appear at headquarters in the morning and often worked far into the night. No one had a clearer perception of the exact condition of affairs, and his close prediction of the results in 1906 and 1908 showed his grasp of the situation. In 1910 he made no forecast of the result, and hopeful as were his associates, we all felt that his judgment spelled defeat.

Because of this close attention to work at headquarters he jeopardized his own election in 1910, and for a while on election night there was doubt of his success. An incident of that night will serve to illustrate the love he gained and held from all who were associated with him in his work. It was about 2 o'clock in the morning, and the returns from his district were far from satisfactory. So interested in his success were his friends that the rooms at headquarters were filled with not only members of his family and close friends from home, but everyone of the working people at headquarters had remained, each eager to congratulate "Loudy" on his reelection. It was perhaps nearly 3 a. m. when, after conflicting messages indicating now victory and again defeat, positive word came from an authoritative source that he was reelected by a safe plurality. Immediately a shout went up from every throat, and each and every one crowded around to shake the popular and lovable man by the hand, with a word or two of sincere congratulation, and then the tired but happy group of friends and office associates and employees departed with perhaps the most cordial good night that "Loudy" ever heard.

Of his personal traits generosity easily took the lead, and many a poor dweller in his district was made happier and more comfortable because of his help, given without the knowledge of any but the recipient. During the campaign of 1910, when everything seemed to be going wrong, he called us in one day to show us a letter from an old lady who had known his mother, and who had sent him her photograph with the wish that she had a vote to give him at election. I learned afterwards that HARRY had mailed that poor woman $100, and the grateful letter he received in return he would not have parted with for another hundred.

Personally, I am at a loss for words to pay the tribute I would wish to pay to the memory of one of my dearest and closest friends.

I came here during Mr. LOUDENSLAGER's second term and remained in his confidence and closest companionship till the end. I shared in his work, both here, in New York at headquarters, and at home. I rejoiced with him in his triumphs. I consulted with him in his contests. I assisted him and cooperated with him when and where I could. He was "Harry" to me and I was "Bill" to him. My loss and grief at his departure were too great to be measured by words, and, though the people of the first congressional district of New Jersey have chosen me to fill his place as best I can, I would most willingly forego my own position as his successor could he be restored to us. But as an all-wise Providence has ordained to the contrary, we can and will hold dear the memory of HARRY LOUDENSLAGER, and we can and will be inspired to greater and better efforts ourselves because of his splendid example as a man, a citizen, and a Representative.

ADJOURNMENT.

And then, in accordance with the resolution heretofore adopted (at 2 o'clock and 25 minutes p. m.), the House adjourned until to-morrow, Monday, May 6, 1912, at 12 o'clock noon.

SENATE.

MONDAY, *May 6, 1912.*

(Continuation of legislative day of Thursday, May 2, 1912.)

The Senate met, after the expiration of the recess, at 11 o'clock a. m.

EMPLOYERS' LIABILITY AND WORKMEN'S COMPENSATION.

The PRESIDING OFFICER (Mr. GALLINGER in the chair). Senate bill 5382 will be proceeded with as in Committee of the Whole.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 5382) to provide an exclusive remedy and compensation for accidental injuries, resulting in disability or death, to employees of common carriers by railroad engaged in interstate or foreign commerce, or in the District of Columbia, and for other purposes.

Mr. SUTHERLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Utah suggests the absence of a quorum. The roll will be called.

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

Bacon	Crawford	McLean	Sanders
Borah	Culberson	Martine, N. J.	Shively
Bradley	Cullom	Myers	Simmons
Brandegee	Cummins	Nelson	Smith, Ariz.
Bristow	Curtis	Nixon	Smith, Ga.
Brown	Dillingham	O'Gorman	Smoot
Bryan	Fletcher	Overman	Sutherland
Burnham	Foster	Page	Swanson
Burton	Gallinger	Percy	Thornton
Catron	Guggenheim	Perkins	Tillman
Chamberlain	Johnson, Me.	Poindexter	Townsend
Chilton	Johnston, Ala.	Pomerene	Warren
Clapp	Jones	Reed	Wetmore
Clark, Wyo.	Lea	Richardson	Williams
Clarke, Ark.	Lodge	Root	Works

The PRESIDING OFFICER. Sixty Senators have answered to their names. A quorum of the Senate is present.

Mr. CHILTON. Mr. President——

Mr. CULBERSON. Before the Senator from West Virginia proceeds to discuss the bill, I should like to have him yield to me to have read a telegram and a letter.

Mr. CHILTON. Certainly; I yield for that purpose.

The PRESIDING OFFICER. The telegram and letter will be read.

The Secretary read as follows:

LITTLE ROCK, ARK., *May 5, 1912.*

Senator CULBERSON, *Washington, D. C.:*

We wish to concur in your position against the compensation bill pending and highly indorse your action, as it does not meet the approval of the well-informed railway employees in this vicinity and we desire its defeat.

W. D. JACKSON.
W. T. PEARSALL.

JOINT LABOR LEGISLATIVE BOARD OF TEXAS,
Fort Worth, Tex., May 3, 1912.

Hon. CHARLES CULBERSON,
United States Senate, Washington, D. C.

DEAR SIR: I am just in receipt of a printed report of a hearing on the employees' compensation bill, before a House committee March 26, 1912, and from it I get the information that our people, members of the Order of Railway Conductors, are at liberty to protest direct to our Congressmen and United States Senators, and I beg to submit my protest to this bill, remembering, however, it is my personal protest.

Our biennial legislative convention closed in San Antonio April 12 last, and I do not think a single member of that convention was then or is now favorable to this bill, and I am assuming, after having read your interview in the press, in which you expressed opposition, that you are doing what you can to defeat this measure, which I sincerely trust you may succeed in doing, at least postponing it until the men so vitally interested can have an opportunity to properly digest its contents.

