wise to confer on the Government the right of civil action against the beneficiary of a rebate for at least twice the value of the rebate. This would help stop what is really blackmail. Elevator allowances should be stopped, for they have now grown to such an extent that they are demoralizing and are used as rebates.

All private car lines, industrial roads, refrigerator charges, and the like should be expressly put under the supervision of the Interstate Commerce Commission or some similar body so far as rates and agreements practically affecting rates, are concerned. The private car owners and the owners of industrial railroads are entitled to a fair and reasonable compensation on their investment, but neither private cars nor industrial railroads nor spur tracks should be utilized as devices for securing preferential rates. A rebate in icing charges, or in mileage, or in a division of the rate for refrigerating charges is just as pernicious as a rebate in any other way. No lower rate should apply on goods imported than actually obtains on domestic goods from the American seaboard to destination except in cases where water competition is the controlling influence. There should be publicity of the accounts of common carriers; no common carrier engaged in interstate business should keep any books or memoranda other than those reported pursuant to law or regulation, and these books or memoranda should be open to the inspection of the Government. Only in this way can violations or evasions of the law be surely detected.

A system of examination of railroad accounts should be provided similar to that now conducted into the national banks by the bank examiners; a few first-class railroad accountants, if they had proper direction and proper authority to inspect books and papers, could accomplish much in preventing willful violations of the law. It would not be necessary for them to examine into the accounts of any railroad unless for good reasons they were directed to do so by the Interstate Commerce Commission. It is greatly to be desired that some way might be found by which an agreement as to transportation within a State intended to operate as a fraud upon the Federal Interstate-commerce laws could be brought under the jurisdiction of the Federal authorities. At present it occurs that large shipments of interstate traffic are controlled by concessions on purely State business, which of

course amounts to an evasion of the law. The Commission should have power to enforce fair treatment by the great trunk lines of lateral and branch lines.

The question of transportation lies at the root of all industrial success, and the revolution in transportation which has taken place during the last half century has been the most important factor in the growth of the new industrial conditions. Most emphatically we do not wish to see the man of great talents refused the reward of his talents. Still less do we wish to see him penalized; but we do desire to see the system of railroad transportation so handled that the strong man shall be given no advantage over the weak man. We wish to insure as fair treatment for the small town as for the big city, for the small shipper as for the big shipper. In the old days the highway of commerce, whether by water or by a road on land, was open to all; it belonged to the public and the traffic along it was free. At present the railway is this highway, and we must do our best to see that it is kept open to all on equal terms. Unlike the old highway it is a very difficult and complex thing to manage, and it is far better that it should be managed by private individuals than by the Government. But it can only be so managed on condition that justice is done the public. It is because, in my judgment, public ownership of railroads is highly undesirable and would probably in this country entail far-reaching disaster, that I wish to see such supervision and regulation of them in the interest of the public as will make it evident that there is no need for public ownership.

The opponents of Government regulation dwell upon the difficulties to be encountered and the intricate and involved nature of the problem. Their contention is true. It is a complicated and delicate problem, and all kinds of difficulties are sure to arise in connection with any plan of solution, while no plan will bring all the benefits hoped for by its more optimistic adherents. Moreover, under any healthy plan, the benefits will develop gradually and not rapidly. Finally, we must clearly understand that the public servants who are to do this peculiarly responsible and delicate work must themselves be of the highest type both as regards integrity and efficiency. They must be well paid, for otherwise able men can not in the long run be secured; and they must possess a lofty probity which will revolt as quickly at the thought of pandering to any gust of popular prejudice against rich men as at the thought of anything even remotely resembling subservience to rich men. But while I fully admit the difficulties in the way, I do not for a moment admit that these difficulties warrant us in stopping in our effort to secure a wise and just system. They should have no other effect than to spur us on to the exercise of the resolution, the even-handed justice, and the fertility of resource, which we like to think of as typically American, and which will in the end achieve good results in this as in other fields of activity. The task is a great one and underlies the task of dealing with the whole industrial problem. But the fact that it is a great problem does not warrant us in shrinking from the attempt to solve it. At present we face such utter lack of supervision, such freedom from the restraints of law, that excellent men have often been literally forced into doing what they deplored because otherwise they were left at the mercy of unscrupulous competitors. To rail at and assail the men who have done as they best could under such conditions accomplishes little. What we need to do is to develop an orderly system; and such a system can only come through the gradually increased exercise of the right of efficient Government control.

Mr. Chairman, while we are trying to find a just and fair way of regulating railroad freight charges, and to regulate their management, we should not forget that there is a powerful regulator, if properly invoked. There are highways upon which commerce can be carried independently of the railroads, and which can not be monopolized, for they belong to the people and are subject to their use. In my own State of Alabama there are almost as many miles of navigable rivers as there are miles of railroads. These rivers traverse almost every section of the State, and all of them empty into the Gulf at the port of Mobile, except the Tennessee River, which reaches the Gulf at New Orleans. Waterways are nature's highways, and belong to the people. They can not be monopolized nor controlled by corporations or private individuals. The navigable waterways entering the Gulf of Mexico exceed in length 35,000 miles, and the South has three-fourths, or 27,000 miles, of these navigable streams and coast line. The same States have 54,000 miles of railroad, showing one-half as many miles of navigable waters as railroads. If these rivers were improved and in active competition with the railroads, the question of rates would be settled forever, and the commercial world vastly benefited. One-half of the earnings of the railroads for one year would make all needed improvements on our rivers and harbors.

In view of these facts, it seems to me that the National Government should be generous in making appropriations for the improvement of our rivers and harbors. "That Government is worthy of the confidence and support of the people which refuses to govern their business, but opens and maintains the way for them to transact business on equal terms." "To this end let the improvement of our inland waterways be carried on upon a broad and comprehensive plan, and under continuing appropriations." If we were to spend one-half the amount on our rivers and harbors that we are spending on our foreign possessions, the rate question would be settled, and the cost as nothing when compared with the results, alike beneficial to every part of our common country.

Mr. Chairman, while we are considering the question of the transportation of the products of the various industries of the country and the cost thereof, we should treat the subject from the broadest point of view. The condition of the wagon roads, over which 85 per cent of all the commerce of the country is transported, presents a condition as serious as railroad rate

legislation. The tax imposed by the miserable condition of these roads on agricultural products between the starting point and the railroad station or river landing is equal to the charge of the common carriers to their point of destination. Of all the civilized countries on earth, this country has the poorest roads. In all that is progressive, except good roads, it stands first. In material wealth, in varied commerce, in products of agriculture—cotton, meat, corn, wheat, tobacco—and products of iron, steel, and timber, in the number of miles of railroad, in the opulence of cities, in the per capita wealth of the people, it stands superior over every other nation. It feeds and clothes the largest part of mankind, and yet the prime producers of this wealth and greatness have less done for them than has been done for the same class in any other country. The farmers have cheerfully done their full duty in bearing the burdens of Government. In time of war they have been its strongest supporters and defenders, and in times of peace they have been a never-falling source of wealth, and yet the Government has done nothing for them, when compared with the material benefits that have been bestowed upon other classes and interests. It is admitted that 85 per cent of all commerce is moved on the dirt roads. The statistics for 1903 show conclusively that 500,000,000 tons were transported by horsepower, the average distance being 8 miles. The cost of moving this tonnage, at 25 cents per ton per mile, amounted to \$100,000,000 in round figures, which is stated to be the cost of operating the wagon roads of the country for one year.

The following table may be as interesting as it is surprising:

Cost of transportation per ton, horsepower, 5 miles	\$1.25
By steam cars, 250 miles	1.25
By steamship on the Lakes, 1,000 miles	1.25

It will be seen that the same amount of money that it takes to haul a given amount of produce on the dirt roads for 5 miles will pay freight for 250 miles on the railroads or for 1,000 miles by water on the Lakes.

These figures prove conclusively the enormous tax that bad roads levy upon the farmers, and how much of legitimate profit is consumed in transportation from the farm to the railroad station or river landing.

It seems to me that while we are considering the question of the cost of transportation and railroad rates, tolls, and taxes we should take a broad view of the question and also consider a remedy for the immense need that is imposed by our miserable system of dirt roads. That Congress has the same power to improve the post-roads as it has to appropriate money to improve rivers and harbors and irrigate land and aid in the construction of railroads is admitted. Almost the first thing that Congress did after taking over Porto Rico was to appropriate a million dollars for the public highways of the island. We have expended many millions for the same purpose in the Philippines, and from neither do we get any revenue, nor can we expect any material aid from them in case of war with a foreign nation. Mr. Chairman, I believe in helping our own people and developing our own country first, and if we have anything left for charity give that to our own people also. I am a firm believer in the policy of government aid in improving the public highways of the country, over which, as I have said, 85 per cent of the commerce of the country is first moved. [Loud applause.]

Mr. BIRDSALL. Mr. Chairman, during the second session of the Fifty-eighth Congress, and just about one year ago, we had before us for consideration House bill No. 18588, known as the "Esch-Townsend bill," having for its object the amendment of the "act to regulate commerce," approved February 4, 1887. During the discussion upon that bill I took occasion to express my views upon the questions involved, and shall now draw to some extent upon my remarks at that time as far as they may be applicable to the pending measure.

While the subject of further regulation of the great transportation companies of the country had been more or less in the public mind for several years, and while hearings had been pending from time to time before the committees of both the Senate and the House whose duty it is to hear and examine such questions, yet nevertheless an acute stage was not reached in the matter until about the time for the convening of the Fifty-eighth Congress, when the public mind was again directed pointedly to it by the President's message. The fact is that the evils complained of and sought to be remedied had existed and had been growing for many years. Individuals directly affected by them were cognizant of their existence, but the average citizen was unconscious of them, and, having but recently discovered them, fell into the error of supposing that they had recently come into existence. This tendency of the human mind has often been noted. The public eye having been directed to-

ward the subject with the view of discovering evils, disclosed to the public mind many forms thereof of which it was not theretofore cognizant, and, "growing by what it was fed on" and conceiving that evils were everywhere prevalent, the public mind became alarmed at both real and supposed grievances and loudly clamored for redress. More than a year has passed, and the hysteria, if any existed, has abated. Time has given opportunity to more thoroughly investigate conditions and more considerately determine upon remedial legislation. We find by an examination of the report of the Committee on Interstate and Foreign Commerce that it has had under consideration eighteen bills bearing upon the subject of increasing the power of the Interstate Commerce Commission, and out of these a bill embodying, as the committee believes, the best principles deducible from all of them has been evolved and is now recommended to the House for its approval or rejection.

The bill so reported is as follows:

A bill to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commission.

Be it enacted, etc., That section 1 of an act entitled "An act to regulate commerce," approved February 4, 1887, be amended so as to read as follows:

"SEC. 1. That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad (or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment), from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from one place in a Territory to another place in the same Territory, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of transshipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country: *Provided, however,* That the provisions of this act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property wholly within one State and not shipped to or from a foreign country from or to any State or Territory as aforesaid.

"The term 'railroad,' as used in this act, shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement, or lease, and shall also include all switches, spurs, tracks, and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, and also all freight depots, yards, and grounds used or necessary in the transportation or delivery of any of said property; and the term 'transportation' shall include cars and other vehicles and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported; and it shall be the duty of every carrier subject to the provisions of this act to provide and furnish such transportation upon reasonable request therefor, and to establish through routes and just and reasonable rates applicable thereto.

"All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, shall be just and reasonable; and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful."

SEC. 2. That section 6 of said act, as amended March 2, 1889, be amended so as to read as follows:

"SEC. 6. That every common carrier subject to the provisions of this act shall print and keep open to public inspection schedules showing the rates, fares, and charges for the transportation of passengers and property which any such common carrier has established, and which are in force at the time upon its route. The schedules printed as aforesaid by any such common carrier shall plainly state the places between which property and passengers will be carried, and shall contain the classification of freight in force, and shall also state separately the terminal charges, icing charges, and all other charges which the Commission may require, and any rules or regulations which in any wise change, affect, or determine any part of the aggregate of such aforesaid rates, fares, and charges. Such schedules shall be plainly printed in large type, and copies for the use of the public shall be posted in two public and conspicuous places in every depot, station, or office of such carrier where passengers or freight, respectively, are received for transportation, in such form that they shall be accessible to the public and can be conveniently inspected.

"Any common carrier subject to the provisions of this act receiving freight in the United States to be carried through a foreign country to any place in the United States shall also in like manner print and keep open to public inspection, at every depot or office where such freight is received for shipment, schedules showing the through rates established and charged by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States the through rate on which shall not have been made public, as required by this act, shall, before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production.

"No change shall be made in the rates, fares, and charges or joint rates, fares, and charges which have been established and published by any common carrier in compliance with the requirements of this section, except after thirty days' public notice, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept

open to public inspection: *Provided*, That the Commission may, in its discretion and for good cause shown, allow changes upon less than the notice herein specified, or modify the requirements of this section in respect to publishing, posting, and filing of tariffs, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

"And when any such common carrier shall have established and published its rates, fares, and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any services in connection therewith, than is specified in such published schedule of rates, fares, and charges as may at the time be in force.

"Every common carrier subject to the provisions of this act shall file with the Commission hereinafter provided for copies of its schedules of rates, fares, and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said Commission of all changes made in the same. Every such common carrier shall also file with said Commission copies of all contracts, agreements, or arrangements with other common carriers in relation to any traffic affected by the provisions of this act to which it may be a party. And in cases where passengers and freight pass over continuous lines or routes operated by more than one common carrier, and the several common carriers operating such lines or routes establish joint tariffs of rates, fares, or charges for such continuous lines or routes, copies of such joint tariffs shall also in like manner be filed with said Commission. Such joint rates, fares, and charges on such continuous lines so filed as aforesaid shall be made public by such common carriers when directed by said Commission, in so far as may, in the judgment of the Commission, be deemed practicable; and said Commission shall from time to time prescribe the measure of publicity which shall be given to such rates, fares, and charges, or to such part of them as it may deem it practicable for such common carriers to publish, and the places in which they shall be published.

"No change shall be made in joint rates, fares, and charges, shown upon joint tariffs, except after thirty days' notice to the Commission, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates, fares, or charges will go into effect. The Commission may make public or require the carriers to make public such proposed changes in such manner as may, in its judgment, be deemed practicable and may prescribe from time to time the measure of publicity which common carriers shall give to advances or reductions in joint tariffs.

"It shall be unlawful for any common carrier party to any joint tariff to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of persons or property, or for any services in connection therewith, between any points as to which a joint rate, fare, or charge is named thereon, than is specified in the schedule filed with the Commission in force at the time.

"The Commission may determine and prescribe the form in which the schedules required by this section to be kept open to public inspection shall be prepared and arranged and may change the form from time to time as shall be found expedient.

"If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares, and charges as provided in this section or any part of the same, such common carrier shall, in addition to other penalties herein prescribed, be subject to a writ of mandamus, to be issued by any circuit court of the United States in the judicial district wherein the principal operating office of said common carrier is situated or wherein such offense may be committed, and if such common carrier be a foreign corporation in the judicial circuit wherein such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section; and such writ shall issue in the name of the people of the United States, at the relation of the Commission appointed under the provisions of this act; and the failure to comply with its requirements shall be punishable as and for a contempt; and the said Commission, as complainant, may also apply, in any such circuit court of the United States, for a writ of injunction against such common carrier to restrain such common carrier from receiving or transporting property among the several States and Territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several States and Territories of the United States as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act."

SEC. 3. That section 14 of said act, as amended March 2, 1889, be amended so as to read as follows:

"SEC. 14. That whenever an investigation shall be made by said Commission, it shall be its duty to make a report in writing in respect thereto, which shall state the conclusions of the Commission, together with its decision, order, or requirement in the premises; and in case damages are awarded such report shall include the findings of fact on which the award is made.

"All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of.

"The Commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the Commission therein contained in all courts of the United States and of the several States without any further proof or authentication thereof. The Commission may also cause to be printed for early distribution its annual reports."

SEC. 4. That section 15 of said act be amended so as to read as follows:

"SEC. 15. That the Commission is authorized and empowered, and it shall be its duty, whenever, after full hearing upon a complaint made as provided in section 13 of this act, or upon complaint of any common carrier, it shall be of the opinion that any of the rates, or charges whatsoever, demanded, charged, or collected by any common carrier or carriers, subject to the provisions of this act, for the transportation of persons or property as defined in the first section of this act, or that any regulations or practices whatsoever of such carrier or carriers affecting such rates, are unjust or unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this act, to determine and prescribe what will, in its judgment, be the just and reasonable and fairly remunerative rate or rates, charge or charges, to be thereafter observed in such case as

the maximum to be charged; and what regulation or practice in respect to such transportation is just, fair, and reasonable to be thereafter followed; and to make an order that the carrier shall cease and desist from such violation, to the extent to which the Commission find the same to exist, and shall not thereafter publish, demand, or collect any rate or charge for such transportation in excess of the maximum rate or charge so prescribed, and shall conform to the regulation or practice so prescribed. Such order shall go into effect thirty days after notice to the carrier and shall remain in force and be observed by the carrier, unless the same shall be suspended or modified or set aside by the Commission or be suspended or set aside by a court of competent jurisdiction. Whenever the carrier or carriers, in obedience to such order of the Commission or otherwise, shall publish and file joint rates, fares, or charges, and fail to agree among themselves upon the apportionment or division thereof, the Commission may after hearing make a supplemental order prescribing the portion of such joint rate to be received by each carrier party thereto, which order shall take effect as a part of the original order.

"The Commission may also, after hearing on a complaint, establish through routes and joint rates as the maximum to be charged and prescribe the division of such rates as hereinbefore provided, and the terms and conditions under which such through routes shall be operated, when that may be necessary to give effect to any provision of this act, and the carriers complained of have refused or neglected to voluntarily establish such through routes and joint rates, provided no reasonable or satisfactory through route exists.

"If the owner of property transported under this act directly or indirectly renders any service connected with such transportation, or furnishes any instrumentality used therein, the charge and allowance therefor shall be no more than is just and reasonable, and the Commission may, after hearing on a complaint, determine what is a reasonable charge as the maximum to be paid by the carrier or carriers for the service so rendered or for the use of the instrumentality so furnished, and fix the same by appropriate order, which order shall have the same force and effect and be enforced in like manner as the orders above provided for in this section.

"The foregoing enumeration of powers shall not exclude any power which the Commission would otherwise have in the making of an order under the provisions of this act."

SEC. 5. That section 16 of said act, as amended March 2, 1889, be amended so as to read as follows:

"SEC. 16. If, after hearing on a complaint made as provided in section 13 of this act, the Commission shall determine that any party complainant is entitled to an award of damages under the provisions of this act for a violation thereof, the Commission shall make an order directing the carrier to pay to the complainant the sum to which he is entitled on or before a day named.

"If a carrier does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may file in the circuit court of the United States for the district in which he resides or in which is located the principal operating office of the carrier, or through which the road of the carrier runs, a petition setting forth briefly the causes for which he claims damages, and the order of the Commission in the premises. Such suit shall proceed in all respects like other civil suits for damages, except that on the trial of such suit the findings and order of the Commission shall be prima facie evidence of the facts therein stated, and except that the petitioner shall not be liable for costs in the circuit court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner shall finally prevail he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit. All complaints for the recovery of damages shall be filed with the Commission within two years from the time the cause of action accrues, and not after, and a petition for the enforcement of an order for the payment of money shall be filed in the circuit court within one year from the date of the order, and not after.

"In such suits all parties in whose favor the Commission may have made an award for damages by a single order may be joined as plaintiffs, and all of the carriers parties to such order awarding such damages may be joined as defendants, and such suit may be maintained by such joint plaintiffs and against such joint defendants in any district where any one of such joint plaintiffs could maintain such suit against any one of such joint defendants; and service of process against any one of such defendants as may not be found in the district where the suit is brought may be made in any district where such defendant carrier has its principal operating office. In case of such joint suit, the recovery, if any, may be by judgment in favor of any one of such plaintiffs against the defendant found to be liable to such plaintiff.

"Every order of the Commission shall be forthwith served by mailing to any one of the principal officers or agents of the carrier at his usual place of business a copy thereof; and the registry mail receipt shall be prima facie evidence of the receipt of such order by the carrier in due course of mail.

"The Commission shall be authorized to suspend or modify its orders upon such notice and in such manner as it shall deem proper, and the orders of the Commission shall take effect at the end of thirty days after notice thereof to the carriers directed to obey the same, unless such orders shall have been suspended or modified by the Commission or suspended or set aside by the order or decree of a court of competent jurisdiction: *Provided, however*, That the Commission, for good cause shown, may extend the time in which such order shall take effect.

"It shall be the duty of every common carrier, its agents and employees, to observe and comply with such orders so long as the same shall remain in effect.

"Any carrier, any officer, representative, or agent of a carrier, or any receiver, trustee, lessee, or agent of either of them, who knowingly fails or neglects to obey any order made under the provisions of section 15 of this act shall forfeit to the United States the sum of \$5,000 for each offense. Every distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense.

"The forfeiture provided for in this act shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States, brought in the district where the carrier has its principal operating office, or in any district through which the road of the carrier runs.

"It shall be the duty of the various district attorneys, under the direction of the Attorney-General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States. The Commission may, with the consent of the Attorney-General, employ special counsel in any proceeding under

this act, paying the expenses of such employment out of its own appropriation.

"If any carrier fails or neglects to obey any order of the Commission, other than for the payment of money, while the same is in effect, any party injured thereby, or the Commission in its own name, may apply to the circuit court in the district where such carrier has its principal operating office, or in which the violation or disobedience of such order shall happen, for an enforcement of such order. Such application shall be by petition, which shall state the substance of the order and the respect in which the carrier has failed of obedience, and shall be served upon the carrier in such manner as the court may direct, and the court shall prosecute such inquiries and make such investigations, through such means as it shall deem needful in the ascertainment of the facts at issue or which may arise upon the hearing of such petition. If upon such hearing as the court may determine to be necessary it appears that the order was regularly made and duly served, and that the carrier is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction, or other proper process, mandatory or otherwise, to restrain such carrier, its officers, agents, or representatives, from further disobedience of such order, or to enjoin upon it, or them, obedience to the same; and in the enforcement of such process the court shall have those powers ordinarily exercised by it in compelling obedience to its writs of injunction and mandamus.

"From any action upon such petition an appeal shall lie by either party to the Supreme Court of the United States, and in such court the case shall have priority in hearing and determination over all other causes except criminal causes, but such appeal shall not vacate or suspend the order appealed from.

"The venue of suits brought in any of the circuit courts of the United States to enjoin, set aside, annul, or suspend any order or requirement of the Commission shall be in the district where the carrier against whom such order or requirement may have been made has its principal operating office. The provisions of 'An act to expedite the hearing and determination of suits in equity, and so forth,' approved February 11, 1903, shall be, and are hereby, made applicable to all such suits, and are also made applicable to any proceeding in equity to enforce any order or requirement of the Commission, or any of the provisions of the act to regulate commerce approved February 4, 1887, and all acts amendatory thereof or supplemental thereto. It shall be the duty of the Attorney-General in every such case to file the certificate provided for in said expediting act of February 11, 1903, as necessary to the application of the provisions thereof, and upon appeal as therein authorized to the Supreme Court of the United States, the case shall have in such court priority in hearing and determination over all other causes except criminal causes.

"The copies of schedules and tariffs of rates, fares, and charges, and of all contracts, agreements, or arrangements between common carriers filed with the Commission as herein provided, and the statistics, tables, and figures contained in the annual reports of carriers made to the Commission, as required by the provisions of this act, shall be preserved as public records in the custody of the secretary of the Commission, and shall be received as prima facie evidence of what they purport to be for the purpose of investigations by the Commission and in all judicial proceedings; and copies of or extracts from any of said schedules, tariffs, contracts, agreements, arrangements, or reports made public records as aforesaid, certified by the secretary under its seal, shall be received in evidence with like effect as the originals."

Sec. 6. That a new section be added to said act immediately after section 16, to be numbered as section 16a, as follows:

"Sec. 16a. That after a decision, order, or requirement has been made by the Commission in any proceeding any party thereto may at any time make application for rehearing of the same, or any matter determined therein, and it shall be lawful for the Commission in its discretion to grant such a rehearing if sufficient reason therefor be made to appear. Applications for rehearing shall be governed by such general rules as the Commission may establish. No such application shall excuse any carrier from complying with or obeying any decision, order, or requirement of the Commission, or operate in any manner to stay or postpone the enforcement thereof, without the special order of the Commission. In case a rehearing is granted the proceedings thereupon shall conform as nearly as may be to the proceedings in an original hearing, except as the Commission may otherwise direct; and if, in its judgment, after such rehearing and the consideration of all facts, including those arising since the former hearing, it shall appear that the original decision, order, or requirement is in any respect unjust or unwarranted, the Commission may reverse, change, or modify the same accordingly. Any decision, order, or requirement made after such rehearing, reversing, changing, or modifying the original determination shall be subject to the same provisions as an original order. Whenever an order of the Commission made in pursuance of section 15 as amended, other than an order for the payment of money, shall have been complied with for the period of three years such order shall not thereafter be in force as against the carrier so complying therewith."

Sec. 7. That section 20 of said act be amended so as to read as follows:

"Sec. 20. That the Commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this act, and from the owners of all railroads engaged in interstate commerce as defined in this act, to prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the Commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipments; the number of employees and the salaries paid each class; the accidents to passengers, employees, and other persons, and the causes thereof; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such reports shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts affecting the same as the Commission may require; and the Commission may, in its discretion, for the purpose of enabling it the better to carry out the purposes of this act, prescribe a period of time within which all common carriers subject to the provisions of this act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

"Said detailed reports shall contain all the required statistics for the period of twelve months ending on the 30th day of June in each year, and shall be made out under oath and filed with the Commission, at its office in Washington, on or before the 30th day of September then next following, unless additional time be granted in any case by the Commission; and if any carrier, person, or corporation subject to the provisions of this act shall fail to make and file said annual reports within the time above specified, or within the time extended by the Commission for making and filing the same, or shall fail to make specific answer to any question authorized by the provisions of this section within thirty days from the time it is lawfully required so to do, such parties shall forfeit to the United States the sum of \$100 for each and every day it shall continue to be in default with respect thereto. The Commission shall also have authority to require said carriers to file monthly reports of earnings and expenses or special reports within a specified period, and if any such carrier shall fail to file such reports within the time fixed by the Commission it shall be subject to the forfeitures last above provided.

"Said forfeitures shall be recovered in the manner provided for the recovery of forfeitures under the provisions of this act.

"The oath required by this section may be taken before any person authorized to administer an oath by the laws of the State in which the same is taken.

"The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to the provisions of this act, including the accounts, records, and memoranda of the movement of traffic as well as the receipts and expenditures of moneys. The Commission shall at all times have access to all accounts, records, and memoranda kept by carriers subject to this act, and it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the Commission, and it may employ special agents or examiners, who shall have authority under the order of the Commission to inspect and examine any and all accounts, records, and memoranda kept by such carriers. This provision shall apply to receivers of carriers and operating trustees.

"In case of failure or refusal on the part of any such carrier, receiver, or trustee to keep such accounts, records, and memoranda or the books and in the manner prescribed by the Commission, or to submit such accounts, records, and memoranda as are kept to the inspection of the Commission or any of its authorized agents or examiners, such carrier, receiver, or trustee shall forfeit to the United States the sum of \$500 for each such offense and for each and every day of the continuance of such offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in this act.

"Any person who shall willfully make any false entry in the accounts of any book of accounts or in any record or memoranda kept by a carrier, or who shall willfully destroy, mutilate, alter, or by any other means or device falsify the record of any such account, record, or memoranda, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the carrier's business, or shall keep any other accounts, records, or memoranda than those prescribed or approved by the Commission, shall be deemed guilty of a misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than \$1,000 nor more than \$5,000, or imprisonment for a term not less than one year nor more than three years, or both such fine and imprisonment.

"Any examiner who divulges any fact or information which may come to his knowledge during the course of such examination, except in so far as he may be directed by the Commission or by a court or judge thereof, shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than \$5,000 or imprisonment for a term not exceeding two years, or both.

"That the circuit and district courts of the United States shall have jurisdiction, upon the application of the Attorney-General of the United States at the request of the Commission, alleging a failure to comply with or a violation of any of the provisions of said act to regulate commerce or of any act supplementary thereto or amendatory thereof by any common carrier, to issue a writ or writs of mandamus commanding such common carrier to comply with the provisions of said acts, or any of them.

"And to carry out and give effect to the provisions of said acts, or any of them, the Commission is hereby authorized to employ special agents or examiners who shall have power to administer oaths, examine witnesses, and receive evidence."

Sec. 8. That a new section be added to said act at the end thereof, to be numbered as section 24, as follows:

"Sec. 24. That the Interstate Commerce Commission is hereby enlarged so as to consist of seven members with terms of seven years, and each shall receive \$10,000 compensation annually. The qualifications of the Commissioners and the manner of the payment of their salaries shall be as already provided by law. Such enlargement of the Commission shall be accomplished through appointment by the President, by and with the advice and consent of the Senate, of two additional Interstate Commerce Commissioners, one for a term expiring December 31, 1911, one for a term expiring December 31, 1912. The terms of the present Commissioners, or of any successor appointed to fill a vacancy caused by the death or resignation of any of the present Commissioners, shall expire as heretofore provided by law. Their successors and the successors of the additional Commissioners herein provided for shall be appointed for the full term of seven years, except that any person appointed to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he shall succeed. Not more than four Commissioners shall be appointed from the same political party."

Sec. 9. That all existing laws relating to the attendance of witnesses and the production of evidence and the compelling of testimony under the act to regulate commerce and all acts amendatory thereof shall apply to any and all proceedings and hearings under this act.

Sec. 10. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed, but the amendments herein provided for shall not affect causes now pending in courts of the United States, but such causes shall be prosecuted to a conclusion in the manner heretofore provided by law.

Sec. 11. That this act shall take effect and be in force from and after its passage.

The importance of the subject becomes apparent when we reflect upon the interests involved, and it is not strange that a diversity of opinion should honestly exist among our people, both as to the wisdom of the proposed legislation and the remedies provided for the grievances that exist.

By reference to the statistics furnished in the report of the Interstate Commerce Commission for the year ending June 30, 1904, we find the general balance sheet of the year's report, covering 198,841.19 miles, or 93.69 per cent of the total mileage for which general operations are reported, to be as follows:

ASSETS.		
Cost of road	-----	\$10,784,449,493
Cost of equipment	-----	727,087,638
Stocks owned	-----	1,717,878,586
Bonds owned	-----	555,248,770
Cash and current assets	-----	736,320,615
Material and supplies	-----	158,736,068
Sinking funds and sundries	-----	123,536,887
Miscellaneous	-----	1,053,155,427
Total	-----	15,856,403,494
LIABILITIES.		
Capital stock	-----	\$6,464,286,168
Funded debt	-----	7,237,547,239
Current liabilities	-----	877,325,977
Accrued interest on funded debt	-----	46,683,903
Miscellaneous	-----	679,081,578
Profit and loss	-----	551,478,620
Total	-----	15,856,403,494

The commercial valuation of railway properties given by the Bureau of Census is \$11,244,852,000.

For the year ending June 30, 1904, taxes were paid by railways upon portions assigned to operations as follows in the several States and Territories:

Alabama	-----	\$785,690
Arkansas	-----	613,970
California	-----	1,844,904
Colorado	-----	1,334,578
Connecticut	-----	1,133,544
Delaware	-----	101,445
Florida	-----	503,366
Georgia	-----	881,216
Idaho	-----	343,266
Illinois	-----	4,830,658
Indiana	-----	3,091,936
Iowa	-----	2,048,496
Kansas	-----	2,437,443
Kentucky	-----	1,052,444
Louisiana	-----	742,739
Maine	-----	426,873
Maryland	-----	500,715
Massachusetts	-----	2,981,157
Michigan	-----	2,605,514
Minnesota	-----	1,946,325
Mississippi	-----	615,929
Missouri	-----	1,513,964
Montana	-----	680,353
Nebraska	-----	1,288,953
Nevada	-----	356,805
New Hampshire	-----	404,839
New Jersey	-----	1,742,815
New York	-----	4,782,371
North Carolina	-----	686,376
North Dakota	-----	683,644
Ohio	-----	683,644
Oregon	-----	440,490
Pennsylvania	-----	5,072,723
Rhode Island	-----	198,507
South Carolina	-----	481,491
South Dakota	-----	310,231
Tennessee	-----	835,909
Texas	-----	1,228,633
Utah	-----	372,377
Vermont	-----	155,442
Virginia	-----	1,135,458
Washington	-----	736,244
West Virginia	-----	598,723
Wisconsin	-----	1,925,427
Wyoming	-----	203,562
Arizona	-----	223,627
District of Columbia	-----	30,537
Indian Territory	-----	48,833
New Mexico	-----	284,103
Oklahoma	-----	291,543
Total	-----	61,658,373

The aggregate earnings from the operation of railways in the United States for the year ending June 30, 1904, amounted to \$1,975,174,091, of which amount \$444,326,991 was received for the transportation of passengers and \$1,379,002,093 for the transportation of freight. If to this be added the income of railways from other sources, amounting in the aggregate to \$212,932,990, we have a grand total of earnings and income of \$2,188,108,081.

The mind scarcely conceives the immensity of the traffic carried on and over the railways of the country. For instance, the number of passengers carried is reported for the year ending June 30, 1904, at 716,419,682, and the number of passengers carried 1 mile 21,923,213,536, while the number of tons of freight carried 1 mile was 174,522,089,577. Dividends increased from \$477 per mile of line in 1897 to \$1,046 per mile of line in 1904. I have given these figures as an index of the enormous interests we are now considering and the figure they must necessarily cut in the economics of the country.

The question of transportation must ever remain an interesting problem in our industrial economics. It is one of the three great lines of human industry, constituting the connecting link

between the producer and the consumer. The evolution of our industrial system has necessitated greater and more rapid means of communication for the distribution of our products among the people from the farm and forest, mine and factory. The railroad has become the great vehicle of transportation, both of persons and property. Some time we may come to a proper realization of the necessity and advantages of improving our inland waterways as an auxiliary means of transportation, but until we do so the railroad must and will continue unchallenged and unrivaled in the supreme control of our means of transportation and exchange.

We are not slow to acknowledge the beneficent effect railroads have had in the settlement and development of the West, and fully realize now how much the prosperity of the country depends upon them. They have been the advance agents of civilization and have united with bands of steel the East, the West, the North, and the South into an indissoluble union of social and commercial interest. I well remember when the lines of railway were being constructed across unsettled portions of my own State, and civilization and settlement was marked by a narrow border that followed its trail. The prairies of Iowa, Nebraska, and the Dakotas would, sir, be virgin soil and trackless prairies but for the railways, while over their broad and peaceful bosoms to-day are dotted the homes of millions of prosperous families and of men who form the stable, conservative element of our immense population, and who will some day constitute the balance wheel of this great Republic. To-day, sir, in the great State of Iowa, you can not, in its most secluded or remotest spot, get 15 miles beyond sight of a line of railway, and never beyond the sound of the whistle of some locomotive.

Surely we appreciate the great advantages of railways, and recognize them as indispensable now to our social and commercial life.

But while the railways have aided in the upbuilding of communities and States, they have grown with our growth and builded with our upbuilding. In recognition of their value and importance we have aided them in their infancy by large grants of public lands, by liberal donations in the way of taxes voted directly to aid in their construction, and in addition thereto have granted to them through our State legislatures the right of eminent domain, an incident of sovereignty not possessed or conferred upon the individual citizen.

In the early days of the Republic the sovereign power sought to aid in transportation by the construction of great national highways, canals, and locks, but in the progress of our evolution it was deemed wise to confer upon private corporations the power under the law to condemn the property of the individual for the common good whenever the necessities of transportations required or demanded it. But the people have at no time surrendered their sovereignty over the subject-matter and will as jealously and as zealously protect their rights in this respect as they will the right to free sunlight and fresh air. Hence, sir, for more than seventy years it has been an established principle in the jurisprudence of the country, affirmed by courts, both State and Federal, that railways were and are public servants in the use of these utilities at their command. This proposition is not only firmly established by the courts, but its active maintenance is imperatively necessary for the due preservation of our commerce.

As has been well and repeatedly said by the President of the United States, "Above all we must strive to keep the highways of commerce open to all upon equal terms."

It has been frequently stated by the opponents of this great legislation that the step we are about to take is a great and important one, marking a departure in our national policy toward industrial agencies. It may, indeed, be a great step, but it is in the right direction. It is not, however, a departure from fundamental and inherent powers of government, but, in fact, only an assertion of those inherent powers hitherto but half asserted and partially enforced, and it becomes a great question because, and only because, great interests are involved and affected by the exercise of those powers.

Happily, sir, we can now approach the discussion of the questions involved unhampered by partisan lines or sectional interest, and alike with minds unhampered by prejudice and uninfluenced by passion.

The public mind, never hysterical on the subject, is open to reason and conviction, and, in spite of all the efforts of the opposition to create alarm and doubt, has settled down to the calm conviction that the legislation here proposed is not only warranted by the Constitution but is demanded by justice.

As public servants the railways are morally and legally bound to treat all individuals alike, so far as possible under given conditions, and likewise to treat all communities fairly and equi-

tably. For the service thus rendered the public they are entitled to receive a reasonable compensation.

For many years the question of compensation was left wholly to the railways themselves, and the only guide to the maximum charge was the question of "how much the traffic would bear," and the reduction forced by competing lines was the only safeguard that lay between the avarice of railways and the necessities of the shipper. Competition, however, was eventually eliminated by a system of pooling, whereby the rate was maintained by common consent and the proceeds of traffic itself divided between competing lines upon a basis mutually agreed upon between them. This and other means resorted to for the purpose of stifling competition and to maintain excessive rates finally led, in many States, to the exercise of the inherent power of control vested in them, and commissions were appointed to make, adjust, and regulate rates of transportation. Twenty-four States have now such commissions in operation. The power of the State commissions could not, however, be extended to interstate commerce, and Congress, on February 4, 1887, passed an act to regulate commerce between the States and foreign nations, by which act an Interstate Commerce Commission was appointed and invested with certain powers, and looking to the control of railway corporations and the subject of their rates.

For several years after the establishment of this Commission it assumed the right of substituting a rate it deemed reasonable in place of one found upon complaint to be unreasonable, and the power thus assumed was acquiesced in for about ten years. The question, however, being finally raised, the Supreme Court of the United States held that no such authority had been granted the Commission by the act creating it, and that under the act of February 4, 1887, it was limited to a finding that the rate complained of was unreasonable, and relegating the complaining party to his action for damages, or to the courts for relief if the rate was continued.

The Supreme Court, however, did not decide that such power and authority could not be delegated by Congress to the Commission by an appropriate act.

It is contended by the opponents of this legislation that the act of rate making is legislative in its character and must be exercised by Congress itself; that such power can not be delegated to the Commission. It may be conceded that this precise question has not been determined by the Supreme Court of the United States so far as the power of Congress to delegate its authority is concerned. It has, however, been several times passed upon by the State courts in cases involving a like delegation of authority by State legislatures to like commissions, and the power has been uniformly and, I think I am safe in saying, universally upheld. There can be no distinction in principle between the limitations imposed upon the legislative power of a State and that imposed upon Congress.

In fact, the exercise of the power of control over railway corporations of the States is usually, if not always, based upon grounds of public policy independent of express constitutional authority. Within the limits of the State the State legislatures have assumed the power of regulation and control as existing "ex necessitate" in the interest of sound public policy and in the fundamental rights to prescribe what tolls shall be charged and collected upon the highways of commerce within its limits. No doubt the power exists also in the courts independent of legislative action and consonant with principles of the common law to afford redress. Resting upon these principles alone the State legislatures, acting within their proper sphere, have been constantly held to possess the power of regulation, and their courts have likewise held that, having decided that rates upon railroads must be reasonable, the power of determination and duty of prescribing reasonable rates might be properly delegated to a commission to carry out the will of the legislature.

The power of Congress to regulate commerce between the States and Territories and foreign countries rests not upon the implied, but upon an express grant of power by the Constitution of the United States.

Section 8 of Article I provides that "Congress shall have power to regulate commerce with foreign nations and among the several States and with the Indian tribes," and after enumerating in addition the several other powers granted to Congress, Article I further provides: "That it shall have power to make all laws which may be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof." Congress, therefore, by the express grant of the Constitution, has full power and authority to regulate railways as an incident and instrument of commerce between the States, and to this end it has express power under the Constitution to make all laws which may be necessary and

proper for carrying into effect the power of regulation granted as aforesaid.

The "power to regulate" is a general power, it is a broad power, and comprehends everything proper and necessary to effectuate the purposes of the grant. It comprehends not only the power to make necessary regulations, but as well the power to provide for their proper execution and enforcement.

In *Gibbons v. Ogden*, reported in 9 Wheaton, 204, the Supreme Court defined commerce as follows:

Commerce, in its simplest signification, means an exchange of goods; but in the advancement of society, labor, transportation, intelligence, care, and various mediums of exchange become commodities and enter into commerce; the subject, the vehicle, the agent, and their various operations become the object of commercial regulation.

In the same case it is said:

The power to regulate commerce, here meant to be granted, was that power to regulate commerce which previously existed in the States. But what was that power? The States were unquestionably supreme, and each possessed that power over commerce which is acknowledged to reside in every sovereign State. The law of nations, regarding man as a social animal, pronounces all commerce legitimate in a state of peace until prohibited by positive law. The power of a sovereign State over commerce, therefore, amounts to nothing more than a power to limit and restrain it at pleasure. And since the power to prescribe the limits to its freedom necessarily implies the power to determine what shall remain unrestrained, it follows that the power must be exclusive, it can reside in but one potentate, and hence the grant of this power carries with it the whole subject, leaving nothing for the State to act upon.

Speaking of the Constitution upon this subject the court says:

This instrument contains an enumeration of powers expressly granted by the people to their Government. It has been said that those powers ought to be strictly construed, but why? Is there one sentence in the Constitution which gives countenance to this rule? In the last of the enumerated powers, that which grants expressly the means for carrying the others into execution, Congress is authorized "to make all laws which shall be necessary and proper for the purposes." But this limitation on the means which may be used is not extended to the powers which are conferred, nor is there one sentence in the Constitution that prescribes this rule. The grant does not convey power which might be beneficial to the grantee if retained by himself or which can inure solely to the benefit of the grantee, but is an investment of power for the general advantage, in the hands of agents selected for that purpose, which power can never be exercised by the people themselves, but must be placed in the hands of agents or lie dormant. We know of no rule for construing the extent of such powers other than is given by the language of the instrument which confers them, taken in connection with the purposes for which they were conferred.

What is this power?

It is the power to regulate—that is, to prescribe the rule by which commerce is to be governed. This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution.

The sovereign States, therefore, by adopting the constitutions containing this grant of power, each surrendered so much of its sovereignty as pertained to interstate commerce and conferred upon the common Government its sovereignty in this behalf, which common Government, by a union of its individual units, became the possessor of supreme sovereignty over all relating to commerce between the States and foreign nations.

It is important to have this principle in mind, as we shall further consider hereafter over what the sovereignty of the State extended and what was conveyed by the grant.

Under the Federal Government, before the adoption of the Constitution, the feeble character of the Federal compact was nowhere so apparent as in its failure to extend its operation over interstate commerce. The States asserting their sovereignty insisted upon passing embargoes and laying duties upon the commerce coming to their ports, and at least in one instance a serious rebellion arose in one State.

In *Brown v. Maryland* (12 Wheat., 419, 446) the Supreme Court of the United States took occasion to say:

It may be doubted whether any of the evils proceeding from the feebleness of the Federal Government contributed more to the great revolution which introduced the present system than the deep and general conviction that commerce ought to be regulated by Congress. It is not, therefore, a matter of surprise that the grant should be as extensive as the mischief and should comprehend all foreign commerce and commerce between the States. To construe the power so as to impair its efficiency would tend to defeat an object in the attainment of which the American public took, and justly took, that strong interest which arose from a full conviction of necessity.

Again, in the case of *Robbins v. Shelby Taxing District* (120 U. S. 489, 494), in the matter of "interstate commerce," the court, speaking through Judge Bradley, declared:

The United States are but one country and are and must be subject to one system of regulations and not a multitude of systems.

Congress thus having the plenary power, subject to the limitations imposed by the Constitution to prescribe rules by which commerce among the several States is to be governed, the question naturally arises, What are the principles that should control the judiciary when determining whether a particular act of Congress avowedly adopted in execution of that power

is consistent with the fundamental limitations of the Constitution?

The general principles applicable to this subject were long ago announced in the great case of *McCullough v. Maryland* (4 Wheat., 316, 421, 423).

The sound construction of the Constitution must allow to the National Legislature that discretion with respect to the means by which the powers it confers are to be carried into execution which will enable that body to perform the high duties assigned to it in the manner most beneficial to the people. Let the end be legitimate; let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited but consistent with the letter and the spirit of the Constitution are constitutional.

Again:

When the law is not prohibitive and is really calculated to effect any of the objects intrusted to the Government, to undertake here to inquire into the degree of necessity would be to pass the line which circumscribes its judicial department and to tread on legislative ground. The court disclaims all pretensions to such a power.

Again, in 4 Wheaton, 3, 16-409, the court says:

The Government, which has a right to do an act and has imposed on it the duty of performing this act, must, according to the dictates of reason, be allowed to select the means, and those who contend that it may not select any appropriate means, that one particular mode of effecting the object is excepted, take upon themselves the burden of establishing the exception.

Let it be admitted that the Federal Government is one of delegated powers. We have seen that the States did delegate to Congress all their sovereignty over commerce between the States and foreign nations—gave it power to regulate the same and to make appropriate laws to carry this power into execution. So much of the inherent power or sovereignty of the States as pertained to this subject therefore passed by its grant to the Federal Government.

Under the powers inherent in every sovereignty, a government may regulate the conduct of its citizens toward each other, and, when necessary for the public good, the manner in which each may use his property.

It has, in the exercise of these powers, been customary in England from time immemorial, and in this country from its first colonization, to regulate ferries, common carriers, hackmen, bakers, millers, wharfingers, innkeepers, etc., and in doing so to fix a maximum of charge to be made for services rendered, accommodations furnished, and articles sold.

When the owner of property devotes it to a use in which the public have an interest, he impliedly grants to the public an interest in the use, and he must submit to control by the public for the common good as long as he maintains the use; he may withdraw his grant by discontinuing the use. These principles are declared forcibly in the case of *Munn v. Illinois*, 94 U. S., 113.

It is also declared that the limitation of charges establishes no new principle in the law, but gives only a new effect to an old one.

Possessed, therefore, of all the inherent power of sovereignty originally held by the States, with full power delegated to it to make any laws necessary to carry its sovereignty into execution, by what rule, in reason, can the power of Congress in the selection of the agencies by which its power shall be executed, be judged by any other rule than is applicable to a State legislature in the exercise of its sovereign power? I venture the assertion that in the absence of constitutional limitations the exercise of constitutional powers by the Federal Congress must proceed upon and be governed by the same rules that prescribe the exercise of power by State legislatures upon all subjects over which each has unlimited and unquestioned sovereignty.

If, then, a State legislature may employ as its agent an administrative body called a "commission," and authorize it to determine and prescribe rates and regulations for railways in the exercise of its inherent sovereignty within its proper jurisdiction, upon what principle can it be denied that Congress possesses a like authority in the exercise of the same power and upon the subject clearly within its jurisdiction? I confess to an inability to comprehend why such power, if existing as a part of the State's inherent sovereignty, was not delegated to the Federal Government as a part of the granted power.

That the State had power to create a commission and give it authority to fix rates is clearly affirmed in the case of *Reagan v. Farmers' Loan and Trust Co.* (154 U. S., 393).

The Supreme Court says in that case:

There can be no doubt of the general power of a State to regulate fares and freights which may be charged and received by railroads or other carriers and that this regulation can be carried on by a commission; such a commission is merely an administrative board created by the State for carrying into effect the will of the State as expressed by its legislature. (*Railroad Commission cases*, 116 U. S., 307.)

No valid objections therefore can be made on account of the general features of this act, those by which the State has created

the railroad commission and intrusted it with the duty of prescribing rates of fares and freights as well as other regulations for the management of the railroads of the State. In *Cooley's Constitutional Limitations*, page 732, the learned author says "that the United States has the power to go beyond the general regulations and descend to the minutest direction if it shall deem it advisable to do so," and the principle laid down by him is quoted with approval in the case of the *Ferry Company v. Pennsylvania* (114 U. S., 196).