With our present Federal statute, employers' liability law, and which is almost word for word as our Texas statute, any change ought to give the employee something that the supreme courts have held is fair and equitable for injuries received, without any consideration whatever as to whether the injured gets it all or what portion he may receive after suit.

This bill now pending before Congress will absolutely peon the injured and place him at the mercy of the employer, and place the employment of counsel virtually in the hands of the employer, when such counsel is supposed to represent the employee. There are so many objectional features in this bill, and knowing that you are and have always been inclined to protect the employee against the power of the employer, I leave it to you, and ask that any further information you may desire as to the position of our people in Texas will be furnished if possible to do so, if you will command me; and again asking that, if it be possible, postpone action at this Congress, and for which your friends in Texas will sincerely appreciate.

If anything of interest to us comes up kindly keep me posted, and for which I thank you in advance.

Sincerely, yours, C. F. GOODRIDGE.

Mr. MYERS. In relation to the pending bill and as a part of the argument thereon I ask to have read by the Secretary a preamble and resolution of the legislative board of the Brotherhood of Locomotive Engineers of Montana.

The PRESIDING OFFICER. Without objection, the Secretary will read as requested.

The Secretary read as follows:

HELENA, MONT., *April 10, 1912.*

Whereas there has been introduced in the Senate of the United States by Senator SUTHERLAND Senate bill No. 5382; and

Whereas there has been introduced in the Congress of the United States House bill No. 20487, by Congressman BRANTLEY, member of a so-called Employees' Compensation Committee, appointed by the President of the United States, a bill which destroys all existing liability laws which have been secured by years of hard-fought legislation; and

Whereas this bill does not furnish an adequate compensation as former laws; and

Whereas this bill assumes that engineers' wages to be $100 per month, which is 50 per cent of his wages; and

Whereas this bill prevents a widow from remarrying, if she would receive continued compensation, and would prevent a normally endowed daughter, after the age of 16 years, from receiving compensation, and would tend to make the dependent families of engineers a prey to prostitution, destitution, and degradation, removing parental and governmental support and protection to children when most needed; putting a premium on railways employing men who have no resident heirs in the United States; tending to cause cessation of safety appliances, if cheaper to pay meager compensation by insuring employees under law, and adding the cost to production and transportation; and

Whereas this committee has spent a great amount of time in considering the different data advanced by those favoring and opposing the compensation bill; and
Whereas their findings are that those speaking to represent the side of labor mostly represented their individual opinion, as the men actually affected by the bill have not had any time to consider or obtain data upon such bill; and
Whereas the committee have found that such members as they have considered the bill with are strenuously opposed to such bill; and
Whereas no member of this committee has found one man in actual service who approves of the bill, and as this committee has found that not 1 per cent of the men in actual service know even that such a bill was in contemplation to be introduced in this session of Congress; and
Whereas this bill has the support of employers who formerly opposed adequate liability law; and
Whereas in drafting this bill data was secured by comparing American conditions with European conditions, to the detriment of American labor; and
Whereas in foreign countries where compensation laws are in effect the necessity of legal action to collect same is continually increasing; and
Whereas in Switzerland, where labor has a direct voice in legislation, this law has been repudiated; and
Whereas a strong reason for adopting this law, advanced by those favoring the bill, is that it will eliminate court action or reduce it to a minimum; and
Whereas compiled data shows increasing court action where such a bill is in effect. Another reason advanced by those favoring this bill is that court action is slow and inadequate in meting out justice to injured and dependents under liability law. We assume it reasonable to presume that if Congress can not remedy liability law after agitation and trials of years they will fail to remove those defects in a new law which has not even been considered in America until a very recent date. We do assume that all they will accomplish is the amount that can be collected, which is so meager and inadequate that competent legal attorneys can not be secured to protect and collect meager amounts for dependents, as you can not get competent attorneys cheap, at much recognized fee, than you can engage any man much less the recognized schedule of wage or salary for such work performed, leaving employee or dependents without legal protection and support, as only such legal counsel could be obtained as does not class at all with railway legal counsel, as they always have the best; and
Whereas opinion prevails that most commissions, both National and State, fail to obtain the desired conditions or even show progress to that end we put no confidence or assurance in the adjuster or commission that might be selected. We recognize this as a party-machine politics; and
Whereas this bill provides that employer can give or secure employment for injured employees, and if employee refuse such employment no compensation is due him during the time of such refusal. This we condemn as unfair and unjust, especially to engineers, whose strenuous occupation, at even a young age, may have impaired health and constitution, so that they are not able to perform other labor. We consider that section of the bill providing no compensation for the first 14 days' injury as unjust and an incentive to railway companies not to adopt or keep in repair safety appliances to prevent minor accidents; and
Whereas the minimum in deaths and injuries are so meager and inadequate, being such a small per cent of engineer's actual wages; and
Whereas engineer's life is uncertain and average short, we condemn the bill as void of any sense of justice or even consideration to engineers and trainmen and their dependents, causing most desirable trainmen and enginemen to leave railway service, and being great reason for young men of good character and intelligence from entering railway service; and
Whereas the members of the Brotherhood of Locomotive Engineers in Montana have had no time to acquaint themselves with the bill, inasmuch as no data pertaining to said bill was received by them until said bill was introduced: Therefore be it

Resolved, That the members of the Montana Brotherhood of Locomotive Engineers' legislative board in session assembled submit a copy of our findings to all divisions of the Brotherhood of Locomotive Engineers in Montana; copy to the State legislative boards in the United States for their consideration, and that they, through our executives, ask their Representatives and Senators in Congress to delay action on this bill until the railway men of the United States can be heard upon so grave and important a piece of legislation.

Mr. SMITH of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Georgia?

Mr. CHILTON. I do.

Mr. SMITH of Georgia. I will merely ask that the memorials be printed in the RECORD.

The PRESIDING OFFICER. Without objection, the request will be complied with.

The memorials referred to are as follows:

ATLANTA, GA., *May 5, 1912.*

Hon. HOKE SMITH,
United States Senate, Washington, D. C.:

The Order of Railway Conductors, Atlanta Division, 180, thank you for the fight you have made in the Senate against the employees' compensation act.

E. A. WARNICK.

—

ATLANTA, GA., *May 5, 1912.*

Hon. HOKE SMITH,
United States Senate, Washington, D. C.:

Georgia Division, 457, Order Railway Conductors, heartily thank you for your stand against the "employees' compensation act" and ask you to continue this fight to a finish.

W. N. HARKINS, *Secretary.*

—

MACON, GA., *May 5, 1912.*

Hon. HOKE SMITH,
United States Senate, Washington, D. C.:

At to-day's meeting of Macon Division, Order of Railway Conductors, 237 members, your speech opposing workmen's compensation act was unanimously indorsed, and I was directed to thank you for the organization for the interest you have always shown in behalf of railway employees. Your continued opposition to this bill will be appreciated.

A. N. KENDRICK, *Secretary.*

—

ARGENTA, ARK., *May 5, 1912.*

Senator HOKE SMITH,
Washington, D. C.:

Have just received CONGRESSIONAL RECORD containing your speech delivered in Senate on April 13 in opposition to the proposed workmen's compensation bill, and heartily concur with you in the objections interposed, and wish to thank you in behalf of the railway employees in the West for the interest you have taken in this bill. Have before me complete report of the commission that drafted the bill, and also President Taft's special message recommending its passage. Have carefully analyzed the proceedings and the bill, and am of the opinion that should it pass it will be repudiated, most especially by the railway employees in the western zone, and I trust it will be defeated by a large majority. If not, I would suggest an amendment thereto to include the traveling public.

W. E. PEARSALL.

—

LITTLE ROCK, ARK., *May 5, 1912.*

Senator HOKE SMITH, *Washington, D. C.:*

The railroad employees of Arkansas appreciate your opposition to the compensation bill. We are bitterly opposed to this bill, and appeal to you to do all within your power to defeat same. This bill does not read right to us.

W. E. PEARSALL.
W. D. JACKSON.

—

MACON, GA., *May 5, 1912.*

Hon. HOKE SMITH and Hon. A. O. BACON,
United States Senators, Washington, D. C.:

Whereas it has come to the knowledge of railway employees that there is now pending in Congress a bill known as the workmen's compensation act; and
Whereas this bill is to become a substitute for all laws now in effect protecting said employees in case of personal injury; and
Whereas it would become their exclusive remedy for injuries, thereby taking away from them their present rights—rights that railway employees have been endeavoring for years to have enacted into laws and which we believe are much more favorable to said employees than the bill now pending as a substitute: Therefore be it

Resolved, That railway employees here assembled in this union meeting in the city of Macon, State of Georgia, the 5th day of May, do oppose this bill, and will continue to oppose it by using all honorable means in our power.

Resolved further, That this meeting indorse the action taken by the Senators and Congressmen in opposing this bill.

Resolved further, That a copy of these resolutions be sent to the two Senators and each Congressman from the State of Georgia.

W. E. GRAY, *Secretary of Meeting.*

—

MEMPHIS, TENN., *May 2, 1912.*

Hon. HOKE SMITH,
United States Senate, Washington, D. C.

DEAR SIR: A copy of your speech in the United States Senate on April 15, 1912, relative to the workmen's compensation act was read at a meeting of Warren S. Stone Division, No. 672, Brotherhood of Locomotive Engineers, at their regular meeting in this city to-day and a motion was adopted that the locomotive engineers of Memphis, Tenn., extend to you a vote of thanks for opposing a bill that would be detrimental to the interests of the vast army of railroad men of this country.

It was further ordered that a copy of this letter be sent to the chairman of the legislative board and to all local divisions of our order in the State of Georgia.

Yours, truly,

F. M. ANDREWS,
Secretary Division No. 672,
Brotherhood of Locomotive Engineers.
225 West Iowa Avenue, Memphis, Tenn.

Mr. CLARKE of Arkansas. I ask that the memorial, in the form of a telegram, which I send to the desk, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it will be so ordered.

The memorial referred to is as follows:

LITTLE ROCK, ARK., *May 5, 1912.*

Senator JAMES P. CLARKE, *Washington, D. C.:*

The railroad employees of this vicinity appeal to you to do all you can to defeat compensation bill. We are bitterly opposed to it and do not want it passed.

W. D. JACKSON.
W. E. PEARSALL.

Mr. CHILTON. Mr. President, I take it that no Senator here is insensible to the great responsibility which the enactment of radical legislation of this kind imposes. I do not hesitate to say that were this a question which had been considered for the first time at the present session of Congress I should hesitate to give it my support, much less would I enthusiastically support, as I do, the present measure. But this legislation, this principle, to speak more accurately, is not new; it has been under consideration as compared with liability laws for years; it has been considered at length by the National Civic Federation; it has been considered by labor organizations, national and State; it has been considered by political economists for years and years; it has been considered and tried in other civilized countries; and we approach it, not as a new subject, but as one that has been thrashed out by great men and considered by great minds the world over.

I do not deny that if I could be made to believe that organized labor opposed this measure I would hesitate a long time to lend

it my vote; for, Mr. President, after we have passed upon the principle—that is, after we have passed the stage that the Congress have indorsed the principle of laborers' compensation—I think that those most interested in it, to wit, the laboring men who will be affected, should be first considered.