But is it essential that Congress shall in itself descend into the minutiae of regulation and prescribe each rate of fare and each charge of freight to be transported? Why may it not, like the State, act through an administrative body, enacted by it for that purpose, if such body be a necessary and proper instrument for carrying out the will of the Government as expressed in its legislation?

I believe Congress has the same power to act in this behalf through its Commission as the States possess, and it has been so adjudged as to the power of regulation.

The Commission is neither a Federal court under the Constitution, nor does it exercise judicial powers, nor do its conclusions possess the efficacy of judicial proceedings. This Federal Commission has assigned to it the duties and performs for the United States, in respect to that interstate commerce committed by the Constitution to the exclusive care and jurisdiction of Congress, the same functions which State commissions exercise in respect to local or purely internal commerce over which the States appointing them have exclusive control. Their validity in their respective spheres of operation stands upon the same footing. What one sovereign may do in respect to matters within its exclusive control, the other may certainly do in respect to matters over which it has exclusive authority. (*Kentucky Bridge Co. v. L. and N. Rwy. Co.*, 37 Fed. Rep., 613.)

To deny the power as existing in the Federal Government and consider its existence in the State government is to make a distinction that is founded neither upon reason nor justice and is prescribing a limitation by intentment not warranted by the Constitution. Under the Constitution Congress has plenary power over the subject-matter of interstate commerce, and in the exercise of that power may appoint and use all proper and necessary instrumentalities to effectuate the legislative will, and as the courts have said, "they will not interfere with the legislative discretion if the means employed are not prohibited by the Constitution itself."

The powers of government are divided into and repose in three branches—the legislative, judicial, and executive departments. Each department must act within its own sphere of powers to preserve the true purpose of our Constitution and preserve our civil rights and personal liberty. Under the Constitution we can not invade the executive or judicial power, nor can either of those branches usurp our legislative functions. The primary control of railroads rests with Congress. We are to declare what they may or may not do, and impose such regulations for their conduct as seems to us best, subject to the one rule, that whatever we do must be done within the limitations of the Constitution, to which we owe obedience and from which our powers are derived.

Whether we have acted within our constitutional powers is for the courts constituting the judicial branch of our system to inquire. But the court will not invade the legislative discretion. Let the end be legitimate, let it be within the scope of the Constitution and all means which are appropriate, which are plainly adopted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional.

We have declared in virtue of our powers, "That all charges for any service rendered or to be rendered in the transportation of persons or property or in connection therewith shall be just and reasonable." We have the power to use any means proper and necessary for the enforcement of this rule of conduct on the part of railways, and as a means to that end we have full power to invest in a commission as our administrative agent the authority to investigate and supervise the operation of railways that the legislative will may be properly carried into execution. We are not delegating our legislative functions in any respect, but are directing by a specific statute the manner in which our instrumentalities shall apply and carry into effect the law we have enacted. Unless we can do this in our way, the grant of power we have received is a barren right, incapable of execution, because it is beyond the power of Congress to act directly upon the subject of prescribing rules, rates, and regulations for the thousands of railways throughout the country.

I believe it to be the law that Congress can confer upon a commission the duty and power to make rules, rates, and regulations by which corporations engaged in interstate commerce shall be controlled. But the Commission, which might perhaps

be aptly termed our legislative substitute, is bounded, as we are, by the limitations of the Constitution, for its powers can rise no higher than their source.

The Constitution provides that no person shall be deprived of his property without due process of law and that private property shall not be taken for public use without adequate compensation being made therefor. Congress has no power to deprive me of my property without my day in court. Neither has it the power to take any portion of my property for public use without first making compensation therefor. Hence, what it may not do itself it can not authorize to be done by its Commission or any other agency. It has been repeatedly held, in cases where rules have been prescribed by a State legislature or its commission, that if the rate was confiscatory, then such act was unconstitutional, because in principle it was the taking of private property for public use without just compensation therefor. It follows, therefore, that the power granted the Commission, and exercised by it, must be within the limitations prescribed by the Constitution, as construed by the highest court in the land, subject, however, to this limitation—I conceive that Congress has power to create the Commission and confer upon it ample power.

In the case of *Davidson v. City of New Orleans* (96 U. S., 97) the court decided that the appointment of a board of assessors for assessing damages was not only due process of law, but the proper method for making assessments to distribute the burden of a public work amongst those who are benefited by it. No one questions the constitutionality or propriety of boards for assessing property for taxation or for the improvement of streets, sewers, or the like, or for commissions to establish county seats, for assessing damages under proceedings for eminent domain, and for doing many things appertaining to the administrative management of public affairs. Due process of law does not require a court. It merely requires such tribunal and proceedings as are proper to the subject in hand.

The legislature has power to fix rates. Were it to do so it would do it through the aid of committees appointed to investigate the subject, to acquire information, to cite parties, to get all the facts before them, and, finally, to decide and report. No one can say this is not due process of law, and if the legislature can do this, acting by its committee and proceeding according to the usual forms adopted by such bodies, why can it not delegate the duty to a board of commissioners charged to regulate and fix charges so as to be equal and reasonable? Such a board has at its command all the means of arriving at the truth and ascertaining the reasonableness of fare and freights, which a legislative committee has. Its duties being of an administrative character, it would have the widest scope for examination and inquiry, and such a body, though not a court, is a proper tribunal for the duties imposed upon it.

I will say, in conclusion, that no case can be found wherein the court of last resort has decided that such a commission can not exercise this power when it has been in express terms granted by the legislature, and will also predict that railways will not raise this question, for if decided in their favor it would relegate the rate-making function back to Congress when the undoubted power does exist, there to become the football of politics, and where the utmost of public resentment will be reflected against them.

Mr. Chairman, we can pass no law here which will confiscate railway property, as was said by the Supreme Court in the case of the *Milwaukee Railway v. Minnesota* (134 U. S., 418).

Neither the legislature nor such commission acting under the authority of the legislature can establish arbitrarily and without regard to justice and right a tariff of rates for such transportation which is so unreasonable as to practically destroy the value of the property of the persons engaged in carrying business on the one hand, nor so exorbitant as to be in utter disregard of the rights of the public for the use of such transportation.

In either of these classes of cases there is an ultimate remedy for the parties agreed in the courts for the relief against oppressive legislation, and especially in the courts of the United States, when the tariff of rates established either by the legislature or the commission is such as to deprive a party of his property without due process of law.

Until the judiciary is appealed to to declare the regulations made, whether by the legislature or by the commission, voidable, for the reasons mentioned, the tariff of rates so fixed is the law of the land and must be submitted to by both the carrier and the party with whom he deals.

I am quoting now from the opinion of Justice Samuel F. Miller, one of the greatest constitutional lawyers and ablest judges. After this concise statement of the law covering the case, he considers the matter of remedy and says that the proper, if not the only, mode of judicial relief against the tariff of rates established by the legislature, or by its commission, is by a bill in

chancery asserting its unreasonable character and its conflict with the Constitution of the United States, and asking for a decree forbidding the corporation from exacting such fare as excessive or establishing its rights to collect the rates as being within the limitations of a just compensation for the services rendered.

This bill nowhere undertakes to abridge the rights of the court to intervene or to exercise all the powers they now enjoy under the Constitution of the United States. It preserves every right that the railroads have and goes far to protect them against themselves. It preserves their right to a reasonable compensation for any service rendered the public and provides that whatever rate shall be made by the Commission shall be fixed at the maximum of reasonable compensation and must be remunerative. No private individual in his business has the power to fix absolutely a remunerative compensation for his services, but he must submit to the inexorable law of supply and demand. Under the present bill, no matter what the conditions of the country may be otherwise or the conditions of business, the railways are to be protected in a fairly remunerative income for the property engaged in that enterprise. This provision or limitation is equally available to the railway companies, who can appeal to the courts against a rate that is not fairly remunerative.

A great demand has gone up from the people for relief from the abuses practiced, and even the railways themselves are demanding relief from the private cars and terminal-line abuses. I have time to present only one of the many complaints in my State touching the abuses of rates and special privileges granted: Iowa stock shippers are allowed no "feeding in transit rate," as are Nebraska shippers—that is, Iowa feeders can not ship from Colorado or other western points to Iowa, hold for feeding for a time, and then ship to Chicago, as can the Nebraska shippers; again, the rates of the central Iowa feeder to Chicago are 21½ to 23 cents per hundred, while the Mississippi River rate is 15 cents. Again, the rate on dressed meat from Missouri River points is 18 cents and on live stock 23½ cents.

Inquiry in several directions revealed the fact that livestock shippers located in central Iowa make three complaints against present conditions, briefly outlined as follows:

First, there has been no direct advance in rates in recent years, but the service has been seriously modified and in such a way that the same is equivalent to a market advance in rates. For example, cattle shipped to Chicago from central Iowa, until some eighteen months ago, were run in from eighteen to twenty-four hours; now it takes from twenty-four to thirty-six hours.

Shippers say that after a run of twenty-four hours a carload of cattle will shrink at the rate of \$3 per car per hour. Livestock men say that the slow and uncertain service rendered is part of a well-thought-out plan to get on a tonnage basis. This poorer service, however, works a further hardship to the cattle shipper. His stock often reaches Chicago too late for that day's market. He must hold them over until the next day at heavy expense and face the possibility of a slump in prices. In the case of prime cattle, for which grade the principal market is on Mondays and Wednesdays, the condition is greatly aggravated. Should the central Iowa shipper who starts his prime cattle with the intention of reaching Monday's market be delayed until 11 a. m. or 12 noon, the chances are that he will have to hold his cattle over until Wednesday. Of course this means a heavy shrinkage and an enormous expense.

Second, while the rate on stock shipments has not been advanced in cents per hundred, the rate on other products has been lowered. To illustrate: A few years ago the rate on live stock from Missouri River points to Chicago was 23½ cents and the rate on dressed beef and packing-house products the same or more. At the present time the rate on dressed meats and packing-house products is only 18 cents per 100 pounds; but in the meantime there has been no reduction of the rate on live stock. As most of the dressed meats and packing-house products are shipped in private cars, for which the owner receives a rebate of 1 cent per mile, it amounts to a difference of from \$15 to \$25 per carload, according to the kind of stock, and this for substantially the same service.

As the fruitage of railways is the rate that they get for the carriage of persons and property, it is easy to understand why they refuse to yield the smallest fraction of their right to fix the rate and to control it as far as they may after it is fixed.

It is said that to confer upon the Commission the authority to fix rates is to confer upon that tribunal too great a power and is an unwarranted invasion of the rights of private property. When we examine into the ownership of the great systems of railways we find them centralized in comparatively a few hands.

The Vanderbilt system embraces 19,500 miles; the Pennsylvania system, 18,000; the Morgan-Hill system own 3,000; the Gould system, 16,000; the Harriman system, 21,000, or a total

of 114,000 miles of railroad control by five systems, or, in other words, practically by five men, and consolidation and merger is going on every day. We have left at present the Atchison, San Francisco, Milwaukee, and Great Western systems, constituting the only important independent systems and aggregating, say, 30,000 miles.

There are, in round numbers, 200,000 miles of railway in the United States, but the remaining 60,000 miles are made up of short systems absolutely dependent upon the main lines for existence. From these statements we have the deduction that five men now have a monopoly of all the railway business of this country. Freight is a tax on everything that enters into the commerce of the nation; upon the clothes we wear; the things we eat; and it is a tremendous power to rest in the hands of any five men to dictate the tribute which shall be paid. Experience has demonstrated that when you invest a man with power over the property of his fellow-men he will abuse that power if you do not restrain or control him. It is in accordance with the law of human nature that tends to impel us always to decide a question to our own advantage where our own interests are involved. I do not believe the railway property of this country should be permitted to say, without control, what other property shall pay to it, because I believe it will abuse that power as it has done in times past.

For like reasons I am not in favor of giving the Interstate Commerce Commission power to make rates in the first instance. If made by the railways, with knowledge on their part that their action will be subject to speedy review by a tribunal having power to substitute rates, we can reasonably anticipate their action will be predicated upon a possible review by the Commission, and therefore founded upon a fair basis.

The present movement is not of agrarian birth. It was not conceived in nor is it urged forward by any spirit of hostility to railways, but is born of a conviction among business men, the men who make and carry on the commerce of this country, that there are existing evils that should be remedied and that they and the people at large have rights which, as public servants, the great transportation companies are bound to respect, and that for the remedy of such wrongs and the enforcement of such rights they have no effective and speedy remedy under existing laws.

What we need and what all are entitled to is as equal a distribution of the benefits of transportation as conditions throughout the country will permit of.

The legislatures of many States, including Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, South Dakota, Wisconsin, and Illinois, have memorialized Congress within the past few years to enact legislation of this character. Up to January 17, 1905, 62 national and sectional organizations, 400 State and local organizations, representing 45 States and Territories, and 17 State granges have petitioned Congress to act, and since the last date hundreds more of petitions from commercial, mercantile, manufacturing, and agricultural associations have been received and filed by Members of this House.

It is time, sir, to act. For seven years the people have been asking for relief, and if we do not heed their just demands they will rightly revoke our commissions and place their interests in more worthy hands. Pass the pending bill. If there are defects in it, time will demonstrate it, and the remedy can be applied by further legislation.

To those who fear that this is a step toward socialism let me say that these commercial organizations are not inimical to railways; they recognize that they are absolutely necessary to the prosperity of the country, but they do insist that such transportation business shall be carried on upon lines compatible with justice to the individual and fairness to all communities. If railways will not themselves conduct the rate-making power upon that basis then the only way we can correct such evils is to exercise in some form, in some proper form, supervision over the railroad rates. But one other alternative is presented, and that rests in government ownership, a principle we are not yet ready to consider, much less to adopt, but to which it might be wise for railway managers to inquire of themselves how much and how far their conduct has now a tendency to thrust public opinion.

Capital and its allied interests are ever on the alert to protect themselves. The people's interests are often and too long neglected. There is yet time to approach a solution of the problem upon the basis of mutual interest, which involves only a square deal for the railroads and a square deal for the people. The public mind is not hysterical, but is fully aroused to the importance of the question and guided by reason and desire to do justice only. The people will move firmly, without malice, to a proper and final assertion of their sovereignty and to a fair settlement of the problem.

The people are and ought to be supreme. In the words of the immortal Lincoln, "This is a Government of the people and by the people and for the people." Its chief corner stone is justice founded on the law, and when any man or set of men can set at defiance the will of the majority, as expressed in the law, then will come anarchy and dissolution. Justice is the eternal, everlasting will of God to give each man his right, and obedience to law is the golden precept of civilization. It is calumny when men stand on this floor and charge the exponents of this legislation of holding out the torch to the socialist and anarchist. Men who stand for the classes as against the masses, who preach in the name of the sacred right of private property, that its owners are exempt from the law and privileged to disregard it are sowing the seed of the Commune; and men who uphold that commercial morality, which makes it legitimate to live by the sweat of another man's brow, are planting the seed of class hatred and ultimate revolution. Sir, hundreds of thousands of lives and billions of treasure were expended in proving the stability of a nation founded on mutual interest and in justifying the equality of man. We shall move onward and upward at whatever cost until every man, be he rich or poor, is equal before the law. No government was ever destroyed by the poverty of its citizens; its decay was always preceded by wealth and corruption founded on a disregard of the law and the suppression of human rights.

Look at the picture which that great novelist, Dickens, draws of the French revolution in the Tale of Two Cities:

Slowly the tumbrils roll along the street; six tumbrils carry the day's wine to La Guillotine. All the monsters imagined, since imagination could record itself, are realized in that one word—guillotine. And yet there is not in France, with all its rich variety of soil and climate, a blade of grass, a sprig of pepper-corn that will grow to maturity under conditions more certain than those that have produced this horror. Crush humanity out of shape again under similar hammers and it will writhe itself into the same tortured forms; sow the same seed of rapacious license and oppression over again and it will as surely bring forth fruit according to its kind. Slowly but surely the tumbrils roll along; turn these back again, thou powerful enchanter, Time, and they shall be found to be the equipages of feudal lords, of flaring Jezebels, houses that are not "my Father's house" but dens of thieves, the huts of millions of starving peasants.

Sansculottism is not dead, but only sleeping, and will be aroused, if at all, and again whirl in bloody maelstrom, not at the behest of men who would obey the law, but of those who would defy and set it at naught.

God speed the day when the corridors of this great Capitol shall be free from the representatives of special interests, and when we shall legislate for the whole people, regardless of section, class, or interest; then, indeed, shall we have the fulfillment of a "government of the people and by the people and for the people."

Mr. ADAMSON. Mr. Chairman, I yield to the gentleman from New York [Mr. COCKRAN] one hour and fifteen minutes.

Mr. COCKRAN. Mr. Chairman, while I am far from believing that this bill if enacted into law will prove a complete panacea for all the evils which it is intended to reach, I consider it, nevertheless, one of the most important measures considered by the House since the reconstruction of the Southern States after the war of secession. Even though in actual operation it should fall far short of the results on which its framers and supporters count, yet it is a step—an important step, a decisive step, because it is the first step—toward emancipating the industrial life of this country from the domination of forces which, organized solely to promote the public welfare, have recently begun to oppress and retard it, and which by acquiring an overshadowing influence over the Government which has created them threaten a complete subversion of the institutions under which this nation has achieved the most marvelous progress in the history of the human race. [Applause.]

Criticisms of this measure, sir, have been numerous and varied, but it seems to me they are all leveled against provisions which it does not contain. It is denounced on the ground that it will produce certain evils, and these are precisely the evils which it is intended to cure or to avoid. It has been described as a scheme to substitute government rate making for rate making by business interests. It has been described as a step toward public ownership, and this, it is argued with much rhetorical fervor and some degree of justice, is a step—a long step—toward socialism. I support it, sir, because I regard it as a barrier, and I hope an effective one—as I certainly believe it is the only one we can erect—against the very tendencies which gentlemen opposite attribute to it. It has come to be styled generally as anti-railroad legislation, legislation designed to injure railroads either by imperiling their property or reducing their earnings. Sir, I have always regarded railroads, honestly administered, as the most effective agencies of progress and of civilization. If I believed that this bill would restrict their operations, diminish

their earnings, or check their progress, I would be among its most active opponents. I support this measure, sir, not in hostility to the railroads, but in the interest of railroads, in the interest not merely of their ultimate security, but of their immediate revenues and prosperity. [Applause.]

Mr. Chairman, if gentlemen would only pause to realize the exact scope and purpose of this bill, they would see at once that many of the objections urged against it are both irrelevant and extravagant. The object of this measure is simply to compel companies engaged in railroad transportation between the different States to render the people whose franchises they operate efficient service—which means impartial service—at reasonable rates. To accomplish that result, any citizen who considers himself aggrieved by excessive charges is authorized by this measure to complain before a board empowered, after full inquiry, to decide whether the rate charged him is fair or unfair; and if unfair to substitute a rate which will be proper and just for the one found to have been onerous and oppressive. That is the entire scope and purpose of the measure which has been denounced with such brilliant rhetoric from the other side of this Chamber as a step toward the public operation of railroads, leading inevitably to socialism. Sir, this plain statement of the object and purpose of the proposal now before us must be enough to satisfy anyone not wholly captive to prejudice and passion that, far from this being a measure tending to establish public ownership of railroads, it is the only means by which public ownership of them can be averted. [Applause.] Far from its being a socialistic demonstration, it is an effective barrier against the rising tide of socialism which gentlemen seem to discern and to dread, because it takes from the socialist the most plausible argument that he can advance to impeach the existing order of society and to support his own theory of government. [Applause.] Far from its being an attempt to reduce the earnings of railroads, it is a measure to increase them, and at the same time provide that these steadily increasing revenues will reach owners of capital by which railroads are operated, instead of being diverted largely to the pockets of faithless managers, who plunder stockholders and people with cheerful but rigorous impartiality. [Laughter and applause.]

Mr. Chairman, the misapprehension of this bill which has so largely marked this discussion springs mainly, I think, from confusion of thought as to the precise relations between companies engaged in transportation and the state. I should explain that I use the word "state" in its broadest sense to designate the Government—the total sovereignty of the nation however it may be distributed and by whatever agencies it may be exercised.

Some gentlemen speak of railroads as if they were private enterprises, and every measure for their regulation is discussed as if it affected private property. Other gentlemen seem to consider railroads purely public enterprises, with which the state has plenary powers to deal as if they were public property. If either assumption were sound, the argument based upon it would be unanswerable. If corporations engaged in transportation are purely private enterprises, like those engaged in making tables, cloth, or shoes, an attempt to exercise over them such a control as this bill proposes to establish over railroads would be a projection of government far into the domain of private business, and would be a long step indeed toward socialism. If, on the other hand, railroads are in any sense public functions, and therefore subject to control and regulation by government, the supervision of rates created by this measure is probably the very mildest form in which that authority can be exercised. To describe as oppressive such a measure as this is to argue that government has no right whatever to regulate railroads or even to scrutinize them. Since, then, the right of government to regulate or control in any way the operations of railroads depends upon whether they are private or public property, the first step in profitable discussion is to ascertain and define their precise character.

Gentlemen who regard railroads as public property are not wholly right; neither are those who consider them private property wholly wrong. Railroads are neither exclusively public nor exclusively private enterprises. They partake of both characters.

Under our industrial and political system there are two elements entering into a railway service. One is the right to operate it—the right sometimes to use public property; the right always to take private property for corporate purposes—what is known as the franchise. The other is the capital, in the form of lands, rails, locomotives, buildings, and other property by which the franchise is placed in operation. The franchise, the power to take anything I possess which may be neces-

sary or useful to the operation of a great enterprise—the power to drive me from the house in which I was born, from the hearthstone near which I have lived, from the place where I had hoped to die—that power is an attribute to sovereignty. The right to control it must, therefore, always remain with the sovereign, that is to say, with the state—the Government. On the other hand, the capital by which the franchise is operated is the property of individuals who contribute it. It is private property dedicated to a public service. A railway, then, is a public function, the administration of which is intrusted to a private agency. But whether it be administered by a private agency or by government directly through its own officers, a railway never ceases to be a public function. [Applause.]

Now, from this what follows? What are the reciprocal rights and duties of the capital by which railroads are operated, and of the people whom the railroads are chartered to serve—the sovereign whose franchise is the basis of the enterprise and the individuals who own the property by which it is made effective? Clearly, the railway in return for the special opportunities of profit which it enjoys, owes to the sovereign efficient service; and the sovereign—that is to say, the people—are bound in return by every principle of justice, of prudence, of self-interest, to protect, preserve, and maintain in absolute security, the capital—the private property—dedicated to this public service. Stated in the narrowest compass, the railway owes the people the most efficient service within the reach of human endeavor, consistent with the security of the capital—the private property—embarked in it.

Now, what is meant by security of property? What does it involve? What are its essential features? What rights does it embrace? While it appears to be conceded on all sides that a rate which compelled a railway company to do business at a loss would impair the value of the capital embarked in it and therefore would be a taking of property without due process of law, which the courts must condemn as confiscatory, some gentlemen opposite appear to think that a rate which did not entail actual loss in operation, but which nevertheless was so low as to prevent any possibility of earning profits on the capital by which the railway is operated would be within the Constitutional powers of Congress (acting directly or through a commission) to impose, and therefore beyond the power of the courts to correct. A little reflection will show these gentlemen that they misconceive radically and underrate grievously the nature and extent of the security guaranteed by our Constitution to owners of property. Security of property means not merely the safety of its body—the right to hold its corpus intact—it means the right of the owner to employ it for a profit, or what he conceives to be a profit, provided the specific purpose be not in itself illegal. Unless property can be employed at a profit it won't be employed at all, and unless it can be employed it is not worth holding. A right of property which did not embrace the right to employ it for the profit of the owner would be a mere right of custody, utterly valueless, a burden rather than a benefit, a penalty rather than a privilege, a hollow mockery, a trap for the unwary baited by delusive and misleading words. Such a conception of property is at utter variance with all our jurisprudence, and any law based on it that we might pass would most assuredly be set aside by judicial decree. [Applause.]

A rate which even though it did not entail a loss in operation—that is to say, an actual impairment of the property invested in railroads, yet was so low as to prohibit profit, would be confiscatory—confiscatory of an essential element—the most important element in the right of property. The idea that such a rate would be tolerated by the same courts which, uniformly and without exception, have set aside confiscatory rates, is not a conclusion reached by logical processes, but a figment of the mind, a delusion of ardent imaginations, of fervent patriotism, and other excellent qualities stimulated to extravagance by imprudent use of sonorous but misleading and sometimes nonsensical phrases. [Laughter and applause.]

A more serious criticism, Mr. Chairman, is that advanced by gentlemen who, conceding the right of the Government to exact from railroads efficient service at reasonable rates, yet question the power—the intellectual capacity—of an administrative board or of any body not composed of railway experts to determine intelligently what constitutes a just and reasonable rate. This, of course, is equivalent to recognizing the existence of a right in government which it is powerless to assert and of a duty imposed on it which it is powerless to discharge. Mr. Chairman, I have never yet found myself compelled to admit incapacity or imbecility in government—at least, in this Government. [Applause.]

To ascertain and determine what is a just rate in every instance we have only to bear in mind the essential nature of the

relations between these agencies and the public whom they serve—what the corporation owes to the people and what government owes to the corporation.

The corporation, as we have seen, is bound to render the best service consistent with security of the capital embarked in it, and security of capital includes the right to employ it at a profit. If the community is entitled to the best service consistent with the safety of capital, the just rate to each individual must be the actual cost of the service rendered to him plus a reasonable profit to the company. There can be no other rate consistent with justice, as a moment's reflection will show. If one man's goods be transported for less than they cost, some other man must be charged more than the service rendered to him is worth. It can not be otherwise. All who use a railroad can not have their goods transported for less than the actual cost. If they did, in a very short space of time the railway would be bankrupt and could not transport any goods at all, because it has no source of revenue except the rates which it charges to the people who use its facilities.

If, therefore, it serve one man with favoritism, it must serve others with oppression. Justice and reason require that each man should get that for which he pays, and that no man shall be forced to pay the cost in whole or in part of service rendered to another. There can, therefore, be but one measure of what constitutes a just and reasonable rate. It is the actual cost in each instance of the service to the company plus a reasonable profit to the capital actually employed in making that service effective. Here, sir, is a simple rule by which absolute justice can be done to all. By this rule alone can the question what constitutes a reasonable rate be determined finally and peaceably, for justice, the experience of this country shows, is the only secure foundation for domestic peace as it is the one exhaustless fountain of industrial prosperity. [Applause.]

Mr. Chairman, it is objected by critics of this, as of every attempt to establish by law the right of all men to service by railways on equal terms that to fix an arbitrary rate of transportation per ton, or per head of cattle per mile, would at times work great injustice. The objection is not without force, but the rule which I have suggested would obviate it. Take, for instance, the case of two farmers living on opposite sides of a highway, one offering two hogs and the other offering thirty hogs—or whatever may be the number that would constitute a carload—to a railroad for transportation to the same market place. It is perfectly plain that if the same rate per hog per mile were charged in each instance the results would be very unequal. Hogs can not be placed in the same car with merchandise or other live stock. The transportation of two hogs would necessitate the use of a separate car—that is to say, it would cost the railway practically just as much to carry them a given distance as to transport an entire carload. To charge for this service the same rate per head as it cost the railway per head to transport the larger number would cause the two hogs to be carried for less than the actual cost of the service to the railroad, and the deficit must be made up by charging other men more than the value of the services rendered to them. On the other hand, if the owner of the larger number were compelled to pay the same rate per head for transportation that it actually cost the company to carry the two hogs per head, the result would be an excessive rate to the corporation and a correspondingly unjust imposition on the shipper.

But if two men each offered two hogs, or if each offered a carload for shipment at the same place to the same destination and one obtained a rate lower than the other then grave injustice would be perpetrated. The man favored by the low rate would be enriched at the expense of his neighbor—one man would be placed under tribute to another, and that through the perversion and abuse of a Government agency organized and bound to serve both with equal efficiency on absolutely equal conditions. [Applause.]

Strict application of this simple rule will solve every difficulty growing out of what is called "long hauls" and "short hauls." If the cost of transporting a carload of hay from Iowa, 1,600 miles, to New York, be 3 cents a ton, and the actual cost of transporting a carload from Maine, 400 miles, be 2 cents, the rates charged from both places should be in like proportion—in the proportion of 2 to 3, which is that of the cost, not of 1 to 4, which is that of distance. Not the distance, but the actual cost to the railway—in which distance is, of course, an important element—should determine the rate charged by it for transportation. If, however, two men, either in Maine or in Iowa, offered each a carload of hay for transportation to New York, and one is charged more than the other, that would be favoritism to one and therefore oppression to the other. Or if a railway undertook arbitrarily to fix charges so that a shipper in Maine or in Iowa, as the case may be, was

placed on a footing different from that assigned to him by the actual conditions of transportation, then the railway would be usurping powers of sovereignty, or rather abusing powers of sovereignty to enrich men dwelling in one place at the expense of men dwelling elsewhere—a course at once mutinous, dishonest, disloyal, and demoralizing. [Applause.] The inflexible rule which justice prescribes and which, therefore, the law should enforce, is that men using the same service are entitled to absolutely identical treatment. Where the character of the service differs, then the rate to be charged for it should differ in corresponding degree. But it should always be the actual cost of the service to the railway plus a reasonable profit.

The rate which insures to every man the service for which he pays at the minimum cost consistent with safety of the property employed in rendering it—the rate which allows no man to enjoy any service at the expense of another—that is the rate which must ultimately be held the fair and the reasonable one. No other is consistent with justice, and therefore no other can be permanent in this country. [Applause.]

Mr. Chairman, in the light of these principles, I ask the committee to examine the actual operation of these corporations and measure the difference between the service to which the people are entitled and the service which they have actually received.

It is a matter of universal knowledge, not questioned here or elsewhere, that this service which should be impartial, has been governed by favoritism and discrimination. I do not think there is a single locality in the country where rates have been excessive to everyone. Wherever charges for transportation have been unreasonably high to the general public, they have always been unreasonably low to some favorite of the railway. And this, sir, is not to benefit the corporation, but to benefit some dishonest manager at the expense both of the railway and of the public. I have more than once pointed out that between a railway honestly administered and the people there never can be a conflict of interest. A railway can not prosper except as the country through which it passes prospers. Its revenues and earnings depend on the volume of business in the community that it serves. Anything that restricts the volume of business restricts the revenues of the company and impairs the value of its capital. But the interest of the company is not necessarily the interest of the manager, who often profits by betraying it, and at the same time oppressing the community. The means most usually employed for this plunder of the stockholders and the public is the fixing of high charges for transportation to the community and then secretly giving lower rates to favored individuals. The business of the favorite is increased enormously, but the whole volume of transportation is diminished. The railway would reap larger profits from serving a hundred men, each doing a business of \$1,000 a week, than in serving one man doing a business of \$50,000 a week. But if the rates are made high to the general public, and, at the same time, one man be afforded transportation under such favorable conditions that all his rivals will be crushed, his business will, of course, be multiplied several times in volume, but, at the same time, the general business of the road would necessarily be diminished. His profits would be swelled enormously, while the revenues of the company available for dividends would be reduced. The railway manager who shared the profits of the favorite would be enriched, while the railway would be injured, and the stockholders who trusted their property to him would be plundered. And this, sir, explains why this species of favoritism has been so widely prevalent. It is safe to say that no rebate has ever been enjoyed by one man at the expense of competitors where the fruits of the plunder have not been shared by the railway officials through whose corruption the favors have been obtained. [Applause.]

Do gentlemen realize the moral enormity of these discriminations, the excessive injustice that they perpetrate; the widespread demoralization which they breed? Do they realize that they are more grievous burdens to trade, grosser outrages on justice than any oppression which could be perpetrated under our system by government itself, as these great functions touch the daily lives of the people much more closely and more frequently than any department of government—Federal, State, or municipal? The cost of transportation is a tax upon trade. By every principle of justice and sound policy it should be equal to all men. Unequal taxation deliberately imposed by government would shock our moral sensibilities so deeply that I do not believe it could be enforced, no matter what authority undertook to impose it. The sense of justice throughout the community would defeat its collection by some means or other. Suppose a man's property at one corner of Seventh street and Pennsylvania avenue were taxed 5 per cent of its value and the property of another man engaged in the same business at the other corner

was taxed but 1 per cent, would not the injustice be so grievous and so palpable that an indignant public opinion would make persistence in the wrong impossible? But discrimination in rates exacted by a railway is vastly more oppressive than any inequality of taxation which government could impose. The government tax collector appears but once a year. The property on which the tax is levied forms but one feature of your industry—one element of your capital. The railroad taxes not merely all your property, but all your actions; every element of your possessions, every feature of your activities. If you are engaged in manufacture, its charges are a tax not merely on the goods which you send to the market, but on the raw materials from which they are produced. It taxes every morsel of food consumed by your laborers, and is, therefore, a determining feature in the wages you must pay them. It fixes conditions of access to every person who visits your factory or your warehouse. Where railway rates are unfair and oppressive, it is as though respiration were taxed—a toll levied on every breath the citizen drew, and a higher rate imposed on the vast majority than on a few favorites—as if every exercise of muscular energy were taxed and the rate was unequal between individuals. It is superfluous to say that the man in whose favor such agencies were employed would have every competitor at his mercy. Against such discrimination by government no genius, no industry, no capacity could avail. Yet that is precisely the advantage which rebates and discriminating rates have been giving to some men at the expense of others all over the country for many years past. [Applause.]

Efficiency, capacity, honesty, sobriety, diligence, the possession of every virtue, have become less valuable to their possessors in the competitions of business than the favor of some railway manager. And these favors, I repeat, sir, without fear of contradiction from anyone, are always granted corruptly [applause], not for the benefit of the railway, but to the injury of the railway; not for the profit of the stockholders, but for the profit of thieves among the managers, who plunder their own stockholders and the people with relentless appetite. [Applause.]

Sir, the history of railway management in this country is a history of favoritism, of corruption, of wrong made enormously profitable, and crime made respectable by the great fortunes of which it has been the source. I do not deny that in spite of this favoritism the railways have rendered enormous service to the country; that they have been among the most powerful agencies of progress. But, sir, they have not been as loyal as they should have been in serving the whole community on equal terms, and where they have deviated from impartial service they have been made the means of perpetrating the very gravest offenses against morals and property. [Applause.]

The men who control transportation facilities and abuse their authority have established a power greater than the Government. The favor of a railway manager is more important to a man engaged in commerce than the favor of the President, of both Houses of Congress, of the judiciary, of the Army, of the Navy, and of all combined. Government, exercising all the power of all its departments, can only protect a man; a corrupt railway manager can enrich him. Larger fortunes have been established by illegitimate railway favors than by the highest ability in legitimate industry ever possessed by any man in the world. As all these favors are granted to favorites at the expense of victims, as they are tributes levied on the industry of many for the benefit of a few, this railway corruption has resulted in the demoralizing spectacle of plunder made more profitable than industry. Where discrimination has been grossest, corruption the most depraved, the most cynical, the most unblushing, there the profits of the criminal have been most extensive. And the courts have signally failed to prevent this corruption, while they have been singularly effective in protecting fortunes which have been the fruits of these crimes.

Rockefeller, at once the richest and the most despised of the whole population, has long been the chief beneficiary of this corruption, and his fortune is the chief monument of its extent. [Applause.] Unfortunately he stands not alone; he is but the type of a band growing ever more numerous and more dangerous. These men have established themselves as a privileged class. They are so far above and beyond the law that they plead the magnitude of their crimes as a reason for arresting the pursuit of justice. Have we not seen within a few days the adoption of a resolution by this very House propounding an inquiry concerning the relations between two great railway systems, which it was our duty to formulate, create a disturbance in the market which almost amounted to a panic? Do we not hear it urged as a reason against pressing the inquiry, which the law enjoins upon us, that to persist in it will uncover extensive violations of the law which can result

only in a profitless scandal, since the community would prefer submission to these crimes rather than pay the frightful cost of redressing them? Is not this a cynical admission that this Government, organized to establish justice, can not afford to do justice, even when injustice is palpable—that under the protection of laws intended to foster industry criminals have grown so powerful that instead of submitting to the law they can treat with the law—nay, defy and command it. Their power to enrich is so extensive and their readiness to use it for their personal aggrandizement is so notorious that the weak and the unscrupulous and the base in business and in politics have become their courtiers, hoping, and with reason, for a shorter pathway to wealth through their favor than through industry, however capable, meritorious, or diligent. Through the cupidity of political leaders they have succeeded in dominating both political parties in all the larger States of the Union. In the smaller States, where the people are still largely engaged in agriculture, where they still meet at villages and crossroads for personal discussion of political issues, political parties are still controlled by the opinion of the neighborhood, but in the larger States, those embracing great cities, both parties are dominated by railway influences.

It is no exaggeration to say that in all those great States the debates and contentions which on the surface appear to be the competition of politicians for leadership are usually but screens behind which different financiers contend for the control of some political machine which they consider a useful instrument in the prosecution of their enterprises. No man can be considered an eminent financier nowadays unless he counts the leader of a political machine among his followers, his clients, his retainers, his dependents. [Applause.]

Have we not seen within a few months two gentlemen prominent in railway management engage in a struggle for the possession of some \$425,000,000, to which neither of them had the slightest claim of ownership, and when they met to discuss whether the control of this vast fund, which one of them had managed to acquire, should be held by him exclusively or be divided between both of them, the weapon with which one threatened the other was the government of the State to which both men are supposed to be subject, but which one of them controlled absolutely, because the boss of the dominant political party was as completely his property as the watch in his pocket. But the other was by no means alarmed, formidable as this threat may sound. He, too, was a financier, and therefore too wise and too wary to be found without a political bludgeon of his own within easy reach. The gentleman who accompanied him to that interview as his friend, his adviser, his bottle holder in this duel of financial giants, had been a conspicuous member of the present National Administration, and has since returned to the President's Cabinet as its chief. The financier who owned the State government ought to have understood that an opponent so accompanied was not one to be attacked with a weapon no stronger than the government of a mere State—even though it were the Empire State of the Union. But he did not. He instigated a legislative investigation as an act of war. The result proved his folly in underestimating the force which he antagonized. To-day he is wiser, though somewhat damaged. The political retainer upon whom he relied is unhorsed, his machine is badly jarred and dislocated, if not wholly crushed, while his rival holds with a tighter and firmer grasp than ever the undivided control of the \$425,000,000 which had been the subject of their discussion.

Sir, do I exaggerate the influence, the powers which these men wield? Am I extravagant when I describe them as a privileged class enjoying immunities unknown to the law, exercising powers above the law and in spite of it? Must we submit to the domination of this class, or should we make an effort at least to bring it within subjection to the laws?

The gentleman from Maine [Mr. LITTLEFIELD] says the courts can afford redress for all these evils by simply enforcing existing law. If the courts had held uniformly that all men were entitled to service by railways on equal terms and if they had used their processes and all their powers to facilitate discovery so that any man who had reason to believe himself aggrieved could ascertain the terms on which all other men were served—the rates they were charged—these abuses would never have arisen and the demand for this legislation would never have been heard. But, as a matter of fact, the courts have not prevented these abuses. When have the courts undertaken to prevent, much less to punish, any financial exploit by which railway managers have enriched themselves enormously at the expense of the stockholders who intrusted them with their property and of the community who depended upon their capacity and fidelity? What feat of spoliation by syndicates or financiers has been interrupted by judicial process?

Doubtless the case of the Northern Securities Company occurs to some gentlemen, though they have shown me the courtesy of refraining from interruption. Doubtless they are asking themselves now if the judgment declaring the organization of that company to be a conspiracy did not constitute a judicial interference with the consummation of an illegal financial operation. Sir, there can be no stronger proof that a privileged class exists amongst us, no more striking illustration of the extent to which these privileges are tacitly recognized by the courts themselves, than this very case, so often quoted as an evidence that the law is still capable of regulating and governing the conduct of all citizens, even of men mighty in finance.

It is true that the organization of the Northern Securities Company was adjudged a conspiracy, but let us see for a moment the effect of that decision upon the object for which the conspiracy was formed and on the men who were adjudged to be conspirators. Contrast the immunity which they have enjoyed, aye, the rewards which they have reaped, from the very act pronounced to be criminal, with the severe punishments inflicted on other violators of statutory prohibitions or the fate which overtook a man who was found guilty merely of violating an injunction order.

You will remember that the Northern Securities Company was organized avowedly for the purpose of placing control of several railroads in the hands of two groups of financiers. The Attorney-General of the United States, by direction of the President, instituted proceedings in the courts praying that this attempt to reduce control of several railways to such a narrow compass that it could be held by two groups of financiers be adjudged a conspiracy in restraint of trade under the Sherman antitrust law.

Sections 2 and 3 of this law are so clear in their denunciations of certain acts as conspiracies and so specific in the penalties denounced against them that I shall read them to the committee:

SEC. 2. Every person who shall monopolize, or attempts to monopolize, or combine or conspire with any other person or persons to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 3. Every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce in any Territory of the United States or of the District of Columbia, or in restraint of trade or commerce between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with any foreign nations, or between the District of Columbia and any State or States or foreign nations, is hereby declared illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

In rendering judgment on this suit the Supreme Court declared:

In our judgment the evidence fully sustains the material allegations of the bill and shows a violation of the act of Congress, in so far as it declares illegal every combination or conspiracy in restraint of commerce among the several States and with foreign nations and forbids attempts to monopolize such commerce or any part of it.

And again:

This combination is within the meaning of the act a "trust;" but if not it is a combination in restraint of interstate and international commerce, and that is enough to bring it under the condemnation of the act.

Here, then, we find the organization of the Northern Securities Company declared a conspiracy by solemn judgment of the court, and the persons who promoted it were therefore conspirators—criminals—specifically denounced as such by the law. No description could have been more comprehensive; no words could have been bolder; no judgment would seem to be freer from anything like consideration of persons or results. Yet, what was the actual outcome of this decision?

The object of the conspiracy, as we have seen, was to place several railways within the control of two groups known as the "Morgan group" and the "Harriman group," and that object was declared a conspiracy, a crime. The court directed that the stock held by the Northern Securities Company be distributed; but the method of distribution was so ordered that when the judgment was put in actual force the Harriman group was found to have been eliminated and the Morgan group was left in supreme control. The attempt to reduce control of these companies to two groups was pronounced a conspiracy, and the actual result of the decision was to reduce the control of them to one group. The object of the conspiracy instead of being defeated was more effectually accomplished. And that was not all. The stock of the company, which was selling at about 100 when the suit began, sold at 160 when the adverse decision was rendered. Its

capital stock was \$400,000,000; and therefore this decision, that is generally supposed to have destroyed the corporation, enriched its promoters by \$240,000,000. Conspiracy was found by the court; the conspirators were identified by name in its decision; but the object of the conspiracy, instead of being defeated, is more completely effected by the decision itself, and the authors of the scheme, instead of being punished or even questioned, walked out of court, not weighed down by its fetters, nor staggering under its sentence, but joyfully bearing a golden burden of \$240,000,000, perfectly satisfied that the court which pronounced their conduct to be a conspiracy would use all its powers to protect them in holding and enjoying the fruits of their crime. [Applause.]

Am I exaggerating here? Am I straining terms when I say that these men were specifically adjudged criminals by the highest court in the land, and that they are nevertheless absolutely secure from the pursuit of justice? I am quite willing that the merit of this assertion be examined in the light of a luminous contribution to this branch of the subject by a member of the court itself. Mr. Justice Holmes, writing a dissenting opinion, uses this language as his final argument against the judgment of the majority:

What I now ask is, under which of the foregoing classes this case is supposed to come, and that question must be answered as definitely and precisely as if we were dealing with the indictments which logically ought to follow this decision.

Observe here, sir, the recognition, quite unconscious, I believe, but for that reason all the more significant, of a privileged class by a judge of the Supreme Court, and mark the unquestioned immunity from the pursuit of justice which he realizes members of that class enjoy. "The indictment," he says, "which logically ought to follow this decision," not the indictment which necessarily must follow it, as would have been the case with any ordinary citizen adjudged guilty by the Supreme Court of having violated a penal statute, "Logically," he says, that is to say, for purposes of discussion—academically—so to speak—these men might be considered criminals, but the possibility that they could be indicted is so extravagantly improbable that he—a member of the court—mentions it to illustrate most strikingly what he believed to be the extravagance of the conclusion reached by the majority.

Now contrast this enrichment of men found guilty under the Sherman law with the treatment of Eugene V. Debs, who was not even accused of transgressing a criminal statute or at least who having been accused demanded a trial and could not get it. The violation of an injunction order was the head and front of his offending. At most, he committed a civil offense. Although when we contrast the penalty which followed it, with the rewards heaped on these men whom the decision of the Supreme Court adjudged to be criminals, we must conclude that if his offense was civil his treatment was decidedly uncivil. [Laughter and applause.] There is no doubt about what happened to him. He was not punished by mere animadversion or judicial denunciation. He was committed to jail. His body was taken into custody. He was confined in a cell; the bolts were turned on him. He ate the prison fare. Prison wardens controlled his movements. He expiated to the last moment by confinement and discredit—so far as imprisonment can inflict discredit—the violation of an injunction order. Tell me that Debs stands equal before the law with Messrs. Morgan, Harriman, Hill, et al., and you say that which mocks common experience and common sense. [Applause.]

But it may be said that the act of Mr. Debs involved, in some way, dangers to society so grave that it became necessary to take exceptional measures against its recurrence. I shall not pause to consider the merits of such a suggestion, because even if well founded it certainly would not apply in the case of two Senators recently condemned to imprisonment, not for any act in itself heinous, but for mere violation of a statutory prohibition. One of these men after thirty-three years of meritorious service in the most illustrious legislative body in the world, had earned the respect and regard of all his fellows, without distinction of party. I speak of him solely from his public character. I knew nothing of him personally. I never saw him to my knowledge. But he was found to have asked some officers of the Government to do a favor for one of his clients, and because a member of Congress is forbidden by law to practice before any of the Departments, he was promptly haled before a criminal court; he was tried; he was sentenced; he died—died under the shameful cloud of a criminal conviction.

And there is another Senator living now against whom, for a kindred act, the same grave penalty has been denounced, over whose head hangs the same sinister, blighting, shameful cloud. His liberty hangs on the slight chance that a judgment of conviction against him may be reversed by the Supreme Court,

which has already decided that the act charged against him constitutes a crime. Does anybody doubt that if his conviction be affirmed he will be compelled to expiate in a prison the act which was forbidden by law? Does anybody question that if Heaven itself had not interposed and called Senator Mitchell to judgment at a higher tribunal his body would have shared the ignominy which had already overtaken his name? These men certainly were not conspirators against the public peace. They were not dangerous or vicious men; they were among the most conspicuous in the land. They had been chosen ambassadors of their respective States to the highest legislative council, not merely of this nation, but in all the world. Yet for an act which amounted at the most to an impropriety the law drew its sword and smote them. And with what fearful vengeance! They were dragged from the places of honor which they had reached and sentenced to confinement in those gloomy precincts, where the darkest miseries of life are concentrated and by close association aggravated; where the law, instead of protecting men in the enjoyment of liberty, deprives them of liberty; where men of sensitive nerves and decent associations, forced into contact with the blighting fruits of vice and crime, are made familiar with every step in the consummation of every vengeance inflicted by outraged society on its outcasts, even the last dreadful one, where the State immolates the human victim whose sacrifice it deems necessary to its own safety—those hideous precincts so vividly painted by one whose perverted morals had brought him within their limits, but whose genius was able to describe fittingly the horrors they enclose.

And as one sees most fearful things
In the crystal of a dream,
We saw the greasy, hempen rope,
Hooked to the blackened beam,
And heard the prayer the hangman's snare
Strangled into a scream.

From that abode of horror and ignominy to which the law had condemned him Senator Mitchell was delivered only by the hand of death. To it the sentence of the law has already assigned Senator Burton. [Applause.]

Sir, is this equality before the law? Is this democratic government? Have Messrs. Mitchell and Burton enjoyed equal privileges and equal immunities with Messrs. Morgan and Hill and Harriman and the others? Justice, which has stood supine, motionless, inert, incapable, which has never been able even to get in motion against Messrs. Morgan and Hill, has been active, vigilant, relentless, inexorable, almost ferocious, in pursuit of Messrs. Mitchell and Burton. Surely the acts of Messrs. Morgan and others, pronounced crimes by the Supreme Court, were at least as injurious to the community as those charged against the two Senators. Yet Messrs. Morgan and Hill are enriched by the decision which condemns them, and free to enjoy the wealth which is showered on them. Messrs. Mitchell and Burton were consigned to infamy, to absolute and irretrievable ruin of fortune and of honor.