I approach this subject enabled to say in my own mind that I am convinced that organized labor in the United States, certainly organized labor in the State of West Virginia, has had ample time to consider this measure, has actually considered it, and, after that kind of mature and careful consideration of this particular bill and the principles which it involves, has given it unqualified indorsement—that is, a majority of them have done so.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Missouri?

Mr. CHILTON. I do.

Mr. REED. I should like to have the Senator kindly tell us when this particular bill was generally disseminated among the laboring men—the organized laboring men—of the State of West Virginia; how many copies were sent to them, when they were sent, and who sent them.

Mr. CHILTON. Mr. President, later on I shall give the sources of my information. I will merely state now that I was only referring to the principle of laborers' compensation. Later on, however, I shall show, in a very brief way, the extent to which this particular bill and the provisions of this particular bill have come directly to the attention of the laboring people of the United States.

Mr. President, the railway employees of the United States have four general organizations. Those organizations are the Order of Railway Conductors, the Brotherhood of Locomotive Engineers, the Brotherhood of Locomotive Engineers and Firemen, and the Brotherhood of Railway Trainmen. I understand that those four organizations embrace practically all of the men engaged in the railway service—that is, interstate-railway service—who will be affected by this bill.

Mr. President, if we strike down labor, if we do anything in this Senate that is to go out to the world to indicate that we have no confidence in the organization—I mean in the militant organization—that labor has erected for itself, we shall, in my judgment, do a much more radical thing than by passing any measure now before the Senate.

Right at the outset, Mr. President, I know, as I shall show you later on, that these organizations, in so far as we can know that kind of a fact, have expressed themselves to Congress. We are asked to encourage rebellion amongst those men. They have passed resolutions which have received the approbation of the local organizations for a number of years—reasonable precautions against corruption in their ranks; sensible precautions against rebellion in their ranks. Without these precautions there is no need to appoint a legislative committee to come here and give us what is the intelligent, sober opinion of labor. They appoint presidents, vice presidents, advisory boards, and legislative representatives at this Capitol. We are asked now to say that all of those are absolutely unworthy of being heard in the Senate, that they are either so corrupt or so ignorant that this Senate can not rely upon their representations to our committees or to this body; and we are asked here now to pause in our regular proceedings after a commission of the Government has considered this bill, after a committee of this body has considered it, after this Senate has considered it, and we are asked to pause for what? To pause and see whether or not a rebellion can be started in the ranks of labor and the chief officers of those organizations can be discredited and shown to the Senate as misrepresenting instead of representing labor organizations.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Missouri?

Mr. CHILTON. With pleasure.

Mr. REED. Does the Senator mean to say that it would be starting a rebellion if this bill were postponed until the 8th day of this month, until the general national conference of the Brotherhood of Locomotive Engineers should have its meeting in his own State, and there have the opportunity through its representatives to discuss this bill—the very meeting and the only meeting that has power to instruct the man who came here and undertook to sanction this bill? Would that be rebellion? Does the Senator mean to say he fears to trust this general meeting?

Mr. CHILTON. Mr. President, I fear not to trust any regular meeting of organized labor to disclose to this body or to any other body the position of labor upon any question, but when we have here the expressions of the labor organizations, when we have them here asking us not to do the thing which certain Senators are asking us to do, then I do say that, in my opinion, without reflecting, of course, upon the honorable Senators who take that position, it is encouraging rebellion amongst them. It is exactly, sir, as if at Lawrence, Mass., where organized labor decided upon a strike—I am just giving that as an illustration and taking no sides upon it—after that strike had been decided on by the regularly elected officers of the labor organizations, those who favor labor and who believe in the right of labor organizations to strike had said, "You people do not represent organized labor; wait, let us fight this thing; let us discredit the men who have called this strike; discredit the president, the vice president, the executive board, and the advisory board; let us stir up a rebellion, let us get a meeting of labor and go down to the locals and let them call this strike off." The two positions, in my judgment, are parallel.

Mr. REED. Mr. President, if the Senator will permit me, I do not want to be constantly interrupting him——

Mr. CHILTON. I will permit almost anything from the Senator from Missouri.

Mr. REED. But the instance he cites has no more to do and is no more parallel with the question at issue than an excerpt from the history of the fall of Sodom and Gomorrah.

Mr. CHILTON. Mr. President, I will do anything for the Senator from Missouri, but I do not want him to inject a speech or an answer to my argument at this point.

Mr. REED. Very well; I will not answer it now, but I shall be very glad to do so later.

Mr. CHILTON. I have no doubt the Senator can answer. I will say that, in my judgment, the Senator from Missouri can answer any argument, whether it be good or bad.

Mr. REED. But a bad one very much easier than a good one.

Mr. CHILTON. Well, I do not know. I have seen the Senator when I think he answers a good argument even better than he does a bad one.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from North Carolina?

Mr. CHILTON. Yes, Mr. President.

Mr. SIMMONS. Suppose we were to concede what the Senator suggests, that there should be more or less discipline in these labor organizations, does not the Senator think that the United States Senate, with the duty of wise, conservative, and discreet legislation imposed upon it, when it comes to its notice in an authentic way that the representatives of labor who have given their sanction to this bill are not upon this question in harmony with the rank and file of labor, ought to take notice of that fact?

Mr. CHILTON. Unquestionably, if it comes; but my idea about that, if the Senator will permit me——

Mr. SIMMONS. Then can the Senator doubt that the opposition of the employees of the railroad corporations is brought in present conditions to the notice of the Senate in a way that we can not question that there is great, almost overwhelming, opposition upon their part?

Mr. CHILTON. No.

Mr. SIMMONS. And I want right here to say to the Senator——

Mr. CHILTON. Let me answer the Senator. I do not think it is overwhelming.

Mr. SIMMONS. Well, I will withdraw that and say "large opposition."