Sir, this is not an isolated case. On all sides we find the law prompt and vigilant to overtake small offenders, slow and incapable in pursuit of great offenders; quick to punish the thief who steals a few dollars; incapable of even questioning the plunderer of millions. [Applause.]

For many years the members of this privileged class have held the law in contempt; but the contempt which they have always felt they have lately begun to show. Have we not quite recently seen a man who dominates many systems of transportation snap his fingers at a mandate issued by the Supreme Court of a sovereign State? Have we not heard him exercise a flatulent wit in deriding officers holding its commission, while he refused contemptuously to answer its interrogatories? And have we not seen a court of the State in which this contempt was displayed hold that while this recalcitrant and truculently insubordinate witness might be compelled to answer some time before the Day of Judgment, between that important event and the present time, there was no immediate pressing necessity for his yielding obedience to the command of the law. [Laughter and applause.]

And is it not a fact that at the very time when this flagrant contempt was permitted to go unrebuked the very same court which had refused to punish or even rebuke it issued an injunction against some striking printers so sweeping and so drastic that it was hailed as decisive of the contest by one side of labor controversy. Sir, I am not criticising this court or any court. I know it is claimed that all these decisions and proceedings which I have mentioned were incumbent upon the judges—the only course open to them under the law. That may or may not be so. I express no opinion on that subject one way or the other. But I do say it is unfortunate—a calamity—a reproach—not merely to our Government, but to our civiliza-

tion—of which this Government is the highest type and the noblest fruit—that the courts which have shown such vigilance, such vigor, such ingenuity in devising and enforcing methods of preventing injury to the property of corporations, through violence on the part of striking employees, have been so utterly incapable of preventing graver, more extensive, more demoralizing injury to the property of corporations and to civic morals through the fraud and corruption of dishonest officers. [Applause.]

Sir, if we must have amongst us men who actually possess and enjoy exclusive privileges, would it not be better by far that these privileges were acknowledged and recognized by the law than that they should be enjoyed in defiance of the law? For to acknowledge their privileges it would be necessary to define them, and to define them would not be to enlarge but to limit them. While the privileges of this class are unrecognized, they are unlimited. If it be true that while the letter of the law declares all men to be equal, yet the machinery of the law is incapable of controlling men worth many millions of dollars, better by far acknowledge that fact formally and provide that men so rich be tried by their peers, and define as their peers men of equal possessions. If these privileges were recognized and defined, the possessors of them, in order to preserve them, would very probably unite to punish any of their number who by flagrantly exceeding them might provoke a public opinion that would endanger them. [Applause.] Now, every attempt to pursue a rich man for any crime is at once proclaimed an assault upon wealth, and all the possessors of wealth combine to shield him so effectively that no man worth \$5,000,000 has ever been prosecuted to conviction, though as we have seen the guilt of many is not doubted or even denied. Nothing is ever gained by ignoring facts. Since a privileged class actually exists, there is but one of two courses open to us—we should either make the law conform to actual conditions, acknowledge the privileges, define them, and by defining confine them within definite limits, or else we should abolish the conditions which have allowed them to grow up in defiance of law. [Applause.]

The power to control the competitions of trade, to enrich some men by granting them low rates of transportation while high rates are exacted from others, is the main source of these dangerous privileges. This bill, which seeks to abolish rebates and favoritism, is at least a step in the direction of reestablishing equal rights and equal privileges for all citizens. [Applause.]

Now, what objections have been offered to this bill aside from the suggestion that the courts can of themselves accomplish the object at which it aims without any further legislation? I think it advisable to show, if I can, that these objections are unfounded and extravagant, because, judging from the generous applause which has greeted them, it is reasonable to assume that some gentlemen who are going to vote for the bill are opposed to it in their inmost souls. Of course, they have all with a single exception swallowed their convictions in silence. It has been reserved for one to swallow his convictions vociferously. [Laughter.] And here I congratulate gentlemen opposite who have had the courage to take the floor and frankly express views in opposition to the whole scope of the measure—views which are certainly unpopular, and which, therefore, could have been voiced for no other reason than loyalty to conscience. These gentlemen have given a splendid exhibition of political courage. They have done more; they have rendered a very great service to the country and to the House, for they have simplified decisively the issue in debate.

The gentleman from Massachusetts [Mr. McCall] and the gentleman from Pennsylvania [Mr. Sibley] both oppose the bill upon the ground, briefly stated, that it tends to Government rate making, and therefore to what is called public ownership. I believe both distinguished gentlemen will agree that I have stated correctly the main ground of their opposition. If I shared their views of this measure, I should certainly join them in opposing it. But this bill does not provide for Government rate making. If it becomes a law, there are but two conditions under which by any possibility Government rate making could be substituted for business rate making. Either all the rates exacted by all the railways in the country must be unjust (in which case the necessity for some scheme of regulation becomes not only pressing but imperative) or else every shipper in the country must be so dishonest that whether a rate be fair or unfair he would complain of it, and the commission must be so corrupt and so extravagant that it would sustain every complaint, whether well founded or ill founded.

There is nothing about a commission which makes it peculiarly liable to corruption. Whatever influences might affect it injuriously would be just as likely to affect any other department of Government. To argue that powers must not be con-

ferred upon a body or officer because they may be used corruptly would be to argue against the establishment of any Government agency whatever.

The force of this is clearly recognized by the gentleman from Maine [Mr. LITTLEFIELD] who has gone much further, and boldly plants his objection on grounds suggested rather than taken by the gentleman from Massachusetts and the gentleman from Pennsylvania. The gentleman from Maine tells us that he is opposed to this measure because the Interstate Commerce Commission might become dominated by populists, by socialists, by enemies of property, who, incapable of appreciating the rather delicately balanced rights of the community and the stockholders in railway enterprises, would pervert the powers conferred upon them to the oppression of all right and the injury of all property. But, surely, sir, if that objection have any weight, it is an argument against all government. Government must be administered by human agencies, and men always are liable to corruption. Courts have not been always upright. Courts have been guilty of corruption, of which this Interstate Commerce Commission has never even been suspected, according to the gentleman himself. Are we to abolish courts because judicial decisions have been sometimes bought and sold, and that by the most learned and accomplished judges? The President in the nature of things must be a man. Are we to abolish the Presidency because its powers may be perverted by some incumbent to an ignoble purpose? If the gentleman's argument be sound against the Interstate Commerce Commission, it is sound against every agency of Government.

Why, sir, it is the argument of anarchy itself. It is based upon precisely the same premises and is marked by the same nonsequitur. The anarchist argues that because all governmental powers may be abused, therefore they will be abused—because Government is a potential source, therefore it is an inevitable source of tyranny and demoralization. Sir, this argument of anarchy as we have heard it here is new in nothing except in the theater of its delivery. When we consider the place in which it has been put forth with such dialectical skill and rhetorical brilliancy, we can not help feeling that from this moment it must assume a new weight and force in the estimation of mankind. It has acquired the enormous advantage of having been delivered, not to a motley throng of long-haired enthusiasts by some nameless, hair-brained rhetorician in the back room of some obscure cafe, but by a conspicuous ornament of American citizenship on the floor of the American Congress to the sanest and most conservative legislative body in all Christendom. [Applause.]

While I do not think this argument of anarchy needs any refutation here, the fact remains that its author, as well as the gentleman from Pennsylvania and the gentleman from Massachusetts have made a contribution of great value to this discussion. They have made it clear beyond all doubt that in the administration of railways throughout this country grave evils have arisen. This much they all admit. But while they all admit and deplore the existence of these evils they seem to think there is no remedy for them. The gentleman from Massachusetts tells us he will go as far as anyone in attempting to punish rebates. But while his disposition and his capacity are inspiring, while he is willing of purpose, sound of wind, and vigorous of muscle, eager to go any distance in pursuit of this wrong, there is an insuperable difficulty in the way of utilizing for the public weal his eminent capacity and excellent disposition—we can not get him to start. [Laughter.]

Sir, if his contentions were sound; if it be true that, under our present system of transportation, Government is incapable of affording a remedy for oppressive exactions or unequal rates, then we must change the system. There is no other alternative. For the American people to remain helpless and submissive under injustice would be intolerable and inconceivable. [Applause.]

I know it has already occurred to some on this floor and to many throughout the country that public ownership, or rather public operation of railways, is the only adequate remedy against this form of oppression. And, here, sir, I deem it proper to say that I am not one of those who believe the operation of public utilities by Government is always and necessarily socialism. I entreat gentlemen to mark that word "necessarily." I say it is not necessarily socialism, because while the direct operation by Government of any enterprise essentially public is not necessarily socialistic, the grounds on which this policy is urged are nearly always distinctly socialistic. Bearing in mind that a railway is always a public function, whether it be administered by Government through its own officers, or by a private agency empowered and employed by Government for that purpose, it must be perfectly clear that what Government can empower an agent or corporation to do, Government can do

itself. Nay more, Government would be bound to perform the public service itself if a private agency could not be found to perform it. The only ground on which the employment of a private agency to administer a function essentially public can be justified at all is that the private agency can administer it better, that is to say, it can give better, cheaper, and more efficient service than the Government through its own officers.

I am opposed to public operation of railways for the very simple reason that in the nature of things it is not possible for governments to administer them as efficiently as they are administered now by private agencies—even though the service actually rendered to the people is far below the standard of efficiency to which they are entitled. The reasons for this belief are, in my judgment, conclusive, but the time now at my disposal will not permit a full statement of them. At this moment I can do no more than point out that there is not on record a single instance in which a public utility administered by Government has resulted in as good service as where it has been administered by private agencies. The post-office is often cited as a striking instance of efficient service by Government. What improvement in transportation or business methods has ever been developed by a post-office through its own operations? Where has a single invention or discovery been added to the resources of civilization by the administration of a postal system? The telegraph would seem to be a natural outcome of postal operations. It is a device for the transmission of intelligence, and as such it is considered in many countries to be so essentially a function of the mail that it is included in the postal service. Yet, was the telegraph a development of postal administration? Was it invented by anyone connected with some postal system? Was it not the invention of a man in private life, adopted by the post-office long after its value had been established by private enterprise? So true is this that a good postal service is distinguished from a bad one, not by the development of improvements in its own administration, but by greater promptness in accepting improvements developed under some private agency.

In many countries the railways are a feature of the public service administered by public officers.

When has any important device for improvement in travel been developed in the administration of a railway by government?

All improvements in travel, in transportation, in the transmission of intelligence, have been developed by private agencies authorized to operate public franchises by some government—most of them by this Government. The only reason, I repeat, why the operation of these public functions should be intrusted to private agencies is because they can operate them better, give cheaper, more efficient service than the Government through its own officers. If the control of transportation were transferred now from private agencies to public officers, the effect would be to impair its efficiency, and at the same time increase the cost of it. If this were understood by the people, proposals for public operation of railways would be robbed of all popularity. Nobody would be found advocating a policy of poorer service at higher rates. Why, then, are these proposals popular, or supposed to be? Because they are always accompanied by a promise or suggestion—a covert hint—that if the railways of the country be operated by Government the rates charged for transportation will be reduced, no matter what the service may actually cost. Now, if anybody be given a service for less than it cost, as we have already seen, the deficiency must be made up by excessive charges in other directions. Some men must be compelled to contribute from the fruits of their industry to the expenses of others, and that is socialistic, it is undemocratic, it is un-American, unjust, intolerable, among a people where equality is the universal aspiration and justice the universal passion. [Applause.] Thus it is that public ownership, while not essentially or necessarily socialistic, is always conveyed with a suggestion of socialism, and that suggestion is the sole source of its popularity. [Applause.]

If public operation of railways far from redressing the evils of which we complain would aggravate them, is there no remedy? Are we helpless before these wrongs—their perpetrators and beneficiaries? Must we submit to these discriminations and inequalities which have created a privileged class—which have corrupted our whole industrial system, so that finance, as I said here some weeks ago, has become synonymous with piracy in the minds of the people? [Applause.] No, Mr. Chairman, we are not helpless or even feeble. Redress—ample and complete redress—is within our power. This bill, in my judgment, affords an important measure of it. The gentleman from Massachusetts assigns as one of his reasons for opposing it that not one line of it specifically prohibits rebates. But, sir, a moment's reflection must satisfy the gentleman that if no single line of it expressly prohibits rebates, every line of it tends to make

rebates impossible. The most effective feature of the bill is the popular determination it embodies; the overwhelming—practically unanimous—popular determination that this evil shall stop, now that its magnitude is understood. [Applause.]

In practical operation I think its best feature is the publicity it provides. Where there is publicity there can not be crime or injustice. That is the distinctive feature of our Christian civilization. All other civilizations have more or less sanctioned crime, have been built more or less upon injustice. Christian civilization is based on absolute justice, and justice to be triumphant only needs the light of heaven. Under the benign influence of Christianity justice has become so universally the passion of civilized men that no open violation of it will be tolerated by the public conscience. Turn the light upon every transaction of government and no wrong will be suffered to exist, and therefore none will be attempted. It must always be remembered that the publicity which should be exacted from railways and corporations exercising public functions is very different from the publicity which should be exacted from corporations engaged in private industry. A corporation engaged, for instance, in making desks or cloth gets no privilege from the Government except the mere right to organize, and that right is a mere evolution, a growth, a development of the ordinary partnership.

The only publicity that such a corporation owes to the public is an honest statement of the property represented by the shares which it offers in the market. In other words, it should not be allowed to plunder the community through fraud or misrepresentation as to the nature of the enterprise in which owners of capital are invited to embark. In every other respect the corporation engaged in private business has a right to exclusive information about its own affairs. It should not be compelled to disclose any of the elements on which its prosperity has been built up, because to disclose them would be to imperil if not to lose them. The conditions under which it obtains its raw material or whence they come, the manner in which its industry is conducted, even the rates of wages paid to its employees—all these are subjects to knowledge of which it has an exclusive right. But a railway being a public function should have no secrets whatever. All its operations are for the public. Everyone should be informed of them that he may judge for himself whether the service afforded him is the best to which justice and reason entitle him.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ADAMSON. All of the time, Mr. Chairman, has been allotted by agreement, but I would ask the gentleman from Iowa [Mr. HEPBURN] if he can not grant to the gentleman some of the time at his disposal.

Mr. HEPBURN. I will yield the gentleman five minutes.

Mr. ADAMSON. And I will yield the gentleman five minutes also, making ten in all. [Applause.]

Mr. COCKRAN. I thank the gentlemen. I say that a railway, or any corporation exercising a public function, is not entitled to any secrets whatever. No good purpose can be served by secrecy in the administration of any public function, and secrecy is never desired except to conceal some scheme of corruption. [Applause.] If shippers can secure equal terms, I have no fear that the rates charged for service will be excessive. To secure equal terms for all it is only necessary that the rates charged to everyone shall be made public. With absolutely equal rates nothing but benefit can ensue from the operation of railways. Let publicity be complete and injury will be impossible while benefits will be innumerable. Even overcapitalization, that bugbear of modern discussion, will cease to be dangerous if everybody knows just on what capitalization is based. Conditions are conceivable where an increase of stock by a railway without any increase of tangible property would be a benefit rather than an injury to the public. Unfortunately, under actual conditions wherever such an increase has occurred it represented spoliation of the people.

If a corporation by cheapening transportation largely increased its revenues everybody would rejoice that such a service had proved a source of profit, and nobody would object to an increase of capital based on it.

If the Western Union Telegraph Company to-morrow should reduce its charges for telegrams to 10 cents a message of 15 words, and by that reduction its revenues were largely increased, obviously the value of its stock would be increased in like degree. There could be no objection to a corresponding increase of capitalization. It would be capitalizing a service, and I would rejoice if such a great public service increased the value of the capital one hundred millions of dollars. I would rejoice still more if the increase were two hundred millions of dollars. The larger the reward such a service reaped the greater encouragement there would be to still further reduction in the

cost of telegrams to the community. But if the company increased its capital and attempted to earn dividends on it by raising charges for telegrams, that would be an attempt to capitalize plunder, which should be resisted by all the powers which the people can exercise through legislative and administrative agencies. [Applause.]

This illustration, sir, I hope will make clear what I conceive to be the true principle governing in this respect the relations between corporations administering public franchises and the Government which charters them. It illustrates also, I hope, the attitude of those who stand with me in support of this bill.

We stand here, sir, not plotting against the prosperity of great industrial enterprises, but eagerly striving to stimulate their productive capacity by wise regulation. We are not hostile to railways, but anxious to develop all their beneficent elements for the good of this people and the growth of civilization.

Sir, whoever would oppose the growth of railways would confess himself opposed to progress, to prosperity, to the most important and salutary fruits of Christian civilization.

I have never ridden on a railway train and realized the thousands and tens of thousands of human hands that must contribute to its efficiency without a new appreciation of the splendid civilization which makes possible the voluntary cooperation of such vast numbers in mutual service. In an industrial system based on servitude railways would be impossible. The mighty engines so powerful in useful production when directed by the loyal hands of freemen would be capable of such devastation in the hands of discontented men that they could not be intrusted to slaves inflamed against masters who fettered their limbs and robbed them of the things produced by their labor.

Who that has rolled from a railway station in a comfortable car and cast a thought on the man keeping lonely vigil in the switch tower, on the watchful eyes inspecting every inch of track, the thousands of hands ready to repair the slightest defect which might imperil the safety of life or limb, the vigilance with which the roadway is kept clear, the honesty with which every man's baggage is guarded, the promptness with which it is surrendered to him at the end of the journey, the millions of men everywhere moved to useful activity by knowledge that the things which they create will be transported by other men to the market place, and the things which they need will be brought back to their very doors—who that has thought of all these can fail to realize that railways in successful, honest operation are the chorus—the full chorus—of that splendid hymn whose prelude was intoned at Bethlehem when the shepherds heard angels singing

On earth peace, good will toward men.

How can the growth of good will on earth be shown more strikingly than in the perfect confidence with which every one of us trusts his property, his life, the lives of his children to the loyalty of men whose faces he has never seen, whose names he will never hear, but who he knows stand at throttle of engine or on platform of passenger car ever ready to give their lives to save your life or mine? [Applause.]

A few years ago while on a journey to Scotland I woke up at daybreak in the limits of Carlisle—that "merrie Carlisle" so often sung in mediæval balladry—Carlisle whither captives in foray and border warfare were brought in triumph to be hung on the gallows tree while all the country side made festival and holiday—and as I looked from the window of my compartment, the train having stopped for a moment, I saw a man who embodied to me the whole march of progress for eighteen centuries. He could not be called an imposing figure, according to the canons of literary description; his face was grimy, his hands were black, as he stood by a switch, his eyes fastened on the train and the rails before him. Yet to me that man with blackened face was a sublime figure, the most imposing of all the landscape, for I knew he was not an enemy dogging my footsteps, to rob me, to beat me, capture me, or kill me, but he was a brother serving me faithfully, watching vigilantly over my safety while I slept [applause], and I felt that he typified the difference between the Carlisle of three centuries ago and the Carlisle of to-day—the difference between the civilization which we enjoy and that lower civilization from which humanity has risen through the wider operation of Christian influences. [Applause.]

There is one element which is the vital principle of Christianity and which must dominate every enterprise through which our civilization can be advanced or served, and it is justice—that justice which our Constitution was organized to establish; that justice which is always the aspiration of the American heart, and which if we are to have peace must always be the possession of every American citizen. [Applause.]

This bill, sir, aims at nothing but justice, to establish justice be-

tween a great public function and the people whom it is organized to serve. Its provisions can only become operative where injustice is attempted. It will remain a dead letter while justice is respected and obeyed. Those who are likely to be affected by its operation, and who doubt its policy, who distrust its provisions, who fear that the making of rates by any public body may lead to confusion—contention—and possibly to socialism, can obviate all the possibilities which they apprehend by simply doing justice. For my part I regard the practically unanimous passage of this bill as the most inspiring event since the war of secession, because it registers the inflexible determination of the American people that whether by the voluntary action of the railroads or by the intervention of Government, justice shall be enthroned in our railway system and in our whole industrial system as it is supposed to be enthroned in our political system; for it is only by extending and maintaining the dominion of justice wherever any function of Government is exercised that peace can be permanent in this land and prosperity general among its people. [Prolonged applause.]

Mr. HEPBURN. Mr. Chairman, if it would not interrupt the gentleman from Illinois [Mr. MANN], I yield to the gentleman from Alabama [Mr. WILEY].

Mr. WILEY of Alabama. Mr. Chairman, a year ago, when the Esch-Townsend bill (H. R. 18588), designed to confer enlarged powers upon the Interstate Commerce Commission to fix railroad rates and regulate trusts, was under consideration in this Chamber, I made a speech in favor of that measure, and voted for it on its passage. Quoting from that speech, I now find I used this language:

Sir William Wallace, of Scotland, declared:

"He strikes home when right points his sword."

The contest in which we are now engaged is the people's fight against monopolistic greed. Faith in a just cause and unceasing labor to attain a righteous end have never failed, in the long run, to accomplish desired results.

I tried at that time to make plain how a Republican oligarchy, so long entrusted with the control of Governmental affairs, have made themselves veritable Egyptian taskmasters and piled upon the bowed shoulders of the common people burdens too grievous to be borne. I endeavored to demonstrate how this long lease of power had been systematically abused and prostituted to baneful ends, enabling the few to amass fabulous riches at the expense of the many. I warned the country then, and I "sound the alarm" now, that this shameless orgy of spoliation, if unchecked, will result in national disaster and ruin. I cited instance after instance in both ancient and modern history to confirm this contention and to prove impending peril to any land "where wealth accumulates and men decay." I showed, certainly to my own satisfaction, the ominous conditions consequent upon the concentration of gigantic capital in certain of the great corporations of the country, wherever managed for their own selfish aggrandizement by a limited number of unscrupulous men holding the dangerous power conferred by ill-gotten riches.

I did not then, and do not now, condemn legitimate wealth, but rather, instead, the existence of those oppressive and iniquitous laws which have enabled favored classes to gather together in a few years fortunes of such unprecedented and menacing magnitude. In its Democracy, as taught by the fathers, that speech, I know, was sound to the core. I stand by it unwaveringly to this good hour, and abate nothing from the force and truth of the position then taken.

The bill we are now considering is in entire harmony with the provisions of the former bill. It is wiser and better. In the summing up of the situation it is more comprehensive. In its grasp of a vital issue, in which the masses, in contradistinction to the classes, are interested, it is more masterly and unassailable; and, verily, it is as manifest as the golden rays of the mid-day sun that the distressing cry of the people for deliverance from extortion, discrimination, and monopolistic greed has frightened the Republican leaders upon the floor of this House into the advocacy of a measure which only two years ago they were denouncing with bitterest invective as communistic and revolutionary.

A year ago I said then, and repeat now, in this Chamber:

The State, or county, or city, or community which secures the largest number of railroads will enjoy the fullest measure of the substantial blessings of life—a condition of well-being, commercial consequence, abundance, affluence, and earthly happiness; the tranquillity and contentment which peace and comfort bring.

Notwithstanding the many advantages which come to the people from well-conducted railway lines, some thoughtless persons have the idea that the description of the beast in the Bible is a peculiarly accurate definition of every railroad corporation: "Dreadful and terrible, and strong exceedingly; and it had great iron teeth: it devoured and brake in pieces, and stamped the residue with the feet of it."

James Mill, in his Essay on Government, says:

"The end of government is to increase to the utmost the pleasures

and to diminish to the utmost the pain which men derive from each other."

While this is true, the Justinian rule of conduct, "So use thine own as not to injure another," applies to artificial as well as natural persons.

Of railroads, Mr. Justice Caruthers said:

"The policy of our decisions has been, so far as consistent with the safety of life and property, to encourage and protect this most grand and useful improvement of the age. Every reasonable precaution must be used to avoid injury to others, at the peril of strict and ample accountability. They enjoy almost a monopoly in the business of common carriers, wherever they exist, both as to persons and property. A necessity to patronize them is imposed upon all by the circumstances of the time; all other modes of travel and transportation having been superseded by this, on account of its greater ease and astonishing speed. While, on one hand, the courts should protect them with a strong arm against unjust demands and injuries to their property rights, which popular prejudice may favor or afflict; on the other the security of life and property requires that they should be held to a strict and skillful performance of all the duties imposed on them by law."

But all right-thinking men, I take it, will agree that the duty and obligation above outlined, like all other human duties, have correlative rights and immunities.

A railroad has a dual existence. It is both a private and public corporation. It enjoys some of the attributes of sovereignty. It possesses the right of eminent domain. Upon the payment of just compensation to the owner it can take any man's property for its own uses and purposes, without his consent and against his protest. The law, therefore, wisely imposes, and ought to impose, upon common carriers of passengers and freights for "hire and reward"—an instrumentality so powerful for mischief as well as good—a large measure of responsibility in the performance of the important duties they have contracted to discharge to the general public by virtue of their corporate franchises; and I do not hesitate to declare that rebates, in all their protean shapes and forms, whatever the guise they wear, must cease. On this subject the public have "a fixed opinion."

The people will no longer tolerate the evil. Whenever a railroad company, no matter where it does business, is proven to be guilty of the pernicious habit of granting rebates, by which one customer or patron is given special rates and better facilities in his business transactions than some other customer or patron—an unjust, unlawful, and offensive discrimination, by which the one enjoys an advantage or obtains a profit at the expense or to the pecuniary injury of the other—it is my deliberate conviction that the franchise of that corporation ought to be forfeited, its privileges withdrawn, its corporate life destroyed, its tracks pulled up, and its properties sold at public outcry. It deserves and should receive the death penalty. It is an evil that once existed to an alarming extent in certain sections of the country—one of which the public complained grievously and where they had just cause to complain. It is "a thorn in the flesh."

The railroads themselves admit the wrong and are really anxious to have the nuisance abated; but while condemning in unmeasured terms this baneful practice, it is also true, and but fair to state, that many railway lines have ceased to give rebates in any form; but the bill under consideration, in my humble judgment, is inadequate to eradicate another and peculiar type of the rebate vice, the one more hurtful than all others to shipper, buyer, and consumer. The remedies proposed are merely partial. The overshadowing evil is the special terminals owned by individuals and the private car system. The measure we are now considering lacks the power to prevent the rebates afforded by these private facilities or to stop cut rates, or to regulate private cars and private car lines, or private terminals. When the Republican majority passed the Elkins bill, known as the "antirebate law," they expressly provided it should not apply to private cars or terminals, and it is manifest that the Interstate Commerce Commission will have no authority to prevent these private car owners from getting rebates unless we enact legislation here extending the jurisdiction of the Commission over them.

On this subject the President speaks in resounding tones. In his message he uses this language:

"Above all else we must strive to keep the highways of commerce open to all on equal terms, and to do this it is necessary to put a complete stop to all rebates. Whether the shipper or the railroad is to blame makes no difference: the rebate must be stopped, the abuse of the private car and private terminal-track and side-track systems must be stopped, and the legislation which declares it to be unlawful for any person or corporation to offer, grant, give, solicit, accept, or receive any rebate, concession, or discrimination in respect of the transportation of any property in interstate or foreign commerce whereby such property shall by any device whatever be transported at a less rate than that named in the tariffs published by the carrier, must be enforced."

The owners of these private cars possess an iniquitous advantage over all competitors. The evidence taken down in the hearings before the committee discloses that practically all private refrigerator car lines have been absorbed by the Armour Car Line Company. They charge the railways a fixed mileage under exclusive contracts—agreements not to use any other cars than the Armour brand. It is no wonder, then, that they enjoy a monopoly, not only in the shipment of dressed meats and packing-house products, but also in the transportation of fruits and vegetables and in handling poultry and eggs and the output of the dairy business. These private car companies make enormous profits, "without rhyme or reason," by moving their cars to meet the demands of trade and as business exigencies require from place to place—from the cold latitude, where apples, potatoes, and celery grow, in Michigan, southward, where the red cherries and berries ripen, in Virginia; thence to Georgia, where the peach and melon are produced in luxuriant profusion; thence to the truck-growing regions of Alabama, Florida, and Mississippi; thence westward to California and the golden shores of the Pacific, hauling every year fruits and vegetables from all these States, as well as large quantities of the best oranges on the round globe from Florida and California.

The evidences further show that these private car lines have advanced their charges three over within the past six years, say, from \$20 per car for a given distance to \$55 per car for the same distance.

There can be no doubt that this car trust is a great and growing evil, and some legislation should be speedily enacted to break down the monopoly.

The shipper has no alternative except to patronize the private car system. He is like the young Irishman who enlisted in the army. He said he was forced to volunteer. For instance, it is claimed, and not denied, that the beef trust shippers in Chicago and other great cities

get a much lower rate than the ordinary shipper who has to rely on railroad companies for the transportation of his goods.

It is an open secret that men like Rockefeller and Carnegie, by means of their side tracks and private terminal facilities, have been able to secure such low rates for the carriage of their stupendous volume of freights as not only to undersell all competitors, but to destroy all competition as well. As a consequence, they are ranked to-day amongst the richest men in the world.

The bill under consideration, I respectfully insist, does not even touch upon these gigantic evils, these twin monsters of vice, which figure so conspicuously in the transportation problem. Permit me, right here, to state that the Hearst bill contained provisions which did seek to restrain and regulate these mischievous violations of justice and right, but that measure, so far as it related to these propositions, does not appear to have received favorable consideration by the Committee on Interstate and Foreign Commerce. My criticism, therefore, is that we are now playing Hamlet with Hamlet left out of the play.

The owners of these private cars contend that they do not come within the provisions of the interstate-commerce act as it now exists. Any measure, I care not from what quarter it may emanate, which does not extend the authority of the Commission over these lines, as mediums of interstate commerce, so as to regulate their charges is lamentably inadequate.

There are numerous business concerns in all sections of the country, having several miles of private side tracks, switching privileges, and terminal facilities. I have not time to enumerate them. These accommodations, by whatever name called, enable the owners to secure special rates, which are but a subterfuge, device, or scheme to cover up and hide from the eyes of the public unjust rebates. They obtain a division of freight on all cars delivered to connecting roads by means of their private terminals, and receive compensation for services rendered which is unfair and excessive. These abuses can not be rectified until these terminal companies are placed under the control of the Interstate Commerce Commission. In their last report the Commission say:

"The terminal road is, in our judgment, one of the most dangerous means for the preferring of favored shippers at the present time, and we earnestly call the attention of Congress to this situation. * * * The important thing to which we call attention is the growth of these practices. Until recently it is our impression that they have been largely confined to a few instances. To-day they are extending in all directions, and unless checked must soon become general."

A crisis evidently is at hand. Great economic problems confront us. The Democratic party is the party of the masses, the Republican party is the party of the classes.

Talk to me, if you please, of a third party—of a people's party. The Democratic party is the people's party, and there can never be any other people's party so long as the people themselves love liberty and respect popular rights.

The Democratic party has not yet accomplished its mission, nor lost its power to do good.

The bill now under consideration does embrace within its provisions, and seeks to regulate them, the private-car and side-track evils, and in that respect, if in none other, it is a far better measure, more remedial and beneficial, than the Esch-Townsend bill, which passed the House twelve months ago, just in time to receive its deathblow in the Senate.

But the people are concerned about other matters beside the railroad-rate question and the regulation of commerce between the States and Territories. Their solicitude takes a wider range. It goes out to the family altar, the roofter, the fireside. It is the domestic hearthstone that throws around us its benign, Christian, and cheering influence. However humble, it is alike a shrine of our affections—a school of our hearts.

It is the duty of Congress, therefore, to safeguard that most hallowed of all earthly habitudes—the American home—which should be a place of peace, a shelter from doubt, an abode of love, watched over by household gods upon whose altars burn the incense of heaven; a hive "where all beautiful feelings cluster like bees and their honey dew bring;" a temple of holy revelations; not merely four square walls, "though hung with pictures and gilded," but a domicile in which our attachments have sway and "where the heart has bulged." The hand of this powerful Government ought not to lift the door latch to admit within the sacred precincts of the home, where wife, mother, and loved ones abide, the distilled damnation poured out from the dramshops of contraband liquor traders. I take advantage of this occasion, while this body is in Committee of the Whole House on the state of the Union, to invite attention to the lamentable fact that, for the sake of filthy lucre alone, unredeemed by a single palliating circumstance, Congress has become the aider and abettor of crime by authorizing the Treasury Department of the Government to grant legal permits to persons to engage in the liquor traffic in communities where such business is prohibited by local laws.

To cure this evil, I introduced at this session the following bill:

A bill to prevent the United States from issuing a license to any person to sell spirituous, vinous, or malt liquors or other intoxicating beverages in any community where the sale thereof is prohibited by State or local laws.

Be it enacted, etc., That from and after the passage of this act it shall be unlawful for any official or governmental employee in the Revenue Service of the United States or in any other department of the Government to issue a license, give a tax receipt, or grant a legal permit to any person, firm, or corporation authorizing the sale or other disposition of any spiritous, vinous, or malt liquors or other intoxicating beverages in any community under the jurisdiction of the United States when even and wherever the sale or other disposition thereof is prohibited

by State or local laws, and any such license, if issued, shall be a nullity and afford no shield or protection to the holder thereof.

Sec. 2. That any person violating the provisions of this law shall be guilty of a misdemeanor and upon conviction shall be fined a sum in double the amount of the license so issued.

Sec. 3. That all laws and parts of laws in conflict herewith be, and the same are hereby, repealed.

Some other bills have been offered having the same beneficial aim in view.

Now, indulge me, please, for a little while to say a few words in advocacy of this bill. I am not wedded to any special measure, but unquestionably some legislation to suppress the evil herein complained of is imperatively demanded.

The newspaper editorials, memorials from temperance organizations, resolutions from religious bodies, letters from prominent and influential gentlemen, now on file with the Committee on Ways and Means, earnestly indorsing this bill, which I had the honor to introduce at an early day of the present session, speak more eloquently than I am able to do in favor of the proposed legislation, and give better reasons than I can assign why this much-needed relief should not be withheld.

The granting of a legal permit to sell intoxicating liquors either by Federal or State government is not a vested or contract right, but a mere privilege, which can be taken away or revoked by the sovereign power at its own pleasure or discretion at any time, even after a license has been issued to the vendor; and that, too, when a cash consideration has been paid by him under a valid legislative enactment expressly authorizing a sale thereof by him upon his paying for and taking out a license to carry on such business.

The supreme court of my State—Alabama—in the case of *Powell v. The State* (69 Ala., p. 10), held several years ago that when the defendant had paid a price and obtained a license to sell spirituous, vinous, or malt liquors and other intoxicating beverages in the county of Lowndes under a statute then in force authorizing such sale, and subsequently the legislature repealed the law without providing for any refund of the tax, he was not entitled to recover back the license money so paid by him; nor was he any longer legally warranted in carrying on the business of a retail liquor dealer under such statute or license. Under these circumstances, and upon this state of facts, our highest judicial tribunal affirmed a judgment of conviction rendered against the defendant in the lower court.

In reaching this conclusion the State supreme court decided, of course, that there was no such contractual relations existing between the defendant Powell and the State of Alabama as would make that provision of our Constitution against impairing the obligations of a contract operative or applicable, and that the State in granting authority to Powell to sell liquors in Lowndes County had not entered into a binding contract with him nor conferred any vested right upon him, but had merely issued to him a permit or license, revocable at the option of the legislative department of the Commonwealth. But as I have the volume before me containing this decision just referred to supra, it is, perhaps, better that I take the facts and read the text of the court's opinion directly from the book itself.

Briefly stated, the facts of that case were substantially as follows: At the spring term, 1881, of the circuit court of Lowndes County, in the State of Alabama, the grand jury returned an indictment against the defendant, charging in one count that he "did sell vinous or spirituous liquors without a license and contrary to law," and, in another count, that he "did sell, give away, or otherwise dispose of vinous, spirituous or malt liquors or intoxicating bitters or beverages within 5 miles of Rehoboth Church, in Crenshaw County." The evidence introduced on the trial showed that Powell, shortly before the indictment was preferred, had sold a pint of whisky, at his store, to a certain purchaser within 3 miles of said church, which was located, not in Lowndes County, where the defendant lived, but in the adjoining county of Crenshaw; that he had previously duly applied for and obtained a license as a retailer under the general law, which at that time was in full force, and that the amount he paid therefor had never been refunded to him.

This being all the evidence, the trial court refused, at defendant's written request, to charge the jury that if they believed the evidence they must find him not guilty; but, on the contrary, the presiding judge instructed them to find him guilty. Thereupon the jury returned a verdict of guilty, and from that judgment of conviction the defendant appealed to the Supreme Court. The judgment of the circuit court was affirmed.

It will be observed that the indictment charged the defendant with the violation of a local law, within 5 miles of a designated church, in a county other than that in which he then resided, and as being contrary to the provisions of a special statute, only

recently enacted, prohibiting the sale of spirituous liquors within a radius of 5 miles of said church.

On appeal the constitutionality of the act was assailed, but upheld. The language employed by the court is, in part, as follows:

It is immaterial that the defendant had obtained a license to engage in the liquor traffic, and was doing business under it at the time of the passage of the act under consideration. Such a license was a mere permit, revocable at the option of the State. It was in no sense a contract between the licensee and the State within the meaning of the Federal Constitution, which prohibits the States from passing any law impairing the obligations of contracts, or within the meaning of a similar clause in our own constitution. It is settled by the vast weight of authority that such licenses can be revoked by the legislative department at pleasure. (Citing Cooley's Constitutional Limitations, 282-283; *Fell v. The State*, 20 American Reports, 83; *Boyd v. Alabama*, 94 U. S. Reports, 645, and authorities there cited.)

I did not intend to address the House along this line, and would not have thought to do so now but for the suggestion, which I understand was made before the Ways and Means Committee, to the effect that if the United States Government should refuse, even under an inhibitory law of Congress, to give a permit to a particular person to sell liquors in a community in which such sale is prohibited by law, then, in that event, such person could not be convicted whenever tried in a Federal court, for the reason that he, having applied to the proper department of the Government for a license and not having obtained it, would be authorized by natural right to proceed to do business without it—or words in substance to that effect—and that, under this condition of affairs, publicity was the only avenue of hope left open to us. Surely this position, in my judgment, is untenable—an entire misconception of the law as applicable to this class of cases—certainly so far as I understand it.

Now, I desire to emphasize the declaration that upon no principle of justice, equity, or fair dealing can this great Republic be justified in granting a legal permit, for a moneyed consideration, to any person, no matter who he may be, whether of high or low degree, to violate a State law in any community throughout the broad limits of this country, I care not where that locality may be, in which prohibition prevails. It is an invasion of the domain of State sovereignty; and to do so, in plain English, is to encourage and sanction ab initio the infraction of State statutes by vicious men, whose brazen-faced effrontery stalks forth for public imitation in defiance of law—men who are afraid to face the constituted power of the Federal Government as displayed by Federal courts, because, forsooth, they feel sure of conviction by Federal juries drawn outside the vicinage where the offense was committed, selected from neighborhoods far away from corrupting local influences and environments. These "dead falls" and "blind tigers," operated as they are in violation of State laws, carried on clandestinely in places where police protection can not be afforded, patronized and supported by ignorant and venal men, for the most part by the worst element of a negro population, so far as my State is concerned, are utterly demoralizing as well as destructive of the repose and well-being of society and are productive of numerous and heinous crimes.

These dens of iniquity are veritable hotbeds of vice and all licentiousness. They lead to untold evils, such as murder, arson, rapine, and robbery, and entail upon rural communities every earthly ill and human woe. The people will not be slow to condemn any political party that forms a league with criminals; that enters into a partnership with lawbreakers.

In this connection I ask the reading of an article from the *Alabama Christian Advocate*, which I now send to the Clerk's desk. It reflects the sentiments of the law-abiding citizenship of the country.

The Clerk read as follows:

[From *Alabama Christian Advocate*.]
SOME NEEDED LEGISLATION.

Hon. A. A. WILEY, Representative from the Second district of Alabama, has introduced a bill in Congress that should speedily become a law. The purpose of the bill is to prevent the issuance of Federal liquor license in territory where the State law prohibits the sale of liquor. Such a law will go far toward destroying the blind-tiger evil, and from the standpoint of justice alone our people should have the relief and protection which this law will give. The United States Government, through its internal-revenue department, will issue a liquor license in any territory without regard to State or county prohibition laws. More than that, the State law making the holding of a Government license for the sale of intoxicating liquors *prima facie* evidence that the person was engaged in the sale thereof, has been practically nullified by a ruling of the Treasury Department that a State court had no power to compel a collector of internal revenue to come into court and bring his books and give evidence as to the license issued by him. Is it not time that our General Government cease this business of licensing crime? We have been very zealous for our State's rights, and justly so, we think; and yet we have long submitted to this injustice.

It is true our county officials should be more vigilant and do more toward destroying blind tigers, but in some instances they are indifferent, and again when they would make the attempt to bring the

criminals to justice there are influences that make their efforts fruitless in many instances.

No fair-minded man can object to Mr. WILEY'S bill. Every man interested, not merely in prohibition, but in the enforcement of law, must indorse it as fair and just.

Mr. WILEY of Alabama. I have not exaggerated any of the facts, but have stated the naked truth. For these reasons, there is an overwhelming sentiment amongst the people I have the honor to represent in Congress behind this or any other similar bill which will have even a remote tendency to bring them freedom from the baneful consequences flowing from conditions existing in several localities, not only in my Congressional district, but throughout the entire land. "Every inordinate cup is unblessed, and the ingredient is a devil."

Let us do our duty fearlessly and honestly. Obligations confront us. If we fail to meet them bravely and patriotically, misfortune will overwhelm us and calamity will follow in our train.

In the words of the immortal Shakespeare—

Oh, that men should put an enemy into their mouths to steal away their brains, and that we should with joy, revel, pleasure, and applause transform ourselves into beasts.

[Applause.]

Mr. MANN. Mr. Chairman, I can not hope to equal in eloquence the gentleman from New York [Mr. COCKRAN] who has just preceded me or the leader of the minority in the House, the gentleman from Mississippi [Mr. WILLIAMS] who will follow me, but I beg your indulgence while calling attention to the magnitude of the interests which we seek to interfere with, the evils which the country now suffers from, and the method of relief offered by the pending measure introduced by the distinguished statesman and patriot, the gentleman from Iowa [Mr. HEPBURN], whose courage and whose persistence have succeeded in bringing the bill before the House with the unanimous support of our committee. In future history it will be noted as a remarkable occurrence, that in giving consideration to this great political and economic question the twelve Republicans and six Democrats of that committee have put aside the spirit of partisanship, have kept down mere individual judgment, and in the effort to accomplish a great result have unanimously directed their attack to the main point in controversy and have presented to this House a bill which includes the individual opinion of no member, but the best judgment of all the membership of that great committee.

THE RAILWAY INTERESTS.

The railroads can not be crippled without directly injuring the transportation service which they render. They can not be injured without affecting the financial condition of the country, and an injury to the general financial condition is felt by all branches of industry. The railway interests are so enormous and have so many persons employed that they are entitled to receive the most careful consideration before any legislative action is taken which might prove detrimental to them. The 216,000 miles of direct line of road, the 300,000 miles of trackage, the 1,300,000 employees, the gross earnings of \$2,100,000,000, the freight-service charges of \$1,500,000,000, the operating expenses of nearly \$1,400,000,000 represent an industry of such vast proportions and so interwoven and connected with the success or failure of every other industry and so interdependent upon the growth and prosperity of each and every locality that it is not to be lightly dealt with or treated with malice or handled with hysterics.

Over 70 per cent of the railway stocks of this country paid no dividends in the year 1897, which was an ordinary year. Over 42 per cent, or \$2,696,000,000, of railway stocks paid no dividends in 1904, which was a fat year. A business which increased its gross earnings from a little over \$1,200,000,000 in 1898 to nearly \$2,000,000,000 in 1904 and \$2,100,000,000 in 1905, which increased the amount paid to railway employees from \$495,000,000 in 1898 to \$817,000,000 in 1904, which increased the average cost of running a train 1 mile from 95 cents in 1898 to \$1.31 in 1904, while the average revenue for 1 ton of freight carried 1 mile only increased from 0.754 of 1 cent in 1898 to 0.780 of 1 cent in 1904, which carried, in 1904, 1,309,000,000 tons of freight, including that received from other carriers, and received therefor \$1,379,000,000, or about \$1 a ton, is not to be treated as a public enemy.

It is easy to see that the fixing of railway traffic rates is a work involving tremendous difficulties, which can only be illustrated and which can not be defined or comprehended. Let me give you an illustration: Persons employed by the railroads may be engaged in connection with the actual transportation of freight or passengers, or the maintenance of right of way and structures, or the maintenance of equipment, or in general administration. The final object of the road is the actual transportation, so that everything in the way of ex-

penses, except actual transportation, is in its nature preparatory for actual transportation itself. The cost of actual transportation on two roads might be about the same, but the cost of preparation might be very different. For instance: In the New England States there are two railroad employees engaged in actual transportation for every one employee engaged in maintenance of right of way and equipment, while on the Pacific coast two persons are engaged in maintenance for every one person engaged in actual transportation. It is often necessary for a road to carry freight at rates which but little more than pay the cost of the actual transportation, for without such carriage the actual cost of other freight transported might be considerably increased. It is often necessary for roads to carry freight at rates which in addition to paying the actual cost of transportation contribute something more than the cost of mere wear and tear of equipment and right of way, but which do not contribute anything toward fixed charges or dividends.

The successful railway manager must in some way secure business enough for his road at such rates as in their totality will pay not only the cost of actual transportation, but will also pay the cost of maintenance of way and structures, cost of maintenance of equipment, cost of general administration, taxes, interest on bonds, and other fixed charges, and still show some profit on the balance sheet, or else his road goes into bankruptcy and he goes into oblivion. That all freight can not be charged for on the same basis is self-evident to every one. White diamonds and black diamonds must have different rates. Rates must be adjusted in such a way as to be fair to the capital invested in the road and also fair to the persons using the road for the accommodation of their business. This is not easy to do.

In the group of States including New York, Pennsylvania, New Jersey, Delaware, and Maryland there is a railroad stock issue of \$1,364,000,000, and the railways reported for the fiscal year 1904 (the last report published) the carriage of 414,000,000 tons of freight; while on the Pacific coast there was a stock issue of \$759,000,000 and only 42,000,000 tons of freight carried.

In this same group of New York and Pennsylvania the mileage of loaded freight cars going north and east was 985,000,000; going south or west, 572,000,000; while the mileage of empty freight cars going north and east was 221,000,000 and going south and west 627,000,000; and of the total mileage of freight cars in the last reported year, out of a total of 14,353,000,000 miles traveled by the cars, 31 per cent, or four and a half billions, was mileage of empty freight cars. The difficulty in the way of fixing rates includes the consideration of the loaded car, the movement of the loaded train, and the movement of the empty train, the trend of the loaded cars, and the trend of the empty cars. If the cars are moved loaded to a point, they must either be returned loaded or empty eventually to the starting point or to some other starting point. And the difficulty in the way of understanding rate making is largely comprehended in the fact that the railway manager must at all times consider that having moved a car with a load in it he must either move the car back empty or find another load at some rate which will more than pay the expenses added to it by carrying its load.

I think it might be proper to give a few of the figures with reference to the railways. The railway stocks amount to \$6,359,000,000, the funded debt to \$6,873,000,000, making an aggregate capitalization of \$13,231,000,000. About 20 per cent is owned by the railways themselves. The average capitalization is \$64,000 per mile, to which should be added \$4,200 per mile on account of current liabilities. The railway capitalization of this country, with 216,000 miles, is a little over \$13,000,000,000. The railway capitalization in Great Britain and the European continent, with 149,000 miles, is over \$18,000,000,000. So that the total capitalization of our roads is not excessive; but we ought to understand, also, that the amount of stock and bonds is not, after all, a fair criterion of the amount of value of the roads.

The total number of persons employed on the roads for the year 1904, was 1,296,000, or 611 to each 100 miles, and of these there were engaged in actual transportation 566,000 persons; engaged in the maintenance of equipment, 261,000; engaged in the maintenance of way and structures, 415,000; in general administration, 48,000.

The total number of freight cars in the country, excluding all private cars, for which no report is received, was 1,692,000, and of these there were 310,000 20-ton cars. The 20-ton car was the car a few years ago. Now the 30-ton car is the principal car, and of these there are 707,000. But there are 260,000 40-ton cars, 107,000 50-ton cars; then there are some cars up to 75 tons.

While the cars have been increasing in capacity, the loco-

tives have likewise; and if it were not for the fact that there have been increased economies in railway transportation the rates could not be so low as they now are. One of the needs of the future will be to increase still further the economies in transportation.