Mr. CHILTON. I do not think it is in any sense overwhelming, nor is it convincing to me; it is not even persuasive to me, as I will show later on.

Mr. SIMMONS. Well, Mr. President, to argue that it would be necessary to make a speech; and the Senator, as I understand, a few moments ago objected to a speech being made.

Mr. CHILTON. I think we ought to make one speech at a time.

Mr. SIMMONS. But I want to say to the Senator, in this connection, that on Saturday I had occasion to run down to my State. On the way I had a conversation with the conductor on the train, whom I know to be a very intelligent man, and he stated to me not only his intense opposition to this measure, but he stated that he did not know a conductor on his part of the Atlantic Coast Line who was not likewise strongly in opposition to it.

Mr. CUMMINS. Mr. President, on this side we are wholly unable to hear what is taking place on the other side of the Chamber.

Mr. CHILTON. Can the Senator hear me?

Mr. CUMMINS. And we still have some interest in the subject.

Mr. SIMMONS. I was simply asking the Senator from West Virginia if he did not think, when the Senate had notice brought home to it in such a way that its authenticity could not be doubted, that there was serious opposition on the part of the rank and file of the employees of these corporations to this legis-

lation to which their executive committee had agreed, that the Senate ought to take notice of that fact?

Mr. CHILTON. Mr. President, of course, this question involves a great many considerations. I think I will in the short time I shall occupy the floor answer that suggestion of the Senator, and show, I think, that, so far as the evidence has come to me, there is nothing more in these protests than such a condition as you will find wherever a number of men are involved. In such circumstances you will always find some who—not speaking disrespectfully—"kick"; some who are opposed to the present organization; in other words, there has never yet been formed an organization of religionists or politicians or any other kind of an organization, labor or otherwise, involving thousands of men in which you could count upon the hearty cooperation and support of every single one of them.

Mr. SIMMONS. But, if the Senator will permit me, I thought the Senator was making an argument a little while ago——

The PRESIDING OFFICER. Senators will please address the Chair and secure permission to interrupt. Does the Senator from West Virginia yield to the Senator from North Carolina?

Mr. CHILTON. With pleasure.

Mr. SIMMONS. I thought the Senator was making the argument a little while ago that because these four members of the executive committee had been selected by labor to represent them in matters pertaining to legislation, therefore the Senate could safely act upon their advice with respect to this question.

Mr. CHILTON. I was simply beginning to give various reasons why the Senate should conclude now that organized labor is for this measure. I had given but one of them, and if the Senator will be patient I will give him, in my clumsy way, the additional reasons why I think we are safe in saying that organized labor has had full opportunity to consider this matter, that it has considered it, and that a great majority of the intelligent, well-informed members of organized labor are here asking us not only to write upon the statute books the principle of laborers' compensation, but to do it now and to do it with this particular bill. But I can not do it all at once. I have to take it one point at a time and show you by the record what is in their minds.

Mr. President, so important did organized labor consider this matter that when the commission was appointed under the resolution of the Sixty-first Congress to consider this great subject they employed counsel—gentlemen of national reputation—to go before that commission and to represent organized labor and to induce the commission to go right forward and prepare a concrete measure and present it to the Representatives of the people and to have it acted upon at once. That counsel was the Hon. Frank B. Kellogg.

Now, on June 14, 1911, Mr. Kellogg appeared before that commission and stated that he represented Mr. Garrison, president of the Order of Railway Conductors; Mr. W. G. Lee, president of the Brotherhood of Railroad Trainmen; Mr. W. S. Stone, grand chief of the Brotherhood of Locomotive Engineers; and Mr. W. S. Carter, president of the Brotherhood of Locomotive Firemen and Enginemen.

Mr. REED. I am not interrupting the Senator for any captious purpose, but I desire to ask him now if that attorney represented anybody but these four men; the complaint being, to make my statement complete, that only four men have spoken. How does it add to the solemnity or the potentiality of their act that they hired an attorney, because if they were unauthorized to represent labor at large, then the fact that they employed an attorney does not add in any way to the force of their acts. It is the same four men.

Mr. CHILTON. I will say to the Senator, as I said to the Senator from North Carolina, that I can not develop my argument all at once. This is simply one stage in my effort to show to the Senate that organized labor understands this question; and that the men who represent organized labor have proceeded conscientiously, intelligently, and faithfully to carry out the desire of labor in this country to write upon the statute books of the Nation an honest and fair laborers' compensation act.

Mr. SMITH of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Georgia?

Mr. CHILTON. With pleasure.

Mr. SMITH of Georgia. Is it not true that Mr. Carter abandoned the bill and that Mr. Garretson, in his statement before the commission, criticized severely the character of the bill we are now considering?

Mr. CHILTON. I do not so understand it. If Mr. Carter has abandoned it, I am not aware of it. The able counsel who represented him filed briefs and made a long argument before the commission in June, 1911.

Advancing one step further I want to call the attention of the Senate to the statement of Mr. W. G. Lee, president of the Railway Trainmen, found in the report of the hearings before the Judiciary Committee of the House, Sixty-second Congress, March 15 to 26, 1912, on pages 76 to 83, inclusive.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Utah?

Mr. CHILTON. Yes.

Mr. SUTHERLAND. I call the attention of the Senator from West Virginia to the fact that in addition to employing Mr. Kellogg, these organizations also employed Mr. Judson, who is the author of a work on interstate commerce, and the Senator will find that at page 221 Mr. Judson stated that he and Mr. Kellogg had been employed to represent these brotherhoods.

Mr. CHILTON. I understand that. I do not think there will be any question——

Mr. REED. May I ask the Senator from Utah a question?

Mr. CHILTON. If it is not long.

Mr. REED. It will take just a moment.

Does the Senator from Utah claim that Mr. Judson was employed in any way or by any other person than Mr. Kellogg?

Mr. SUTHERLAND. I know nothing about it, except what the gentlemen said. Judson said that he was employed to represent these brotherhoods, expressly named them, and said they embodied some hundreds of thousands of employees. That is all I know about it.

Mr. CHILTON. Is the Senator through?

Mr. REED. Yes.

Mr. CHILTON. Much has been said by distinguished men upon this floor in criticism of this bill, and I am sure that I want my vote upon this matter to be right; I want my people to understand why I am doing what I am, and I ask, without reading it, permission to insert as a part of my remarks the paper read by Mr. Lee before our committee of the Senate, from page 76 to page 83 of the hearings before the House committee, March 15 to 26, 1912.

The PRESIDING OFFICER. Without objection that order will be made.

The matter referred to is as follows:

[By W. G. Lee, president Brotherhood of Railroad Trainmen.]

In appearing before you I take the same position in reference to my opinion on the proposed compensation act as I did when I appeared before the commission appointed to investigate and report its findings and recommendations to the President on the questions of employers' liability and workmen's compensation. That is, briefly to say that, while the railway employees naturally would prefer a greater amount in benefits, still I feel that the men I represent are agreed that the bill meets with their approval and they are more than anxious to have it enacted into law.

I have the very best of reasons for this belief, based on the inability of the Federal liability law (and, so far as they can apply, the State liability laws) to provide benefits for all cases of injury. We know that in a very fair proportion of cases of death and disability the employer is at fault, and in consequence can be made to pay for his fault, but we also know that there are very many instances of death and disability that can not be attributed to the fault of anyone, and in consequence this great number of accidents is unrecompensed. We believe that instead of having a few benefited under the liability laws as they are now enforced, even though the amounts be large in proportion to those allowed by the proposed compensation act, that it is far better to pay every case of accident and relieve the general suffering. Our efforts, therefore, are directed toward the betterment of the many as against what I believe can truthfully be termed the few. There has been some unfair opposition shown against the proposed measure from one part of the country, namely, a few of the South Atlantic States, but I believe I am justified in saying that the inspiration for the opposition comes from lawyers who have gained the most of their living from the prosecution of personal-injury suits, and who see in the proposed compensation law the necessity for their getting into some other kind of business or being forced to ask a good-natured community to contribute to their maintenance.

Under date of March 7, 1912, there appeared in the Raleigh News and Observer a communication against the proposed bill which has been quite extensively distributed through that part of the country I have just mentioned, and which pretended to show the wicked ingenuousness of the proposed law. It was written by a distinguished lawyer of North Carolina, name unknown, who, to quote from the press, "has stood for justice to the employees all these years," and who summed up his objections to the proposed compensation act in several numbered paragraphs which I will quote and answer, because I take it that this is the composite objection of many other like distinguished attorneys, who feel that the law is wicked and ingenuous because it promises to put the ambulance chaser out of business.

Paragraph 1 of the objections reads:

"1. It proposes to take from railroad employees the protection they have secured through State and National legislation in this country by means of 'employers' liability' acts under which a workman who has been injured by the negligence of a common carrier can recover just compensation therefor, whether it results in death or lesser injury."

The objection that the employees have no longer recourse to the liability laws is correct. I believe, however, that there is too much stress placed on the protection to the employee by way of the State liability laws, for, in my opinion, since the approval of the Federal liability act, that is the law under which railway employees coming under the regulation of Congress must seek their redress. The objectionist does not state, however, that the liability laws in which he places so much dependence do not protect the employee unless the employer is absolutely at fault and it can so be proven. A compensation law, to the contrary, pays for every death and disability, regardless of who is at fault.

Objection 2 reads:

"2. It restricts the compensation far below the actual damages sustained, and divides the amount which a jury would award in a lump

sum into payments distributed over a varying series of years up to eight years. The highest compensation allowed by the act for wrongful death is $50 per month for eight years, which is equivalent to less than $4,000 cash, and even that is allowed only when the deceased leaves both widow and children."

The first objection is that compensation is restricted below actual damages. I have yet to hear the claim made in defense of the liability laws that they have given full compensation. The payments under the proposed law were so arranged on the advice of the railway labor organizations, officers and members, who all agreed that it would be far better for the men and their families to distribute the payments over a period of years rather than to place a lump sum in their hands at one time. If the arrangement for the payment of benefits was satisfactory to the employees who carefully considered it, it surely ought not to meet with serious objection from the distinguished attorney. There is no pretense on the part of the law that it fully compensates for disability or death. It might rather be regarded more as an industrial insurance placed against accident. The amounts mentioned by the objecting attorney are not correct, and I do not hesitate to say that he can not even estimate the amount that will be paid on the average to the railway employees. It is an off-hand statement based on prejudice and absolutely without reliable information as its basis.

Objection 3 reads:

"3. It proposes to relieve railroad companies by whose negligence the death or other injury is inflicted, from the cost of such compensation by placing it upon the shippers and the traveling public, for section 31 provides: 'The burden of compensation under this act for personal injuries shall be considered as an element of the cost of transportation and the Interstate Commerce Commission in any proceeding before it affecting rates is directed to recognize and give effect to this policy.' Under the present system the owners of the corporation are interested in avoiding accidents and injuries to employees accruing from negligence because compensation therefor will tend to reduce dividends. But the proposed act, by shifting this burden upon the traveling public and shippers, makes the owners and managers of the railroads immune to any consequences flowing from their negligence. The increase in the number of killed and mangled will be inevitably prompt."