These figures show that in dealing with this subject it is necessary for Congress not to deal unjustly with the railroads. We can not afford to take the position that we will deprive the investors in the capital of the railways of a fair return upon their investment.

In the year 1904 there were \$2,696,000,000 of stocks which paid no dividends; there were \$78,000,000 more which paid not to exceed 2 per cent; there were \$112,000,000 more which paid not to exceed 3 per cent; there were \$178,000,000 more which paid not to exceed 4 per cent; there were \$928,000,000 more which paid not to exceed 5 per cent. So that the total payment of dividends on the aggregate capitalization of the railroads was about 3 per cent, and of the total \$2,000,000,000 of gross receipts less than 10 per cent of it, or \$183,754,236, found its way eventually into the pockets of the owners of the stock.

Another illustration of the difficulties between different localities of the country in the fixing of the rate may be seen in the case of the group of roads lying east of Illinois and west of Pennsylvania, as compared with the group of States lying west of Indiana and east of the Missouri River.

In the Indiana and Ohio group the railways paid \$124,000,000 to the employees and carried 292,000,000 tons of freight, while in the Illinois and Iowa group there was an expenditure of \$152,000,000 to employees and they carried only 225,000,000 tons of freight. The expenditure to employees in the Indiana and Ohio group was \$28,000,000 less than in the Illinois and Iowa group and the number of tons of freight carried was over 60,000,000 more.

These facts illustrate how difficult it is to make comparisons of freight rates, how difficult it is to determine what shall be the rate at this point and what shall be the rate in that locality, and yet, Mr. Chairman, I am as firmly convinced as one can be of the necessity of the passage of a bill like this. It is with me a belief that it is absolutely necessary, both for the interests of the shippers and the interests of the railway, that there shall be placed between them a disinterested body which shall decide conflicting questions which may arise. [Applause.]

Mr. STERLING rose.

Mr. MANN. I will yield to the gentleman.

Mr. STERLING. The gentleman gave the per cent of dividends on the stock; has he the figures of the percentage of dividends on the actual value of the railroad property?

Mr. MANN. Mr. Chairman, nobody knows what the actual value of the railroad property is. As I said, the amount of capital stock is no fair criterion. Much of the capital stock of the road is not intended to ever pay dividends; much of the capital stock of the road was issued and is held solely to control the ownership of the road and for use in stock gambling. Much of the stock of the roads is far less than the actual value of the road.

Mr. SMITH of Kentucky. The gentleman mentioned that about 20 per cent of the capitalization of the railroads was owned by the railroads themselves. I desire to know whether he means that it is owned by the roads in their corporate capacity or by the managers and directors individually?

Mr. MANN. Owned by the railroads in their corporate capacity. The railroads own in their corporate capacity \$1,942,000,000 of stock of other railroads, and they also own \$558,000,000 of bonds of other railroads.

RATE REGULATION NEEDED.

Now, Mr. Chairman, without any intention to in any way deal with this question from the standpoint of passion or hysterics, with no idea on the part of this Congress or any desire on the part of the people to interfere in the slightest degree with all the labor and action necessary for the proper equipment and management of railways, let us see what it is that we propose to do in this case. And, first, I will trespass upon your time to the extent of calling attention to what the President stated in his message, not merely because the President stated it, but because his statement is as good a statement of the case in a few words as has ever been made. In his message of a year ago the President said:

While I am of the opinion that at present it would be undesirable, if it were not impracticable, finally to clothe the Commission with general authority to fix railroad rates, I do believe that, as a fair security to shippers, the Commission should be vested with the power, where a given rate has been challenged and after full hearing found to be unreasonable, to decide, subject to judicial review, what shall be a reasonable rate to take its place; the ruling of the Commission to take effect immediately, and to obtain unless and until it is reversed by the court of review.

And in his recent message he said:

In my judgment the most important provision which such law should contain is that conferring upon some competent administrative body the power to decide, upon the case being brought before it, whether a given rate prescribed by a railroad is reasonable and just, and if it is found to be unreasonable and unjust, then, after full investigation of the complaint, to prescribe the limit of rate beyond which it shall not be lawful to go—the maximum reasonable rate, as it is commonly called—this decision to go into effect within a reasonable time and to obtain from thence onward, subject to review by the courts.

It is not improper for me to call the attention of the House to the fact that in the first report which I submitted to this House from the Committee on Interstate and Foreign Commerce, which was a minority report filed in the House January 24, 1898, I stated that in my opinion Congress "is also called upon to enact legislation which will authorize the Interstate Commerce Commission or some other national authority to prevent excessive or unreasonable rates and to decide what are reasonable, fair, and compensatory rates, both as to passenger and freight traffic." I have remained of that opinion ever since.

It will be noticed that in the President's first message he recommended that power be given the Commission to fix absolute rates, although he did not use the term "absolute rates." In his second message he suggested the power to fix maximum rates.

PROVISIONS OF THE BILL.

Now, you wish to know what we have attempted to do through the Hepburn bill. Let me briefly enumerate the main propositions of this measure. What does the bill do?

(a) Enlarges definition of the common carriers covered by putting under the provisions of the act all railroads transporting passengers or property from one State to another, without regard to whether they are used for such transportation under a common control or arrangement or for continuous shipment, thus permitting the establishment by the Interstate Commerce Commission of compulsory through routes for shipment where the companies have failed to establish such through routes, and the authority to do this is expressly conferred upon the Commission.

(b) Enlarges the definitions of the terms "railroad" and "transportation" by expressly including under the one all terminal facilities and under the other services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported when such services are not exempt from the provisions of the act as stated therein.

(c) Provides that the schedules of tariffs shall state separately icing charges and other charges which the Commission may require.

(d) Provides for thirty days' public notice before change of tariff schedules can be made, instead of ten days for increase and three days for reduction now required.

(e) Empowers the Commission, when finding any existing rates unreasonable, etc., to prescribe the reasonable maximum rates for the future; which rates shall go into effect after thirty days' notice, and remain in effect during the term of three years' observance.

(f) Empowers the Commission to prescribe what regulations or practices in respect to transportation are just, fair, and reasonable, and requires their observance.

(g) Authorizes the Commission to apportion the division of through rates and the terms and conditions under which through routes shall be operated.

(h) Provides that the allowance made by the carrier to the owner of the property transported for service, private cars, etc., furnished by him, shall be no more than is just and reasonable, and the Commission may determine the maximum charge to be allowed.

(i) Provides a forfeiture of \$5,000 against any carrier, or officer or agent thereof, failing to obey an order prescribing the maximum rates or prescribing regulations or practices observed, and makes every distinct violation a separate offense.

(j) Requires the United States courts to enforce the orders of the Commission, when it appears that the order was regularly made and served, by injunction or other mandatory process.

(k) Provides for the keeping of uniform books of account and memoranda, partly to aid in the gathering and compilation of statistical information and partly to prevent the payment of secret rebates or other preferences.

THROUGH ROUTES.

You may ask what is the purpose of enlarging the definition of common carriers in such a manner as to permit the Interstate Commerce Commission to establish through routes and through rates. Let me give just one illustration. The Standard Oil crowd are great owners of railroad stocks. They are interested not only in the stock of the Standard Oil Company, but they are interested in and owners of great masses of railroad stocks.

They have their influential men upon the boards of directors of many railroad companies. They own pipe lines of their own. These pipe lines are not common carriers. The oil which they transport is transported through their pipe lines. Competitors of the Standard Oil Company usually do not own a pipe line. Take, for instance, a case where oil is to be transported from the interior to the Atlantic seaboard. The Standard Oil Company owns a pipe line. Their competitors do not own pipe lines. The Standard Oil Company hence does not care for the establishment of through routes and through rates on the shipment of oil. Their competitors have frequently found that they could not obtain a through rate, but were compelled to pay the sum of the local rates of the different roads over which the oil must be shipped in order to pass from the interior point to the seaboard.

By this bill we propose that the Interstate Commerce Commission shall have the power, if no through rate now exists on oil from Cleveland to Boston, to establish a through route, and to fix the through rate, and to divide that rate among the roads which constitute the through route. Under the terms of the present interstate-commerce law, the two roads connecting with each other are not covered under the act for the purpose of a through route, unless they make a through bill of lading; but under the terms of the pending bill, if two carriers are otherwise engaged in interstate commerce, and hence come under the terms of the law, they can not lawfully refuse to give a through bill of lading and make a through rate and a through route, and, if they do, the shipper who is injured may appeal to the Interstate Commerce Commission and secure relief.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman yield?

Mr. MANN. Certainly.

Mr. MURDOCK. In the proviso at the end of that section providing for the establishment of a through route, taking the language "if no satisfactory route exists," does the word "satisfactory" there go to the rate—satisfactory and reasonable?

Mr. MANN. If a satisfactory route exists, there is no occasion to require the establishment of the new route. It does not go to the question of the rate, because the Commission already has the power under other provisions of the bill to make that rate on the already established route reasonable if it be not reasonable. In addition to the power to establish through routes we enlarge the term "railroad" and the term "transportation" for the purpose of including all of the facilities of transportation.

Mr. DRISCOLL. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. MANN. Certainly.

Mr. DRISCOLL. The gentleman has studied this question so very carefully and is so able a lawyer that I will ask him whether or not the bill will permit companies to grant free passage or transportation to passengers.

Mr. MANN. Mr. Chairman, the original interstate-commerce law, and in that respect this bill does not interfere with it, probably prohibits the granting of free transportation.

Mr. DRISCOLL. Will this permit cut rates or half-price tickets, according to the judgment of the gentleman?

Mr. MANN. This bill does not interfere in any way with that question. There is a section in the law as it now exists upon the statute books authorizing the granting of excursion rates, authorizing the granting of mileage tickets and such things as that, but not providing for "cut rates," so called, except in that way. That is not interfered with by this bill.

REASONABLE MAXIMUM RATES.

The principal provision in this bill is giving the Commission power to prescribe reasonable maximum rates for the future. The distinguished gentleman from Texas [Mr. RUSSELL], who so ably instructed and entertained the House a few nights ago, criticised the President and marred his speech by his unjust criticism that the President had used the term "reasonable maximum rates" with an innuendo—with the intention to accomplish something besides the fixing of a reasonable rate which should be the maximum.

Why, Mr. Chairman, the term "reasonable maximum rates," which seems new to my Democratic friends in the House, was in the first law passed on the subject. Illinois was a pioneer in this legislation, and in the original act in that State the power was given to the railroad and warehouse commission to fix "reasonable maximum rates," and that was given by the Iowa law and by the laws of other States. It is a term as well known as any ordinary term in legislative acts, but when the distinguished Members of the minority side of the House not familiar with these acts of some of the Northern States raised the question we promptly changed the wording; but the Presi-

dent of the United States used the language with fair intent to accomplish the purpose which we seek to accomplish in this bill.

The gentleman from Texas [Mr. RUSSELL], who is a new and valued addition to our committee, stated in his speech that none of the bills introduced in Congress provided for a maximum rate. Mr. Chairman, in the bill which I introduced on the 24th or last February it was provided that the rate of freight, etc., "found by the Commission to be reasonable and just shall be the maximum charge or rate of freight demanded," etc. The distinction between the power to fix an absolute rate and the power to fix a maximum rate is one of vital interest and importance. The power to fix generally absolute rates is the power to destroy competitive forces, to paralyze industries, to injure railroads, to interfere with all of the principles and methods of modern business life; while the power to fix a maximum rate is a power which has been exercised and construed in many of the States and which does not prevent the continuance of those competitive forces so essential to the preservation of a proper distribution of railway traffic and so vital to the prosperity both of railroads and to shippers.

Mr. Chairman, the language of section 15 of the interstate-commerce act, as proposed to be amended by this bill, is carefully prepared. Under the interstate-commerce act it was construed by the Interstate Commerce Commission they had the power to fix a great many rates in one case. The Maximum Rate case has been referred to here, where the Commission attempted to fix all rates of the six classes of freight for the entire country south of the Ohio and east of the Mississippi River in one order.

What do we propose to do here? We do not give to the Interstate Commerce Commission the power to fix rates. We say by legislative act what the rate shall be. The Legislature defines what the rate shall be. The rate shall be just, reasonable, and fairly remunerative. That is a legislative declaration as to the rate just as much as though we said the rate shall be 50 cents a hundred pounds. We make the declaration ourselves, we do not confer upon the Interstate Commerce Commission any legislative authority or any judicial authority. We say as a matter of legislative act that the rate shall be just, that the rate shall be reasonable, that the rate shall be fairly remunerative, and then we leave to the Commission the administrative power to determine what in each particular case is the just, reasonable, and fairly remunerative rate. We do not confer upon the Commission the power to put these rates into force in the future. That is a legislative act. We authorize the Commission to find what the reasonable, just, and fairly remunerative rates are and then we say by the act that this order of theirs shall go into effect; so that the Legislature finds what the rates shall be and puts those rates into force; and all the Commission is given power to do is the administrative act of making the computation, as it were, ascertaining the facts in a particular case as to whether the rates are complying with the provisions of law which we make, and if they are not, then we put new rates into force by our act.

Mr. MACON. Mr. Chairman, will the gentleman yield for a question?

Mr. MANN. I yield to the gentleman.

Mr. MACON. I am very sincere in the belief that there is not a more conscientious legislator in this body than the gentleman from Illinois [applause], and for that reason I ask him the direct question if he does not think that the line between a close together he can hardly tell where one begins and the other ends? Now, I understand that a maximum reasonable rate is right up to the top of reasonable rates, and the moment you go beyond that in the very slightest degree you then strike an extortionate rate. Now, if the Commission was only allowed to substitute a maximum reasonable for an unreasonable rate, would it be allowed to substitute a rate that would be fairly remunerative to the shippers, producers, and consumers as well as to the railroads?

Mr. MANN. Mr. Chairman, I am always delighted to have a conversation with my very distinguished and able friend from Arkansas, and I would be very glad to answer the question if it were involved in the case. I only referred to it before because I thought the gentleman from Texas had done a grave injustice to the President. It is not involved in the bill which we now have before us and the question could not be answered in a sentence or two.

Mr. MURDOCK. Mr. Chairman—

The CHAIRMAN. Does the gentleman from Illinois yield?

Mr. MANN. I yield.

Mr. MURDOCK. Can you conceive of a rate that would be just and reasonable and at the same time not fairly remunerative?

Mr. MANN. I do not think they mean the same. "Unjust" applies to discriminations, "unreasonable" to value of service or amount. "Fairly remunerative" means that there shall be remuneration for the service rendered which shall be fair to the railroad and to the shipper in that particular case. What may be fairly remunerative in one case might be confiscatory if applied to another case, and what may be fairly remunerative for one commodity under particular circumstances may mean ruin to the company or the shipper if applied in the same ratio to all of the business. A large share of the freight charges to-day are so low they contribute little or nothing toward the fixed charges of the road, and yet it is profitable for the railroads to carry such freight at these fairly remunerative rates. Any scheme of rate making which did not authorize the Commission in making the rates to take into consideration all of the circumstances and conditions surrounding the movements and character of the traffic would be a definite injury to business instead of a benefit. It may be that the term "reasonable" would meet the case, though that has a defined, common-law meaning, which ought to be avoided. If the common-law meaning of the term "reasonable" were applied to all the freight rates now in the United States it might perhaps raise half of them.

The Commission, in fixing a freight rate, must take into consideration not merely the rate upon the particular commodity involved between the points named, but must also take into consideration the general character of business upon the road and what other commodities pay between other points. If the Commission, in fixing a maximum rate, is required to fix a rate which, in addition to paying the cost of the actual transportation, pays its share of the cost of maintenance of right of way, structures, and equipment and also its proportion of the cost of fixed charges, and leaves something for dividends, it is plainly manifest that the Commission must proceed upon different lines in fixing rates from the lines now followed by railway officials. It is not the purpose of the pending measure to lay down new principles for rate making. It is the desire, I take it, to leave the Commission to decide, as the railroads now decide, upon the particular circumstances in each case.

FULL HEARING REQUIRED.

We do not propose to give the Commission authority to make rates ad libitum without full consideration. We confine the authority of the Commission to act after a full hearing. A full hearing is a jurisdictional question with the Commission. If the Commission shall entertain a complaint and make an order covering a thousand rates without a full hearing upon the different rates that order is ineffective. The present law makes no such requirement. The present statute gives to the Commission when complaint is made the power to make an investigation and make an order. We confine in this bill the power of the Commission to make the finding after a full hearing of the case. What is the theory of that? The same that goes through our judicial procedure.

The Commission can not act without the hearing. It is not the purpose of the bill to give the Commission the authority to initiate rates throughout the country. When a complaint is presented and a hearing is had, then we say that the Commission is the best qualified to pass upon the case. Here is the situation. Here are the railroad companies, absolutely necessary to the shipper. The railroads can not continue in business without them. The railroads would go into bankruptcy at once without the shippers. The shippers can not continue in business without the railroad company. The two are essential to each other. The two have grown up so that the railroads and the shippers are intertwined and interdependent on each other. Neither can exist without the other. The railroad depends for its life upon the power of the State; it comes within the control of the Government. It can continue in business only upon terms which Government grants to it. What do we do? We say that the railroads must have freight from the shippers and that the shippers must have the freight facilities offered by the railroads. Who shall decide in case of a conflict between these as to what is the proper rate? Shall the railroads permit the shippers to determine the rate to be paid? Shall the shippers permit the railroads to determine the rates to be paid? Is either one to have the power to control the other? The proper method is to do as we do with all trials of property. The right of shipment is as much a right of property to-day under our system as the right to hold a piece of land or to own a dollar bill. We submit the right of trial of property in a way to a disinterested commission, which, after hearing both sides, shall reach a conclusion.

Now, I have often seen courts for whom I had not a great deal of respect so far as the capacity or ability of the judge was concerned. There are thousands of lawyers in this land

just as capable of rendering justice and deciding great questions as the nine eminent gentlemen who sit in this Capitol as the last resort in the determination of justice. But we have learned that an able judge, or one who is not so able, after he has listened to the testimony and after he has been instructed by the counsel, renders a fairer decision than the ablest lawyer does in his own chamber, retained by one side of the case. [Applause.]

Some of the distinguished gentlemen opposing this bill have said that it is the beginning of conferring the rate power. Not at all. We commenced controlling the rate power when the first bill was passed upon this subject. The distinguished gentlemen from Massachusetts [Mr. McCALL] and Pennsylvania [Mr. SIBLEY] say: "Stop rebates. We are with you upon stopping rebates." Why, Mr. Chairman, the power to stop rebates is the power to control rates. When railroad companies were first organized the railroad owners believed that they had the same right to sell the commodity which they had to sell that any merchant had to sell his commodity, and there was no pretense of giving the same rate to everybody. The railroad would give to this man this rate and to another man, who would bring it large quantities of freight, another rate. It was considered legitimate. It was the same process which we follow in many kinds of business. It was the old idea, now generally exploded, even so far as merchandise selling is concerned, that you sell to the person who wants to buy after bartering and dickering over fixing the price. And when Congress stepped in and said that the railroads could not make rates as they pleased, they could not discriminate between individuals, we then and there took control of the fixing of railroad rates. Would anybody take away that power which we have exercised? Would anybody let the railroads now fix rates as they pleased and discriminate between individuals as they please? And yet it is but a step further to say that, having forbidden them to discriminate between individuals, we shall forbid them to unjustly discriminate between commodities and between localities, and we shall forbid them to charge extortionate rates. This is the exercise of a power which no one questions.

But they say that the power may be wrongly used. Ah, Mr. Chairman, the power of government may always be wrongly used. The judge on the bench may be corrupt, the executive may be bought, the legislature may be bought, every official may become corrupt, but when we fear power because we fear we can not elect honest officials, then we fear self-government, and we abandon republican principles. [Applause.]

I am no more afraid of conferring upon the Interstate Commerce Commission the power, after full hearing, to determine justice between the shipper and the railway company, than I am afraid of conferring upon the Supreme Court of the United States the power which it is now exercising of determining the rights between the State of Illinois and the State of Missouri in a case out there. [Applause.]

"FAIRLY REMUNERATIVE" CONSIDERED.

Mr. MACON. Does not the gentleman believe that if we eliminated the words "fairly remunerative" we would eliminate a somewhat dangerous proposition?

Mr. MANN. Section 15, as we propose to amend it, provides that if the Interstate Commerce Commission, upon complaint and after full hearing, shall be of opinion that any rates charged by the railroads are unjust or unreasonable, etc., the Commission shall prescribe what will, in its judgment, "be the just and reasonable and fairly remunerative rate or rates, charge or charges, to be thereafter observed in such case as the maximum to be charged." I have already endeavored to explain to the House the necessity of inserting the words "fairly remunerative," or words of similar meaning, such as "compensatory," but perhaps I ought to be more explicit.

In the last fiscal year for which full reports have been compiled, the year 1904, we find that there were 641,000,000 tons of freight originating on the lines of railroads making the returns. That of this, over 51 per cent, or 330,000,000 tons, were the products of mines, bituminous coal leading with a tonnage of 174,000,000 tons. The products of the forest aggregated 12 per cent, or 80,000,000 tons, including lumber to the amount of 67,000,000 tons. Grain amounted to 30,000,000 tons; cotton to 3,000,000 tons; live stock to 10,000,000 tons; dressed meats to 1,730,000 tons. Merchandise amounted to less than 5 per cent of the total, or 30,986,689 tons. It is self-evident that merchandise and coal can not be charged the same rate. If bituminous coal were charged the same freight rate that is charged the average product of freight, the cost of coal in many parts of the country would be so great as to compel a change in our method of living.

On every railroad, nearly, you will find that there is an

excess of loaded cars going in one direction and an excess of empty cars going in the opposite direction. Less than half the railroad employees are engaged in the actual transportation of freight. More than half of the employees are engaged in maintenance and administration.

Of the \$2,000,000,000 collected in the year 1904 as gross receipts by the railroads, less than 25 per cent, or \$465,872,674, were paid out by the railroads as net interest on the funded debt and net dividends on stock. A very large proportion of the freight which was carried, known as coarse and bulk freight, probably contributed nothing toward the payment of this interest or dividends. If the freight charge will pay more than the cost of actual transportation and its share of wear and tear of equipment, way, and structures, it brings a profit instead of a loss, provided it would not otherwise be secured; nay, more, it may bring a profit, although not paying so much as the actual cost of transportation if carried in cars which would have to be moved in the same direction anyway, and which otherwise would be moved empty. A freight train may contribute nothing toward the payment of dividends or interest. It may contribute nothing toward the payment of taxes or other fixed charges. It may contribute nothing toward the payment of maintenance of right of way. It may contribute nothing toward the payment of maintenance of equipment; and yet, if it will pay operating expenses, it may be profitable to the road to carry the freight, because it may be in the movement of cars which otherwise would be empty and the cost of movement the same.

"Fairly remunerative" means it may be a rate which, whether it contributes anything toward the payment of fixed charges or not, is, for the service which is rendered in the particular case, fair to the railroad and to the shipper. We propose to give to the Commission the power to say in each case what is a fairly remunerative rate for the service rendered. Each case will depend upon its own facts.

THINGS NOT PROVIDED IN THE BILL.

Mr. Chairman, having discussed somewhat hastily some of the things which the pending bill proposes to do, I beg to call the attention of the House to some things which it does not propose to do.

The bill does not provide for absolute rates.

It does not provide for the compulsory raising of rates.

It does not provide for maximum rates.

It does not provide for differential rates.

It does not provide for arbitrary classification.

It does not provide for permanent rates.

The CHAIRMAN. The time of the gentleman has expired. The gentleman from Georgia is recognized.

Mr. ADAMSON. Mr. Chairman, I will be glad if the gentleman is given time to conclude his remarks.

Mr. HEPBURN. I yield such further time as the gentleman may desire to consume. [Loud applause.]

Mr. SIMS. If it will not interrupt the gentleman too much, I want to ask him a question.

Mr. MANN. I yield to the gentleman.

Mr. SIMS. I have received several letters, and among others, petitions from railway employees asking me to oppose this bill upon the ground that if it passed they will lose from their wages. As I have a great respect for the opinion of the gentleman from Illinois, who is a member of the committee, I would like to hear him on that idea.

Mr. MANN. Mr. Chairman, I think it is very natural that the railway employees may have such fears. When we remember that the wages which are paid to the railroad employees have increased from \$495,000,000 six years ago to considerably over \$800,000,000 now, an increase of over 65 per cent, it is not to be wondered at that the railroad employees, aided by the arguments and instructions of their distinguished employers, should be besieging Congress with a threat and fear they do not really wish to make, or to believe, that their wages will be reduced.

Mr. Chairman, if I believed that this bill would interfere with the railway business of the country, I would not be in its favor. We depend upon the railroads of the land. We can not strike them down. We can not injure the railways or the employees without greatly injuring the shipping interests of the country.

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

Mr. MANN. Certainly.

Mr. HINSHAW. Has not the same argument always been used by the railway managers and others against every invention for safety appliance that has been introduced and every single item of progress in railway management?

Mr. MANN. Mr. Chairman, after all, in determining a great question like this, we have reached that point where we come

to the parting of the ways. The issue has been presented, and it must be met. Shall Government, when the issue is presented, say that the railways may do as they please—may resort to extortion if they choose, without regard to the rights of the Government—or shall we say that properly safeguarded Government shall exercise its right of control to prevent extortion and prevent unjust discrimination?

Now, as I was saying, Mr. Chairman, we do not provide for absolute rates. We do not provide for differential rates. We do not interfere with the construction of the long and short haul clause as it has been made. We do not give to the Commission the power to make arbitrary classifications. It is true that in making a review of rates, if the rate be changed, it may involve a change of the class or it may involve an exception from a class, or it may involve a fixing of a commodity route. But we do not authorize the Commission of its own sweet will to change this article or that, to readjust the classifications of the country, or readjust the freight rates in this arbitrary or initiatory manner. We confine the action of the Commission to the case which is presented and prevent them from arbitrarily injuring any particular locality. We do not give them the power to say which port shall be built up, which city shall be preferred; we leave open the competitive forces of the railways. The old bills which we had sought to stifle competition; we leave competition in force. The railroads running south, west of the Mississippi, and the railroads running east, north of the Ohio, will have to fight out the question as to which road shall carry the grain for export abroad.

We do not seek to determine those questions. Much has been said here in denunciation of the principle of basing points. Whether basing points be right or not, their establishment has been one of the movements of economic forces, which ought not to be idly interfered with while the great question of overconcentration of population in large cities continues to be the problem of the age. It is claimed that basing points tend to build up local distributing centers, and that doing away with basing points would result in many cases in the South and West especially in adding to the business of a few large cities at the expense of minor distributing points, in the same way as it is claimed the establishment of cheap parcels post would result in building up mail-order houses at the expense of the country merchant and the city wholesaler.

Mr. Chairman, it is sometimes much easier to complain about the faults of others than it is to right the faults in ourselves. The grossest discriminations, the most unjust preferences known to-day in the carriage of freight are those which exist under the postal laws and regulations. Here, for instance, are the popular magazines and books in competition with each other. By our postal laws we carry the magazines through the mails from New York to San Francisco for 1 cent a pound, which is far less than the cost of the service. On the other hand, we charge for carrying a book from New York to Philadelphia 8 cents a pound, which is far above the cost of the service. We lose probably not less than \$20,000,000 or \$30,000,000 a year by the carriage of second-class mail at a cost of 1 cent a pound. We make it up partly from excessive charges levied against books, which are in direct competition with the magazines and newspapers comprising second-class matter.

We propose to confer upon the Interstate Commerce Commission the power to regulate abuses of much less notoriety, while we admit that up to the present time we have been unable to regulate those abuses in the postal service over which we have direct control. It is not surprising that railroad officials, when they notice the incapacity of Government to correct abuses under its direct charge, on account of the political influence of newspapers, magazines, etc., do not desire the railroad business to be placed under the control of a governmental agency which, in the end, may be influenced by the same motives and controlled by the same fear.

But the danger to the railroads of radical railroad legislation is far less than the danger to the business interests. If a commission shall be created which will listen to the conflicting interests of different localities and which shall endeavor to conserve the natural advantages of one community over another, which shall endeavor to fasten upon our country zones of influence and zones of trade, which shall endeavor to interfere with or restrain the active, persistent, and constant competitive forces of commodities and localities, as well as shippers and railroads, we will have entered upon a dangerous, if not a paralyzing, course.

Mr. Chairman, there are some things about this bill which are objectionable to me. The provision fixing a penalty of \$5,000 for each distinct violation of an order of the Commission might penalize a road to the extent of millions of dollars a day. That proposition is so unconscionable that if endeavor-

ed to be enforced I think the court must hold it unconstitutional. No one, whether he be person or corporation, should be threatened with ruinous fines as a penalty for appealing to the courts of the land for constitutional protection. Probably no attempt would ever be made to enforce such penalties, but I fear that the provision as it stands is unfortunate.

The strongest remedy furnished by the bill is not the fear of penalties, but is the affirmative remedy that the courts shall enforce the lawful order of the Commission by a writ of injunction, mandamus, or other summary process.

I should like to take up for discussion at this point the so-called "court" feature of the bill. I am inclined to think that under this bill the interests of the railroads are properly safeguarded, but I can not, in view of the time fixed for voting upon the bill this afternoon and in justice to the two great gentlemen who are to follow me in this debate, go into that question at this time.

SUMMARY.

Let me then make a summary of the position which I occupy.

I believe that the shipper, with a just complaint concerning the service rendered to him by the railway or the charge therefor, should have an impartial tribunal pass upon this question between him and the railroad company, vital to them both; but I do not believe it advisable or wise for the Government to attempt to reduce to such a low point the earnings of capital invested in railway enterprises as will tend to prevent the investment of new capital. On the contrary, assurance should be given for a reasonable return on the investment. The railroads to-day are wholly inadequate to the existing transportation needs. Many of the lines need double tracking. Some need a third or fourth track. Most of them need better terminal facilities. More rapid transportation is needed for many classes of freight, and particularly for live stock and perishable freight. More safety appliances are required, not only for the benefit of the employee, but for the passenger, and the citizen who is neither. More care should be demanded in the transportation of passengers. Signal systems by which railway collisions will be rendered almost impossible are of as great importance as the question whether the grain business from disputed points shall go to Milwaukee or Minneapolis.

The study of recent years, both as to railway transportation and water transportation, leads me to believe that in the not distant future transportation by rail will be immensely cheapened. We have increased the length, width, and depth, the capacity of steamships and of railway cars; but while we have deepened our harbors we have not widened our railway tracks. An evolution in the construction of railways is inevitable. When it comes, it will require vast sums of capital. It will require confidence on the part of those furnishing the funds that they will receive a fair return for their investment.

The business of the country can not live without the use of the railroads. The railroads can not live without being used by the business interests. The railroads are necessary to the shippers. The shippers are necessary to the railroads. The freight rates determine whether the shipper shall live. The freight rates also determine whether the railroad shall live. If the rates be too high, a particular shipper may be driven out of business. If the rates be too low, the railroad may be driven into bankruptcy. The railroads being a necessity to the shippers and the shippers being a necessity to the railroads, the reasonable plan is in fixing the freight rates to be paid that both shippers and railroads shall come to a mutual agreement after mutual exchange of opinions and positions; but in case the shippers and the railroads are unable to agree, there should be some tribunal to settle the dispute without leaving it wholly to the judgment of one of the interested parties.

That is the proposition in the pending measure. It is proposed to give to the Interstate Commerce Commission, to a limited degree, the rate-making power. The Commission may hear complaints that any particular rates are unreasonably high, or unjustly discriminatory, and may decide what shall be the highest rates to be thereafter charged by the carrier. This will not prevent the carrier, in the face of competition, from lowering its rates, in order to save its share of the business. The Hepburn-Dolliver bill now pending before us is immeasurably superior to the old Nelson-Corliss bill, the Cooper-Quarles bill, or the Esch-Townsend bill of the last session. Those bills proposed to give to the Commission the general power to fix absolute railroad rates which could not be changed, except upon filing a new petition and having a new hearing before the Commission. Those bills enacted into law would have fastened upon the business interests of the country a system of arbitrary and absolute rates entirely unresponsive to the business interests, or the changing conditions of transportation or business. The enactment of any of those bills into law might have proven

a catastrophe to the shipping and business interests of the land; but the Hepburn bill, now pending, is very different. True, it confers the rate-making power to an extent upon the Commission, but it permits the Commission at any time, of its own motion, to change its order; it permits a rehearing of the case at any time; it provides that the rate fixed by the Commission shall not be the absolute rate, but only the maximum rate, and it provides that this rate shall be compulsory only for the term of three years. This will give the power to correct the evils which are complained of, but will not give the power to confiscate the property invested in railroads, or to paralyze the business interests of the country and prevent the location and establishment of new industries along the lines of the railroads.

It will not give the Commission the power to determine differentials, the power to say whether grain from the Northwest shall be shipped for export by way of the Gulf ports or the north Atlantic ports, the power to destroy the law of competition, the power to ruin one city or one locality for the benefit of another city or another locality. The former bills were intended to destroy railroad competition. The pending bill invites competition and it preserves all the competitive forces which tend to increase the economy of transportation and reduce the cost thereof.

The fixing of railroad tariffs is the most complex and delicate work now carried on in our country. The interests, the localities, the commodities, the persons interested are as diversified as our land, our productions, and our people. No one set of men ever have or ever can manipulate the delicate mechanism of railway tariffs for all parts of our country, for all commodities produced by us, and for all interests which may be destroyed or upbuilt.

But government must exercise some control. It is as necessary for government to be the judge in the last resort between shipper and carrier as to the rate to be charged, as it is for government to determine the right to any other class of property.

The railroad officials fear that it is dangerous to confer, to any extent, rate-making power upon a governmental agency. Let us admit it. There is some danger. No one can tell how dangerous it might become if fully exercised. But no new legislation is ever enacted without some element of danger in its possibilities. The best guaranty is that the pending measure is conservative. It protects the interests of the shipping community and does not permit the confiscation of the railway properties. The present bill is a compromise measure. It probably does not meet the full views of any one. But the subject is a great one. It is the most stupendous subject in its many ramifications which has ever come before this body. In a sense, we grope in the dark.

This measure is an advance in the complexity of our internal affairs and in the progress of government paternalism. The necessities of the case require us to take this step. We can not avoid it. If properly used in the future, it will be a great advantage to both shippers and railroads. If improperly used in the future, we must trust the people to correct its abuse as we must at all times trust the people to provide safe government and to observe the safeguards of government. [Great applause.]

The CHAIRMAN (Mr. CURRIER). The gentleman from Georgia has twenty minutes remaining, and the gentleman from Iowa one hour and twenty-three minutes.

Mr. HEPBURN. Mr. Chairman, I think there must be some error about that; there is yet two hours and forty minutes before general debate is closed.

The CHAIRMAN. The Chair understood that general debate was to close at half past 3.

Mr. HEPBURN. At half past 4.

The CHAIRMAN. Then the gentleman from Iowa has two hours and twenty-three minutes remaining.

Mr. ADAMSON. I hope the gentleman from Iowa will agree with me in extending the time of the other speakers.

Mr. HEPBURN. I will yield to the gentleman such time as he wants.

Mr. ADAMSON. I will yield, then, to the gentleman from Mississippi [Mr. WILLIAMS] such time as he desires.

Mr. HEPBURN. We will try and divide the time remaining equitably between us.

Mr. WILLIAMS. Mr. Chairman, I hardly expect the Chair or the House to believe so improbable a statement when coming from a Member of the House of Representatives, but it is none the less true that I am about to make a speech that I do not want to make. I do not want to make it because there is absolutely nothing left to be said upon this question. So far as this side of the Chamber is concerned, no party was ever at any time served by half a dozen men so well as we have been served by

the six Democratic members of the Committee on Interstate and Foreign Commerce. [Applause.] No country was ever served more patriotically than they have served this country, with studiousness, with intelligence, industry, and courage. They have seen their way and they have traveled in it. Many records of the House of Representatives will be examined in vain to find any question more exhaustively and better presented for the consideration of the House and the public than this question has been presented in this record by the gentlemen who have represented this side of the Chamber and by some of the gentlemen who have represented that side of the Chamber.

Mr. Chairman, the attitude which the House of Representatives holds to this bill is a rather remarkable one. It is very seldom that the two parties in this House, crossing swords day by day, with partisanship always tense, though sometimes concealed, will unite publicly in presenting a common measure to the country, with the view of having an effect upon public sentiment in the country and upon other legislative quarters for the benefit of the people, regardless of party. Upon this fact, Mr. Chairman, I congratulate the country, because the country as a result of it will get good and much-needed legislation to cure palpable, plain, and obvious evils that threaten all sorts of industries, and not only that, but that threaten something back of and higher than industries—integrity and the business honesty. Because, although these railroad discriminations and rebates and exploitation of one place at the tearing down of another place by the mere brute force of transportation power causes men much loss of money, causes much financial unfairness, it also causes something more than that. It gets into the business world the idea that it is right; that it is at least legal to discriminate against one man in favor of another; that it is at least legal, and hence in a manner right, to deprive citizens of equal business and equal industrial opportunity. I congratulate the country, therefore. I congratulate the Democratic party, because, although in the minority, by constant driving and constant reiteration, a very much cherished Democratic policy is about to triumph under a Republican Administration. [Applause on the Democratic side.]

I need not run over what I ran over at the last Congress—the utterances of Democratic platforms; the bill introduced by the Democratic floor leader for the purpose of bringing about this result before any other bill was introduced; the utterance of the last Democratic platform; the utterances of the temporary chairman of the St. Louis convention, calling upon the Republican party to know whether they were going to stand pat or not upon the then impotent condition and the now impotent condition of the Interstate Commerce Commission, as the tribunal to which these questions have been relegated by Congress. I congratulate the Republican party upon the all-familiar principle that "as long as the lamp holds out to burn, the vilest sinner may return." [Applause and laughter on the Democratic side.] I congratulate the President of the United States, because although this is not his child in the sense of being blood of his blood and bone of his bone and sinew of his sinew, for all of its blood and bone and sinew are Democratic, it is, at least, his adopted child. [Laughter.] I congratulate the President, because having seen the light on his way to Damascus he has become sincerely and honestly converted. I congratulate the Democratic party, furthermore, upon the fact that they have had the President's aid, and I confess frankly that without his aid we never could have budged an inch until we came into power. We love the good of the country so much more than we do mere partisan prestige that we are glad to see this legislation come about by our aid under a Republican Administration, and we are willing to see Republicans get their full share of the credit which the people will give to everybody who is concerned in this consummation.

Mr. Chairman, I might perhaps as a mere matter of variation—Members of Congress being uniformly and almost without exception remarkably modest—congratulate myself to some extent upon the attitude of the House to the bill to-day. As far back as the last Congress I expressed at many places and finally upon this floor the hope that the majority and minority members of the Committee on Interstate and Foreign Commerce could agree upon a joint bill so that they could present to the country and to another parliamentary body in another portion of this Capitol a united, undivided, nonpartisan front. I expressed on this floor a willingness if certain amendments I then proffered, which are in this bill, were adopted I would withdraw the then minority bill and vote myself and guarantee on this side a solid vote for the then majority bill. During last summer I had the honor to write to one of the Republican members of the committee, expressing that idea to him, and to the Democratic members of the committee, expressing that hope to them. I want to say now that the bill introduced by the

minority members of this committee, in my opinion—the second Davey bill, the one introduced at this session—is the best bill upon this question that ever saw the light [applause on the Democratic side], and this bill does not altogether agree with it; somewhat falls short of it. There are certain particulars in which I would like to amend this bill, so that it might altogether agree with that second Davey bill.

But in that very same breath I want to say that these Democratic members of the committee, having done the very best that they could do, having gotten the very best terms they could get engrafted on the only bill which can pass, having acted, in my opinion, wisely, with the grand strategic and tactical purpose in view of presenting an undivided, nonpartisan front, so that the people, plus the President, plus the House, might constitute a force that no private interest, no railroad-retained instrumentalities anywhere would dare resist, I shall resist amendments to the bill, even though they be the very amendments I want. [Applause.] I say that I agreed with them when they concluded to subordinate to this grand tactical and strategic purpose a lot of minor differences. I want to say that the Republican members of the Committee on Interstate and Foreign Commerce have acted with broad patriotism. The minority members went to them with certain amendments that were sine qua non—that were prerequisite, in their opinions, to any possible agreement—and the members of that committee upon the other side of the Chamber met them in a spirit of broad patriotism, having this same great strategic purpose in view, and agreed to all that they offered—that is, all that were of prime and prerequisite essentiality. Then the minority members in the same spirit conceded some other and minor points of difference, and they thus present us now with the bill which is before the House.

In view of all that, when an amendment is offered upon this side or the other side of the House which would, in my opinion, make the bill better, if amendments are offered to put into this bill provisions of this year's Davey bill (for the minority bill was named the Davey bill because of the senior Democratic member of the committee, just as the other bill was named the Hepburn bill after the chairman of the committee, and both bills took up the Commission's bill as a skeleton and proceeded from that skeleton to subtract and to fill up and reach a conclusion). I say that even if an amendment is offered to put into this bill a provision of the Davey bill bettering it, in my opinion, I shall vote against it, because I am going to stand by the committeemen on this side of the Chamber who have succeeded in bringing about a united and undivided front, so that the power of President, people, and House may exercise its full influence in the country and elsewhere. [Applause.] Now, Mr. Chairman, as for my little mite in bringing about this result, I want to say I never felt prouder of being connected with anything since I have been a national legislator. I think, as I have said upon this floor several times, that he serves his party best who serves his country well, and I think that the minority membership, in connection with this consummation devoutly wished by me and now attained by all of us, have acted with courage, have acted with intelligence, and have acted in a broad spirit of patriotism. We are glad to be met in a like spirit from the other side of the Chamber.

Now, Mr. Chairman, I do not intend to make a long speech. The legal aspects of this case are embedded in the record exhaustively. There can be no doubt of the constitutional power of Congress to do this thing. If there ever had been any doubt before it has been dispersed like the vapors of the early morn when the sun has arisen by the arguments that have been made. I find it strange, Mr. Chairman, that men will strain at gnats and swallow camels every day whenever their own preconceived ideas, their own selfish interest, or the selfish interest of something that they represent leads them to it. I heard one of the most distinguished lawyers of the United States upon this floor the other day deny the right of the Congress of the United States to delegate legislative powers, and yet that gentleman has served with me and with some of the balance of us for years and is familiar with the conspicuous history of the United States and the manner in which Congress has delegated legislative powers a hundred years ago and up to now. The Constitution of the United States does not mention the Territories of the United States except in one clause; Congress shall have the right to dispose of the Territories and "to make rules and regulations" for the government thereof.

Every bit of the power to legislate for Territories is lodged in the United States Congress, and yet the United States Congress has from the beginning of the history of this country delegated that legislative power to the Territorial legislatures, prescribing how it should be elected. It has not abdicated its power. It could not do that. Of course Congress still has

the power to do away with the Territorial legislature whenever it pleases—to resume its legislative power, though delegated. *Delegatus non delegare* does not apply to parliament, but to its creatures or agents. Congress has the power to sit in judgment upon an enactment of the Territorial legislature and to repeal it. Congress has delegated to it, as if it were a tenant at will, certain legislative powers. That is all that it does in this case. The gentleman from Maine [Mr. LITTLEFIELD], for whom I have a very high regard personally and as a public servant, a man of magnificent individuality and courage, who has more than once stood athwart the pathway of a public gust, more than once stood against his own party in the Chamber—a hard thing to do—made a speech the other day which was like every speech he has ever made, powerful of its sort; but after you analyze it, Mr. Chairman, you find that it meant but two things:

First, an impassioned appeal to the Congress of the United States to regard as vested rights certain discriminations which, in his opinion, have built up certain New England cities. He based his argument altogether, almost, upon the fact that if these unjust discriminations, if these "preferentials," as he calls them, were done away with, a great many industries in New England would be injured. I believe he referred especially to the town of Worcester; "that Worcester was absolutely dependent"—this was his language—"on the present preferentials for its prosperity and its industries."

Now, Mr. Chairman, the question comes—and I believe the gentleman from Maine [Mr. LITTLEFIELD] is the last gentleman who would shirk the responsibility of answering the question and ruling his conduct in accordance with the answer—if such preferentials exist, are they just, are they nondiscriminatory, are they fair? If they are such preferentials as are just, nondiscriminatory, and fair, then this bill will not interfere with them; if they are preferentials that are unreasonable, unjust, unfair, or discriminatory, will he stand up before the American people and tell them that he wants cities in New England made prosperous and kept prosperous by unjust, unfair, and unreasonable transportation regulations? [Applause.]

That was one part of his speech. Mr. Chairman, there is no vested right in discriminations made by Government-chartered corporations in favor of one person against another, or in favor of one locality against another. There may be a vested wrong, and, if there be, it ought to be done way with just as soon as possible. Ah, Mr. Chairman, it is not without significance that the main opposition to this bill comes from the Northeast. The shareholders, directors, and presidents of the great railroad companies come thence, and they have so fixed so-called "preferentials" and other things—that they call by still more polite names, but the plain English of which is unjust discrimination—as to build up that part of the country in which they are interested against, or at the expense of, that part of the country in which they are not interested.

Mr. Chairman, if discriminations, rebates, and unjust preferentials went to the railroad treasury and through the railroad office to the shareholders as dividends, it would not be so bad; but they do not go that way. There are rings within rings in the management of a railroad company just as we have lately ascertained that there are rings within rings in the management of life insurance companies. Jake Thompson and Tom Williams and Billy Clark—fictitious names, Mr. Chairman—as traffic managers of great systems, meet in a little private room somewhere to arrange joint traffic rates.

They are not so much guided, though they are somewhat guided, by the interests of the railroads which they represent as they are guided by the interests of the ring within the ring where management is concentrated and in the places in which they have investments. I can imagine them now meeting and talking to one another. One says to another about the joint traffic to the town of A, "Let us make that a little lower." "Why? It is already lower than the traffic for equal service to the town of B." "Yes; but Mr. Pierpont Harriman"—a great railroad president, let us say—"has investments in the town of A. It is upon his line, and in making the joint traffic you want to show him this courtesy." The other fellow says: "That is all right; but Mr. James Morgan"—another railroad president—"has investments in the town of C, and that is on his line, and if you will give him preferential rates to C he will agree to give you preferential rates to A." And when you get through you have not built up the railroads which these two fictitious persons represent, but you have built up Pierpont Harriman and James Morgan.

The gentleman from Massachusetts [Mr. McCALL], I believe it was—it was one of the gentleman at any rate—talked about the dangerous power to be lodged in these seven men. Why, of course, the power is dangerous. All power is dangerous.

The power lodged in twelve men to determine whether I shall be hanged or not is dangerous. [Laughter.]

But power has to be landed somewhere, and in the ultimate analysis you have to determine where it is safest to lodge it. Is it safe to lodge this power where it will be exercised in the open by seven public officials, or is it safer to lodge it where it will be exercised in secret, in violation of existing law, as it must be exercised, if exercised at all, and therefore necessarily in secret. Three, four, nine, twelve, fourteen—I do not know just exactly how many traffic managers act as agents of that many great railroad systems, commissioned as agents, not of the systems themselves so much as of "the rings within rings" that control the several systems; not for the benefit of the shareholders, but for the benefit of those who hold the offices in the railroad company. Which is the safer of the two? The gentleman said we would get—I believe it was my friend from Massachusetts, and if there is any man in the House that I admire it is he; he has the independence of an old Roman senator, and he is always showing it, and showing it in this very case, so far as that is concerned—I think it was he who referred to the "power to crush" that we were about to invest in the Commission—that is the language, I believe.

Which would you rather give the "power to crush" to—a public tribunal exercising its functions in public, subject to be visited with public indignation, to be removed, or somebody who is doing the crushing act when you do not know when they are doing it, where they are doing it, nor when done know who did it? The "power to crush!" Ah, yes. We hear a great deal about a railroad building up this place, that, and the other. They make a basic point of this place, that place, and the other and build it up. Did you ever think of the converse side of that proposition—while they were building up that basic point they had to tear down something or other? One of these gentlemen referred the other day to a little place in Iowa—Colfax—and Des Moines, and said you could ship to Des Moines and send freight back to Colfax, although Colfax was on the way to Des Moines, cheaper than to Colfax, and in that way the railroads had built up a great jobbing trade at Des Moines. He was afraid this jobbing trade might be destroyed—Des Moines hurt. But what in Heaven's name happened to Colfax while all this was going on? Do not look at one side alone of the shield, gentlemen.