Were it not for complimenting the distinguished attorney with ingeniousness, I might be tempted to say that he has tried to direct public opinion against the bill; but I rather attribute his expressions to his fears that he will lose if the bill becomes a law. There is no business, aside from that of railway operations, that is not permitted to place the entire cost of its operation on the selling price of its product. The objection entertained by our distinguished friend is found in practice in every other business. In fact, I am absolutely certain it applies with particular force to his own. Just where anybody exercising ordinary common sense could hope to find a convincing argument against the proposed measure in the fact that the burden of cost would be divided over the entire public, is not easily seen except that he hopes to create prejudice against the law by calling attention to the fact that the public will have to bear its share of the cost. If he were as fair as he claims to be distinguished, he would follow up his objection by referring to the added cost of operation to every product, which cost must be borne by the ultimate consumer. For instance, if the cost of coal mining is increased the consumer pays an added cost for his coal, as everyone knows. If the price of beef is advanced the packers tell us that it costs more to get its product to the public, and the public pays the cost. If the cost of railway operation is increased because of legitimate expense, why should it not follow that this cost should be assumed by the public, the same as it is assumed in every other advanced cost in every other business? Our distinguished friend would have the public believe that the railway companies have inexhaustible treasuries from which all expenses can be met without paying the least attention to their revenues. It is nothing more than a cheap argument that rests its case in the hope that it can prejudice public opinion against the bill, but it should not appeal to railway employees who are compelled to pay the increased cost of production for everything else.

Objection 4 reads:

"4. The act further relieves the railroad companies from all expense of litigation which now falls upon them and places it upon the taxpayers, for it provides that the adjustment of losses shall be made by a new set of officials, called 'adjusters,' to be paid salaries of $1,800—$3,000 each, in addition to their actual traveling expenses and their subsistence at the rate of $5 per day, all of which shall be paid out of the Treasury of the United States. Just why these corporations should be relieved of the expense of litigation incident to their refusal to pay compensation for injuries accruing by their negligence and why the cost thereof should be shifted to the United States Treasury is a secret locked up in the breast of the ingenious corporation counsel, whose fine Italian hand is seen in every line of this proposed statute. These adjusters will cost the public, for salary and expenses, over $6,000 a year each, and their number is not limited by the act."

The distinguished attorney is rather mixed up in his statements in objection 4. His burden of grief appears to be that some one besides himself will adjust claims that are in dispute between the employer and the employee. He can not understand why these adjustments should be made at the expense of the Federal Government. It is not difficult to understand why our distinguished friend is opposed to any plan that will take from him what he rightfully believes is his. The railroad employees believe that the Federal Government quite properly can assume this cost, save the expense to the individual employee, and place it generally on the public where it properly belongs. The fine Italian hand to which he refers is not seen in behalf of the corporations, and no one who knows the subject thoroughly honestly can lay claim to any such idea. The proposition, as I view it, is to protect the man from needless expense to which he is now subject in every case when he attempts to recover a dollar for injuries received in the service. The number of adjusters, according to the proposed bill, will correspond to the judicial districts in the United States, or, I believe, 88 in number, and to take the figures of the compensation commission, in which I have the utmost reliance, the additional cost will not exceed a few million a year. This applied to individual cases of disability and death would be an enormous cost, but taking the entire country into consideration this expense is so trival that even the distinguished lawyer will experience difficulty in making the public believe that it had been imposed upon by an increased per capita tax to this slight extent.

Objection 5 reads:

"5. Unlike the jury, which now decides upon the compensation to be allowed for negligent injuries caused to employees, this compensation is to be awarded by 'adjusters,' in whose selection the employees will have no voice. This crowd of new officeholders are to be selected and appointed by the Federal judge, who, not being elective and holding for life, may not be altogether uninfluenced in the appointment of such adjusters by their acquaintance with the heads of these great transportation companies, by the friendly aid of whom some of the Federal judges have been helped to a seat on the bench. Certainly there is not the same likelihood of adjusters being selected upon the recommendation of the employees."

The writer does not go into the difficulties that are sometimes experienced in securing an award from a judge and jury. He would have us believe that in all instances the jury agrees the employer is at fault and consequently pays the employee or his family enough to provide for them comfortably the remainder of their days and leave something to their descendants. The facts do not substantiate any such specious argument. Again, the attorney objects because "this crowd of new officeholders are to be selected and appointed by the Federal judges, etc." It seems peculiar as well as inconsistent for the distinguished attorney to have so much confidence in a Federal court judge in a liability case and so little of it in the appointment of an adjuster, but that is part of the business of the distinguished attorney and can be taken exactly for what it is worth, which to the men is nothing.

So far as influence being used in the appointment of these adjusters by the Federal court, I do not hesitate to say that the railroad employees will have just as much if not more influence than their employers. Public opinion counts for something in these days; and if that fact has not come home to the distinguished attorney, I believe that it has been forcibly impressed upon very many men who occupy positions of public trust and who will not take the chance of flying in the face of a fair public opinion.

The adjusters are not appointed for life, and they can be removed if their services are not satisfactory. Again, the objection does not show that the proposed law provides for committees between the employers and employees, who have it in their power to settle all questions in controversy, and I have confidence enough in the managements and the men to believe that after the law is once fairly operative that the majority of the railway companies and their men will follow this plan of making settlement.

Another objection to section 5 is that it takes away the right of trial by jury, but does not explain to the employees that there is substituted for this trial by jury certainty of compensation in all cases of death and disability. I do not pretend to say that the amount of compensation provided by the law for all cases will equal the amount awarded by a judge and jury when the employer is at fault. But here comes another thought that the distinguished lawyer has failed to set forth, and it is this: The award secured after suit must be reduced first by the amount due the attorney who prosecuted the suit, and also by a reduction through interest allowances on the amount that has been received, because it takes time to bring suit and prosecute it, and when we compare benefits under the liability law and under the proposed compensation law these statements I have made have a very significant bearing on the general result. I believe it is safe to say that when the attorney's fees now collected under the liability laws, together with the interest allowances that properly can be deducted from deferred payments made under the liability law as against the immediate payments under the compensation law are taken into consideration, that the differences in the amounts paid will not be so great as our distinguished attorney would have us believe.