One part of the speech of the gentleman from Maine was an impassioned appeal for vested rights in the profits of certain vested wrongs. The other part of his speech was equally impassioned against all political institutions for the government of the country. That is what it amounted to, if it amounted to anything. He said that the President might not fill vacancies as they occur on the Interstate Commerce Commission. Yes, he might fail to do so. Then he said you might be left with four members of the Commission, three of whom would make a quorum, and three men would be doing all this; and then that these three men who would be doing it would be doing wrong, and doing it in the interest of something corrupt or in the interest of some political party. Of course all this is metaphysically possible. There might be a President who was criminal enough and who was fool enough to want to do that. Now, there is some consolation in American history, not so awfully much when we look back over it all, for we are the most vainglorious people that God ever set upon his footstool.

We brag more about ourselves, brag more about our Government, that "we are so great." God knows we can not be as great as we think we are, and that is so necessarily, because it is simply impossible, when God Almighty could hardly be that great himself. But there are some consolations in American history. One of them is this: The American people have never yet elected a man, as my friend Charley Edwards would say, who was a "plumb born fool," President of the United States. [Laughter.] It sometimes seems that it would be so when you consider the way the nominations are made and the elections carried on, but we have never yet done so. And then there is another consolation. If we should accidentally elect a "plumb born fool" President of the United States, they are not likely to elect him again or to succeed him with another. So that these evils can not last longer than four years, even if that sort of a fool is going to be in the White House. Why, the argument of the gentleman would apply equally as well against the Supreme Court.

The President might fail to fill a vacancy upon the Supreme Court bench. If he does, there is no way to make him send in an appointment to the Supreme bench; but I have never found that they have failed to make appointments. Public indignation and wrath stand athwart all folly and corruption and have a constitutional way of asserting themselves and removing obstacles.

Why, Mr. Chairman, to be serious about the matter, when you come to the last analysis of it, the answer to all that sort of talk is that no man would dare to act in the manner that is indicated; no man would dare to do it in Russia to-day; much less in America would a man dare so palpably and defiantly to outrage public opinion and keep on outraging it. No President of the United States, certainly, in a country like this, would be fool enough to do it. And if he did and kept it up for four years, after four years' suffering they would put another in his place. But the real fact is very far from this. I do not believe that such a condition will ever exist. We stir ourselves up sometimes in talking. We stir ourselves up in debate and occasionally temporarily believe a whole lot of things, we are so much in earnest, and the more honest we are the more earnest we will be and the more fond in believing foolish things for a little while.

But nobody really believes that any Interstate Commerce Commission is going to be actuated by the idea of building up one part of the country at the expense of another. Nobody is afraid that any party dares attempt to make a matter of political machinery out of that organization. Why? Because the most sensitive thing in our national life is what we call the industrial element—the business element in it—and while some of them are Democrats and some of them Republicans, they will allow neither party to interfere with business. [Applause.] Business must be carried on, and must be carried on fairly; and they will see to it that it is carried on fairly.

Now, Mr. Chairman, a great deal has been said about the present system being well enough and that rates generally are reasonable, and all that. Mr. Chairman, in connection with that they tell us that Great Britain, the only country which has the system that we are now seeking by this bill to obtain—because all other countries either have total or partial governmental ownership or laws conferring an unrestricted private ownership—that Great Britain's freight rates are ever so much higher than ours. I doubt that when you take it by and large there is no doubt of the fact that the cheapest freight rates in the world, measuring per ton per mile, are the freight rates of the United States. What brings the average down consists in the long-haul freight rates from New York to San Francisco, from Chicago to New Orleans, across the continent, up and down, sidewise and transversely. That brings the average down. But if you take the freight rates from Shubuta to Toomsaba, and that ilk, and compare them with any freight rates of equal length in Great Britain on the short haul, you will find that ours are greater. In other words, our system is starving all the intermediate points to build up the great and extravagant extremities. [Applause.]

In that way is brought about a small average freight per ton mile. Then you must remember that in Great Britain the freight rates consist not only of the transportation of the goods, but of what they call "collection and delivery." The railroad goes to the shipper's place, gets the goods, hauls them to the car and loads them on it, and then when they come to the consignee's place they take the goods out of the cars, haul them to his shop, and unload them. Then you must remember another thing in this connection, and that is the most important of all.

Where one life is sacrificed to the Moloch of transportation in Great Britain, some ten are sacrificed in the United States. In other words, a part of the freight rate in Great Britain consists of better tracks, better equipment, and consequently larger capitalization upon which dividends must be earned, all of which has been due to the anxiety of the people and of the Government there to protect life and limb as well as business. It would be better for the American people if we took a little bit more care to see to it that fewer people are killed and crippled each year, even if the freight rates were a little bit higher. [Applause.]

Another thing: Their roads are better ballasted; they take no such chances of immense speed on an unsafe road as we take. Of course all this necessitates a higher capitalization, and if the dividends be paid it necessitates a higher freight rate than otherwise would prevail there. I doubt, though, if local rates are given due weight, if the charge there is as high even though the service be safer.

Now, Mr. Chairman, some of the gentlemen—I think it was my friend from Maine, Mr. LITTLEFIELD—and it has been my misfortune, by the way, to have been so much occupied with other things when this discussion was going on as to have heard only parts of several speeches, I have heard but two speeches from beginning to end, and I have not had time to read the RECORDS—but this much I heard from my friend from Maine: He went on to tell how many cases had been carried up to the courts from the Interstate Commerce Commission, how many of

them had been set aside, and how many of them had been affirmed, and he intended to show by this that the Interstate Commerce Commission was a very unsafe tribunal, a very incorrect and unreliable tribunal, for the decision of cases of this sort.

But the gentleman from Maine forgot that while a score of cases were carried up, there were hundreds of cases decided by the Commission so plainly and palpably right that even the railroads never dared to carry them up, and the very fact that so few cases have been carried up, acquainted as you and I are with the litigant spirit of railroad companies, is a tribute to the Commission.

The gentleman wanted a system which would be elastic. Now, I am going to leave that point to be explained by the gentleman from Iowa [Mr. HEBURN], who has knowledge of the intricacies and details of this bill perhaps not excelled by the knowledge of any other man.

This bill does leave plenty of elasticity—free play for competitive forces. It does leave elasticity, but while you are talking about elasticity, there are two sides to that question. There may be such a thing as too much elasticity. You do not want things in what my friend, the Speaker, would call such an "India-rubber" condition, as that the rate may be stretched or contracted regardless of right, regardless of justice, or reasonableness, just to suit the whim of a man who chooses to stretch or contract it.

There is nothing that is such a drawback upon rascality as publicity. Men who are expert in these matters will tell you that two or three great electric lights on a great street are worth fifty policemen, because a man can not go into a dwelling without thinking himself that somebody may see him. The great advantage of this sort of legislation is that the rate-fixing power, as far as this bill confers any rate-fixing power at all, is lodged with men who must exercise it in public, after hearing both sides; whose decision must be given publicly and with which all the world becomes acquainted almost at once. So that if it shall be that any unfair or corrupt motive guide them to a decision, that will appear to the people from the very nature and character of the decision itself. It can not appear where men meet in secret for the purpose of determining questions of this sort. The gentleman said that we are taking away from the railroads the power to fix rates. Mr. Chairman, this bill does not do that. No bill offered has pretended to do that. Nobody has proposed to take away from the great transportation companies the power to initiate the rates, and, as a matter of fact, out of 10,000 rates there will probably not be 20 that will be questioned and challenged and brought before the Interstate Commerce Commission.

The balance will remain as they were initiated by the railroads, and the only rates that will be attacked, the only rates that will be challenged, will be those that are thought by somebody to be unjust, unreasonable, or discriminatory, and the only rates that will be set aside will be those thought by the Commission to be unjust, unreasonable, or discriminatory. Aye, and there I have gone a bit too far, because there is a right of appeal from this board to the courts of the country. Congress could not take that right away if it wanted to. In that particular I wish that the bill were a little bit better than it is. I do not believe that a court ought to have anything except two things to do with the action of Congress or with a law passed by Congress or with the decision of the Interstate Commission having powers delegated by Congress. I do not think it ought to have anything to do with the decision of a tribunal of this sort organized by Congress to act in lieu of Congress itself with regard to certain particular things, except this: The court ought to have, and we could not take away from it if we wanted to, these two powers: First, to say that the decision arrived at by the tribunal is unconstitutional, because it takes private property without due process of law and without adequate compensation—that is, in a word, confiscatory. Mr. Chairman, if we said in the bill that the courts should not have that power, they would have it anyhow. We could not prevent them from having it. Then they ought to have this power—to say that the decision arrived at is beyond the scope of the authority given to the tribunal by the Congress of the United States. In the first case they would say that it was unconstitutional because it was beyond any power that Congress itself had, and therefore beyond any power that it could confer. In the second case they would say that the decision was unlawful because it was beyond any power that Congress had as an actuality conferred. That is as far as the power ought to go—to condemn as unconstitutional or unlawful.

Now, Mr. Chairman, a few general words about the great underlying principle of the bill. There has never been a court that I know of which has passed upon a railroad question that

has not in some language or other expressed the idea that the railroad was a quasi public body, exercising public functions as well as private functions. It is partly private in its organization, in its contribution, in its management. To a certain extent it is public in this, that it occupies the public highway and is subjected, like all highways, to the government of the state.

The state—using the term right now in the sense of government and not particular States in the Union—has exactly originally the same control over a railroad that it has over a turnpike, over a dirt road—the right to say where it shall run, who shall travel it, and on what terms; and there never was from the beginning of time in English-speaking countries a day when the state did not reserve to itself the right to say what tolls upon a highway should be, what tolls upon a canal should be, what rates upon a railroad should be. Why, in Great Britain they went so far that they always put the railroad tolls in the charter when they chartered a railroad company until after a while, with changed conditions, the charter rates became so much greater than any rates that were actually charged that they organized the great canal and railway commission, which is exactly what we are doing here, and gave them power to do more than we are giving the Interstate Commerce Commission power to do under this bill. They gave them full power to make—to initiate—schedules of rates.

You would think, to hear our opponents talk, that having done that anarchy would have come about, Populism would have been in control of the Government of Great Britain, that all the railroad property in Great Britain would have been confiscated, that the whole political sky would have been dissolved into its original elements, that everything would have gone back to chaos; but I do not find from recent reading of English history that anything of that sort occurred.

Why, to hear some of these gentlemen you would think that when Mississippi, for example, organized her railroad commission and gave general rate-making powers to it, and general regulatory powers to boot, all these things would have happened. Now, I want to make a confession, Mr. Chairman. When I was younger by some twenty-odd years, when it was first proposed in Mississippi to organize a railroad commission with these powers, tons of literature were sent out by the railroads, just as tons of literature have been sent out by them in connection with this matter, and being naturally conservative I became alarmed.

I thought if we should do this thing, a lot of demagogues constituting a railroad commission might deal drastically with these great corporations in order to make themselves popular and secure reelection, while discouraging capital from coming into that State to build railroads, and I thought I would go to Jackson, where the legislature sat, and use my influence with my friends to keep them from doing this awfully radical and dangerous thing. Luckily for me, it turned out I was too busy to go and I did not go. The bill was passed. They brought it to the circuit court of the United States and from there to the Supreme Court, and both courts said the State legislatures had a perfect right to delegate this power, as drastic and as strong as it was; that it was perfectly constitutional. It went into operation and the railroad commissioners began to perform their duties under it. Mississippi built more railroads in the next ten years after the act passed than it ever built in any thirty years of its previous history. That is what is going to happen now.

I can assure my friend from Massachusetts [Mr. McCALL] I know how honest he is, and I know what a perfect natural-born conservative dread he has of having the Government do too much. I share it with him, but I can assure him that within five years from now he will not know that this legislation was ever passed, except that he will find out that whenever unfair and unreasonable preferentials or discriminations exist that they have been terminated. He will find that the railroads will not have many lawsuits, because with this law on the statute books they will themselves correct culpable discriminations between persons or places for the purpose of avoiding being brought up before the Interstate Commerce Commission and being made subject to all this expense. He will not find much litigation about it, and the law will be, to a very large extent, self-executing—automatic—that is to say, the fact of the existence of the law will make the railroads, without waiting for the initiation of suits before the Interstate Commerce Commission, do what the law requires to be done upon their own initiative.

Now, Mr. Chairman, as to the Federal Government taking too much authority upon itself in the regulation of interstate commerce, with regard to this particular question I want to say this to Democrats: They seem to forget one side of what old

Thomas Jefferson said years ago. He believed in preserving inviolate the reserved rights of the State as the sheet anchor of local self-government and individual liberty, but he added to it, "and the delegated powers of the Federal Government in their full integrity as the only safeguard of national independence."

Now there are two sorts of States rights. The States right to insist that its reserved rights shall not be usurped by the Federal Government, and generally that is all men think about when they think about States rights, but there is a coordinate and coequal States right which exists in this; the right of the State to insist that the Federal Government shall perform the duty delegated to it by the Federal Government for the protection of the State and of the people. [Applause.] That is the States right for which I stand here. The Federal Government has the delegated power to regulate interstate commerce, and it follows, as four follows the addition of two and two, that this power having been conferred for the protection of the State, for the protection of the people of the State, that when evils exist that the States can not remedy, because that power having been delegated they are powerless, it is the most sacred of all States rights that the people of the States shall make the Federal Government exercise the duty of which their people have deprived themselves and which they have delegated to their other servant, the Government of the United States.

Mr. Chairman, we on this side of the Chamber have dreamed for years that some time we might get into power, and when we did one of the things we were going to do was to pass a bill like this. Now, I think I see this bill take its way out of this Chamber northward, and as it goes northward it shall go as a catapult, overcoming every possible obstruction in its pathway. Oh, it may receive a few stabs over there under the fifth rib in the shape of amendments coming from the enemy acting as nurses to the bill for the time being, while they pretend they are friends of it; a few little railroad jokers may be put in it, but when it comes back let us all, Democrats and Republicans, make up our minds right here to stay here until the next session of Congress comes before we in conference cede one single essential principle in this bill or adopt as an amendment upon it one single thing that will vitalize it in the slightest degree or deprive the Commission of that power which it ought to have. [Applause.]

What are we? The American House of Commons. Who are our allies? The man in the White House for one, and he is no contemptible ally either, and I am glad he is with us; the people of the United States, greater than he or we both put together and multiplied by ten. They are with us in this thing. Let us find out who governs America—the President and the House of Commons and the people all added together, or somebody else somewhere else. As for my part, I would be willing to stay here and make it a condition sine qua non to the passage of ordinary appropriation bills, that this bill should come back from whencesoever it may go—virtually as it now is, or at any rate not rendered impotent of operation by amendment. That is the reason that I spoke in the beginning of the grand, strategic, and tactical importance of a united House front overshadowing minor differences about details in this bill. That is what William Tecumseh Sherman called "grand strategy" in opposition to "skirmish strategy."

Now, Mr. Chairman, I have spoken longer than I intended to. I did not want to speak at all, because everything has been said that could be said. I did not know of any good that could be done by speaking. Friends would have me do it as party representative. Old Thomas Jefferson was once asked why he took so little part in debate. He said that he seldom heard a debate in which nearly every question and nearly every point had not been covered. He preferred for somebody else to take the laboring oar, and as for himself he took it only when he found some essential point had been neglected or had been brought forward so weakly as not to have its due effect. This is one of the greatest debates before this House concerning which neither one of those two things could possibly be said. I have never known of a question being so thoroughly elucidated by both sides as this question. I have never known of a committee on both sides of it, Republican and Democratic, that had exhaustively followed out all the intricacies and complexities of a question as this Committee on Interstate and Foreign Commerce has in this particular case.

Mr. Chairman, I thank the House for its attention. [Loud applause.]

Mr. ADAMSON. Mr. Chairman, before the gentleman from Iowa [Mr. HEPBURN] begins, I wish to make a request. He generously offered to divide the remaining time with the gentleman from Mississippi [Mr. WILLIAMS], and I have no doubt that if left to himself he would consume much less time than that remaining to his credit. But I realize that he is the

chairman of the committee and the author of this bill, and will be interrupted very often and will desire to answer those questions, and it is for the good of the country that he should answer them. Therefore, I request unanimous consent that he speak until the conclusion of his argument and at his own will. [Applause.]

The CHAIRMAN. The Chair's recollection is that the House fixed the time for closing the debate at 4.30 p. m. It may be open to a question if this committee can extend the time now.

Mr. ADAMSON. Then, Mr. Chairman, I move that the committee rise informally for the purpose of making that request.

Mr. HEPBURN. Mr. Chairman, permit me to say that that is entirely unnecessary. The gentleman does not desire to consume more time than given under the order.

Mr. ADAMSON. I think the gentleman will be interrupted a good deal.

The CHAIRMAN. The gentleman from Iowa has remaining under the rule one hour and forty-five minutes.

Mr. HEPBURN. That is all of the time that I will desire.

Mr. ADAMSON. I have no doubt that it is all the time the gentleman desires, but I do not believe it is all the committee desires him to have.

The CHAIRMAN. If a longer time than that is desired, it can possibly be arranged later.

Mr. ADAMSON. We can renew it later, if necessary.

Mr. HEPBURN. Mr. Chairman, I do not desire to occupy even the time that might be allotted to me under the existing orders of the House. I would be glad, indeed, if it were possible to conclude this matter to-night; and I am hopeful that there will be sufficient time after I have concluded my remarks to read this bill, pass upon the proposed amendments, and carry the bill to its final passage before adjournment. [Applause.]

Mr. Chairman, I want at the outset to make my acknowledgments to my colleagues on the committee and to some other gentlemen for kindly expressions they have indulged in personal to myself. I feel very grateful for all of these expressions, and I am not less grateful, among others, to the gentleman from Pennsylvania for the nomination that he gave to me to a high office, because of the fact that I know that there are constitutional provisions which would make me ineligible to that appointment. [Laughter.] My gratitude is none the less profound.

Mr. Chairman, I regret somewhat that some gentlemen participating in this debate should have used the occasion for the purpose of exploiting political organizations or taking the credit to themselves and to organizations that they are connected with for the present state of legislation upon this great question. This is a matter that ought to rise higher than party, at least higher than partisan politics. It ought to engage the attention of men because of other motives than that of promoting this organization or the other. I do not choose to follow any of those who have spoken on these lines further than to suggest that the law that we have was written by Republican hands and pressed through Congress by the arguments and efforts of members of the Republican organization. I want to remind them that the amendments to that law adopted two years later were written by a distinguished Republican, and it was Republican zeal that secured them as part of the law of the land. I want to remind gentlemen that the act of 1890—the Sherman Act—was written by a distinguished Republican Senator; and, further, I want to remind gentlemen that the act of 1903—the Elkins Act—was the work of a distinguished Republican member of the Senate; and that if there have been shortcomings in the way of declarations in national platforms upon the part of the Republican party, there has been no failure when work was to be done and things were to be accomplished. [Loud applause on the Republican side.]

Mr. Chairman, I remember twenty years ago, about this time, when the first act—the act of 1887—was being discussed in this House. I remember with what zeal that measure was attacked as destructive to the great interests of the country, revolutionary in character, full of socialism. It was a measure that was to introduce then, as now, European methods in place of American, and was in the direction of an experiment that would be fatal to the great commercial institutions of the country, and it was amidst denunciations of that character, prophecies of that doleful nature, that the legislation was had and that the bill became law. What one of those prophecies in the fullness of time do we now recognize as facts? Not one.

Then, Mr. Chairman, the railway mileage of the United States was 137,000 miles, now 220,000; then the gross earnings of the railways were \$931,000,000, now \$2,100,000,000; then the cost per ton per mile was 1.17, now 0.74; then the dividend on stocks was only 1.81 per cent, now 3.03 per cent; then the gross earnings per mile were \$6,861, now \$9,301; then, in 1887, 61,000,000,000 of tons of freight were carried 1 mile. In 1893,

171,000,000,000 of tons of freight were carried 1 mile. In 1886, 45 railroads, with a mileage of 7,887 miles and stocks and bonds aggregating \$374,000,000, were sold under foreclosure proceedings. In 1894, 13 railroads, with a mileage of 534 miles and stocks and bonds of \$28,000,000, were sold under foreclosure. Under this legislation the facts show that this great industry has prospered beyond compare. Nowhere else in all the world is there such a state of prosperity, notwithstanding the fact of this governmental supervision and notwithstanding the dolorous fears of the gentlemen who indulged in jeremiads twenty years ago—so like the speech of my friend from Massachusetts the other day—his speech was full of shadows; no sunlight anywhere in all the horizon of his sentences. I have stated what I have in order that he may be consoled and that hope again may spring in his bosom and that he may believe that even New England may prosper under this legislation. [Applause.]

Mr. Chairman, this is a great question. Any proposition of law that involves an interest so great as the railway interests of the United States ought to be regarded with solicitude by those who are charged with responsibility in that behalf.

One-twelfth of all the wealth in the United States is involved in greater or less degree in this bill. The earnings of the railways are so colossal that two billions and one hundred millions mark the amount of this great interest in one year. Our whole wealth production is but ten times more than that. Think how colossal this is. But the aggregate of investments, the aggregate of annual earnings, does not mark fairly the importance of this subject to the American people. Think how dependent we are for our prosperity, for the comforts of life even, upon the common carriers of the land. Think of the infinitude of the transactions between the carriers and those they serve—millions and millions of transactions.

And yet, Mr. Chairman, the gentleman from Massachusetts [Mr. McCALL] announced the astonishing doctrine that with all these varied and varying interests, with all of these interests, the people can not separate themselves from—they can not separate their connection with the railways—yet in all of these multiplied transactions there shall be no practical arbiter, no one to settle disputes except one of the parties in interest.

Mr. McCALL. If the gentleman will permit me, and the courts.

Mr. HEPBURN. I am going to speak of that. And the courts! Ah, yes, the courts. But we have had the courts during all these years, and I am not like the gentleman from New York, disposed to decry the power, or honor, or necessity for preserving respect for the courts. [Applause.] I recognize they are a necessary agency in the preservation of everything that is dear to the American citizen, and I reprobate, at least, the good taste of any gentleman who undertakes to disparage them in the minds of the people. [Applause.]

I tell you, Mr. Chairman, that whenever that evil day comes, should it ever come, when the people of the United States feel that in the courts they can not hope for justice, that in the courts they can not find an agency that will protect them in their rights and punish their offenders—whenever that day comes, and that other spirit “of righting oneself”—when that evil spirit takes possession of the public mind, there is an end to our institutions and to our boasted liberty. [Applause.]

The gentleman from Massachusetts says the remedies by courts are ample. Experience teaches that they are not. Not because of the fault of the courts, but because of the peculiar character of the transactions involved and because of the disparity in individual power of the contestants in the courts.

Mr. COCKRAN. Mr. Chairman, I am sure the gentleman wants to be fair. I would like to know how the statement of the gentleman differs in the slightest degree from the statement that I made. I have not criticised the courts any more than has the gentleman from Iowa [Mr. HEPBURN].

Mr. HEPBURN. The remarks of the gentleman from New York seemed to me, if not intended for the purpose, had the result of inflaming one man's mind against the courts, because that man was taught that, being poor, he lacked the power and could not have that efficient justice, that quick disposal of his business that another man with wealth behind him and station to aid him could have, and it was that spirit that I found in the gentleman's language that seemed to me ought not to pass unrebuked.

Mr. COCKRAN. Mr. Chairman, I would like to ask the gentleman how his statement now differs from mine. It is undisputed that the one person whose imprisonment I took occasion to mention—and I do not at all criticise the justice of that decision—was committed to jail for violation of an injunction, while others, although pronounced guilty of a crime by the deci-

sion of that same court, had not been actually incarcerated or even prosecuted.

Mr. HEPBURN. If I misunderstood the character and purpose of the gentleman's remarks, I am sorry.

Mr. COCKRAN. Well, I want to congratulate the committee on this contribution to the discussion, as I understand the gentleman now corroborates me by stating that, so far as the courts are concerned, they are inadequate, and therefore a more efficient agency to effect a remedy must be established.

Mr. HEPBURN. With that portion of the gentleman's remarks I am in entire accord. I was about saying that the courts had proved inadequate because of these reasons: The subject of the controversy in all of the cases that I can conceive is an involved one to the plaintiff; the knowledge and information that would enable the plaintiff to maintain his action for an overcharge are not in his possession. He could not give that expert testimony as to all the elements that would enter into the composition of a just and reasonable charge or an overcharge, while a knowledge of all these facts are in the hands of his adversary, and therefore he could not recover.

That is one of the difficulties, not with the courts, but because of the peculiarities of the subject of controversy. The courts have not been adequate and therefore some other means had to be substituted. With what abhorrence would we look upon a proposition, if gentlemen should make it, with reference to controversies other than of this class that were certain to rise and be numerous in the community, providing that one of the parties alone should determine the rightfulness of the controversy; and yet that is what is involved in all of these multitudes of possible disputes between carrier and shipper. It is the carrier that fixes the rate. He imposes upon the other party the necessity of accepting his rate. There is no escape from it. He may pay the charge and then the common law, says the gentleman from Maine [Mr. LITTLEFIELD], gives him a remedy and allows him to recover for the overcharge. Ah, how barren is that remedy, and while it is a known fact that the cases where such suits might be instituted are counted by millions, none is ever brought because of the expense, because of the delay, because of the inability to secure the proof whereby a judgment is within the limits of possibility. Therefore it is futile to talk about the courts as they are constituted furnishing that remedy that ought to be somewhere existent. Now, what do we do by this bill? The gentlemen who oppose it have discussed it as though it conferred upon the railway commission the power to establish schedules and rates. They have, I think, sometimes purposely set up this boggy for the purpose of combating it. No one has proposed that. The jurisdiction of the Commission is limited, as is its power limited, by this law. They can not at pleasure establish a rate. Before their jurisdiction attaches it must be ascertained that a wrong has been done, an overcharge has been made, a wrong in an extravagant, unreasonable rate, because the law to-day and the common law provide that the carriers' charge shall be just and reasonable. That is the limit to which he is permitted to go in fixing his tariff of schedules.

Now, under the operation of this bill, if it should become a law, it is necessary for some one to allege a violation of the statute—that a crime, in other words, has been done—because the overcharge is a crime, as well as being prohibited, and remedies furnished civilly by the courts. He has committed a crime. What then? Investigation follows, and if it is ascertained that the carrier is in violation of the law, then the jurisdiction of the Commission attaches, and it is permitted to do what? Fix a rate? Oh, no; oh, no. It is permitted to establish a just, reasonable, and fairly remunerative rate that shall be the maximum rate that the carrier shall charge. That is all. Can you think of any legislative effort in the direction of control more conservative than this? First, the carrier must be in the wrong—the carrier must be a criminal. His criminality must be ascertained. When it is ascertained by a dispassionate Commission then a rate within limitations, fair and certain and well defined, may be established as the maximum that the carrier may charge, leaving the feature of flexibility still remaining in the rate, and permitting the carrier to charge that lower sum that the exigencies of business or the activities of competition may make it prudent and wise for him to adopt. One gentleman complains of this bill because the words “unreasonable” or “reasonable” have no accurate judicial determination. There are some words, I think, that can not be defined, and yet we use them every day, and the courts use them. Would it be possible for the four critics of this bill to define the word “fraud”? Is it probable that any two of them would agree as to the legal definition of the word “fraud”? And yet the courts have been industriously at work upon that

for centuries, trying to find out what constitutes fraud. There is no definition that would be satisfactory to any lawyer that ever read a law book. There are proximations, and yet you will find after the study of the most carefully prepared definitions that in your own experience you have had cases that do not come within that definition.

I could not define the word "reasonable" in a way satisfactory to myself. I doubt whether any gentleman could do that, but he could in a series of cases, exercising his best discretion, looking at all the facts that may be brought to bear upon a given case, arrive at a conclusion that will be in harmony with the demands of justice and will be right in all of its bearings upon all of the parties. It is a very difficult thing, a very difficult thing, to use words of our English language that are not susceptible of varying interpretations. My friend on my right, the gentleman from Ohio [Mr. GROSVENOR], was exercised the other day because there was not sufficient definiteness in the language used. I do not know that I see before me one individual whom I believe can write an English sentence of twenty words that I can not give more than one meaning to. It is an exceedingly difficult thing to use the English language in such way that ingenious carping can not find fault with it. My friend here undoubtedly has heard the story of the little girl who at her prayers in the morning said, "Good-by, God; we are going to move to Missouri?" [Laughter.] Her wicked brother, who happened to overhear her, and who was jubilant at the idea of the journey, used the very same sentence, but he said, "Good! By God, we are going to move to Missouri!" [Renewed laughter and applause.]

In view of this great difficulty of using the English language so as to convey a given idea with absolute certainty I thought that some of the comments of my distinguished friend a day or two ago reached the dignity only of carping criticism. [Applause.] The gentleman from New York [Mr. SULZER] last night indulged in a character of comment I thought not differing greatly from that of the gentleman from Ohio. [Laughter and applause.] But there was something at least interesting in the remarks made by the gentleman from New York. [Laughter.] They tended to give to the membership of this House a more exalted idea of the aggregate of manliness which was on our roll. Patriotism of a rare character was illustrated by what he said. It is seldom that you find a man so patriotic and so self-abnegating that he will refuse the princely income of \$25,000 a year and content himself with the beggarly stipend of 20 per cent of that in order that he may do good to all mankind. [Laughter and applause.]

Do good! Not here; ah, no pent-up Utica like this meets the exalted aspirations of the gentleman from New York. He stands on a pedestal of his greatness, either above or below the Statue of Liberty, I do not know which [laughter], proclaiming to all the world, "Come ye that are heavy laden, and I will give you rest." [Laughter and applause.] And yet, Mr. Chairman, when the gentleman attempts to be practical I am not sure that he reaches the high-sounding phrases of his declaration of greatness. He told us this bill was lacking in great essentials—that it did not include in its provisions a class of instrumentalities of commerce that it was wicked and criminal to omit. He told us that this bill did not provide dire and certain punishments behind the bars of the penitentiary where the criminal classes—those whom gentlemen here will agree are violating the provisions of this law or engaged in conduct now that if continued after the proposed law would become criminal—where those people should be incarcerated, and that it was because of these two defects that the law was fundamentally and radically deficient. He told us with much elation that he had prepared a bill—No. 8414. Those figures impressed themselves upon my memory, and I never will forget them [applause] as the file number of a bill embodying all wisdom upon this subject and a proposition that would give to the country what the country wants and give to all of the rich clients of my friends that which they do not want. I sent for the bill, and, lo! here it is. He told us that a dozen lines alone would furnish the legislation that was to bring about the cure for all of our difficulties, and here is the bill—8414. [Laughter and applause.] Make a mental picture of it, gentlemen. Write it upon the tablets of your memory, so that no time, no circumstance, no conditions of horror or joy shall ever permit you to lose that mental impression. 8414! [Laughter and applause.] And yet, gentlemen, the class of instrumentalities that is omitted from the committee's bill is omitted from this one. [Laughter.] The gentleman had never thought of it, probably, until he got upon his feet. [Laughter.] I say that in order that I may be kind to him. [Laughter.]

But here is the provision, gentlemen. Here is the provision of bill No. 8414 on the subject of punishments. The gentleman

wanted Rockefeller and all those gentlemen he named behind the bars, so that he could enjoy the sight of them as prison convicts.

That any person, association, or corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor—

[Laughter.]

The penitentiary is "suspended." [Laughter and applause.]

And on conviction thereof shall be punished in the manner provided by the act approved February 19, 1903, entitled "An act to further regulate interstate commerce."

You may recollect, gentlemen, that the act of 1903 repealed the prison penalty of the interstate-commerce act. [Laughter and applause.] I am not quite certain in my mind—

Mr. SULZER. Mr. Chairman—

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

Mr. HEPBURN. I yield for a question only.

Mr. SULZER. My question is this: If I made an error in regard to the extent of the punishment, why did not the gentleman from Iowa, as chairman of the committee, in the interest of the people, amend my bill and make the punishment fit the crime?

Mr. HEPBURN. There is no trouble about answering that question at all, sir. We had an act passed in 1887 that provided vigorous, severe prison penalties for the violation of many provisions of the interstate-commerce act.

Up to 1903, sixteen years, no conviction had been had under that act. It was said here upon this floor and elsewhere that the reason was obvious—that the men who knew the facts by which convictions before juries could be made possible were all of them railroad men. They were the men familiar with conditions, familiar with facts, the only ones whose testimony would be adequate to secure convictions, and that there was that esprit du corps among them that they would not testify where it meant going to prison on the part of their fellows and that if the punishment were by fine largely increased convictions could be had. This Congress—and I think the gentleman from New York [Mr. SULZER] voted for it—

Mr. SULZER. The gentleman is in error. I voted against it, knowing what the consequences would be.

Mr. HEPBURN. All right. I am willing to admit that he thinks he did. [Laughter.]

Mr. SULZER. The RECORD will show that I voted against it.

Mr. HEPBURN. I may be wrong, but I will look it up. [Laughter.]

Mr. SULZER. The gentleman better look it up, and had better look up some other things, too.

Mr. HEPBURN. Mr. Chairman, this bill does not do the things that many gentleman said it would do, and yet I believe that it will do all that is recommended to be done in the annual messages of the President. The committee tried to do no more than that. A year ago we did. At that time the Committee on Interstate and Foreign Commerce presented to this House a bill that met the approval of the membership largely, except the gentleman from Massachusetts [Mr. McCALL], and he seemed to think that he might derive some consolation from the broad statement that not more than two Members of this House that voted for that bill would now repeat that vote. I think he was in error. I for one would vote for that bill if that were the pending bill. While I do not believe that its provisions are as safe as this one, yet I think that that was so much better than having no legislation at all that I would cheerfully give it my vote, and I believe that every member of the committee of which I am a member would so act. [Applause.] It was not perfect—no more than this bill. I have no doubt that future legislation will improve upon the measure that we now propose, but it is the best that we can give you. We have harmonized all the differences that stood in the way of an unanimous report.

I do not think the bill is exactly in accord with the views of any one member of the committee, not more than two at all events, but each one has been willing to yield something. Something always has to be done in this way. I understand that my friend on the right [Mr. GROSVENOR] was made unhappy in his remarks the other day by the thought of a preternatural unanimity on the part of the committee. We were trying to get legislation. We were trying to secure a result that we believed would do good, and therefore it was that the minority of the committee waived much of their preference and the majority waived much that they would have preferred would be in the bill or omitted from the bill, and we secured that which we have.

Mr. UNDERWOOD rose.

The CHAIRMAN. Will the gentleman from Iowa [Mr. HEPBURN] yield to the gentleman from Alabama [Mr. UNDERWOOD]? Mr. HEPBURN. Certainly.

Mr. UNDERWOOD. Will the gentleman allow me to ask him a question for information?

Mr. HEPBURN. Yes, sir.

Mr. UNDERWOOD. I desire to ask the gentleman, as chairman of the committee, for my information, and I am sure the House would like to have it, whether he claims that the bill as now reported will enable the Interstate Commerce Commission to regulate express companies?

Mr. HEPBURN. I do not.

Mr. UNDERWOOD. They are not included in the terms of the bill, then?

Mr. HEPBURN. I would say not.

Mr. UNDERWOOD. Now, I will ask the gentleman another question: Do the terms of the bill include the regulation of Pullman cars?

Mr. HEPBURN. I would say not.

Mr. UNDERWOOD. Then, may I ask the gentleman to state to the House why the committee, in its wisdom, saw fit to leave the regulation of those two companies out of the bill?

Mr. HEPBURN. I will state that the committee, as I said a little while ago, confined its recommendations solely to the recommendations made by the President of the United States. That is the reason. We wanted to put no more into the bill than would meet the demands of the public that had been crystallized upon two or three propositions by the challenge in the President's message to the attention of the whole American people.

Mr. SHERLEY rose.

The CHAIRMAN. Does the gentleman from Iowa yield to the gentleman from Kentucky [Mr. SHERLEY]?

Mr. HEPBURN. I do.

Mr. SHERLEY. Mr. Chairman, I would like to ask the gentleman whether, in his opinion, this bill provides for the review of the action of the Commission by the courts in any other sense than they can always review the constitutionality of any act?

Mr. HEPBURN. I have no doubt, Mr. Chairman, that whatever rights now exist to review the action of the Commission exist under this bill. There have been no changes whatever in the court procedure or court plans; no curtailment of the power of the court, no effort in that direction, and whatever power the courts to-day have they will have and they must have under this bill.

Mr. SHERLEY. If the gentleman will permit another question—I am sure that he realizes that I am asking it for no other purpose than that of obtaining information. You are conferring a new power, a power after a rate is set aside to fix a rate, a maximum rate, that shall be observed by the railroads. I would like to know whether, in your judgment, the court, in reviewing that order, can pass upon the reasonableness of that rate or can only pass upon the question of whether it is so low as to confiscate the property.

Mr. HEPBURN. I have no hesitation in saying that, in my judgment, the court will have the power to determine, first, whether the Commission had jurisdiction of the subject-matter; whether it had the power to act at all. That would be dependent upon the question of whether an unjust or an unreasonable rate was condemned, and whenever it passed upon that they would then seek to know whether the Commission had acted within the scope of its authority. It is authorized to fix a just, a reasonable, and fairly compensatory rate. That is to be the maximum, and the court would inquire—and it would be a legitimate subject of inquiry—as to whether the Commission had confined itself within the limitations that the law had thrown around it.

Mr. SHERLEY. Has the gentleman considered the matter in connection with the view frequently expressed by the courts, that a legislative act can not be reviewed except in regard to its constitutionality?

Mr. HEPBURN. Another question is possibly presented here, as to whether or not the Commission has jurisdiction to act; and then, second, whether or not it has exceeded the authority that was conferred.

Mr. SHERLEY. The gentleman, of course, recognizes the distinction—

Mr. HEPBURN. I do not care to argue this matter further. I have stated my views in regard to it. The gentleman will not understand me as being disrespectful, but simply wanting to proceed.

That is the view I take of this matter. I do not believe that we can take from the courts their power to inquire whether or not a citizen was being bereft of one of his constitutional prerogatives or rights. You must remember, gentlemen, that the courts are a coordinate branch of this Government; that the courts in their sphere are the equals of the legislative branch or the executive branch. You must remember, further,

that our action may not be final. We may assume to exercise authority. There is a power, the Supreme Court, that passes upon that, and we, in that respect, are not supreme. The Executive finds that the Supreme Court is above him. It will pass upon the constitutionality of an act of the President; but who passes upon the declaration as to the power of the Supreme Court? They have the final word. When did you hear of any court assenting to a proposition that curtails and puts a limitation upon its jurisdiction?

Mr. SULLIVAN of Massachusetts. Mr. Chairman—

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

Mr. HEPBURN. Yes, sir.

Mr. SULLIVAN of Massachusetts. I submit a question to the gentleman which I hope he will answer in order to bring out what I am trying to learn as a matter of information about the terms of this bill upon which the court will have to act, and that is whether "unreasonably low" and "confiscatory" are, in your opinion, synonymous terms?

Mr. HEPBURN. If I were a judge, I would say that they were synonymous terms.

Mr. SULLIVAN of Massachusetts. Then, in your opinion, the court, under this bill, if it becomes law, will have the right to enjoin a rate fixed by the Commission if it is unreasonably low, but yet does not amount to confiscation?

Mr. HEPBURN. I think there is no doubt about that. I think if there was any doubt about it at all the words "fairly remunerative" would remove the doubt.

Mr. SULLIVAN of Massachusetts. Then, if I may ask the gentleman's attention to one more question—

Mr. HEPBURN. I yield to the gentleman.

Mr. SULLIVAN of Massachusetts. Then in any case where the Commission fixed a rate as a reasonable rate the carrier would have the right to ask the court to enjoin the rate, and that court would have the right to enjoin it if it found that it reduced the profit of the railroad in that particular below a fair return upon the capital invested.

Mr. HEPBURN. I do not know just what view the courts may take as to the elements that would be considered when they were construing or ascertaining what was a reasonable rate. They may wonderfully vary; they are infinite in number. It is a difficult proposition, I take it, but I do not understand that it would be wise for us to refuse to impose the duty when it must some time be determined by somebody because of the difficulties involved.

Mr. SULLIVAN of Massachusetts. In view of the opinion as expressed by the gentleman from Iowa, would he be willing, in order to set the matter completely at rest, to accept an amendment to this bill which would give the carrier a right to ask to have a rate enjoined on the ground that it was unreasonably low?

Mr. HEPBURN. I should object to any amendment.

Mr. COCKRAN. Will the gentleman allow a question?

Mr. HEPBURN. Certainly.

Mr. COCKRAN. Would it be possible to deprive the courts of power to enjoin the operation of an order which forced a carrier to transact business at a rate that would not yield a fairly remunerative return?

Mr. HEPBURN. I do not think we could take that power away from the courts.

Mr. COCKRAN. I agree with the gentleman, and therefore there is no necessity for embodying a provision to that effect in the bill.

Mr. HEPBURN. Mr. Chairman, I was a little surprised at the selfish candor exhibited by the gentleman from Maine [Mr. LITTLEFIELD] in his opposition to this bill. We are apt to be candid when the expressions of candor are complimentary to us. We are not apt to be quite so candid when there is selfishness embraced in the expression. The gentleman from Maine is fearful, apparently, that the extraordinarily unjust and unfair rate on cotton that the people of his community are now receiving may not be continued to them in case the Commission is invested with the power to adjust rates.

Mr. Chairman, I scarcely thought that there was any situation that would justly alarm the gentleman until I investigated the matter slightly, and I found that in the Southern States, in their cotton mills twenty-five years ago, there was invested but \$21,000,000. Now there is invested in the same region \$225,000,000. In 1880 the spindles in the South were but 667,000. Last year there were 9,205,000 cotton spindles used in the South. Twenty-five years ago they used 225,000 bales of cotton. Last year they used 2,163,000 bales.

Now, if this grand progress had been made under the disadvantages that the gentleman from Maine says the Southern cotton spinner now suffers, what will be the strides of prog-

ress, what will be the wonderful growth in manufactures, what will be the beneficent results that will come to that people when fairness is secured, and when their rivals are not built up at their expense by unjust and wicked discrimination? [Applause.]

Mr. Chairman, with reference to the differences of opinion that have prevailed in regard to some features of the bill, I do not now care to say anything, but we were agreed in regard to two fundamental propositions: One was the investment of the Interstate Commerce Commission with the measure of power, the full measure of power, that the President in his message said he thought they ought to have. That we have done. Then to include by changes enlargement of the definition of the word "railroad" and "transportation," to bring in all of those auxiliaries, or aids, or instrumentalities through which so many frauds and wrongs in the nature of rebates and discriminations have occurred. We believe that we have done that. These we regard as the two essential things. The other changes or provisions that there are in this bill are simply changes of existing law, so as to make more easy, more certain, the administration of the power that the Commission now has. We have disposed, we think, successfully of wrongs that are accomplished through what is known as the "midnight tariff," those sudden changes prearranged for, whereby one man would have large discriminations in his favor, and after he had benefited thereby, the rate going back to the old schedule, and things move on placidly, notwithstanding that it is a legally recognized cut in the rate.

We have disposed of that by insisting that changes should not be made without thirty days' notice, and yet, recognizing the fact that there might be an emergency when a notice less than that should be sufficient, we have provided in the bill that the Commission might, in a proper case, alter that rule and so arrange that the schedules may be filed and become operative with less than that notice.

We have modified somewhat that section of the statute that sought to give a wronged shipper the power to be righted through the Commission and through the courts.

Heretofore practically that part of the law has been inoperative. We have now, we think, somewhat smoothed the machinery, so that when damages have been awarded by the Commission the complainant may, by simpler processes in the courts, recover judgment.

Mr. HOGG. Mr. Chairman, will the gentleman permit an interruption?

The CHAIRMAN. Does the gentleman yield?

Mr. HEPBURN. Certainly.

Mr. HOGG. Is it the understanding of the committee that this Commission is a judicial tribunal?

Mr. HEPBURN. Well, I know the gentleman from Colorado to be a profound lawyer—constitutional, statutory, common law, and otherwise—and I shall remand that inquiry to him. [Laughter.]

Mr. HOGG. Let me ask the gentleman another question.

Mr. HEPBURN. Oh, Mr. Chairman, I do not care to answer questions of that kind. We have changed somewhat the requirements with regard to the filing of schedules, so that greater certainty may be had. We have relieved the Commission from the necessity of making a full statement of its findings of fact in certain classes of cases, which has been a burdensome labor, of which complaint is made, and so far as we could learn no adequate result followed it. Therefore we have proposed to modify that. We have given to the Commission the power to investigate more fully, more completely, the financial affairs of the different railways, compelling fuller, more complete, more frequent reports to be made to them. We have given them the authority, if they see fit to exercise it, of prescribing a system of bookkeeping, uniform in its character, to apply to all carriers, prescribing the kinds of accounts that shall be kept and prohibiting the keeping of others, making it impossible, it is thought, for a carrier to use any portion of its revenues for purposes of rebates or improper compensation to shippers that will escape the vigilant eye of the Commission. We propose that the Commission should consist of seven members and the compensation should be \$10,000 a year and the term of office seven years. These are the changes that have been made in existing law.

Mr. Chairman, I am very grateful for the attention that the House has given me. I regard this question as one of great importance. I think it is the most important single question that we now have to deal with. I do not believe that we will be able by this legislation or any other to prevent rebates in some instances being given, to prevent preferences being shown to some locality, to some person, or to some character of traffic, but it will aid toward minifying a number of wrongs; it will give greater contentment to all the people in the belief that

they are not being made the puppet and the football of carriers. I would be glad if certain other enactments might have been a part of this bill, but I contented myself in omitting them with the hope that we could unite upon this measure in the committee with unanimity and secure its passage through this House without amendment, believing that in other places there might be a moral effect from that action that would aid in the completion of the legislation. My friend on my right, the gentleman from Ohio [Mr. GROSVENOR], has one proposition that I do not hesitate to say that as an original proposition I would be glad to favor, but as an addendum to this bill—as one of those propositions that I know will secure dissent somewhere and create opposition against the bill—I shall resist as best I can its being projected into this measure. I thank the members of the committee. [Prolonged applause.]

Mr. Chairman, I call for the reading of the bill.

The CHAIRMAN. No other gentleman having sought the floor, the Clerk will read the bill by paragraphs.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of an act entitled "An act to regulate commerce," approved February 4, 1887, be amended so as to read as follows:

"Sec. 1. That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad (or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment) from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from one place in a Territory to another place in the same Territory, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of transshipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country: *Provided, however,* That the provisions of this act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property wholly within one State and not shipped to or from a foreign country from or to any State or Territory as aforesaid.

The term 'railroad,' as used in this act, shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement, or lease, and shall also include all switches, spurs, tracks, and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, and also all freight depots, yards, and grounds used or necessary in the transportation or delivery of any of said property; and the term 'transportation' shall include cars and other vehicles and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof and all services in connection with the receipt, delivery, elevation and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported; and it shall be the duty of every carrier subject to the provisions of this act to provide and furnish such transportation upon reasonable request therefor, and to establish through routes and just and reasonable rates applicable thereto.

"All charges made for any services rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, shall be just and reasonable; and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful."

Mr. GROSVENOR. Mr. Chairman, at the time I spoke upon the subject of this bill I sent to the Clerk's desk and had read in my time an amendment to the bill which I proposed to offer in the form of an independent section. It will be remembered that the subject-matter of that amendment related to the ownership by officers of railroad corporations of property and productive industries along the line of road.

Mr. OLMSTED. Mr. Chairman, I would like to understand whether that amendment is now being debated.

Mr. GROSVENOR. No; it is not, but if the gentleman will wait a moment he will be satisfied with the course that I am taking. As I say, it related to the subject of officers and directors of railroad corporations being the owners of property and productive industries along the line of road, and thereby becoming interested in the subject of the transportation thereof. I have concluded, after a careful study of the subject, not to offer that amendment at this time for this reason. I do not care to impede the progress of this bill, nor do I care to delay the progress of the bill. I am of opinion that the subject-matter of my amendment ought to be considered more fully than I have had an opportunity to do so far, and that I should add to it the other side of the Pennsylvania constitution, and I therefore have concluded to introduce as an original proposition into the House at some early day a comprehensive bill upon the subject, have it referred to the appropriate committee, and let the House take such action as it may deem wise.

I think the matter to which I now refer is of the greatest possible interest to the producing industries of the country. I believe that there can be a remedy applied in this direction

which will do more to prevent rebates and discriminations than all that this bill contains.

I make this statement because I had said I would offer this amendment, and if any other gentleman wishes to do so, of course, I can not bar his right, but my reason for not offering it is that I am not satisfied that it ought to be offered in connection with the legislation now pending.

Mr. UNDERWOOD. Mr. Chairman, I desire to send the following amendment to the Clerk's desk, which I offer to the pending section, and have it read.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Amend by inserting, on page 3, at the end of line 13, the following: "That all the provisions of the act to regulate commerce, approved February 4, 1887, and the acts amendatory thereof and supplementary thereto, and the provisions of this act shall extend to and embrace all express companies engaged in the transportation of property from one State or Territory of the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of transshipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country. And it shall be unlawful for such express companies to act as agents in the sale of property transported by them."

Mr. UNDERWOOD. Mr. Chairman, I have agreed heartily with the wishes of the committee, who have presented to this House a most excellent bill, that the bill should pass the House without amendment, if possible, but I believe the proposition of leaving out of the terms of this bill the regulation of express companies is vital to the very proposition that the President of the United States has asked the Congress to legislate upon, and that, therefore, we can not afford to let this bill pass the House without remedying it to that extent. Now, what is the one great reposition from which the country is crying to Congress for relief? It is against rebates; it is against preferences. We passed the Elkins bill and yet the great shippers of the country, the great monopolies of the country, continued to receive rebates and preferences, called by another name. How did they accomplish it? They accomplished it by the use of private cars, by the use of terminal tracks, and by other alternatives they got around and escaped the law. Now, Mr. Chairman, if we do not carry this legislation to the control of the express business of the country we will leave undoubtedly another opening, another gap by which the great monopolistic shippers of this country may avoid the rebate laws and may obtain their preferences and get around the legislation that we are attempting to pass. To-day you can ship as express business certain commodities in the country, but where is the definition of express business? Who decides exactly what express business is? It is fast freight as far as we can decide it so far. If that is the case, who can tell us but that to-morrow all the refrigerator cars will go into an express company, all the meat that is shipped across the country, all the fruits and all the vegetables and marketable stuffs that go from the south to New York, from the Gulf to Chicago, or from the western plains to the eastern market, will not become express business, and instead of having an express car attached to a train we will have an express train moving across the continent controlled and owned by a different corporation from the railroads and controlled and owned for the purpose of giving rebates and special rates and privileges to certain commodities and certain classes of shippers? Now, I agree with the gentleman from Iowa and I do not think the terms of this bill go far enough to control the express business of the country; but I say that if you do not by your legislation control that express business you leave the gap down and a hole open for those who seek to avoid the law as they have avoided the Elkins law to go through and the very object of your bill will be defeated, and for that reason I think it most important that this House shall at this time amend the bill by providing that the express companies and express business of the country shall come within the terms of the bill.

Mr. HEPBURN. Mr. Chairman, I do not care about discussing the proposition at all. I have already stated the reason why the committee omitted this subject, and I therefore ask for a vote.

Mr. TOWNSEND. Mr. Chairman, I would just like to be recognized for a moment on this proposition. I do not agree with the statement of our distinguished chairman [Mr. HEPBURN] that this bill does not cover the very question which the gentleman from Alabama [Mr. UNDERWOOD] seeks to incorporate in it now. I have never understood it any other way. And the very suggestions which the gentleman offers, it seems to me, make it absolutely necessary that it should be considered as one

of the facilities or instrumentalities of commerce. I can not read this section in any other way. Certainly the express company is engaged in interstate commerce over the highways, and it affords an instrumentality of commerce.

I oppose the amendment for the reason that I believe it already contains this. I also believe it covers Pullman cars, and I have also understood it from the beginning. I can not possibly in my own mind separate these various facilities or instrumentalities from those things which are necessarily included in the terms of the bill. I do not know how the language can be construed any wider or to cover more. It is true we have attempted in here to be specific in certain instances, and we have done that because our attention has been called specifically to those matters. I will say to the gentleman that in all of our hearings we have never had one word of testimony, no complainant has been before us, finding fault with the express companies or Pullman-car companies.

Mr. SAMUEL W. SMITH. Why not make it so plain that there can not be any mistake about it, if the gentleman thinks that express companies should be included in the provisions of the interstate-commerce laws?

Mr. TOWNSEND. Because I believe it is in there now, and I believe, with the gentlemen who have spoken before, that we do not want to amend this bill. I believe it covers the case.

Mr. HAMILTON rose.

The CHAIRMAN. Does the gentleman from Michigan [Mr. TOWNSEND] yield to his colleague [Mr. HAMILTON]?

Mr. TOWNSEND. Certainly.

Mr. HAMILTON. Will the gentleman permit a question?

Mr. TOWNSEND. Certainly.

Mr. HAMILTON. Will the gentleman specify the language in the bill which he thinks covers express companies and Pullman cars?

Mr. TOWNSEND. The language has been read. It is very brief. It states that—

The term "transportation" shall include cars and other vehicles and all instrumentalities and facilities of shipment or carriage—

"Carriage" applies as much to passengers, I will say, as it does to freight—

irrespective of ownership or of any contract, express or implied, for the use thereof, and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported.

I do not know how language could be broader than that.

Mr. COOPER of Wisconsin. Mr. Chairman, I think that the question raised by the remark of the gentleman from Alabama [Mr. UNDERWOOD] is a very important one. This question is whether the pending bill does or does not cover express companies. A speech was made during the debate by the gentleman from Wisconsin [Mr. ESCH] in which he said that the bill covers express companies. I was not present when, as I am told, the distinguished chairman of the committee [Mr. HEPBURN] asserted that the bill does not cover express companies. I desire to say, Mr. Chairman, in this connection, that to me it is clear that the bill does not cover express companies. I base my contention first upon the construction of the original act by the Interstate Commerce Commission. The original act contains this language:

And the term "transportation" shall include all instrumentalities of shipment or carriage.

That is the exact phraseology, practically, to which the gentleman from Michigan [Mr. TOWNSEND] has just called the attention of his colleague from Michigan [Mr. HAMILTON]. But that language, as I said, has been held from the beginning by the Interstate Commerce Commission not to cover express companies. Now, what is the language of the pending bill. It reads:

Transportation shall include cars and other vehicles and all instrumentalities.

And the word "facilities" is added. No other word than "facilities" of any significance, and that has no especial legal significance in this connection, is added to the old statute in defining the word "transportation" to make it applicable to express companies. But what else is there to show, Mr. Chairman, that the pending bill does not cover express companies? The same section (sec. 1) of the pending bill contains this language: "Every carrier;" and the word "carrier" here means a railroad company.

Mr. TOWNSEND. We have enlarged "carrier" and we have enlarged "railroad."

Mr. COOPER of Wisconsin. Just a moment. It says:

And it shall be the duty of every carrier subject to the provisions of this act to provide and furnish such transportation.

Now, that is the transportation in cars. That is not the transportation that comes under the definition of "instrumentalities and facilities," to cover express companies.

Mr. TOWNSEND. How does the gentleman expect to cover express companies?

Mr. COOPER of Wisconsin (continuing). Because an express company is a separate corporation entirely.

Mr. TOWNSEND. It is carried in cars, is it not?

Mr. COOPER of Wisconsin (continuing). And the railroad company does not presume to dictate at the office of an express company what package shall or shall not be carried. The railroad company simply supplies cars for the express company, a separate corporation, to use.

Day before yesterday I said to a member of the present Interstate Commerce Commission that in my judgment the pending bill does not cover express companies and asked him as to his views on this point. Without a moment's hesitation, he replied that it does not cover express companies and that the provisions of the bill do not essentially enlarge the provisions of the original act in this regard.

Mr. STEENERSON. Mr. Chairman, I send up an amendment or a substitute which I offer as an amendment to the amendment proposed by the gentleman from Alabama.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Amend the bill by inserting after line 12 and before line 13, on page 2, the following words: "including express companies."

The CHAIRMAN. The Chair understood the gentleman to say that he offered an amendment to the amendment. The language he has sent up seems to be an amendment to the bill.

Mr. STEENERSON. It was written before the amendment of the gentleman from Alabama was sent up. I desire to have it modified so as to offer it as an amendment to the amendment or as a substitute.

Mr. LITTLEFIELD. Mr. Chairman, I would like to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. LITTLEFIELD. What portion of the bill does this last amendment propose to amend—that is, where is it proposed to insert it?

Mr. STEENERSON. In section 1, page 2.

Mr. UNDERWOOD. Mr. Chairman, I make the point of order that the amendment offered by the gentleman from Minnesota, although germane to the bill, is not in order as an amendment to my amendment. My amendment is offered as a separate section. His amendment is offered to the bill.

The CHAIRMAN. The point of order is sustained. The amendment offered by the gentleman from Minnesota is an independent amendment.

Mr. MANN. The gentleman from Alabama has just stated his amendment is a new section to the bill. I beg to ask, if that is the case, where it comes in?

Mr. UNDERWOOD. I should have said a new paragraph to this section. My words were not well chosen.

Mr. STEENERSON. I desire to inquire what the status of my proposition is?

The CHAIRMAN. The amendment of the gentleman from Minnesota has been ruled out on a point of order.

Mr. STEENERSON. I desire to ask the gentleman to reserve the point of order. [Cries of "Vote!"]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama, which the Clerk will again report for the information of the committee.

The amendment was again reported.

The question was taken on the adoption of the amendment, and the Chairman announced that the yeas appeared to have it.

Mr. UNDERWOOD. I ask for a division.

The committee divided; and there were—ayes 129, yeas 129.

Mr. UNDERWOOD. I ask for tellers, Mr. Chairman.

Tellers were ordered.

The CHAIRMAN. The gentleman from Iowa [Mr. HEPBURN] and the gentleman from Alabama [Mr. UNDERWOOD] will please take their places as tellers.

The committee again divided; and the tellers reported—ayes 119, yeas 146.

So the amendment was rejected.

Mr. HARDWICK. Mr. Chairman—

The CHAIRMAN. The gentleman from Minnesota [Mr. STEENERSON] has the first right to recognition.

Mr. STEENERSON. I desire to offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend the bill by inserting after line 12 and before line 13, page 2, the following words: "including express companies."

Mr. ADAMSON. Mr. Chairman, I make the point of order that we have just voted on that subject-matter, and no other business has been transacted.

The CHAIRMAN. It is not within the right of the Chair to

pass upon the subject-matter or the propriety of an amendment offered.

Mr. STEENERSON. So far as I am concerned, I desire to say that I do not introduce this amendment for the purpose of embarrassing the committee.

Mr. MANN. I rise to a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. As I understand it, the gentleman must be mistaken about where he is proposing this amendment to be inserted, and therefore I ask where this amendment is proposed to be made?

The CHAIRMAN. The Chair did not hear the gentleman.

Mr. MANN. May I ask that the amendment be reported for information.

Mr. STEENERSON. I desire to explain the amendment.

The amendment was again reported.

Mr. MANN. If the gentleman will pardon me, if the gentleman wants to accomplish anything by offering his amendment he should ask to have it inserted in a place where it will have some relation to the matter.

Mr. STEENERSON. I suppose, Mr. Chairman, I have the floor.

The CHAIRMAN. The gentleman from Minnesota has the floor.

Mr. STEENERSON. As I have just stated, Mr. Chairman, I do not offer this amendment because I want to embarrass this committee.

Mr. NORRIS. I want to ask the gentleman a question.

The CHAIRMAN. Does the gentleman yield?

Mr. STEENERSON. I yield.

Mr. NORRIS. From what I heard the Clerk read, the amendment of the gentleman from Minnesota does not mean anything.

Mr. MANN. That is just what I said to him, but he didn't pay any attention to it. [Laughter.]

Mr. STEENERSON. Where would the gentleman put it in?

Mr. NORRIS. I would favor the gentleman's amendment if he would put it in where it would do some good.

Mr. STEENERSON. I would put it in anywhere, but this is the place I have selected. The purpose of the amendment, Mr. Chairman, is just the same as that which was intended by the amendment we just voted down, so I do not expect that the committee will reverse itself on that proposition. I desire to say, however, that I think it was a great mistake in framing the bill not to include express companies. The bill loses a good deal of its merit by not including that provision. The most valuable provisions in this bill are those sections which seek to make the present law more effective and invest the Commission with power to execute all existing law with greater efficiency, but to leave out the express companies, it seems to me, leaves a loophole, which makes it ineffective, indeed, so far as that part of the bill is concerned. I think all that is necessary to make the bill cover express companies is to insert it in this part of the section that I have indicated. I will say that I examined the question very carefully, and I am sorry to differ with the gentleman from Illinois [Mr. MANN] and the gentleman from Nebraska. The gentleman from Wisconsin [Mr. ESCH] said the other day that it was his opinion that express companies were included by implication. The chairman of the committee [Mr. HEPBURN] has just told us that it does not include express companies, so there seems to be a divided opinion among the members of the committee, and the only way to remedy it, it seems to me, is to make the express provision covering this matter.

Mr. STEPHENS of Texas. Mr. Chairman, I offer the following substitute to the gentleman's amendment.

The Clerk read as follows:

Amend by adding to end of line 12, page 2, the following: "and the term 'common carrier' shall include the business done by postal cars, express and terminal companies."

Mr. SHERMAN. Mr. Chairman, I make the point of order that this is not germane to the section, and, besides, that it attempts to place the postal cars of the country under the Interstate Commerce Commission.

Mr. STEPHENS of Texas. Mr. Chairman, I have examined the section, and it strikes me that it is germane. The section provides that "the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad," etc. Now, this amendment defines the term "common carrier," and if this amendment is adopted the charges made for hauling postal cars will be regulated by the Commission and the Government will save many millions of dollars each year.

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

Mr. STEPHENS of Texas. Certainly.

Mr. MANN. Does not the gentleman from Texas think that while we are amending the bill we ought to amend the eight-hour law, too?

Mr. STEPHENS of Texas. We will reach that in due time.

Mr. MANN. It might as well be put in this bill as anywhere else.

Mr. STEPHENS of Texas. At the present time we are engaged in trying to amend this bill.

Mr. Chairman, I desire to state that, in my judgment, this amendment is germane to this section of this bill, because a charge is made by railroad companies for hauling mail cars, and the object of this section, and in fact of this bill, is to fix maximum rates for common carriers, and by my amendment I desire to place postal cars, express and terminal cars under the provisions of the act.

The CHAIRMAN. The Chair will be glad to hear the gentleman from Texas on the question of the point of order—on the question of whether the mail business done by the postal cars is germane to the bill.

Mr. STEPHENS of Texas. Mr. Chairman, this amendment is germane because it will regulate charges made by common carriers for transporting postal, express, or terminal cars. It makes no difference whether the property is mail matter and belongs to the United States, or whether it is something to be carried for hire, and we are by this bill engaged in regulating freight charges. It makes no difference whether it is for the United States or whether it is for a citizen of the United States if it is property and a charge is made for hauling it. Now, this amendment would give the Commission the right to regulate the rates charged for the business done in postal cars, terminal cars, or express cars. I do not understand that any question is raised by the gentleman's point of order about the terminal or express cars, but his objection only relates to the cars carrying mail or postal cars.

The CHAIRMAN. The Chair rules that perhaps as the gentleman from Texas has stated it it would very likely be in order, but the proposition as stated in his amendment as read at the desk, the Chair thinks, would not be in order.

The question is on the amendment offered by the gentleman from Minnesota [Mr. STEENERSON].

The question was taken; and the amendment was rejected.

Mr. HARDWICK. Mr. Chairman, I offer an amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend by adding after line 12, page 2, the following: "The term 'common carrier' as used in this act shall include all Pullman-car companies and sleeping-car companies, and all persons, firms, or corporations engaged in the business of operating Pullman, sleeping, dining, or drawing-room cars."

Mr. HARDWICK. Mr. Chairman, I want to say just a word to the committee about this amendment. The gentleman from Wisconsin stated the case correctly and very lucidly, I thought, when he said that the Interstate Commerce Commission had decided under the provisions of the original Reagan Act that the language therein used was not broad enough to cover express car companies. Of course it would not cover Pullman car companies. The gentleman from Michigan [Mr. TOWNSEND] disagrees with the chairman of the committee, the gentleman from Iowa [Mr. HEPBURN], about whether or not Pullman car companies are included within the provision of this bill. I think there ought to be no doubt about it, and that they ought to be included in it so that they can not make unreasonable charges. I hope the amendment will pass.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia.

The question was taken; and on a division, demanded by Mr. HARDWICK, there were—ayes 74, noes 143.

So the amendment was rejected.

Mr. OLMSTED. Mr. Chairman, I offer an amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend by inserting, in line 6, page 2, after the words "United States," the words "not in the same State in which said transportation began;" so that as amended it will read, "from any place in the United States through a foreign country to any other place in the United States not in the same State in which the said transportation began."

Mr. OLMSTED. Mr. Chairman, I desire to call this to the attention of the distinguished chairman of the committee, the gentleman from Iowa [Mr. HEPBURN]. I offer it simply because the Supreme Court of the United States has decided that transportation from a point in one State passing out of the State into another State, but coming back into the same State—the transportation both beginning and ending in the same State—is to be treated as domestic commerce and not within the commerce clause of the Constitution which confers the power of regulation on Congress.

Mr. SHERMAN. Why is it necessary, if the Supreme Court has so held?

Mr. OLMSTED. Mr. Chairman, my idea is to get this portion of the act in harmony with the Supreme Court and the Constitution, and not to complicate the act at all.

Mr. HEPBURN. This is the language of the present law, Mr. Chairman.

Mr. OLMSTED. This is the language of the Supreme Court. That tribunal had decided that transportation from a point in Pennsylvania to a point in New Jersey was interstate commerce, and not subject to regulation or taxation by the State, but subject to regulation by Congress only. In a subsequent case the Supreme Court distinctly decided that transportation from a point in Pennsylvania crossing the Delaware River into New Jersey and passing 50 miles through New Jersey and back into Philadelphia was domestic commerce, subject to regulation by the State and not by Congress.

Mr. SHERMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. OLMSTED. Certainly.

Mr. SHERMAN. Why is it not better to retain the language that has been adjudicated upon?

Mr. OLMSTED. Because the court has adjudicated that the language is unconstitutional and goes beyond the powers of Congress.

Mr. SHERMAN. Not that the language is unconstitutional?

Mr. OLMSTED. That the provision is. The Chief Justice of the Supreme Court, delivering the unanimous opinion of the court, said:

The question is simply whether in the carriage of freight and passengers between two points in one State the mere passage over the soil of another State renders that business foreign business, which is domestic. We do not think such a view can be reasonably entertained.

The case to which I refer is Lehigh Valley Railroad Company, reported in 144 United States, page 192.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken; and the amendment was rejected.

Mr. SHACKLEFORD. Mr. Chairman, I offer an amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

After the word "unlawful," line 19, page 3, insert the following: "It shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers or of the same class or like kind of property for a shorter than for a longer distance over the same line in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this act to charge and receive as great compensation for a shorter as for a longer distance."

Mr. MANN. Mr. Chairman, I make the point of order on that if it is offered as an amendment to section 1 of this bill.

Mr. SHACKLEFORD. It is offered as an amendment to a section of this bill.

The CHAIRMAN. The gentleman from Illinois will state his point of order.

Mr. MANN. Mr. Chairman, the point of order is that this section of the bill does not relate to that matter at all; that this is not germane to section 1 of the bill. The bill relates to the original act, and section 4 of the original act relates to that matter. It would be germane as an original section or as an amendment to the original section 4 of the act, but it is not germane as an amendment to this section of the bill.

Mr. SHACKLEFORD. Just one word on the point of order, Mr. Chairman. I offer this as an amendment to the end of line 19 on page 3. That immediate paragraph reads as follows:

All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, shall be just and reasonable; and every unjust and unreasonable charge for such service, or any part thereof, is prohibited and declared to be unlawful.

Mr. Chairman, I want to call the attention of this committee distinctly to the fact that the immediate paragraph which I seek to amend is dealing with what shall and what shall not be deemed unreasonable charges, and this defines as a matter of law one of the things that shall be deemed unreasonable.

The CHAIRMAN. Does the gentleman from Missouri offer it as a new paragraph, following the last paragraph in section 1?

Mr. SHACKLEFORD. No, sir. I offer this as an addition to the end of line 19 in section 1. That part of the paragraph treats of unreasonable charges, and I desire to add at the end of line, after the word "unlawful," on line 19, one of the things which shall be declared an unreasonable charge.

The CHAIRMAN. The Chair is of the opinion that the paragraph is germane offered as a new paragraph to line 19.

The question was taken; and the amendment was rejected.

Mr. PRINCE. Mr. Chairman, I desire to offer the following as a paragraph to follow in line 13, on page 3.

The CHAIRMAN. The Clerk will report the amendment.
The Clerk read as follows:

After line 13, page 3, insert the following:
"That from and after the 1st day of January 1910, it shall be unlawful for any common carrier engaged in interstate commerce by railroad to use or haul or permit to be used or hauled on its line any car not owned by it or some other such common carrier."

Mr. PRINCE. Mr. Chairman, I desire to make a few remarks on this question. It can not well be claimed that I am not in favor of rate regulation. One year ago, when, perhaps, very few men in this House stood up and made speeches upon this question, I was one of the few who spoke out at that time. I am in favor of rate regulation to-day. I would not have offered this amendment had I believed that this bill that is now under consideration fairly covers private car lines. I heard the speeches of two honorable members of this committee, and they declared to Members of this House that this bill did cover private car lines and regulate them. I heard to-day from the honorable Member, the chairman of the committee, in whose judgment I have great confidence, a statement to this House that it did not cover private car lines. Now, if there is any question about private car lines, we ought to settle it here and now. I am informed, when the managers of private car lines are called upon by the Interstate Commerce Commission to tell with regard to their transactions, they fold their arms and say, "We are not common carriers; you have no authority over us; we are private car lines and are not amenable to the law that governs common carriers."

If, then, they are not amenable to the law that governs common carriers, if they are private car lines, they have no authority, in my judgment, to haul their cars or permit them to be hauled upon a public highway any more than I have the right to build a car and have it hauled upon a public highway. The railroads have the power of eminent domain; they can take my property; they can go through a cemetery or go everywhere and anywhere and take property that is needed for public purposes as a public highway. Mr. Armour, with all his great interests, can not take a foot of ground from me to run his cars. If this bill passes, you permit him to be a common carrier to all intents and purposes, and you permit other private car lines in the United States to continue as private car lines and not to be amenable to the law as common carriers. Now, I have offered a simple, plain proposition that needs no parsing, that needs no interpretation, which he who runneth may read, and I have struck at the very root of the whole proposition, and that is to let the common carriers of this country that have the right of eminent domain, that have the power to go where they please, furnish the facilities to the public for transporting passengers and freight, and this will do it. I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. PRINCE].

The question was taken, and the amendment was rejected.

Mr. SHEPPARD. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Texas [Mr. SHEPPARD] offers an amendment, which the Clerk will read.

The Clerk read as follows:

Amend section 1, line 8, page 1, by inserting, after the word "road," the words "or wholly by water."

Mr. SHEPPARD. As the bill reads now, it applies to transportation wholly by railroad or partly by railroad and partly by water. It does not apply to transportation wholly by water, and the same reasons which make regulation applicable to transportation wholly by railroad ought to make it also applicable to transportation wholly by water. I trust that the amendment will be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. SHEPPARD].

The question was taken, and the amendment was rejected.

Mr. THOMAS of North Carolina. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from North Carolina [Mr. THOMAS] offers an amendment, which the Clerk will read.

The Clerk read as follows:

Line 12, page 3, after the word "thereof," add the words "and to furnish the number of cars necessary for such transportation without delay."

Mr. THOMAS of North Carolina. Mr. Chairman, I desire to say one word on that amendment. I am very heartily in favor of this particular section of the bill, and if this amendment is not necessary I do not want it to pass. The purpose and the effect of the amendment is this: In addition to requiring the private car companies to furnish proper refrigeration, icing, and other facilities of transportation, I want, Mr. Chairman, by this amendment also to require them to furnish the proper number of cars. And if the term "transportation," as used in the bill,

covers the proper number of cars, why, all well and good. We had, during the last strawberry season, in my section of the country a car famine, and I want to provide against that. If this bill covers it, why, all right. If it does not cover it, I think this amendment ought to be adopted and that the common carriers ought to be compelled without delay to furnish the proper number of cars for the transportation that is necessary. I know the disposition is not to amend the bill. I offer the amendment out of abundant caution.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. THOMAS].

The question was taken, and the amendment was rejected.

Mr. HEPBURN. Mr. Chairman, I move that all debate upon this section and upon amendments offered thereto be now closed.

Mr. JAMES. Mr. Chairman, I want to offer an independent paragraph to section 1, and I hope the gentleman will not insist upon closing. We sat here and listened to him for a long time.

The CHAIRMAN. The gentleman from Iowa moves that all debate upon this section and amendments be now closed.

Mr. JAMES. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. JAMES. Does the motion made by the gentleman from Iowa preclude the offering of a new paragraph to section 1?

The CHAIRMAN. The Chair understands the adoption of the motion of the gentleman from Iowa by the committee will not interfere with further amendment, but will stop further debate.

The question is now on the motion offered by the gentleman from Iowa [Mr. HEPBURN].

The question was taken, and the motion was agreed to.

Mr. JAMES. Mr. Chairman, I would like to offer this paragraph to which I have referred.

The CHAIRMAN. The gentleman from Kentucky offers a paragraph to section 1 of the bill, which the Clerk will read.

The Clerk read as follows:

That all corporations engaged in interstate commerce shall, within ninety days after the passage of this act and every six months thereafter, file with the Interstate Commerce Commission a statement, sworn and subscribed to by the president and secretary of said corporation before an officer with authority to administer an oath in the State in which said corporation resides, setting forth that said corporation has not monopolized, and is not attempting to monopolize, any branch of business or the production of any articles of commerce. Any corporation engaged in interstate commerce which has monopolized any branch of business or the production of any article of commerce shall be denied the right of interstate shipment upon the common carriers mentioned in this bill, and for a violation shall be subject to a fine of not less than \$5,000 or confinement in prison for not less than one year nor more than five years, or both such fine and imprisonment.

Any person swearing falsely to such statement aforesaid required of such corporations shall be subject, upon conviction, to a fine of not less than \$5,000 and imprisonment for not less than three years nor more than ten years, such penalty aforesaid to be enforced in any court of the United States of competent jurisdiction.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky [Mr. JAMES].

The question was taken; and the Chair announced that the noes seemed to have it.

Mr. JAMES. Division!

The committee divided, and the Chair counted the affirmative vote.

The CHAIRMAN. Does the gentleman from Kentucky demand further count?

Mr. JAMES. No, sir; I see they have outvoted us; I merely wanted to show that all the Republicans would vote against the amendment.

So the amendment was rejected.

Mr. LAMAR. I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

Mr. LAMAR. I offer that amendment for the benefit of the Pennsylvania Railroad and the coal trust.

The Clerk read as follows:

That whenever any common carrier, subject to the provisions of this act, shall fail or refuse, after reasonable notice, to furnish cars to shippers for the transportation of freight as interstate commerce, or to forward and deliver such freight at destination within a reasonable time, such failure or refusal shall be deemed to constitute unjust discrimination and undue and unreasonable prejudice and disadvantage, and in any case or proceeding pending before the Commission or any circuit or district court of the United States based upon such failure or refusal on the part of any such common carrier, proof that in the furnishing of cars or forwarding or delivery of its traffic other shippers have been preferred shall not be required.

The question was taken, and the amendment was rejected.

Mr. SAMUEL W. SMITH. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

At the end of line 19, page 3, insert: "It shall be unlawful for any common carrier or carriers subject to this act to charge, demand, accept, or receive, for the transportation of passengers as aforesaid, for the sale of so-called 'mileage books,' any sum in excess of the actual value thereof; no deposit shall be required from the purchaser of any such 'mileage book,' and no refund shall be made to such purchaser except for unused mileage."

The question was taken, and the amendment was rejected.

Mr. HARDWICK. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend by adding after line 12, page 2, the following:

"The term 'common carrier' as used in this act shall include all telephone and telegraph companies, and all persons, firms, or corporations engaged in the telephone or telegraph business."

The question was taken, and the amendment was rejected.

The Clerk read as follows:

Sec. 2. That section 6 of said act, as amended March 2, 1889, be amended so as to read as follows:

"Sec. 6. That every common carrier subject to the provisions of this act shall print and keep open to public inspection schedules showing the rates, fares, and charges for the transportation of passengers and property which any such common carrier has established, and which are in force at the time upon its route. The schedules printed as aforesaid by any such common carrier shall plainly state the places between which property and passengers will be carried, and shall contain the classification of freight in force, and shall also state separately the terminal charges, icing charges, and all other charges which the Commission may require, and any rules or regulations which in any wise change, affect, or determine any part of the aggregate of such aforesaid rates, fares, and charges. Such schedules shall be plainly printed in large type, and copies for the use of the public shall be posted in two public and conspicuous places in every depot, station, or office of such carrier where passengers or freight, respectively, are received for transportation, in such form that they shall be accessible to the public and can be conveniently inspected.

"Any common carrier subject to the provisions of this act receiving freight in the United States to be carried through a foreign country to any place in the United States shall also in like manner print and keep open to public inspection, at every depot or office where such freight is received for shipment, schedules showing the through rates established and charged by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States the through rate on which shall not have been made public, as required by this act, shall, before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production.

"No change shall be made in the rates, fares, and charges or joint rates, fares, and charges which have been established and published by any common carrier in compliance with the requirements of this section, except after thirty days' public notice, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection: *Provided*, That the Commission may, in its discretion and for good cause shown, allow changes upon less than the notice herein specified, or modify the requirements of this section in respect to publishing, posting, and filing of tariffs, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

"And when any such common carrier shall have established and published its rates, fares, and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any services in connection therewith, than is specified in such published schedule of rates, fares, and charges as may at the time be in force.

"Every common carrier subject to the provisions of this act shall file with the Commission hereinafter provided for copies of its schedules of rates, fares, and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said Commission of all changes made in the same. Every such common carrier shall also file with said Commission copies of all contracts, agreements, or arrangements with other common carriers in relation to any traffic affected by the provisions of this act to which it may be a party. And in cases where passengers and freight pass over continuous lines or routes operated by more than one common carrier, and the several common carriers operating such lines or routes establish joint tariffs of rates, fares, or charges for such continuous lines or routes, copies of such joint tariffs shall also in like manner be filed with said Commission. Such joint rates, fares, and charges on such continuous lines so filed as aforesaid shall be made public by such common carriers when directed by said Commission, in so far as may, in the judgment of the Commission, be deemed practicable; and said Commission shall from time to time prescribe the measure of publicity which shall be given to such rates, fares, and charges, or to such part of them as it may deem it practicable for such common carriers to publish, and the places in which they shall be published.

"No change shall be made in joint rates, fares, and charges, shown upon joint tariffs, except after thirty days' notice to the Commission, which shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates, fares, or charges will go into effect. The Commission may make public or require the carriers to make public such proposed changes in such manner as may, in its judgment, be deemed practicable and may prescribe from time to time the measure of publicity which common carriers shall give to advances or reductions in joint tariffs.

"It shall be unlawful for any common carrier party to any joint tariff to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of persons or property, or for any services in connection therewith, between any points as to which a joint rate, fare, or charge is named thereon, than is specified in the schedule filed with the Commission in force at the time.

"The Commission may determine and prescribe the form in which the schedules required by this section to be kept open to public inspection shall be prepared and arranged and may change the form from time to time as shall be found expedient.

"If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares, and charges as provided in this section or any part of the same, such common carrier shall, in addition to other penalties herein prescribed, be subject to a writ of mandamus, to be issued by any circuit court of the United States in the judicial district wherein the principal operating office of said common carrier is situated or wherein such offense may be committed, and if such common carrier be a foreign corporation in the judicial circuit

wherein such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section; and such writ shall issue in the name of the people of the United States, at the relation of the Commission appointed under the provisions of this act; and the failure to comply with its requirements shall be punishable as and for a contempt; and the said Commission, as complainant, may also apply, in any such circuit court of the United States, for a writ of injunction against such common carrier to restrain such common carrier from receiving or transporting property among the several States and Territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several States and Territories of the United States as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act."

Mr. SHACKLEFORD. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

At the end of line 17, page 4, add:

"The Interstate Commerce Commission shall, on the 1st day of January, 1907, make and publish a uniform classification of freight articles, which shall thereafter be invariably observed and applied in the transportation of interstate commerce: *Provided*, That the Commission may at any time after reasonable notice modify such classification, but any such modification shall apply uniformly to all interstate commerce transported by any carrier subject to the provisions of this act."

Mr. SHACKLEFORD. The amendment provides that the Commission shall make a uniform classification of rates to be observed throughout the country. It is not necessary for me to take the time of the House to show how the railroads will be absolutely free from regulation by the Commission without such a provision. We all remember the Hay cases that were decided at Cincinnati something over a year ago, where the railroad raised the rate by simply shifting the class of goods from one class to another. Now, having one classification in one part of the country and making a different classification in a different section of the country by the mere difference of the classification producers are made to pay different freight rates for the transportation of their products. I discussed this at length the other day, and I shall not take the time of the committee now except to say that this is another provision of the Hearst bill, which we presented at the last session, which I desire to have inserted in this bill.

Mr. SHERMAN. Mr. Chairman, I move that all debate upon this section and all amendments thereto be now closed.

The question was taken, and the motion was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri.

The question was taken, and the amendment was rejected.

Mr. LITTLEFIELD. Mr. Chairman, I submit the following amendment, which I send to the Chair.

The Clerk read as follows:

Insert after line 5, on page 9, the following section:

"Sec. 3. That section 13 of said act be amended by repealing so much thereof as reads as follows: 'And may institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made.'"

The question was taken, and the amendment was rejected.

Mr. LAMAR. Mr. Chairman, I submit an amendment on page 6, line 6, after the word "force."

The Clerk read as follows:

On page 6, line 6, after the word "force," insert the following:

"That when any notice of advance in rates, fares, or charges shall be filed with the Commission, the said Commission shall have authority to inquire into the lawfulness of such advance and make orders in respect thereof to the same effect as if such advanced rate, fare, or charge were actually in force. The provisions of this section shall also apply to notice of any change in classification of freight or other regulations affecting rates."

The question was taken, and the amendment was rejected.

Mr. SHACKLEFORD. Another amendment, Mr. Chairman. I ask the Clerk to read them as one amendment.

The Clerk read as follows:

On page 7, in line 12, strike out the word "may" and insert "shall;" and in line 15 strike out the words "measure of publicity" and insert in lieu thereof the words "the method by;" and in line 16 strike out the word "to" and insert in lieu thereof the words "notice of;" commencing immediately after the word "carriers," in line 25, on page 6, strike out all to the end of line 6, on page 7, and insert in lieu thereof the following: "fully and completely in such manner as the Commission shall direct."

The question was taken, and the amendment was rejected.

Mr. WEISSE. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend section 2, page 7, line 8, by inserting after the word "tariffs" the following: "except on full hearing before the Commission and after thirty days' notice to each shipper by letter before the new rate goes into effect," and by striking out lines 10, 11, and 12.

The question was taken, and the amendment was rejected.

The Clerk, proceeding with the reading of the bill, read as follows:

Sec. 4. That section 15 of said act be amended so as to read as follows:

"Sec. 15. That the Commission is authorized and empowered, and it

shall be its duty, whenever, after full hearing upon a complaint made as provided in section 13 of this act, or upon complaint of any common carrier, it shall be of the opinion that any of the rates, or charges whatsoever, demanded, charged, or collected by any common carrier or carriers, subject to the provisions of this act, for the transportation of persons or property as defined in the first section of this act, or that any regulations or practices whatsoever of such carrier or carriers affecting such rates, are unjust or unreasonable, or unjustly discriminatory, or unduly preferential or prejudicial, or otherwise in violation of any of the provisions of this act, to determine and prescribe what will, in its judgment, be the just and reasonable and fairly remunerative rate or rates, charge or charges, to be thereafter observed in such case as the maximum to be charged; and what regulation or practice in respect to such transportation is just, fair, and reasonable to be thereafter followed; and to make an order that the carrier shall cease and desist from such violation, to the extent to which the Commission find the same to exist, and shall not thereafter publish, demand, or collect any rate or charge for such transportation in excess of the maximum rate or charge so prescribed, and shall conform to the regulation or practice so prescribed. Such order shall go into effect thirty days after notice to the carrier and shall remain in force and be observed by the carrier, unless the same shall be suspended or modified or set aside by the Commission or be suspended or set aside by a court of competent jurisdiction. Whenever the carrier or carriers, in obedience to such order of the Commission, or otherwise, shall publish and file joint rates, fares, or charges, and fail to agree among themselves upon the apportionment or division thereof, the Commission may after hearing make a supplemental order prescribing the portion of such joint rate to be received by each carrier party thereto, which order shall take effect as a part of the original order.

"The Commission may also, after hearing on a complaint, establish through routes and joint rates as the maximum to be charged and prescribe the division of such rates as hereinbefore provided, and the terms and conditions under which such through routes shall be operated, when that may be necessary to give effect to any provision of this act, and the carriers complained of have refused or neglected to voluntarily establish such through routes and joint rates, provided no reasonable or satisfactory through route exists.

"If the owner of property transported under this act directly or indirectly renders any service connected with such transportation, or furnishes any instrumentality used therein, the charge and allowance therefor shall not be more than is just and reasonable, and the Commission may, after hearing on a complaint, determine what is a reasonable charge as the maximum to be paid by the carrier or carriers for the service so rendered or for the use of the instrumentality so furnished, and fix the same by appropriate order, which order shall have the same force and effect and be enforced in like manner as the orders above provided for in this section.

"The foregoing enumeration of powers shall not exclude any power which the Commission would otherwise have in the making of an order under the provisions of this act."

Mr. LITTLEFIELD. Mr. Chairman, I submit the following amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amend by adding, after the word "prescribed," in line 5, page 11, the following:

"Nothing herein contained shall be construed as authorizing the Commission to hear any complaint based upon an alleged preference given to one locality over another, nor to set aside or substitute any rate because of any alleged preference of one locality over another."

Mr. LITTLEFIELD. Mr. Chairman, I have only a word to say. This amendment simply puts the bill in the position in which the committee believe it to be, but as to which there is considerable difference of opinion. It confines the Commission to the provisions of the existing law, and does not allow them to take into account the question of undue or unjust preferences. I merely offer it in order that the committee may have an opportunity to express its opinion on that specific provision.

Mr. SHERMAN. Mr. Chairman, I move that all debate upon this section and the amendments thereto be now closed.

Mr. SULZER. I object, Mr. Chairman, and I hope it will be voted down.

Mr. SHERMAN. This does not cut off any amendment.

The CHAIRMAN. The gentleman can offer any amendment he sees fit. The question is on the motion of the gentleman from New York to close debate.

The question was taken; and the motion was agreed to.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I move an amendment to the amendment. The gentleman from Maine uses the word "illegal" in line 2, and I offer to amend by striking that out and inserting the word "alleged;" so that it will read: "based upon an alleged preference."

Mr. LITTLEFIELD. I will accept the suggestion of the gentleman from Massachusetts.

Mr. HEFLIN. Mr. Chairman, I would like to have the amendment read as amended by the gentleman from Massachusetts.

The CHAIRMAN. The Clerk will read the amendment as it will read when amended.

The Clerk again read the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts to the amendment offered by the gentleman from Maine.

The question was taken; and the amendment to the amendment was agreed to.

The CHAIRMAN. The question now is on the amendment as amended.

The question was taken; and the Chair announced that the amendment was lost.

Mr. LITTLEFIELD. Mr. Chairman, I ask for a division.

The House proceeded to divide; and the Chairman announced that there were 20 ayes.

Mr. LITTLEFIELD. Mr. Chairman, I do not ask for the other side.

So the amendment was rejected.

Mr. SULZER. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

In line 15, on page 10, after the word "any," insert "relation of rates or;" and in line 23, after the word "what," insert "relation of rates or."

Mr. SULZER. Mr. Chairman, I want to say one word. It is a shame to rush this bill through the House in this unparliamentary way. The bill is very imperfect. We should endeavor in a decent way to correct the errors in the bill and make it a better bill by amendment.

The CHAIRMAN. Debate has been closed.

The question was taken; and the Chairman announced that the noes had it.

Mr. SULZER. Division, Mr. Chairman!

The House proceeded to divide; and the Chairman announced that there were 30 ayes.

Mr. SULZER. Mr. Chairman, I withdraw the demand for a division and offer the following amendment, which I send to the desk.

The Clerk read as follows:

On page 11, line 6, strike out the words "thirty days after notice to the carrier" and insert the words "immediately."

In line 8 strike out the words "be suspended."

In line 9 strike out the words "be suspended or" and insert "or modified." Strike out the words "competent jurisdiction" and insert in lieu thereof the words "last resort."

Mr. SULZER. Mr. Chairman, I ask unanimous consent to say just a word or two. This is a vital matter, and the amendment should be agreed to— [Cries of "Vote!" "Vote!"]

The CHAIRMAN. Objection is made. The question is on the amendment offered by the gentleman from New York [Mr. SULZER].

The question was taken; and on a division (demanded by Mr. SULZER) there were—ayes 20, noes 168.

So the amendment was rejected.

Mr. SULZER. I ask for tellers, Mr. Chairman.

The question was taken, and tellers were refused.

Mr. WEEKS. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Insert immediately after line 11, page 12, the following:

"Railroad or other corporations engaged in interstate traffic shall issue only such amounts of stock and bonds, coupon notes, and other evidences of indebtedness payable at periods of more than twelve months after the date thereof as the Interstate Commerce Commission shall determine is necessary for the purpose for which such issue of stock or bonds has been authorized. Said corporations shall file with the said Commission a statement showing the amount of stock or bonds which it desires to issue, the purposes to which the proceeds are to be applied, and certified copies of the votes of the board of directors and shareholders authorizing the issue, on receipt of which statement the said Board of Commissioners shall order a public hearing; and shall render a decision upon the application within thirty days after the final hearing thereon. Such decision shall be in writing; shall assign the reasons therefor; shall, if authorizing such issue, specify the respective amounts of stock or bonds or coupon notes authorized, and shall define the respective purposes to which the proceeds thereof are to be applied. A copy of this rendering and the vote of the Commissioners making it shall be made a part of the records of the said Commission, and a certified copy of the vote of the Commission, with the statement of the application of the proceeds of the issue, shall be filed with the corporation making the application and shall become a part of its records. A company which is within the provisions of this section shall not apply the proceeds of such stock or bonds or coupon notes or other evidences of indebtedness as aforesaid to any purpose not specified in such certificate.

"Any United States district court shall have jurisdiction in equity upon the application of the Interstate Commerce Commission to enforce the provisions of the preceding section and all lawful orders and decisions, conditions, or requirements of said Board of Commissioners made in pursuance thereof.

"An officer, director, or agent of any corporation engaged in interstate commerce who knowingly votes to authorize the issue of or signs, certifies, or issues stock or bonds or other evidences of indebtedness, or who knowingly votes to authorize the application or applies the proceeds of such stock or bonds or other evidences of indebtedness contrary to the provisions of this section shall be punished by a fine of not more than \$10,000, or by imprisonment for not more than five years, or by both such fine and imprisonment.

"Whenever it becomes necessary for a corporation engaged in interstate commerce to increase its capital stock, and such increase is authorized by the Interstate Commerce Commission, such new shares as are necessary to produce the amount of increased capital stock shall be offered proportionately to its stockholders at not less than the fair market value thereof at the time of increase, which value shall be determined by the Interstate Commerce Commissioners, who shall consider previous sales of the stock of said corporation and other pertinent conditions in determining value. The decision of the Commissioners shall be made in writing, shall be certified to, and shall become part of the records of the Commissioners, and a copy shall be recorded in the books of the corporation.

"The directors, upon the approval of such increase and the deter-

mination of the market value as hereinbefore provided, shall cause written notice of such increase to be given to each stockholder who was such at the date of the vote to increase, stating the amount of such increase, the number of shares or fractions of shares to which he, according to the proportionate number of his shares at the date of such vote, is entitled, the price at which he is entitled to take them, and fixing a time, not less than thirty days after the date of such determination, within which he may subscribe for such additional stock. Each stockholder may, within the time limit, subscribe for his portion of such stock, which shall be paid for in cash before the issue of a certificate therefor.

"If after the expiration of the time limit in the notice required by this section any shares remain unsubscribed for by the stockholders entitled to take them, the directors shall sell them by auction to the highest bidder. Such shares shall be offered for sale in any city or town prescribed by the Interstate Commerce Commission. Notice of the time, place, and manner of making the sale, which shall include the amount of stock to be sold in any one lot, shall be published at least three times during the thirty days immediately preceding the sale in each of at least five daily newspapers, as may be prescribed by said Commissioners.

"A railroad or other corporation engaged in interstate commerce may, by vote at a meeting called for the purpose in accordance with the provisions of this section, issue coupon or registered bonds or other evidences of indebtedness, payable at periods of more than twelve months from the date hereof, to provide means for funding its floating debt, lawfully incurred, or for the payment of money borrowed for any lawful purpose, and may mortgage or pledge as security for the payment of such indebtedness a part or all of its road, equipment, or franchise, or a part or all of its real or personal property. Such bonds, coupon notes, or other evidences of indebtedness shall be recorded by its treasurer in books to be kept in his office, but shall not be issued unless approved by a person or trust company appointed by the corporation for that purpose, who shall certify that it is properly issued and recorded."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts.

The question was taken, and the amendment was rejected.

Mr. SMITH of Texas. Mr. Chairman, I offer an amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend by inserting after the word "hearing," in lines 8 and 9, on page 10, the following: "upon its own motion or."

Mr. SMITH of Texas. Mr. Chairman, the status of railroad property in this country is in some respects unique. It has never, in my judgment, been more correctly and lucidly defined than it was by the Supreme Court of the United States in the case of *Smyth v. Ames*, from the State of Nebraska. In that case the court said:

A railroad is a public highway, and none the less so because constructed and maintained through the agency of a corporation deriving its existence and powers from the State. Such a corporation was created for public purposes. It performs a function of the State. Its authority to exercise the right of eminent domain, and to charge tolls was given primarily for the benefit of the public. * * * It can not, therefore, be admitted that a railroad corporation maintaining a highway under the authority of the State may fix its rates with a view solely to its own interests and ignore the rights of the public.

Again, the court says in that case:

A corporation maintaining a public highway, although it owns the property it employs for accomplishing public objects, must be held to have accepted its rights, privileges, and franchises subject to the condition that the government creating it, or the government within whose limits it conducts its business, may by legislation protect the people against unreasonable charges for the services rendered by it. It can not be assumed that any railroad corporation accepting franchises, rights, and privileges at the hands of the public ever supposed that it acquired, or that it was intended to grant to it, the power to construct and maintain a public highway simply for its benefit without regard to the rights of the public.

What the company is entitled to ask—

Says the court—

is a fair return upon the value of that which it employs for the public convenience. On the other hand, what the public is entitled to demand is that no more be exacted from it for the use of a public highway than the services rendered by it are reasonably worth.

Mr. Chairman, the doctrine recognized by the court in that case has been so long, so clearly, and so firmly established in our political economy and jurisprudence that it is inconceivable to me that anyone can be found possessing sufficient audacity to call it in question. But how often do we hear it flippantly proclaimed that the railroad business is private business with which the Government has no right to interfere; that any attempt to regulate that business is socialistic, and only a step toward the regulation of all other private business of the country.

This has been the ceaseless cry of the propaganda which has been so extravagantly carried on by the railroad interests in this country ever since the question of their further regulation began to be agitated in Congress. Those of us who stand for justice to the people through effective regulation of railways might well ignore this fallacious argument engendered by self-interest. We all know that error and sophistry are quite good enough for the monopolist who would, through self-interest, continue to plunder the people and force unjust tribute from them.

But, extraordinary as it may seem, we have heard proclaimed on the floor of this House these same fallacies and sophistries

and have heard the doctrine of the true status of railroad property denied by gentlemen of ability and learning who ought to know better.

Mr. Chairman, prior to the construction of steam railroads the public highways were owned by the sovereign and were kept open to the public at all times upon equal terms. Those engaged as common carriers upon the public highways were subject to regulation by law. Their freedom of contract was limited. They were denied the right to make any contract unreasonably limiting their liability as insurers of the safety of the goods carried, and they were not permitted to charge more than a reasonable compensation for the service performed. Under the common law an overcharge could be recovered back at the suit of the shipper. The strong arm of the government was ever ready to protect the shipper from both discrimination and extortion.

These principles and policies have come down to us as a part of the common law, and we have in many forms recognized them and crystallized them into both organic and statutory law. The transportation business, like many other elements of commerce, has undergone radical changes.

Upon the invention of the steam railway the State began the creation of railroad corporations, endowed them with the power of eminent domain and other attributes of sovereignty, surrendered to them the exclusive use of the public highways, and gave them a monopoly of the transportation business.

With this great evolution came the necessity for greater and more effective regulation by the State. The whole transportation business passed into the hands of private monopoly. As was so aptly said by the Supreme Court of the United States:

While shippers of merchandise are under no legal necessity to use the railroads, they are so practically. The demand for speedy and prompt movement virtually forbids the employment of slow and old-fashioned methods of transportation, at least in the case of more valuable articles of traffic. At the same time, the immense outlay of money required to build and maintain railroads and the necessity for resorting in securing the rights of way to the power of eminent domain in effect disable individual merchants and shippers from themselves providing such means of carriage. From the very nature of the case, therefore, railroads are monopolies, and the evils that usually accompany monopolies soon began to show themselves and were the cause of loud complaint.

Mr. Chairman, these remarks of the Supreme Court would be true in a large measure if every railroad in the country was operated independently of every other railroad, but it is especially true now when all the railroads which permeate every part of the country are combined into a few groups and are, to a large extent, under a common management. So while good and sufficient reasons existed at common law for Government supervision of the rates of common carriers an additional very potent reason now exists why the modern carrier shall be subject to rigid regulation by the Government, and that is it is a monopoly holding within its grasp the whole transportation business of this country, an element that enters into our whole commercial and industrial life, and unless this monopoly is restrained or regulated it has the power to charge what it chooses and thus levy whatever tax it pleases upon every form of property.

Mr. Chairman, I have no doubt of the constitutionality, the morality, or the wisdom of the legislation now under consideration in this House. The States, sovereign in their character, possessing the inherent right to regulate the common carriers doing business within their own limits, delegated to the National Government so much of this right as might be required for the regulation of interstate commerce. It is this power that Congress is being called upon to exercise. I have no doubt Congress can adopt whatever means may be necessary, in its judgment, to carry this power into effect. No character of regulation of railroads, in my judgment, is worthy of the name of regulation which does not protect the public from discrimination and extortion in rates. The fixing of any portion of the rates of a railroad necessarily involves, it seems to me, a comprehensive review if not a supervision of all its rates. And therefore when we consider the vast number of railroads engaged in interstate transportation, the great multitude and variety of the rates of each, and the rapidly changing conditions which ought to be considered in the fixing and regulation of rates, it must be admitted by all that it is absolutely beyond the power of Congress to effectively regulate rates except through the instrumentality of an administrative board. The creation of a commission with the power to fix rates, in my judgment, is justified by the very necessities of the case. In no other way can Congress exercise efficaciously the power to regulate interstate commerce. This is well-settled doctrine. Both Congress and the Supreme Court have recognized it. Some years ago Congress passed an act excluding the importation of tea below standards to be fixed by a board to be selected by the Secretary of the Treasury. This act for the regulation of com-

merce with foreign nations, you will observe, not only left the determination of the quality of the teas to be excluded or admitted to custom-administrative officers, but also delegated the fixing of the standards to an administrative board. The constitutionality of this act was called in question in the case of *Butterfield v. Stanahan* (192 U. S., 471), and the court held that the act was not unconstitutional, because it delegated authority which belonged exclusively to Congress. In that case the court said:

Congress legislated on the subject as far as was reasonably practicable, and from the necessities of the case was compelled to leave to executive officials the duty of bringing about the result pointed out by the statute. To deny the power of Congress to delegate such a duty would, in effect, amount but to declaring that the plenary power vested in Congress to regulate foreign commerce could not be efficaciously exerted.

In the bill under consideration it is not proposed to go so far as Congress went in that tea act toward delegating legislative authority to administrative officers. We here propose for Congress itself to fix the standard—to say that a rate or practice of the railroad should be just and reasonable—and we leave to the Commission only the duty of seeing that the rate or practice conforms to the standard thus laid down.

I want to say that, in my humble judgment, to deny that Congress can confer such power upon a Commission is to ignore the decision of the Supreme Court to which I have referred and to declare that the plenary power vested in Congress to regulate commerce between the States can not be efficaciously exerted.

Mr. Chairman, as I have already said, I have no doubt as to the morality of this measure. We are not, as has so often been intimated, attempting to confiscate the property of those whose money is invested in railroads. We are only acting in self-defense. We are not only willing but anxious to accord to them every farthing to which, under the law and the Constitution, they are entitled, but we think the time has come when we should safeguard our own interests, and let them know that they can no longer confiscate our property.

Common carriers have never been entitled to charge a higher rate than was just and reasonable, and whoever has invested his money in railroad property has done so with full knowledge of this principle, and therefore can not now complain if he be required to conform to it. He can not be injured. It is beyond the power of Congress to deprive him of just compensation. Any attempt to do so would contravene a plain guaranty of the Constitution and be null and void, for "the power to regulate is not the power to destroy."

Another thing in this connection I desire to call attention to, and that is that we are not only not attempting to deprive the railroad people of their substantive rights, but we have no desire to deprive them of any of their remedies. Indeed, such a thing would also be beyond our power. The courts of this country are always open alike to every citizen, and he can go there and have his rights, whatever they may be, adjudicated and enforced. All the hue and cry which we have heard about the right of appeal from the orders of the Commission and of having rates fixed by the courts have not been for the purpose of preserving the legitimate rights of the railroads, but of defeating effective and proper regulation. The railroads know as well as we do that the power to fix rates can not be conferred upon the courts, either in an original suit or on an appeal, even if an appeal to the courts could be provided from an administrative order, which is impossible.

Mr. Chairman, I have no doubt that a commission would be better qualified for the business of regulating rates fairly and justly between the railroads and the people than the courts could possibly be. And I believe it is not only right and proper, but absolutely essential to any sort of effective rate regulation, that the findings of the Commission on questions of fact be given not only prima facie, but conclusive effect; that whenever it fixes a rate as just and reasonable such rate shall be accepted as such by all the world, unless it can be shown in a judicial proceeding to be so low as to amount to confiscation. The giving of such effect to acts of an administrative officer is no new doctrine. It has been frequently recognized by the Supreme Court of the United States.

Mr. Chairman, I have said this much upon the general subject of the power of Congress to regulate railroad rates by means of a commission in order to give expression to my belief that this measure is undoubtedly constitutional and valid. I have no doubt it will be upheld by the courts in its present form, and would be if amended so as to give more radical, substantial, and effective relief to the people.

The bill is good as far as it goes. If passed in its present form, it would be a great improvement upon existing law, un-

der which the unbridled railroads plunder the people and demoralize the commercial and industrial interests of the country.

But, sir, I think it is no disrespect to the committee which brought this bill in to say that it might be improved. I believe it could be vastly improved by the adoption of the amendment which I have had read from the Clerk's desk.

Under the bill in its present form the Commission will be permitted to act only upon complaint and, as I understand it, can revise only the rate or rates specified in the complaint. I can not understand how the question can be determined as to whether or not a given rate, or even a group of rates, of a railroad are either "just," "reasonable," "nondiscriminatory," or "fairly remunerative" without a comprehensive review and investigation of all the rates of that railroad in connection with all the other facts which should be taken into consideration as a basis for fixing rates. Upon such a review and investigation I can very well see how the Commission may, and probably will, in almost every instance find the adjustment or revision of some kindred rate or rates other than those embraced in the complaint necessary to the full and complete relief of the public.

Why should not the Commission be given power to act, upon its own motion, in such instances after notice to the railroad and after full hearing? Why should not the public be allowed the full benefit of the knowledge acquired by the Commission in its investigations? I do not believe any good reason can be given in answer to these questions.

Mr. Chairman, as a general rule the consumers of this country pay the freight. The producer or middleman may pay the transportation charges in the first instance, but in the end the burden falls upon the shoulders of the consumer. They may be paid to the railroad by the producer or the jobber in a lump sum, but it is paid back to the jobber little by little in the increased cost of the goods they purchase from him. The jobber rarely ever complains of excessive freight charges. He merely shifts the burden to his customers by adding the freight to the price at which he sells his goods. He will never go to the Commission with a complaint except when the railroad by discrimination gives to his competitor some advantage over him, but never merely to correct an excessive rate.

Likewise the producer takes no notice of excessive freight charges when the burden of paying them can be shifted to the consumer. When the circumstances are such that the producer himself must bear the losses incident to excessive charges he will complain to the Commission, but not otherwise.

So I believe I am safe in saying that much the larger part of the stupendous sum of money paid to the railroads annually in this country as freight charges is paid by the consumers, and therefore the greater part of the injustice resulting from excessive rates has fallen upon their shoulders. They have not paid it to the railroads direct. They have not, it may be, dealt with the railroads at all. They are the millions of plain people in this country who create its wealth, who eat bread by the sweat of their brows, who fill the workshops, and who till the soil and dig the mines.

They pay the freight when they buy food and clothing for their families or material to build, improve, and furnish their homes. They pay it unconsciously. They have had no opportunity to study or investigate freight problems and are without means of informing themselves upon the question as to whether they have been imposed upon. These are the people, Mr. Chairman, in whose behalf I have offered my amendment.

The bill makes ample protection for the producers of the country. It will afford ample relief for the jobber or middleman. But it still leaves the consumer without remedy. Having had no direct transaction with the railroad, he can make no complaint to the Commission, and no one will make such complaint for him.

Let's give the Commission power to take care of him by authorizing that body to act upon its own motion. This we can do by adopting the amendment which I have offered. But, Mr. Chairman, it may be vain for me to indulge the hope or expectation that the powers of the Commission will be further enlarged at this time by this House by the adoption of any amendment. It is an open secret here that the Democratic members of the committee had to make many concessions and had to even go so far as to pledge themselves to resist all amendments that might be offered in order to secure the favorable report and passage of the bill giving the inadequate relief that it does.

For ten years the Democratic party, always the staunch champion of the people, has demanded the enlargement of the powers of the Commission and such control of railroads as would protect the people from robbery and oppression. For ten years the people have petitioned for relief. During all this time the Republican party has been in absolute control of every

department of the Government and has had the power to enact any sort of legislation for their relief.

But up to this time the demands of the people have been wholly disregarded by that party, while the oppressions they have suffered have continued. So I suppose under the circumstances the people should be congratulated that you, gentlemen on the other side of this Chamber, have been induced to yield as far as you have. The "big stick" may have influenced you some, but to the insistent, determined demands of an outraged people, who could no longer be turned aside, is due whatever measure of relief this bill affords. You will yet yield further. The masses of this country have awakened to the situation and are demanding their rights. You can no longer continue your policy of fostering private monopoly to plunder the people and remain in power. I warn you now that you must continue the work of reform in which you have been forced to make a small beginning or give place to others who will be sent here to continue it. I speak now not only of reform in legislation with reference to the control of the railroad monopoly, but also of reform in the policy you are maintaining with reference to the great private monopolies of the country. For forty years your legislation has been in the interest of special classes. By a protective tariff in the interest of the manufacturer, which has been so high as to outrage every just principle of international trade, you have protected him from all competition from abroad, while you have permitted him to stifle all competition at home by means of combinations and agreements in restraint of trade in violation of law. Under this vicious policy, under which you have up to this time been "standing pat," have been built up the most gigantic trusts and combinations the world has ever known. They have multiplied in number and grown in power until they hold within their merciless grasp the commercial and industrial welfare of this country. They corrupt our elections, debauch our officials, plunder both the producers and consumers of the country, and defy the Government itself.

Mr. Chairman, the people of this country feel that they have endured quite long enough the oppressions visited upon them by this infamous policy. They are now asking a change—a "square deal." Wanting no special favors from the Government themselves, they demand that none shall be given to others. "Equal rights to all and special privileges to none"—the very corner stone of our Government—has ever been their motto. They feel that this Government is "of the people, by the people, and for the people." They are terribly in earnest. So let those in power beware who would turn a deaf ear to them. As certain as God reigns they are going to have, in due season, by proper legislation, full and complete relief, not only from the abuses and oppressions of the railroads, but from every other form of monopoly.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The question was taken, and the amendment was rejected.

Mr. LITTLEFIELD. Mr. Chairman, I offer an amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend by inserting after line 9, on page 11, the following:

"Any carrier may, within thirty days from the service upon it of any order, other than an order for the payment of money, begin in the circuit court of the United States for the district in which its principal operating office is situated, proceedings to set aside and vacate such order; and in case such order affects two or more carriers, such proceedings may be brought by them jointly in the district in which the principal operating office of either of them is situated. Such proceedings shall be begun by filing on the equity side of the court a petition or bill in equity, which shall briefly state the matters embraced in such order and the particulars in which it is alleged to be unlawful, and in such proceedings the complainant and the Commission shall be made defendants.

"Upon the filing of such a petition or bill the clerk of such circuit court shall forthwith mail a copy thereof to the Commission, with notice that the same has been filed; and the Commission shall thereupon, within twenty days from the receipt of such notice, cause to be filed in such court a complete certified copy of the record in the proceeding wherein the order complained of was made, including the pleadings, the testimony, and exhibits, the report and opinion of the Commission, and its order in the premises. If it is impracticable to send up a copy of any exhibit, the exhibit itself may be forwarded. The defendant may answer or demur to such petition or bill according to the usual practice in equity cases.

"If upon hearing such petition the court shall be of opinion that the order of the Commission is not a lawful order, it shall set aside and vacate the same; otherwise it shall dismiss the petition. In either case the court shall file with its decision a statement of the reasons upon which the decision is based, a copy of which shall be certified forthwith to the Commission. If the order of the Commission is vacated, and if the defendant does not appeal to the Supreme Court of the United States, the Commission may reopen the case for further hearing and order, or it may make a new order without further hearing, not inconsistent with the decision and opinion of the circuit court. Any such subsequent order shall be subject to the same provisions as an original order.

"Upon the filing of such a petition the circuit court may, upon such notice to the complainant and to the Commission as the court deems proper, extend the time within which such order shall take effect, not to exceed in all sixty days from the date of service of the order upon the

carrier. The court may also, if it plainly appears that the order is unlawful, and not otherwise, suspend the operation of the order during the pendency of the proceeding or until the further order of the court.

"Either party may appeal from the judgment or decree of the circuit court to the Supreme Court of the United States; but such appeal shall not operate to stay or supersede the order of the circuit court nor the execution of any writ or process thereon. In the circuit court and in the Supreme Court the cause shall be given preference over all others except criminal causes."

Mr. CLAYTON. Mr. Chairman, I offer an amendment to the amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend by adding to the amendment, between lines 17 and 18, the following: "In the circuit court the petition shall have priority in hearing and determination over all other causes except criminal causes."

The CHAIRMAN. The question is on the amendment to the amendment, offered by the gentleman from Alabama.

The question was taken, and the amendment to the amendment was rejected.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Maine.

The question was taken, and the amendment was rejected.

Mr. LAMAR. Mr. Chairman, if it is permissible, I would like to offer two amendments to the same section and have them read at the same time. I send them to the desk.

The Clerk read as follows:

On page 10, section 4, line 15, after the word "regulations," insert the words "or classifications;" and after the word "regulation," in line 23, insert the words "or classification;" and on page 11, line 5, after the word "regulation," insert the words "or classification."

On page 10, section 4, line 22, after the word "charged," insert the following: "in determining and prescribing what is a just and reasonable and fairly remunerative rate or charge the Commission shall ignore all stocks, bonds, or other obligations of the carriers so far as such stocks, bonds, or other obligations represent amounts in excess of the fair value of the property of the carrier."

The CHAIRMAN. The question is on the amendments offered by the gentleman from Florida.

The question was taken; and the amendments were rejected.

Mr. SULLIVAN of Massachusetts. Mr. Chairman, I offer an amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Insert after the word "jurisdiction," page 11, line 9, the words "Provided, however, That any party to the proceeding may forthwith appeal from any order of said Commission fixing a rate by petition to the circuit court in the jurisdiction where the controversy arises, under such rules of procedure as may be prescribed by said court, which court shall have the power to determine whether or not said order is just and reasonable, and if found unjust and unreasonable to set it aside, and in such case it shall be the duty of the court to ascertain what is a just and reasonable rate."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts.

The question was taken, and the amendment was rejected.

Mr. GILBERT of Kentucky. Mr. Chairman, I offer an amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

On page 11, at the end of line 9, after the word "jurisdiction," insert these words: "And any carrier affected by any such order is authorized to file complaint in any such court, making the Commissioners and shipper at whose instance the complaint was instituted defendants, and seek a rescission or modification of such order."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky.

The question was taken, and the amendment was rejected.

Mr. SHACKLEFORD. Mr. Chairman, I offer an amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend by adding the following to the end of line 16, page 11: "But the Commission shall not in any case have power to require any carrier subject to the provisions of this act to raise any rate which such carrier has duly filed and published."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri.

The question was taken, and the amendment was rejected.

Mr. HARDWICK. Mr. Chairman, I offer the amendment which I send to the desk and ask to have read.

The Clerk read as follows:

Amend by striking out all that follows the word "duty," in line 8, page 10, through the word "act," in line 19, page 10; also by striking out all that follows the word "carrier," in line 25, page 10, through the word "and," in line 2, page 11; also by striking out all of line 17, page 11, that follows the word "also" in said line; also by striking out all of page 11 that follows the word "operated" in line 21 of said page; also by striking out all that follows the word "may," in line 5, page 12, through the word "complaint," in line 6, page 12.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Sec. 5. That section 16 of said act, as amended March 2, 1889, be amended so as to read as follows:

"Sec. 16. That if, after hearing on a complaint made as provided

In section 13 of this act, the Commission shall determine that any party complainant is entitled to an award of damages under the provisions of this act for a violation thereof, the Commission shall make an order directing the carrier to pay to the complainant the sum to which he is entitled on or before a day named.

"If a carrier does not comply with an order for the payment of money within the time limit in such order, the complainant, or any person for whose benefit such order was made, may file in the circuit court of the United States for the district in which he resides or in which is located the principal operating office of the carrier, or through which the road of the carrier runs, a petition setting forth briefly the causes for which he claims damages, and the order of the Commission in the premises. Such suit shall proceed in all respects like other civil suits for damages, except that on the trial of such suit the findings and order of the Commission shall be prima facie evidence of the facts therein stated and except that the petitioner shall not be liable for costs in the circuit court nor for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If the petitioner shall finally prevail, he shall be allowed a reasonable attorney's fee, to be taxed and collected as a part of the costs of the suit. All complaints for the recovery of damages shall be filed with the Commission within two years from the time the cause of action accrues, and not after, and a petition for the enforcement of an order for the payment of money shall be filed in the circuit court within one year from the date of the order, and not after.

"In such suits all parties in whose favor the Commission may have made an award for damages by a single order may be joined as plaintiffs, and all of the carriers parties to such order awarding such damages may be joined as defendants, and such suit may be maintained by such joint plaintiffs and against such joint defendants in any district where any one of such joint plaintiffs could maintain such suit against any one of such joint defendants; and service of process against any one of such defendants as may not be found in the district where the suit is brought may be made in any district where such defendant carrier has its principal operating office. In case of such joint suit the recovery, if any, may be by judgment in favor of any one of such plaintiffs, against the defendant found to be liable to such plaintiff.

"Every order of the Commission shall be forthwith served by mailing to any one of the principal officers or agents of the carrier at his usual place of business a copy thereof; and the registry mail receipt shall be prima facie evidence of the receipt of such order by the carrier in due course of mail.

"The Commission shall be authorized to suspend or modify its orders upon such notice and in such manner as it shall deem proper, and the orders of the Commission shall take effect at the end of thirty days after notice thereof to the carriers directed to obey the same, unless such orders shall have been suspended or modified by the Commission or suspended or set aside by the order or decree of a court of competent jurisdiction: *Provided, however,* That the Commission, for good cause shown, may extend the time in which such order shall take effect.

"It shall be the duty of every common carrier, its agents and employees, to observe and comply with such orders so long as the same shall remain in effect.

"Any carrier, any officer, representative, or agent of a carrier, or any receiver, trustee, lessee, or agent of either of them, who knowingly fails or neglects to obey any order made under the provisions of section 15 of this act, shall forfeit to the United States the sum of \$5,000 for each offense. Every distinct violation shall be a separate offense, and in case of a continuing violation each day shall be deemed a separate offense.

"The forfeiture provided for in this act shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States, brought in the district where the carrier has its principal operating office, or in any district through which the road of the carrier runs.

"It shall be the duty of the various district attorneys, under the direction of the Attorney-General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States. The Commission may, with the consent of the Attorney-General, employ special counsel in any proceeding under this act, paying the expenses of such employment out of its own appropriation.

"If any carrier fails or neglects to obey any order of the Commission, other than for the payment of money, while the same is in effect, any party injured thereby, or the Commission in its own name, may apply to the circuit court in the district where such carrier has its principal operating office, or in which the violation or disobedience of such order shall happen, for an enforcement of such order. Such application shall be by petition, which shall state the substance of the order and the respect in which the carrier has failed of obedience, and shall be served upon the carrier in such manner as the court may direct, and the court shall prosecute such inquiries and make such investigations, through such means as it shall deem needful in the ascertainment of the facts at issue or which may arise upon the hearing of such petition. If, upon such hearing as the court may determine to be necessary, it appears that the order was regularly made and duly served, and that the carrier is in disobedience of the same, the court shall enforce obedience to such order by a writ of injunction, or other proper process, mandatory or otherwise, to restrain such carrier, its officers, agents, or representatives, from further disobedience of such order, or to enjoin upon it, or them, obedience to the same; and in the enforcement of such process the court shall have those powers ordinarily exercised by it in compelling obedience to its writs of injunction and mandamus.

"From any action upon such petition an appeal shall lie by either party to the Supreme Court of the United States, and in such court the case shall have priority in hearing and determination over all other causes except criminal causes, but such appeal shall not vacate or suspend the order appealed from.

"The venue of suits brought in any of the circuit courts of the United States to enjoin, set aside, annul, or suspend any order or requirement of the Commission shall be in the district where the carrier against whom such order or requirement may have been made has its principal operating office. The provisions of 'An act to expedite the hearing and determination of suits in equity, and so forth,' approved February 11, 1903, shall be, and are hereby, made applicable to all such suits, and are also made applicable to any proceeding in equity to enforce any order or requirement of the Commission, or any of the provisions of the act to regulate commerce approved February 4, 1887, and all acts amendatory thereof or supplemental thereto. It shall be the duty of the Attorney-General in every such case to file the certificate provided for in said expediting act of February 11, 1903, as necessary to the application of the provisions thereof, and upon appeal as

therein authorized to the Supreme Court of the United States, the case shall have in such court priority in hearing and determination over all other causes except criminal causes.

"The copies of schedules and tariffs of rates, fares, and charges, and of all contracts, agreements, or arrangements between common carriers filed with the Commission as herein provided, and the statistics, tables, and figures contained in the annual reports of carriers made to the Commission, as required by the provisions of this act, shall be preserved as public records in the custody of the secretary of the Commission, and shall be received as prima facie evidence of what they purport to be for the purpose of investigations by the Commission and in all judicial proceedings; and copies of or extracts from any of said schedules, tariffs, contracts, agreements, arrangements, or reports made public records as aforesaid, certified by the secretary under its seal, shall be received in evidence with like effect as the originals."

Mr. CLAYTON. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The Clerk will report the amendment. The Clerk read as follows:

Amend by inserting, after the word "mandamus," line 17, page 16, the following: "In such circuit court such petition shall have priority in hearing and determination over all other causes except criminal causes."

The question was taken, and the amendment was rejected.

Mr. STANLEY. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment. The Clerk read as follows:

Amend amended section 16 by striking out the word "knowingly" in line 8 of page 15.

Mr. STANLEY. Mr. Chairman—

The CHAIRMAN. The debate is closed.

Mr. STANLEY. I do not think debate has been closed on this paragraph. I wish to call the attention of the committee to this word "knowingly," not in any spirit of carping or with any desire to find fault with this bill, but I firmly believe that this matter has been overlooked by the committee.

The word "knowingly" infallibly refers to the order of the Commission, and is not used in the sense of willfully or feloniously. In simple English it means whosoever, knowing the order of the Commission, violates its provisions, shall be subject to its pains and penalties.

It inevitably follows that if the offender is ignorant of the order of the Commission he is not liable to any punishment incident to its violation. Immunity from the severe pains and penalties denounced by this provision of the bill is dependent not upon the obedience of the carrier, but upon its ignorance.

You arraign the agents of the railroads for the most palpable violation of the wise and beneficent provisions of this most necessary law, and behold, they plead not their innocence, but their ignorance, of the law. Yea, more; you penalize the carrier who makes an honest effort to obey the orders of this august Commission, for the carrier who, knowing the law, violates it, is liable to heavy pains and penalties. The railroad which delegates to agents who can neither read nor write the task of defying the law is absolutely immune, for it is only the agent or employee who knows the law and violates it that is liable.

It is the first instance in the criminal jurisprudence of any civilized country that ignorance in the mouth of the malefactor was made a complete defense. The dangerous thing, under this strange provision of the law, the thing punished by heavy fine, is not guilt, but knowledge. It practically emasculates the law, and renders any punishment under it absolutely ineffectual. This section reads:

Any carrier, any officer, representative, or any agent or carrier, or any receiver, trustee, lessee, or agent, or either of them, who knowingly fails or neglects to obey any order under the provisions of section 15 of this act, shall forfeit to the United States the sum of \$5,000 for each offense.

Any man can come into court and say that he did not know the law, and you have to prove his knowledge of the law.

The principle that "ignorance of the law excuses no man" is as old as the law. Ignorance of a fact may constitute a valid defense; ignorance of the law never. The accused may show, for instance, that he has no knowledge that money uttered by him is counterfeit, and his ignorance of the fact may constitute a valid defense; but if you passed a law providing that a man could not be punished who passes spurious money unless he knew there was a law against it you would never punish a counterfeiter. So with the word "knowingly" in this bill it is an absolute impossibility to effectually execute its provisions. It is absurd to say that a man shall know the law before he violates it. It is a preposterous proposition, and an anomaly in the law, abhorrent to every principle of common justice and common sense, to solemnly declare that before you punish the violation of this law, which is so necessary, which is demanded by the President, and which is hailed with delight by the people, that you must show that the criminal could read and

write; that he not only violated its provisions, but that he did it knowingly.

How in the name of common sense are you going to prove what the accused knew? You can easily establish what an offender has done, but to prove what is hidden in his mind and heart is another question. I urge this committee for once to shake off the silly delusion that wisdom will die with the eighteen men who reported this bill, to for once depart from your unwise and unconsidered determination to regard it as the paragon and perfection of legislation, simply because it embodies a much-needed reform, and to strike out this superfluous, dangerous, and deadly provision which renders absolutely ineffective all the necessary legislation, which without it would be effective, and sheaths the sword of justice, which you pretend to draw. This single word is pregnant with evil; it is a menace to every honest carrier who may attempt to know the law, and it is a bonus and a shield to perjury and ignorance.

Mr. SHERMAN. Mr. Chairman, I move that all debate upon this section and all amendments be now closed.

The question was taken, and the motion was agreed to.

The CHAIRMAN. The question is on the adoption of the amendment of the gentleman from Kentucky.

The question was taken, and the amendment was rejected.

[Mr. GOLDFOGLE addressed the committee. See Appendix.]

Mr. JAMES. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Kentucky offers an amendment, which the Clerk will report.

The Clerk read as follows:

Strike out all on page 15, commencing with the word "shall," in line 9, and all thereafter down to and including the word "runs," on page 19, and insert in lieu thereof the following: "shall be deemed guilty of a misdemeanor, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than \$5,000, or imprisonment for a term of not less than one nor more than three years, or both such fine and imprisonment. Every violation shall be a distinct offense."

The question was taken, and the amendment was rejected.

Mr. HEFLIN. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 15, at the end of line 10, amend by adding the following: "and shall also be imprisoned for a term of not less than two years for each offense."

The question was taken, and the amendment was rejected.

Mr. STANLEY. Mr. Chairman, I wish to submit the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend section 16a of H. R. 12987 by adding, after the word "thereof," on page 20, at the end of line 20, the following words, viz: "The weight of rails, condition and character of roads and switches, and character of safety appliances employed for prevention of accident or injury to passengers and employees."

The question was taken, and the amendment was rejected.

Mr. STANLEY. I also offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend section 16 of H. R. 12987 by striking out the words "prima facie evidence," in lines 10 and 11, on page 13, and insert in lieu thereof the words "taken as a true statement."

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 6. That a new section be added to said act immediately after section 16, to be numbered as section 16a, as follows:

"SEC. 16a. That after a decision, order, or requirement has been made by the Commission in any proceeding any party thereto may at any time make application for rehearing of the same, or any matter determined therein, and it shall be lawful for the Commission in its discretion to grant such a rehearing if sufficient reason therefor be made to appear. Applications for rehearing shall be governed by such general rules as the Commission may establish. No such application shall excuse any carrier from complying with or obeying any decision, order, or requirement of the Commission, or operate in any manner to stay or postpone the enforcement thereof, without the special order of the Commission. In case a rehearing is granted the proceedings thereupon shall conform as nearly as may be to the proceedings in an original hearing, except as the Commission may otherwise direct; and if, in its judgment, after such rehearing and the consideration of all facts, including those arising since the former hearing, it shall appear that the original decision, order, or requirement is in any respect unjust or unwarranted, the Commission may reverse, change, or modify the same accordingly. Any decision, order, or requirement made after such rehearing, reversing, changing, or modifying the original determination shall be subject to the same provisions as an original order. Whenever an order of the Commission made in pursuance of section 15 as amended, other than an order for the payment of money, shall have been complied with for the period of three years such order shall not thereafter be in force as against the carrier so complying therewith."

Mr. SULZER. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from New York [Mr. SULZER] offers an amendment, which the Clerk will read.

The Clerk read as follows:

Add new section after line 2, page 20, as follows:

"SEC. 16b. That every common carrier by railroad subject to the provisions of this act shall be liable to any of its employees who are engaged in the transportation of such persons or property, or, in the case of his death, to his personal representative or heirs at law, for all damages which may result from the negligence or mismanagement of any of its officers, agents, or employees, or by reason of any defect or insufficiency in its cars, engines, appliances, machinery, track, roadbed, ways, or works.

"That in all actions hereafter brought against any such common carrier by railroad to recover damages for personal injuries to an employee, or where such injuries have resulted in his death, the fact that the employee may have been guilty of contributory negligence shall not bar a recovery where his contributory negligence was slight in comparison to that of the employer.

"That no contract of employment, insurance, relief benefit, or indemnity for injury or death entered into by or on behalf of any employee, nor the acceptance of any such insurance, relief benefit, or indemnity by the person entitled thereto, shall constitute any bar or defense to any action brought to recover damages for personal injuries to or death of such employee: *Provided, however,* That upon the trial of such action against any such common carrier by railroad the defendant may set off therein any sum it has contributed toward any such insurance, relief benefit, or indemnity that may have been paid to the injured employee, or, in case of his death, to his heirs at law.

"That nothing in this act shall be held to limit the duty of common carriers by railroads or impair the rights of their employees under the safety-appliance act of March 2, 1893, as amended April 1, 1896, and March 2, 1903."

Mr. SULZER. Mr. Chairman, my amendment simply provides—

Mr. TOWNSEND. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. TOWNSEND. Mr. Chairman, I make the point of order that the amendment is not germane to the bill.

Mr. JAMES. Mr. Chairman, I ask unanimous consent that the gentleman from New York [Mr. SULZER] may have five minutes.

Mr. SULZER. Mr. Chairman, I desire to be heard on the point of order.

Mr. ADAMSON. The gentleman had time granted to him yesterday. I think all amendments ought to be limited to at least 9,000 words. [Laughter.]

The CHAIRMAN. In the opinion of the Chair, the amendment offered by the gentleman from New York is out of order.

Mr. SULZER. I desire to be heard on the point of order. In my opinion this point of order is untenable. I think this amendment is germane to the bill.

The CHAIRMAN. The Chair would state that he has already ruled on this subject, and is not inclined to hear further on the point of order. The Clerk will read.

The Clerk read as follows:

SEC. 7. That section 20 of said act be amended so as to read as follows:

"SEC. 20. That the Commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this act, and from the owners of all railroads engaged in interstate commerce as defined in this act, to prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the Commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipments; the number of employees and the salaries paid each class; the accidents to passengers, employees, and other persons, and the causes thereof; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such reports shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts affecting the same as the Commission may require; and the Commission may, in its discretion, for the purpose of enabling it the better to carry out the purposes of this act, prescribe a period of time within which all common carriers subject to the provisions of this act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

"Said detailed reports shall contain all the required statistics for the period of twelve months ending on the 30th day of June in each year, and shall be made out under oath and filed with the Commission, at its office in Washington, on or before the 30th day of September then next following, unless additional time be granted in any case by the Commission; and if any carrier, person, or corporation subject to the provisions of this act shall fail to make and file said annual reports within the time above specified, or within the time extended by the Commission for making and filing the same, or shall fail to make specific answer to any question authorized by the provisions of this section within thirty days from the time it is lawfully required so to do, such parties shall forfeit to the United States the sum of \$100 for each and every day it shall continue to be in default with respect thereto. The Commission shall also have authority to require said carriers to file monthly reports of earnings and expenses or special reports within a specified period, and if any such carrier shall fail to file such reports within

the time fixed by the Commission it shall be subject to the forfeitures last above provided.

"Said forfeitures shall be recovered in the manner provided for the recovery of forfeitures under the provisions of this act.

"The oath required by this section may be taken before any person authorized to administer an oath by the laws of the State in which the same is taken.

"The Commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by carriers subject to the provisions of this act, including the accounts, records, and memoranda of the movement of traffic as well as the receipts and expenditures of moneys. The Commission shall at all times have access to all accounts, records, and memoranda kept by carriers subject to this act, and it shall be unlawful for such carriers to keep any other accounts, records, or memoranda than those prescribed or approved by the Commission, and it may employ special agents or examiners, who shall have authority under the order of the Commission to inspect and examine any and all accounts, records, and memoranda kept by such carriers. This provision shall apply to receivers of carriers and operating trustees.

"In case of failure or refusal on the part of any such carrier, receiver, or trustee to keep such accounts, records, and memoranda on the books and in the manner prescribed by the Commission, or to submit such accounts, records, and memoranda as are kept to the inspection of the Commission or any of its authorized agents or examiners, such carrier, receiver, or trustee shall forfeit to the United States the sum of \$500 for each such offense and for each and every day of the continuance of such offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in this act.

"Any person who shall willfully make any false entry in the accounts of any book of accounts or in any record or memoranda kept by a carrier, or who shall willfully destroy, mutilate, alter, or by any other means or device falsify the record of any such account, record, or memoranda, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the carrier's business, or shall keep any other accounts, records, or memoranda than those prescribed or approved by the Commission, shall be deemed guilty of a misdemeanor and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than \$1,000 nor more than \$5,000, or imprisonment for a term not less than one year nor more than three years, or both such fine and imprisonment.

"Any examiner who divulges any fact or information which may come to his knowledge during the course of such examination, except in so far as he may be directed by the Commission or by a court or judge thereof, shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not more than \$5,000 or imprisonment for a term not exceeding two years, or both.

"That the circuit and district courts of the United States shall have jurisdiction, upon the application of the Attorney-General of the United States at the request of the Commission, alleging a failure to comply with or a violation of any of the provisions of said act to regulate commerce or of any act supplementary thereto or mandatory thereof by any common carrier, to issue a writ or writs of mandamus commanding such common carrier to comply with the provisions of said acts, or any of them.

"And to carry out and give effect to the provisions of said acts, or any of them, the Commission is hereby authorized to employ special agents or examiners who shall have power to administer oaths, examine witnesses, and receive evidence."

Mr. GOULDEN. Mr. Chairman, I desire to offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from New York [Mr. GOULDEN] offers an amendment, which the Clerk will read.

The Clerk read as follows:

Insert after line 5, page 24, the following: "Any person who shall solicit or accept a rebate from a common carrier or a rate lower than that contained in their published schedules shall be guilty of a misdemeanor, and, on conviction thereof in any court of competent jurisdiction, be fined not less than \$1,000 or imprisonment for a term not less than one year, or both, at the discretion of the court."

Mr. GOULDEN. Mr. Chairman, no words are necessary. The amendment carries with it a better argument than anyone could possibly give upon the subject. I think the amendment should be adopted.

Mr. SHERMAN. Mr. Chairman, I move that debate upon this section and all amendments thereto be now closed.

The CHAIRMAN. The question is on the motion offered by the gentleman from New York, that the debate upon this section and the amendments thereto be now closed.

The motion was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. GOULDEN].

The question was taken, and the amendment was rejected.

Mr. SOUTHWICK. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk, and ask for silence on the part of Members during the reading of it.

The CHAIRMAN. The gentleman from New York [Mr. SOUTHWICK] offers an amendment, which the Clerk will read.

The Clerk read as follows:

On page 25, line 2, after the word "evidence," add the following: "No railroad subject to the provisions of this act shall be allowed to discriminate in accommodations or otherwise between persons on account of their race, color, or previous condition of servitude."

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOUTHWICK].

The question was taken; and the Chair announced that the noes seemed to have it.

On a division (demanded by Mr. SOUTHWICK) the Chair announced that there were—ayes 11, noes 143.

So the amendment was rejected.

Mr. HEFLIN. Mr. Chairman, I desire to offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Alabama [Mr. HEFLIN] offers an amendment, which the Clerk will read.

The Clerk read as follows:

On page 24, line 13, amend by adding at the end of line 13 the following: "And it shall be unlawful for any circuit judge of the United States to accept free passes or free transportation in any form from any railroad, and for each offense shall be fined \$500."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama.

The question was taken; and the Chair announced that the noes seemed to have it.

On a division (demanded by Mr. HEFLIN) there were—ayes 46, noes 136.

So the amendment was rejected.

The Clerk read as follows:

SEC. 8. That a new section be added to said act at the end thereof, to be numbered as section 24, as follows:

"SEC. 24. That the Interstate Commerce Commission is hereby enlarged so as to consist of seven members with terms of seven years, and each shall receive \$10,000 compensation annually. The qualifications of the Commissioners and the manner of the payment of their salaries shall be as already provided by law. Such enlargement of the Commission shall be accomplished through appointment by the President, by and with the advice and consent of the Senate, of two additional Interstate Commerce Commissioners, one for a term expiring December 31, 1911, one for a term expiring December 31, 1912. The terms of the present Commissioners, or of any successor appointed to fill a vacancy caused by the death or resignation of any of the present Commissioners, shall expire as heretofore provided by law. Their successors and the successors of the additional Commissioners herein provided for shall be appointed for the full term of seven years, except that any person appointed to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he shall succeed. Not more than four Commissioners shall be appointed from the same political party."

Mr. COUSINS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The amendment of the gentleman from Pennsylvania [Mr. SIBLEY] was first at the desk, and was overlooked by inadvertence. The gentleman from Pennsylvania is recognized.

Mr. SIBLEY. I offer the amendment which I sent to the desk.

The Clerk read as follows:

Amend section 24 so it shall read:

"SEC. 24. That the Interstate Commerce Commission is hereby enlarged so as to consist of seven members with terms of seven years, and each shall receive \$12,000 compensation annually; one of such Commissioners shall be designated as chairman, whose annual compensation shall be \$15,000. The qualifications of the Commissioners and the manner of the payment of their salaries shall be as already provided by law. Such enlargement of the Commission shall be accomplished through appointment by the President, by and with the advice and consent of the Senate, of two additional Interstate Commerce Commissioners. Not more than four Commissioners shall be appointed from the same political party.

The question was taken; and the amendment was rejected.

Mr. COUSINS. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

In line 8, page 25, strike out the words "ten thousand" and insert in lieu thereof "seven thousand five hundred."

The question was taken; and the amendment was rejected.

Mr. GAINES of Tennessee. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Add a new section, as follows, after section 8.

"SEC. 9. That section 22 of the act of February 4, 1887, entitled 'An act to regulate commerce,' be amended by adding thereto the following:

"Any officer or employee of any railroad included within the provisions of this act who shall make, issue, or give any free pass or passage ticket, which ticket is not in good faith intended to be paid for, over such railroad, or any railroad connecting therewith, to any person not allowed or authorized to pass free according to the provisions of this section, or who shall pass or cause to pass free over such railroad any such person, and any person not so allowed or authorized to pass free who shall receive and use any such free pass, or free passage ticket, or any evidence thereof, shall be punished by fine not exceeding \$1,000 for each offense, and it shall be the duty of the several courts having jurisdiction to charge regularly their grand juries to investigate violations of this section.

"No free passes, or free passage ticket, or evidence thereof, shall be issued by or in behalf of any railroad corporation unless they are signed by some officer of said corporation authorized by vote of the directors to sign the same; and every railroad corporation shall keep a record showing the date of every free pass, the name of the person to whom it is issued, the points between which the passage is granted, and whether a single trip or time pass, and if the latter, the time for which it is issued; and this record shall at all times be open to every stockholder in said corporation and to the Interstate Commerce Commission; and any railroad or person failing to comply with this provision shall be punished by fine not less than \$2,000 nor more than \$5,000 for each offense; and it shall be the duty of said Commission to cause prosecutions to be instituted on account of the issue of any free passes, or free passage tickets, or evidence thereof, contrary to law."

Mr. SHERMAN. Mr. Chairman, I raise the point of order that the amendment offered by the gentleman from Tennessee is not germane to this section.

Mr. GAINES of Tennessee. It is a new section.

Mr. SHERMAN. It does not purport to apply to this section.

Mr. GAINES of Tennessee. It is an entirely new section.

Mr. SHERMAN. And it is not in order at this time.

Mr. GAINES of Tennessee. It is a new section, and so states, and I desire to be heard for a moment. [Cries of "Vote!"]

The CHAIRMAN. The gentleman from New York rises to a point of order. The gentleman will please state it.

Mr. SHERMAN. Mr. Chairman, I raise the point of order that this amendment is not germane to the section now under consideration. It does not purport to be. It purports to be a new section, and we have not disposed of this section yet.

The CHAIRMAN. The Chair understands that the gentleman from Tennessee offers this as a new section, and not as an amendment to any existing section of the bill.

Mr. GAINES of Tennessee. That is exactly so. Now, Mr. Chairman—

Mr. SHERMAN. Then, Mr. Chairman, I move that all debate upon this section and all amendments thereto be now closed.

Mr. GAINES of Tennessee. I have the floor, and do not yield it to the gentleman to make any such motion. I hope he will be fair for a moment, and then I will yield the floor. [Cries of "Vote!"]

The CHAIRMAN. The question is on the motion of the gentleman from New York, that all debate upon this section and all amendments thereto be now closed.

The question was taken; and the Chair announced that the ayes had it.

The CHAIRMAN. The Chair will state to the gentleman from Tennessee that this does not apply to the amendment of the gentleman from Tennessee.

Mr. GAINES of Tennessee. I call for a division, Mr. Chairman.

The question was taken; and the Chair announced that the ayes had it, and the motion was agreed to.

Mr. WILLIAMS. A parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WILLIAMS. The gentleman from Tennessee had the floor. The gentleman from New York made a point of order that did not take the gentleman from Tennessee off his feet for any other purpose except the point-of-order purpose itself. Then, after that the gentleman from Tennessee, still having the floor, except for the point of order, and that point of order having been overruled, I make the point that the gentleman from New York can not make the motion which he did make in the time of the gentleman from Tennessee. [Applause on the Democratic side.]

The CHAIRMAN. The gentleman from Tennessee seems to be proceeding on the theory that we had finished section 8. The committee has not concluded the consideration of section 8; therefore the gentleman from Tennessee was not in order.

Mr. GAINES of Tennessee. The Chair, as I heard him, has already ruled that "the gentleman from Tennessee" had offered his amendment in time, and was in order, and when the gentleman made his motion upon that proposition the Chair ruled with "the gentleman from Tennessee." Mr. Chairman, I do not want to impose myself upon the House, but I shall have and demand simple justice; no more and no less.

The CHAIRMAN. The gentleman from Tennessee will suspend for a moment.

Mr. SHERMAN. I ask unanimous consent that the gentleman have three minutes.

Mr. GAINES of Tennessee. Mr. Chairman, I stand on my rights.

The CHAIRMAN. The Chair is of the opinion that the gentleman from Tennessee will be entitled to five minutes.

Mr. GAINES of Tennessee. Exactly. I hope my friend from New York will suspend for a moment.

Mr. Chairman, this amendment I offered—

The CHAIRMAN. Will the gentleman from Tennessee suspend? The Chair is of the opinion that the gentleman from Tennessee has five minutes upon his amendment when his amendment is in order. We are not through with the consideration of section 8. Now, if anyone wishes to offer an amendment to section 8, it will be in order.

Mr. JAMES. Mr. Chairman, I offer the following amendment to section 8.

The Clerk read as follows:

Add after section 8 the following:

"It shall be unlawful, after the approval of this act, for any officer, director, stockholder, or receiver of any corporation engaged as a common carrier as hereinbefore defined, either for said corporation or for himself, to give or contribute any sum of money or thing of value, either directly or through some one else, to any political party or organization, or to aid in the election of any candidate or candidates of any political party, or for the purpose of in any manner influencing the result of any election; and any person violating the provisions of this

paragraph may be prosecuted therefor in any court of competent jurisdiction, and on conviction shall be punished by confinement in the penitentiary for any period not less than one year nor more than five years."

The question was taken, and the amendment was rejected.

Mr. GAINES of Tennessee. Now, Mr. Chairman, I renew the offer of my amendment.

The Clerk again read the amendment offered by Mr. GAINES of Tennessee.

Mr. GAINES of Tennessee. Mr. Chairman, this amendment makes it unlawful, and provides a penalty for violations, for any railroad, or the agent of any railroad, to issue a pass to "any person" who is not entitled to it, under the exemption set out in section 22 of the act of 1887—the commerce law. It also requires the Federal judges to charge their grand juries at every session of their courts as to violations of section 22, which prohibits the giving of passes to persons other than those named in that section, who, in brief, are objects of charity, ministers, railroad officials, and their own employees. The law as it stands is a dead letter.

It also provides that no free passes, or free-passage tickets, or evidence thereof, shall be issued by or in behalf of any railroad corporation, unless they are signed by some officer of said corporation authorized by vote of the directors to sign the same; and every railroad corporation shall keep a record showing the date of every free pass, the name of the person to whom it is issued, the points between which the passage is granted, and whether a single trip or a time pass, and if the latter, the time for which it is issued; and this record shall at all times be open to every stockholder in said corporation and to the Interstate Commerce Commission; and any railroad or person failing to comply with this provision shall be punished by fine—not less than \$2,000 for each offense—and it shall be the duty of said Commission to cause prosecutions to be instituted on account of the issue of any free passes, or free-passage tickets, or evidence thereof, contrary to law.

This penalty provision I have added in this paragraph, at the suggestion of the gentleman from Nebraska [Mr. NORRIS].

Every one of the many railroad representatives who testified before the Industrial Commission a few years ago, on this pass abuse, wanted a law that would take this free-pass burden, this imposition, this incubus off the railroads.

In addition to that, the Cullom report of 1886, the Industrial Commission report, the Cooley Commission, and reports by Commissioner Knapp and other men who ought to know, state that the issuance of passes in the promiscuous way that railroads issue them are usually issued because the railroads are compelled to do so by the blackmailers of the country, who hold them up, and they say they want a law that will stop that. This law will stop it if the judges of this country will enforce the law as is proposed in this amendment. Official propriety and common decency demand this law. Let us help the people and the railroads and raise ourselves above criticism and suspicion by enacting this measure. [Applause.]

Now, Mr. Chairman, I call for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee.

The question was taken; and on a division (demanded by Mr. GAINES of Tennessee) there were—ayes 111, noes 147.

Mr. GAINES of Tennessee. Tellers, Mr. Chairman!

Tellers were ordered; and the Chair appointed Mr. GAINES of Tennessee and Mr. HEPBURN.

The committee again divided; and the tellers reported—ayes 99, noes 137.

So the amendment was rejected.

Mr. SULZER. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Add after line 14, page 26, the following: "That there shall be at the seat of government an executive department to be known as the 'Department of Transportation,' and a Secretary of Transportation, who shall be a Cabinet officer and the head thereof, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive a salary of \$8,000—"

Mr. MANN (interrupting the reading). Mr. Chairman, I raise the point of order that that amendment is not germane to the bill.

Mr. SULZER. The gentleman can not tell whether it is germane until the amendment is read.

Mr. MANN. The Clerk has read far enough to develop the fact that it is not germane.

The CHAIRMAN. The Chair is of the opinion, from the reading thus far, that it discloses the fact that it is not germane, and the Chair sustains the point of order.

The question now is on the amendment to the title.

The question was taken, and the amendment to the title was agreed to.

Mr. HEPBURN. Mr. Chairman, I move that the committee do now rise and report the bill, with the amended title, to the House with the recommendation that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. VREELAND, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 12987—the railroad rate bill—and had directed him to report the same back with an amendment, with the recommendation that the amendment be agreed to, and that the bill as amended do pass.

Mr. HEPBURN. Mr. Speaker, I ask for the previous question on the bill and amendment to its final passage.

Mr. GAINES of Tennessee rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. GAINES of Tennessee. I move to recommit the bill with instructions.

The SPEAKER. That is not in order at this time.

Mr. GAINES of Tennessee. A parliamentary inquiry, Mr. Speaker. When will it be in order to recommit the bill with instructions to report a provision against the issuing of free passes?

The SPEAKER. After the engrossment and third reading of the bill. If the previous question is ordered, which is now moved, and the bill is engrossed and read a third time, then a motion to recommit would be in order. The gentleman from Iowa demands the previous question. The question is upon ordering the previous question.

The question was taken, and the previous question was ordered.

The SPEAKER. The question now is on the engrossment and third reading of the bill.

The question was taken; and the bill was ordered to be engrossed and read a third time, and was read the third time.

Mr. SHERMAN. Mr. Speaker, I now move to recommit the bill to the Committee on Interstate and Foreign Commerce, and upon that motion I demand the previous question.

The SPEAKER. The question is on ordering the previous question on the motion of the gentleman from New York to recommit the bill to the Committee on Interstate and Foreign Commerce.

Mr. GAINES of Tennessee. Upon that, Mr. Speaker, I demand the yeas and nays. Mr. Speaker, I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GAINES of Tennessee. Is that motion subject to amendment?

The SPEAKER. It is not, if the previous question is ordered.

Mr. WILLIAMS. Mr. Speaker, I hope the gentleman from Tennessee [Mr. GAINES] will withdraw his call for the yeas and nays, because there is nothing to be accomplished by it. We do not want to recommit this bill, of course.

Mr. GAINES of Tennessee. I simply want the bill sent back to the committee with instructions, if I can get it, to bring it in with an antifree-pass provision similar to the one I have offered or a better one.

The SPEAKER. Debate is not in order. Does the gentleman from Tennessee withdraw his demand for the yeas and nays?

Mr. GAINES of Tennessee. I withdraw the demand for the yeas and nays.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the previous question was ordered.

The SPEAKER. The question now is on the motion to recommit.

The question was taken; and the motion was rejected.

The SPEAKER. The question now is on the final passage of the bill.

Mr. WILLIAMS. Mr. Speaker, upon that I demand the yeas and nays.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. BINGHAM for one week, on account of sickness.

SENATE BILLS 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. 133. An act authorizing the extension of Twenty-third street NW. to Kalorama road—to the Committee on the District of Columbia.

S. 54. An act to provide a public park on Georgetown Heights, in the District of Columbia—to the Committee on the District of Columbia.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

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

H. R. 4177. An act granting a pension to Susan H. Chadsey;
 H. R. 5208. An act granting a pension to Susan J. Rounds;
 H. R. 5654. An act granting a pension to Moses Eggleston;
 H. R. 5779. An act granting a pension to Hannah W. Green;
 H. R. 6116. An act granting a pension to John Gainsback;
 H. R. 6166. An act granting a pension to Else C. Isachsen;
 H. R. 7206. An act granting a pension to Nannie Frazier;
 H. R. 7423. An act granting a pension to Rachel A. Dailey;
 H. R. 8071. An act granting a pension to Mary Mitchell;
 H. R. 8689. An act granting a pension to Frank P. Haas;
 H. R. 8832. An act granting a pension to William I. Heed;
 H. R. 9092. An act granting a pension to Lucy Walke;
 H. R. 9382. An act granting a pension to Mariam T. Shreve;
 H. R. 10365. An act granting a pension to Emeline S. Hayner;
 H. R. 10573. An act granting a pension to Mariah Baughman;
 H. R. 519. An act granting an increase of pension to William

C. Stewart;

H. R. 520. An act granting an increase of pension to Henry

C. Stern;

H. R. 749. An act granting an increase of pension to Elkanah

M. Wynn;

H. R. 1434. An act granting an increase of pension to Eleazar

A. Patterson;

H. R. 1435. An act granting an increase of pension to Jason

Robbins;

H. R. 1548. An act granting an increase of pension to Emma

Leviness;

H. R. 1810. An act granting an increase of pension to James

E. Post;

H. R. 1971. An act granting an increase of pension to Mel-

ville A. Smith;

H. R. 1972. An act granting an increase of pension to Stephen

Gillen;

H. R. 2262. An act granting an increase of pension to John

Seymour;

H. R. 2266. An act granting an increase of pension to George

H. Hodges;

H. R. 2800. An act granting an increase of pension to Thomas

Manahan;

H. R. 2959. An act granting an increase of pension to Amos

H. Tenant;

H. R. 3295. An act granting an increase of pension to George

W. Knapp;

H. R. 4223. An act granting an increase of pension to Fred-

erick Schultz;

H. R. 4226. An act granting an increase of pension to William

Painter;

H. R. 4392. An act granting an increase of pension to Joseph

Miller;

H. R. 4393. An act granting an increase of pension to Henry

Allen;

H. R. 4643. An act granting an increase of pension to Orlena

F. Seaver;

H. R. 4682. An act granting an increase of pension to James

Whiteman;

H. R. 4706. An act granting an increase of pension to Anna

M. Gardner;

H. R. 4731. An act granting an increase of pension to Robert

McMullen;

H. R. 4733. An act granting an increase of pension to John

L. Files;

H. R. 4740. An act granting an increase of pension to Ransom

L. Logan;

H. R. 4742. An act granting an increase of pension to Ed-

ward Coy;

H. R. 4744. An act granting an increase of pension to Thomas

O'Connor;

H. R. 4747. An act granting an increase of pension to Joseph

C. Robinson;

H. R. 4991. An act granting an increase of pension to William

R. Glisan;

H. R. 5158. An act granting an increase of pension to Ephraim

N. R. Ohl;

H. R. 5182. An act granting an increase of pension to Robert

S. Williams;

H. R. 5236. An act granting an increase of pension to Mary

Greene;

- H. R. 5237. An act granting an increase of pension to Rebecca Garland;
- H. R. 5253. An act granting an increase of pension to Greenberry Suddarth;
- H. R. 5546. An act granting an increase of pension to James Eastwood;
- H. R. 5631. An act granting an increase of pension to Leonard F. Simmons;
- H. R. 5642. An act granting an increase of pension to John W. Bancroft;
- H. R. 5643. An act granting an increase of pension to Wells Briggs;
- H. R. 5653. An act granting an increase of pension to Henry W. Wells;
- H. R. 5831. An act granting an increase of pension to Julius Zuehlke;
- H. R. 5845. An act granting an increase of pension to Robert T. Knox;
- H. R. 5939. An act granting an increase of pension to James Brody;
- H. R. 6113. An act granting an increase of pension to Moses Schoonmaker;
- H. R. 6172. An act granting an increase of pension to Abraham K. Vantine;
- H. R. 6183. An act granting an increase of pension to Amanuel Russell;
- H. R. 6186. An act granting an increase of pension to William Harvey;
- H. R. 6191. An act granting an increase of pension to Martin V. B. Bachman;
- H. R. 6446. An act granting an increase of pension to Silas N. Bradshaw;
- H. R. 6447. An act granting an increase of pension to Mary E. Davenport;
- H. R. 6544. An act granting an increase of pension to Buford P. Moss;
- H. R. 6916. An act granting an increase of pension to Jacob Meier;
- H. R. 6917. An act granting an increase of pension to Edmund R. Strang;
- H. R. 6983. An act granting an increase of pension to Chalkley Pettitt;
- H. R. 7230. An act granting an increase of pension to John M. Wells;
- H. R. 7237. An act granting an increase of pension to Phillip Bacon;
- H. R. 7509. An act granting an increase of pension to John N. Stone;
- H. R. 7572. An act granting an increase of pension to Gilbert F. Capron;
- H. R. 7662. An act granting an increase of pension to Barney Shultz;
- H. R. 7673. An act granting an increase of pension to Homer A. Barrows;
- H. R. 7735. An act granting an increase of pension to James Hartzel;
- H. R. 7755. An act granting an increase of pension to Adam Wenzel;
- H. R. 7758. An act granting an increase of pension to John L. Whitman;
- H. R. 7878. An act granting an increase of pension to Ann Betts;
- H. R. 7888. An act granting an increase of pension to Charles W. Sutherland;
- H. R. 7889. An act granting an increase of pension to Aaron Noble;
- H. R. 7950. An act granting an increase of pension to Emma M. Heath;
- H. R. 7952. An act granting an increase of pension to Detrick Nortrup;
- H. R. 8181. An act granting an increase of pension to Martin B. Noyes;
- H. R. 8237. An act granting an increase of pension to Noah Palmer;
- H. R. 8374. An act granting an increase of pension to Ellen R. Graham;
- H. R. 8403. An act granting an increase of pension to James L. Rector;
- H. R. 8404. An act granting an increase of pension to John H. Ferguson;
- H. R. 8409. An act granting an increase of pension to George H. Stowits;
- H. R. 8532. An act granting an increase of pension to Retta M. Fairbanks;
- H. R. 8659. An act granting an increase of pension to James Powers;
- H. R. 8799. An act granting an increase of pension to Bartholomew Moriarty;
- H. R. 9130. An act granting an increase of pension to John Brinkley;
- H. R. 9659. An act granting an increase of pension to Abram V. Smith;
- H. R. 9984. An act granting an increase of pension to Samuel McKinney;
- H. R. 10142. An act granting an increase of pension to Thomas Bush;
- H. R. 10218. An act granting an increase of pension to Melissa Chase;
- H. R. 10352. An act granting an increase of pension to Sarah A. Boush;
- H. R. 10389. An act granting an increase of pension to John W. Ellsworth;
- H. R. 10572. An act granting an increase of pension to Mary A. Hackley; and
- H. R. 9757. An act to amend paragraph 34 of section 7 of an act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes," approved July 1, 1902.

ADJOURNMENT.

Mr. HEPBURN. Mr. Speaker, I move that the House do now adjourn.

Mr. WILLIAMS. Mr. Speaker, a parliamentary inquiry. I understand that after the yeas and nays were ordered and before the roll was called the gentleman from Iowa moved to adjourn. Is that motion in order?

The SPEAKER. Undoubtedly. The question is on the motion to adjourn.

The question was taken, and the motion was agreed to.

Accordingly (at 6 o'clock and 54 minutes p. m.) the House adjourned until to-morrow, at 12 o'clock m.

EXECUTIVE COMMUNICATION.

Under clause 2 of Rule XXIV, the following executive communication was taken from the Speaker's table and referred as follows:

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Willapa River, Washington—to the Committee on Rivers and Harbors, 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. McCARTHY, from the Committee on the Public Lands, to which was referred the bill of the Senate (S. 983) to validate certain certificates of soldiers' additional homestead right, reported the same without amendment, accompanied by a report (No. 1062); which said bill and report were referred to the House Calendar.

Mr. CAPRON, from the Committee on the Territories, to which was referred the bill of the House (H. R. 7139) legalizing the removal of the county seat of Washita County, Oklahoma Territory, reported the same without amendment, accompanied by a report (No. 1065); which said bill and report were referred to the House Calendar.

Mr. BONYNGE, from the Committee on Mines and Mining, to which was referred the bill of the House (H. R. 13550) to establish mining experiment stations, to aid in the development of the mineral resources of the United States, and for other purposes, reported the same without amendment, accompanied by a report (No. 1066); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HENRY of Texas, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 436) establishing a United States court and recording district at Duncan, Ind. T., and conforming other districts therewith, reported the same without amendment, accompanied by a report (No. 1067); which said bill and report were referred to the House Calendar.

Mr. MORRELL, from the Committee on Militia, to which was referred the bill of the House (H. R. 7136) to increase the efficiency of the militia and promote rifle practice, reported the

same with amendment, accompanied by a report (No. 1068); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4202) granting an increase of pension to John C. Umstead, reported the same with amendment, accompanied by a report (No. 1058); which said bill and report were referred to the Private Calendar.

Mr. HAUGEN, from the Committee on War Claims, to which was referred the bill of the House H. R. 3959, reported in lieu thereof a resolution (H. Res. 261) referring to the Court of Claims the papers in the case of the trustees of the Methodist Episcopal Church South, of Pine Bluff, Ark., accompanied by a report (No. 1059); which said resolution and report were referred to the Private Calendar.

Mr. FULKERSON, from the Committee on War Claims, to which was referred the bill of the Senate (S. 567) authorizing the Secretary of the Treasury to make an examination of certain claims of the State of Missouri, reported the same without amendment, accompanied by a report (No. 1060); which said bill and report were referred to the Private Calendar.

Mr. HASKINS, from the Committee on War Claims, to which was referred the bill of the Senate (S. 2872) for the relief of the French Trans-Atlantic Cable Company, reported the same without amendment, accompanied by a report (No. 1061); which said bill and report were referred to the Private Calendar.

Mr. CHANEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 8233) granting an increase of pension to Charles A. Power, reported the same without amendment, accompanied by a report (No. 1063); which said bill and report were referred to the Private Calendar.

Mr. CLAYTON, from the Committee on War Claims, to which was referred the bill of the House (H. R. 14206) to carry out the findings of the Court of Claims in the case of James A. Paulk, reported the same without amendment, accompanied by a report (No. 1064); which said bill and report were referred to the Private Calendar.

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. McGUIRE: A bill (H. R. 14304) to provide for the readjustment and settlement of accounts between certain Osage Indians and traders of the Osage Reservation—to the Committee on Indian Affairs.

By Mr. BEDE: A bill (H. R. 14305) to authorize the Wisconsin and New Duluth Bridge Company to construct a bridge over the St. Louis River, between the States of Wisconsin and Minnesota—to the Committee on Interstate and Foreign Commerce.

By Mr. EDWARDS: A bill (H. R. 14306) making an appropriation for the completion of Locks and Dams Nos. 19 and 20, on the Cumberland River, in Kentucky—to the Committee on Rivers and Harbors.

By Mr. COOPER of Pennsylvania: A bill (H. R. 14307) to provide for the erection of a public building at Waynesburg, Pa.—to the Committee on Public Buildings and Grounds.

By Mr. REID: A bill (H. R. 14308) to authorize the construction of a bridge at or near Van Buren, Ark.—to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 14309) to authorize the construction of a bridge across Fourche la Pave River, in Perry County, Ark.—to the Committee on Interstate and Foreign Commerce.

By Mr. CLARK of Missouri: A bill (H. R. 14310) appropriating money for certain work on the Missouri River—to the Committee on Rivers and Harbors.

By Mr. BURLESON: A bill (H. R. 14311) authorizing a survey of the Colorado River, in Texas, from its mouth to the city of Austin—to the Committee on Rivers and Harbors.

By Mr. McNARY: A bill (H. R. 14312) to amend an act entitled "An act to provide revenue for the Government and to encourage the industries of the United States," approved July 24, 1897, as to import duties on band or belting leather (finished), dressed upper leather, patent and japanned leather,

leather cut into shoe uppers or vamps, and boots and shoes—to the Committee on Ways and Means.

By Mr. JONES of Washington: A bill (H. R. 14313) to recognize the claim of the Colville and confederated tribes of Indians, State of Washington, and providing for the payment thereof—to the Committee on Indian Affairs.

Also, a bill (H. R. 14314) to authorize the sale and disposition of surplus or unallotted lands of the diminished Colville Indian Reservation, in the State of Washington, and for other purposes—to the Committee on Indian Affairs.

By Mr. JENKINS: A bill (H. R. 14315) to regulate appeals in criminal prosecutions—to the Committee on the Judiciary.

By Mr. WILLIAMS: A bill (H. R. 14316) to further enlarge the powers and authority of the Public Health and Marine-Hospital Service, and to impose further duties thereon—to the Committee on Interstate and Foreign Commerce.

By Mr. PEARRE (by request): A bill (H. R. 14317) to amend section 183 of the Revised Statutes of the United States, giving authority to officers of the Departments to administer oaths to witnesses in investigations—to the Committee on the Judiciary.

By Mr. MORRELL: A bill (H. R. 14318) to prohibit shanghaiing in the United States—to the Committee on the Merchant Marine and Fisheries.

By Mr. MEYER: A bill (H. R. 14394) to prohibit the sale of intoxicating liquors near the Government Hospital for the Insane and the District Almshouse—to the Committee on the District of Columbia.

By Mr. RAINEY: A bill (H. R. 14395) to prohibit corporations from making money contributions in connection with political elections—to the Committee on Election of President, Vice-President, and Representatives in Congress.

By Mr. DALZELL: A bill (H. R. 14396) to incorporate the Lake Erie and Ohio River Ship Canal, to define the powers thereof, and to facilitate interstate commerce—to the Committee on Railways and Canals.

By Mr. HAMILTON: A joint resolution (H. J. Res. 97) authorizing assignment of pay of teachers and other employees of the Bureau of Education in Alaska—to the Committee on the Territories.

Mr. HAUGEN, from the Committee on War Claims: A resolution (H. Res. 261) referring to the Court of Claims H. R. 3959—to the Private Calendar.

By Mr. WANGER: A resolution (H. Res. 262) directing the Clerk of the House to pay Mrs. Annie L. Harmer a certain sum of money—to the Committee on Accounts.

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. ANDREWS: A bill (H. R. 14319) granting to the town of Gallup, McKinley County, Territory of New Mexico, 160 acres of land—to the Committee on the Territories.

Also, a bill (H. R. 14320) granting an increase of pension to Gottlieb Honzaker—to the Committee on Invalid Pensions.

By Mr. BANKHEAD: A bill (H. R. 14321) granting a pension to Daniel G. Harrison—to the Committee on Pensions.

By Mr. BRADLEY: A bill (H. R. 14322) granting a pension to Abbie L. Hanford—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14323) granting an increase of pension to Thomas Thornton—to the Committee on Invalid Pensions.

By Mr. BRICK: A bill (H. R. 14324) granting an increase of pension to Charles T. Murray—to the Committee on Invalid Pensions.

By Mr. BROWNLOW: A bill (H. R. 14325) granting an increase of pension to Wesley A. Hampton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14326) for the relief of William H. Taylor—to the Committee on Military Affairs.

By Mr. BOWERSOCK: A bill (H. R. 14327) granting an increase of pension to Amella Nichols—to the Committee on Invalid Pensions.

By Mr. CHANEY: A bill (H. R. 14328) granting an increase of pension to Charles M. Mears—to the Committee on Invalid Pensions.

By Mr. COLE: A bill (H. R. 14329) granting a pension to Mary M. Strong—to the Committee on Invalid Pensions.

By Mr. CROMER: A bill (H. R. 14330) granting a pension to Sarah J. Miller—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14331) granting an increase of pension to Jefferson R. Martin—to the Committee on Invalid Pensions.

By Mr. DALE: A bill (H. R. 14332) for the relief of John Depew, late of Battery E, Fifth United States Artillery—to the Committee on Military Affairs.

Also, a bill (H. R. 14333) granting a pension to Elizabeth Jeremiah—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14334) granting a pension to Helen F. Hoffman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14335) to remove the charge of desertion from the record of Patrick F. McDermott—to the Committee on Military Affairs.

Also, a bill (H. R. 14336) to remove the charge of desertion from the military record of Alexander Todd—to the Committee on Military Affairs.

By Mr. DAWES: A bill (H. R. 14337) granting an increase of pension to Gabriel Y. Palmer—to the Committee on Invalid Pensions.

By Mr. DEEMER: A bill (H. R. 14338) granting an increase of pension to William A. Rice—to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 14339) for the relief of John Tucker—to the Committee on Military Affairs.

Also, a bill (H. R. 14340) granting a pension to Mary A. S. Campbell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14341) granting a pension to Nancy A. Baker—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14342) granting an increase of pension to London C. Miller—to the Committee on Invalid Pensions.

By Mr. FITZGERALD: A bill (H. R. 14343) for the relief of James C. Slaght—to the Committee on War Claims.

By Mr. FOSTER of Vermont: A bill (H. R. 14344) for the relief of Col. Medad C. Martin—to the Committee on Claims.

By Mr. FULKERSON: A bill (H. R. 14345) granting an increase of pension to Peter Noblet—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14346) granting an increase of pension to Henry C. Edmiston—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14347) granting an increase of pension to Jarvis Sherman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14348) granting an increase of pension to Joseph Hoy—to the Committee on Invalid Pensions.

By Mr. HAYES: A bill (H. R. 14349) authorizing the appointment of William I. Reed, a captain on the retired list of the Army, as a major on the retired list of the Army—to the Committee on Military Affairs.

By Mr. HINSHAW: A bill (H. R. 14350) granting an increase of pension to Theodore W. Allen—to the Committee on Invalid Pensions.

By Mr. HOLLIDAY: A bill (H. R. 14351) granting an increase of pension to Susan Sewell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14352) granting an increase of pension to Samuel J. Rhoades—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14353) granting an increase of pension to John A. Bryan—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14354) granting an increase of pension to Samuel F. Anderson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14355) granting an increase of pension to George W. Florey—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14356) to correct the military record of Sylvester Weaver—to the Committee on Military Affairs.

Also, a bill (H. R. 14357) to correct the military record of George Pile—to the Committee on Military Affairs.

By Mr. HUFF: A bill (H. R. 14358) granting an increase of pension to William H. Morrow—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14359) granting a pension to James H. Stone—to the Committee on Invalid Pensions.

By Mr. JENKINS: A bill (H. R. 14360) for the relief of John McDonald, alias John Shannon—to the Committee on Military Affairs.

By Mr. KENNEDY of Ohio: A bill (H. R. 14361) granting an honorable discharge to David Harrington—to the Committee on Military Affairs.

Also, a bill (H. R. 14362) to authorize payment of commutation to David Jones—to the Committee on War Claims.

By Mr. CHARLES B. LANDIS: A bill (H. R. 14363) granting a pension to Mary Z. Miller—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14364) for the relief of James M. Blankenship—to the Committee on Military Affairs.

By Mr. LEE: A bill (H. R. 14365) for the relief of William D. Law—to the Committee on War Claims.

By Mr. LESTER: A bill (H. R. 14366) for the relief of the Jerusalem Evangelical Lutheran Church, Ebenezer, Ga.—to the Committee on War Claims.

By Mr. MCGAVIN: A bill (H. R. 14367) granting an increase

of pension to Lemuel O. Gilman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14368) granting an increase of pension to Margaret F. Hogan—to the Committee on Invalid Pensions.

By Mr. MARTIN: A bill (H. R. 14369) granting an increase of pension to Sumner P. Wyman—to the Committee on Invalid Pensions.

By Mr. MAYNARD: A bill (H. R. 14370) granting an increase of pension to Theodore Hogener—to the Committee on Invalid Pensions.

By Mr. MOON of Tennessee: A bill (H. R. 14371) granting an increase of pension to William H. Capehart—to the Committee on Pensions.

Also, a bill (H. R. 14372) to carry out the findings of the Court of Claims in the case of James E. Meacham—to the Committee on War Claims.

By Mr. MOUSER: A bill (H. R. 14373) to remove charge of desertion and grant honorable discharge to John A. Boston, alias John Boston Irwin—to the Committee on Military Affairs.

By Mr. RHODES: A bill (H. R. 14374) granting an increase of pension to Benjamin B. Cahoon—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14375) granting an increase of pension to Edmund R. Haywood—to the Committee on Invalid Pensions.

By Mr. RIXEY: A bill (H. R. 14376) for the relief of William Bushby—to the Committee on War Claims.

By Mr. SAMUEL: A bill (H. R. 14377) granting an increase of pension to William Stephens—to the Committee on Invalid Pensions.

By Mr. SIBLEY: A bill (H. R. 14378) granting an increase of pension to Charles Settle—to the Committee on Invalid Pensions.

By Mr. STEPHENS of Texas: A bill (H. R. 14379) for the relief of Sylvanus Cobble, of Gainesville, Tex.—to the Committee on War Claims.

Also, a bill (H. R. 14380) to authorize the Court of Claims to consider the claims of Charles F. Winton, deceased, and others, against the Mississippi Choctaw Indians for services rendered and expenses incurred—to the Committee on Indian Affairs.

By Mr. WEEKS: A bill (H. R. 14381) authorizing and directing the Secretary of the Treasury to pay to the Holtzer-Cabot Electric Company the amount due said company from the Post-Office Department—to the Committee on Claims.

By Mr. WOOD of New Jersey: A bill (H. R. 14382) granting an increase of pension to William Antes—to the Committee on Invalid Pensions.

By Mr. FRENCH: A bill (H. R. 14383) granting an honorable discharge to Jonas O. Johnson—to the Committee on Military Affairs.

Also, a bill (H. R. 14384) granting an increase of pension to John Miller—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14385) granting an increase of pension to Joseph Daniels—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14386) granting an increase of pension to Anthony L. Bledsoe—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14387) for the relief of John Nelson—to the Committee on Claims.

By Mr. MEYER: A bill (H. R. 14388) granting an increase of pension to A. L. Barthelemy—to the Committee on Invalid Pensions.

By Mr. WILLIAMS: A bill (H. R. 14389) granting an increase of pension to Amos Hart—to the Committee on Invalid Pensions.

Also, a bill (H. R. 14390) granting an increase of pension to William F. Burnet—to the Committee on Invalid Pensions.

By Mr. CAPRON: A bill (H. R. 14391) granting an increase of pension to Franklin Cooley—to the Committee on Invalid Pensions.

By Mr. FRENCH: A bill (H. R. 14392) for the relief of Thomas Hanlon—to the Committee on War Claims.

Also, a bill (H. R. 14393) to remove the charge of desertion from the military record of William P. Edmonson—to the Committee on Military Affairs.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 8891) granting a pension to Mrs. R. C. Rogers—to the Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 14196) for the relief of Bessie McAlester McGuirk—Committee on the Post-Office and Post-Roads discharged, and referred to the Committee on Claims.

A bill (H. R. 2224) granting an increase of pension to Henry

L. Karns—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 13339) granting a military bounty land warrant to John B. Anderson—Committee on Pensions discharged, and referred to the Committee on the Public Lands.

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 the SPEAKER: Petition of Elgin J. Cole et al., for repeal of revenue tax on denaturalized alcohol—to the Committee on Ways and Means.

Also, petition of William H. Burns et al., for repeal of revenue tax on denaturalized alcohol—to the Committee on Ways and Means.

By Mr. ACHESON: Petition of citizens of Wampum, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the Pennsylvania Dairy Union, indorsing bill H. R. 345—to the Committee on Agriculture.

Also, petition of the National Board of Trade, for improvement of the merchant marine—to the Committee on the Merchant Marine and Fisheries.

By Mr. ALEXANDER: Petitions of Chapin Post, No. 2, Grand Army of the Republic, and Emerson H. Liscum Camp, Sons of Veterans, of Buffalo, N. Y., for bill H. R. 13090—to the Committee on Naval Affairs.

By Mr. ALLEN of New Jersey: Petition of the National Board of Trade, favoring bill S. 529—to the Committee on the Merchant Marine and Fisheries.

By Mr. BARTLETT: Petition of Macon Council, No. 290, Order of United Commercial Travelers of America, for amendment to the bankruptcy law—to the Committee on the Judiciary.

By Mr. BRADLEY: Petition of Bullville Grange, Patrons of Husbandry, of Orange County, N. Y., for repeal of revenue tax on denaturalized alcohol—to the Committee on Ways and Means.

By Mr. BELL of Georgia: Paper to accompany bill for relief of Cora A. Booth—to the Committee on Pensions.

Also, paper to accompany bill for relief of Margaret E. Foster—to the Committee on Pensions.

Also, paper to accompany bill for relief of William T. Edwards—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Jobery Mullinax—to the Committee on Pensions.

By Mr. BURLEIGH: Petition of citizens of Maine, against amendment of the Grout law—to the Committee on Agriculture.

By Mr. CAPRON: Petitions of the Manton Baptist Mission; the First Baptist Church of Hope Valley; the Free Evangelical Church of Providence; the Woman's Christian Temperance Union of Carolina; the Arlington Free Baptist Church, of Manton; the Centerville Methodist Episcopal Church, of Cumberland; the Warren Baptist Church, of Phoenix; the Exeter Baptist Church, of Woonsocket; the Warwick Central Free Baptist Church; the People's Free Baptist Church, of Auburn; the Methodist Episcopal Church of East Greenwich, and of sundry citizens of Rhode Island, favoring the Hepburn-Dolliver bill—to the Committee on the Judiciary.

Also, petitions of the State board of agriculture of Rhode Island and the Newport County Agricultural Society, favoring placing basic-slag meal on the free list—to the Committee on Ways and Means.

Also, petition of West Kingston (R. I.) Grange, No. 10, Patrons of Husbandry, favoring bill H. R. 345—to the Committee on Agriculture.

Also, petition of the Newport County (R. I.) Agricultural Society, for bill H. R. 345—to the Committee on Agriculture.

Also, petition of the Rhode Island State board of agriculture, favoring bill H. R. 345—to the Committee on Agriculture.

Also, petition of the Rhode Island Lumber Dealers' Association, for national forest reserves—to the Committee on Agriculture.

Also, petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, petition of the Chamber of Commerce of New York, in favor of Chinese exclusion (bill H. R. 12973)—to the Committee on Foreign Affairs.

Also, petition of the Japanese and Korean Exclusion Society, favoring strict observance of Chinese-exclusion act—to the Committee on Foreign Affairs.

Also, petition of Commodore Perry and Pawtucket councils, Junior Order United American Mechanics, of Rhode Island,

favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. DALE: Petition of the Union League Club of New York, favoring the President's policy relative to the Philippines and urging passage of the bill H. R. 3—to the Committee on Ways and Means.

Also, petition of the Union League Club of New York City, for repeal of the duty on art works—to the Committee on Ways and Means.

Also, petition of Garfield Council, No. 354, Order United American Mechanics, of Scranton, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of the American Mining Congress, for working sundry mines on Spanish and Mexican land grants—to the Committee on Mines and Mining.

Also, petition of the American Mining Congress, for assistance to schools of mines—to the Committee on Mines and Mining.

Also, petition of the American Mining Congress, for a Department of Mines and Mining—to the Committee on Mines and Mining.

Also, petition of the Western Fruit Growers' Association, relative to abuses of the private car companies—to the Committee on Interstate and Foreign Commerce.

Also, petition of Father Whitty Young Men's Total Abstinence and Benevolent Society, of Scranton, Pa., against bill H. R. 7079—to the Committee on Ways and Means.

Also, petition of Hon. J. A. Scranton and 50 other citizens of Scranton, Pa., and vicinity for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, petition of State Grange No. 1199, for repeal of revenue tax on denaturalized alcohol—to the Committee on Ways and Means.

Also, petition of George E. Briggs, against free alcohol of all kinds—to the Committee on Alcoholic Liquor Traffic.

Also, petition of Sam Sloan Division, No. 276, Brotherhood of Locomotive Engineers, of Scranton, Pa., for bill H. R. 9328—to the Committee on the Judiciary.

Also, petition of Sam Sloan Division, No. 276, Brotherhood of Locomotive Engineers, of Scranton, Pa., for passage of bills H. R. 239 and S. 1657—to the Committee on the Judiciary.

Also, petition of the National German-American Alliance of the United States and a million and a half of German citizens, against franking scientific literature on beer—to the Committee on the Post-Office and Post-Roads.

Also, petition of the Japanese and Korean Exclusion League, for strict enforcement of Chinese-exclusion act—to the Committee on Immigration and Naturalization.

Also, petition of the Luzerne Chemical Company, for repeal of revenue tax on denaturalized alcohol—to the Committee on Ways and Means.

Also, petition of the Pennsylvania Dairy Union, indorsing bill H. R. 345—to the Committee on Agriculture.

Also, petition of the American Society for the Prevention of Cruelty to Animals, against bill H. R. 47—to the Committee on Interstate and Foreign Commerce.

Also, petition of the American Society for the Prevention of Cruelty to Animals, against bill H. R. 221—to the Committee on the Judiciary.

Also, petition of Ezra C. Griffin Camp, No. 8, Sons of Veterans, Pennsylvania Division, against the Morrell bill—to the Committee on Military Affairs.

Also, petition of Strong Vincent Post, No. 67, Grand Army of the Republic, of Erie, Pa., for bill H. R. 8980—to the Committee on Military Affairs.

Also, petition of the Commercial Law League, favoring the Lodge bill, relating to the consular service—to the Committee on Foreign Affairs.

Also, petition of Lackawanna Division, No. 12, Order of Railway Conductors, of Scranton, Pa., for passage of bills H. R. 239 and 9328—to the Committee on the Judiciary.

By Mr. DAVIS of Minnesota: Petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

By Mr. DOVENER: Affidavits in support of bill (H. R. 5388) for the relief of Silas Garrison—to the Committee on Invalid Pensions.

By Mr. ESCH: Paper to accompany bill for relief of Theodore Groezinger—to the Committee on Invalid Pensions.

Also, petition of the National Board of Trade, for bill S. 529—to the Committee on the Merchant Marine and Fisheries.

By Mr. FITZGERALD: Petition of the Newport Produce Exchange, for modification of the Chinese-exclusion act—to the Committee on Foreign Affairs.

By Mr. GOULDEN: Petition of the National Board of Steam

Navigation, favoring bills H. R. 369 and 370—to the Committee on Rivers and Harbors.

Also, petition of the Board of Steam Navigation, favoring lighting of Statue of Liberty, New York Harbor—to the Committee on Appropriations.

By Mr. GRAFF: Petition of the State Grange, Patrons of Husbandry, of Illinois, for repeal of revenue tax on denaturalized alcohol—to the Committee on Ways and Means.

Also, petition of the State Grange, Patrons of Husbandry, of Illinois, for the Interstate Commerce Commission to control railway rates—to the Committee on Interstate and Foreign Commerce.

Also, petition of the State Grange, Patrons of Husbandry, of Illinois, favoring reciprocal trade relations with foreign countries—to the Committee on Foreign Affairs.

Also, petition of the State Grange, Patrons of Husbandry, of Illinois, for control of freight rates by the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, petition of the State Grange of Illinois, Patrons of Husbandry, for a parcels-post law—to the Committee on the Post-Office and Post-Roads.

Also, petition of the State Grange, Patrons of Husbandry, of Illinois, against ship subsidies—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the State Grange, Patrons of Husbandry, of Illinois, for election of United States Senators by popular vote—to the Committee on the Judiciary.

Also, petition of the State Grange, Patrons of Husbandry, of Illinois, favoring the referendum to legalize all important enactments—to the Committee on the Judiciary.

Also, petition of the State Grange, Patrons of Husbandry, of Illinois, against the present method of seed distribution—to the Committee on Agriculture.

Also, petition of the State Grange of Illinois, Patrons of Husbandry, for repeal of revenue tax on denaturalized alcohol—to the Committee on Ways and Means.

By Mr. GRANGER: Petition of the North Congregational Church, of Providence, for prohibition of liquor selling in Indian Territory and Oklahoma as States—to the Committee on the Territories.

By Mr. GROSVENOR: Paper to accompany bill for relief of Albert C. Roach—to the Committee on Invalid Pensions.

By Mr. HINSHAW: Petition of Russell Post, No. 77, Department of Nebraska, Grand Army of the Republic, for relief of George C. Vance—to the Committee on Invalid Pensions.

By Mr. HITT: Petition of citizens of Rochelle, Ill., for repeal of revenue tax on denaturalized alcohol—to the Committee on Ways and Means.

By Mr. HUFF: Paper to accompany bill for relief of William H. Altmain—to the Committee on Invalid Pensions.

Also, petition of the Charleroi Merchants' Association, of Washington County, Pa., favoring bill H. R. 8106—to the Committee on Public Buildings and Grounds.

Also, paper to accompany bill for relief of William H. Morrow—to the Committee on Invalid Pensions.

Also, petition of the National Board of Trade, of Philadelphia, favoring bill S. 529—to the Committee on the Merchant Marine and Fisheries.

Also, petition of Excelsior Council, No. 366, Order United American Mechanics, favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. KAHN: Petition of S. Foster & Co., of San Francisco, for the ship-subsidy bill—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the San Francisco Labor Council, for bill H. R. 12472—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Sacramento Valley Development Association, for an appropriation for roads, etc., in Yosemite Valley—to the Committee on Appropriations.

By Mr. KENNEDY of Nebraska: Papers to accompany bills H. R. 11686, granting a pension to William C. Berghagen; H. R. 11689, granting a pension to Byard H. Church; H. R. 11690, granting a pension to Lewis Lowry; H. R. 11692, granting a pension to John P. Wishart; H. R. 12797, granting a pension to Alvin Denning; H. R. 13342, granting a pension to Morris W. Clark; H. R. 11140, granting a pension to Henry Russell; H. R. 11142, granting a pension to James McQuade; H. R. 11360, granting a pension to John Sylvester; H. R. 11363, granting a pension to Elizabeth McCormick; H. R. 11364, granting a pension to Richard Allbery; H. R. 11365, granting a pension to Robert D. Williamson, and H. R. 11687, granting a pension to Matt Fitzpatrick—to the Committee on Invalid Pensions.

By Mr. LINDSAY: Petition of the National Board of Trade,

favoring bill S. 529—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the New York Produce Exchange, against the Interstate Commerce Commission having control of railway rates—to the Committee on Interstate and Foreign Commerce.

Also, petition of the New York Produce Exchange, for modification of the Chinese-exclusion law—to the Committee on Foreign Affairs.

By Mr. McCALL: Petition of the First Baptist Church of Cambridge, Mass., against sale of liquor at Army posts—to the Committee on Alcoholic Liquor Traffic.

Also, petition of citizens of Massachusetts, for repeal of revenue tax on denaturalized alcohol—to the Committee on Ways and Means.

Also, petition of Women's Clubs of Massachusetts, for forest reserve in the White Mountains—to the Committee on Agriculture.

By Mr. MAHON: Petition of Lodge No. 736, Brotherhood of Railway Trainmen, for bill H. R. 239—to the Committee on the Judiciary.

By Mr. MAYNARD: Petition of J. E. White et al., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

By Mr. MOON of Tennessee: Paper to accompany bill for relief of William H. Capehart—to the Committee on Pensions.

By Mr. MORRELL: Petition of F. O. Raymond et al., against religious legislation in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of the American Society for the Prevention of Cruelty to Animals, against bill H. R. 221—to the Committee on the Judiciary.

Also, petition of many citizens of New York and vicinity, for relief for heirs of victims of *General Slocum* disaster—to the Committee on Claims.

Also, petition of the American Society for the Prevention of Cruelty to Animals, against bill H. R. 47—to the Committee on Interstate and Foreign Commerce.

By Mr. NEEDHAM: Petition of the Merchants' Association, for an appropriation to improve the Yosemite Valley—to the Committee on Appropriations.

Also, petition of the Sacramento Valley Development Association, for improvement of the Yosemite Valley—to the Committee on Appropriations.

Also, petition of the Azusa-Covina-Glendora Fruit Exchange, of Azusa, Cal., relative to abuses of private car lines—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Fresno County Chamber of Commerce, favoring bills H. R. 9753 and 9754—to the Committee on the Post-Office and Post-Roads.

Also, petition of the San Francisco Labor Council, for an improved merchant marine—to the Committee on the Merchant Marine and Fisheries.

By Mr. OLCOTT: Petition of citizens of New York, for repeal of revenue tax on denaturalized alcohol—to the Committee on Ways and Means.

By Mr. OVERSTREET: Petition of the Indianapolis Live Stock Association, for an appropriation for live-stock inspection—to the Committee on Agriculture.

Also, petition of Henry Schurman, favoring improvement in the merchant-marine service—to the Committee on the Merchant Marine and Fisheries.

By Mr. POLLARD: Petition of the Swine Breeders' Association of Nebraska, for bill H. R. 345—to the Committee on Agriculture.

By Mr. RHODES: Paper to accompany bill for relief of Benjamin B. Cahoon—to the Committee on Invalid Pensions.

By Mr. RICHARDSON of Alabama: Paper to accompany bill for relief of Roy F. Walker—to the Committee on War Claims.

By Mr. RYAN: Petition of the National Board of Trade, favoring bill S. 529—to the Committee on the Merchant Marine and Fisheries.

Also, petition of the New York Produce Exchange, against the rate bill—to the Committee on Interstate and Foreign Commerce.

By Mr. SCHNEEBELI: Petition of the American Society for the Prevention of Cruelty to Animals, against bill H. R. 221—to the Committee on the Judiciary.

Also, petition of Kilpatrick Camp, No. 233, Sons of Veterans, of Easton, Pa., favoring bill H. R. 12085—to the Committee on Military Affairs.

Also, petition of Packer Lodge, No. 85, Brotherhood of Railroad Trainmen, of Easton, Pa., favoring bills H. R. 239 and 9325 and S. 1657—to the Committee on the Judiciary.

Also, petition of Lehigh Lodge, No. 403, Association of Merchants, of Easton, Pa., favoring bill H. R. 10046—to the Committee on Military Affairs.

Also, petition of Council No. 159, Order United American Mechanics, of Easton, Pa., favoring restriction of immigration—to the Committee on Immigration and Naturalization.

Also, petition of Henry Gabriel's Sons, against any increase of duty on aniline colors and salts—to the Committee on Ways and Means.

Also, petition of J. H. Romig, of San Francisco, favoring establishment of a Government hospital at Bristol Bay, Alaska—to the Committee on the Territories.

By Mr. SHACKLEFORD: Petition of the Missouri Corn Growers' Association, for reciprocal commercial relations with other countries—to the Committee on Ways and Means.

By Mr. SPERRY: Petition of citizens of New Haven, Conn., for establishment of a forest reserve in White Mountains—to the Committee on Agriculture.

Also, petition of Massachusetts Council, No. 42, Middletown, Conn., for repeal of revenue tax on denatured alcohol—to the Committee on Ways and Means.

Also, petition of Elm City Division, No. 317, Order of Railway Conductors, for bill H. R. 239—to the Committee on the Judiciary.

Also, petition of citizens of New Haven, Conn., for investigation of affairs in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. STEENERSON: Petition of J. W. Noffsinger et al., for repeal of revenue tax on denatured alcohol—to the Committee on Ways and Means.

Also, petition of dairymen of Minnesota, protesting against the Grosvenor bill—to the Committee on Agriculture.

By Mr. STEPHENS of Texas: Paper to accompany bill for relief of Andrew L. Hook—to the Committee on Pensions.

By Mr. SULZER: Petition of the New York Produce Exchange, for modification of the Chinese-exclusion law—to the Committee on Foreign Affairs.

By Mr. YOUNG: Petition of the American Society for the Prevention of Cruelty to Animals, against bill H. R. 47—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Boyne City Charcoal Iron Company, against the free-alcohol bill—to the Committee on Ways and Means.

SENATE.

THURSDAY, February 8, 1906.

Prayer by the Chaplain, Rev. EDWARD E. HALE.

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

The VICE-PRESIDENT. Without objection, the Journal stands approved.

ARMY QUARTERS, PHILIPPINE ISLANDS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of War submitting an emergency estimate of appropriation for barracks and quarters, Philippine Islands, \$100,000, being additional to the urgent deficiency estimate of like amount transmitted to Congress on the 1st instant; which, with the accompanying paper, 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 passed the bill (S. 2582) to authorize the American National Bank, of Graham, Va., to change its location and name.

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

H. R. 12987. An act to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commission; and

H. R. 13372. An act to authorize the sale of timber on certain of the lands reserved for the use of the Menominee tribe of Indians in the State of Wisconsin.

COAL-MINING INTERESTS IN WEST VIRGINIA.

Mr. TILLMAN. Mr. President, some days ago I presented to the Senate a communication from the Red Rock Fuel Company, of West Virginia, relating to some abuses or outrages that had been perpetrated upon them by the Baltimore and Ohio Railroad. In connection with that document I said that I

presumed there was redress for the particular grievance complained of, which was that this coal company had lands contiguous to the Baltimore and Ohio road and had opened their coal lands—their mines—and had constructed a railroad track, so as to get within touch of the Baltimore and Ohio, and had been refused connections, so that they were stopped up, or bottled up, so to speak, and not allowed to ship their product. I indicated that it appeared to me there was a chance for the company to get redress and to secure its rights under State laws or else the State was disgraced. The senior Senator from West Virginia [Mr. ELKINS] declared that there was such a law, and that the coal company could get redress.

I dismissed the subject from my mind, supposing, of course, that the statement was entirely accurate, but last evening I received a letter on this whole question of the situation in regard to the transportation of coal in West Virginia which is so illuminating that I feel it obligatory on me to ask to have it read in the nature of a petition. I send it to the desk for that purpose.

The VICE-PRESIDENT. Without objection, the communication will be read. The Secretary will read it.

The Secretary read as follows:

STATE OF WEST VIRGINIA, GOVERNOR'S OFFICE,
Charleston, W. Va., February 6, 1906.

HON. BENJAMIN R. TILLMAN.

United States Senate, Washington, D. C.

DEAR SENATOR: I do not know that you remember me. I met you at a dinner given by Senator SCOTT at the New Willard two years ago. I have read with interest and satisfaction your remarks in the Senate a few days ago in presenting the letter of Mr. Bullitt, of the Red Rock Coal Company, of Upshur County, this State. You said that "that such things could be in this State was a disgrace to the State." Senator ELKINS said that we had a law in this State providing a remedy for the outrageous treatment of shippers by railroads. You are nearer right than Senator ELKINS. We have some law in this State bearing on that subject, but it is inadequate, and we have no means of enforcing it. I have been trying since 1881 to get a railroad commission in West Virginia, but the railroad lobby would never let us have it. I regret to have to admit that there is much truth in what you say, that this state of things is a disgrace to West Virginia.

The case that you presented to the Senate of the said coal company is only a sample of many. The Baltimore and Ohio Railroad Company has been a great sinner in this respect for many years. For a while, when the late John K. Cowan was in charge of the company, there was a good state of affairs. I think an investigation would show that the Baltimore and Ohio Railroad Company is interested in the production of coal; not directly, perhaps, but indirectly and substantially. It makes little difference as to the effect upon our people whether the corporation itself is directly interested in the production of coal in competition with other producers of coal or whether officers or directors or controlling stockholders are so interested. The result is the same. I have heard of cases where this company has attempted to say who shall ship coal and who shall not, and when they should ship it, and where they should ship it and where they should not. It may be that the Pennsylvania Railroad Company does not legally own a controlling part of the stock of the Baltimore and Ohio Railroad Company or the Chesapeake and Ohio Railway Company or the Norfolk and Western Railway Company, but I have no doubt that an investigation will show that the Pennsylvania Railroad Company practically controls these three great trunk lines which traverse West Virginia, and which are the only means whereby the products of this State, including coal, can be shipped either to the Lakes in the West or other markets in the East. Hence it is a fact that West Virginia to-day is in the grasp of a railroad trust which practically says what part of the State shall be developed and what shall not be developed, how much coal shall be shipped out of this State, to what points or parts it shall be shipped, and when it shall be shipped.

Of course, it makes its own rates, and our people are helpless. The Pennsylvania Railroad is very largely interested itself in the production or shipment of bituminous coal. It will naturally look after its own interest and the interest of the people along its lines in Pennsylvania and elsewhere first of all, and therefore the interests of West Virginia are subordinated to the interests of these others, and our railroads, upon which we are dependent, as before stated, are controlled by an alien corporation practically in direct competition with us. The State authorities stand ready to do everything in their power, and are anxious to do that, to protect our people from these intolerable conditions.

You will be doing a great public benefit if you succeed in having a thorough investigation made of the conditions referred to existing in this State.

Very respectfully, yours,

WM. W. W. DAWSON, Governor.

Mr. TILLMAN. I wish to remark, by way of brief comment, that the statements made by the governor of West Virginia are of such transcendent importance and relate to a subject of such vital moment at this time, and coming as they do, too, from a man who is a Republican in the best standing and from a State which has a Republican legislature, I do not see how we can refuse to have the conditions investigated. I would move along that line but for the fact that there is something of the sort on foot in the House. Mr. GILLESPIE has been endeavoring to secure the information in regard to the merger or control of the Chesapeake and Ohio, the Baltimore and Ohio, and the Norfolk and Western by the Pennsylvania, and I do not want to appear to take jurisdiction of a question that is now pending there. There is no need of two investigations; there might be a joint one of both Houses; but I will wait until I see what developments shall come. Unless the House shall move actively in a way to secure the facts I shall be compelled to ask the Senate a little later to take some action itself.