Objection 6 reads:

"6. The compensation provided by the act is very complicated as well as minute in providing the different kinds of injuries, but it is uniform in only one respect, that the compensation provided is in every instance very far below what may be a just compensation for the injuries sustained."

The objection herein quoted appears to be one of the few truthful statements made by our distinguished opponent. Judging from what he has already said in his objection to the bill, I take it for granted that the bill to him is very complicated, but I make bold to say that anybody who has sense enough to read well-written English can see just what the compensation provides. To an attorney in a hurry to get his share out of a possible lawsuit the law may appear to be complicated, but to the employee who has plenty of time to figure out what it means the laws reads plainly enough. He also gets back to his former statement that compensation is very far below just compensation. I agree in this, but I also believe that it is unwise for the railway employees to attempt the impossible in legal enactment, even though it is done to meet the objections of our opponent.

Objection 7 reads:

"7. While the act does not restrict the amount which the corporations shall pay for able and experienced counsel, it is careful to provide that the compensation for counsel retained for the employee shall be fixed by the adjuster, whose method of appointment has already been noted."

This objection is as plain as if the writer had declared his fears that his personal commissary department was in danger. We take it for granted that the corporation has never given him anything to do, and that the most of his revenues come from the employee whose interest he has defended so vigorously. He objects to the fairness of the judge in appointing the adjusters but lauds his wisdom and justice to the skies when making an award, all of which is as consistent as the most of the argument he has offered against the bill. He does not have the fairness or the sense to see that the section protects the employee against the rapacity of the ambulance chaser. This is another wickedly ingenious scheme introduced in the bill which does not meet the approval of a certain class of lawyers.

Objection 8 reads as follows:

"8. The act is also careful to provide that when an employee has been injured or killed neither the cause of action nor the payments due therefor, when determined by the adjuster, shall be assignable. As a further restriction upon the compensation it is further provided that in calculating wages, the percentage of which shall be the basis of compensation, 26 times the daily wage shall be considered a month's wages, and 'no employee's wages shall be considered more than $100 per month.'"

Just why an attorney who is so deeply wrapped up in the welfare of an employee objects to the protection of the amount due him is not explained in his objection, and I leave it for you to guess. His objection to the method for computing computations is doubtless based on the fact that he did not know the railway employees themselves declared in favor of this plan of computation. The proposed compensation law is a give-and-take proposition. It adds to the wages of the man who does not work and takes from the amounts earned by the man who is exceptionally fortunate when it sees to it that the man who makes no wages in every instance receives the maximum amount provided by the law.

Objection 9 reads:

"9. The act is indeed unconstitutional in that it proposes to deprive the employees of common carriers of the right of trial by jury, which is guaranteed by the seventh amendment to the Constitution of the United States 'in all cases where the amount in controversy shall exceed $20.'

"It is true the act provides for a jury trial if exceptions are filed to the report of the adjuster and a written demand for a jury, but this is practically nullified by a provision that 'the findings of the adjuster shall be received as prima facie evidence in such trial before the jury; that the court may submit special interrogatories, and that the trial by jury is waived if this demand for a jury is not made within five days after the adjuster files his report.' Of this filing the employee, who will often be distant from the court, may fail to be apprised."

If the distinguished lawyer will read the proposed act and is able to understand it, his objections to the unconstitutionality will be set aside.

Paragraph 10 sums up thus:

"To sum up, the act takes from the employees the protection of the present employers' liability act; it restricts compensation far below a just compensation and divides the payment over a series of years; it relieves the railroad company of the burden of all compensation and places it upon the shippers and traveling public. The act relieves the companies not only from payment of all court costs, providing for adjusters who are to be paid out of the Treasury; it provides for the selection of these adjusters in a method which is likely to secure appointees more favorable to the corporations than to the employees; the method of compensation is complicated; it restricts the employee, but not the employer, in the selection of counsel, and deprives them of their constitutional right, guaranteed to all citizens, of a trial by jury."

The whole proposition is based on an attempt to confuse the real purpose of the law by pointing out its pretended injustices and impossibilities. The fact of the matter is that every careful lawyer knows that recovery can not be made twice for the same damage, nor do we believe the courts will permit the employee to have two methods of recovery while denying the same right to the employer. I have answered his statements made in reference to placing the burden on the public and I do not think it necessary to go over the ground again, nor do his further arguments need repeated attention, because I think I have answered them in their turn."

Paragraph 11 reads:

"11. All this is done upon the pretext that lawyers who represent employees in such cases are 'ambulance chasers,' and that this act will decrease the volume of litigation. It may do so, though it has not had that effect in other countries. But if it has that effect here, it will be by depriving the employees of just remedies and by adding enormously to the advantages already enjoyed by these great combinations of capital in their contests with crippled employees or with destitute wife and children when the employee has been taken from them by death caused by the negligence of the corporation. In free Switzerland every attempt to introduce this proposed 'compensation act' has been defeated, and that country enjoys the broadest and most liberal 'employers' liability act.'"

The volume of litigation naturally will be decreased, because there are specific payments provided by the bill for a certain number of injuries that naturally will reduce the question of adjusting the extent of the injury, because it is apparent there will be controversy over injuries the extent of which is not apparent, but there is every reason to believe that precedents once established there will be no further cause for any great degree of difference between the employers and the employees.

The distinguished attorney said: "In free Switzerland every attempt to introduce this proposed compensation law has been defeated, and that country enjoys the broadest and most liberal employers' liability act."

Our friend is again incorrect. The fact is that the Swiss employers' liability law has been repealed and a workmen's compensation law substituted for it after submission to a referendum vote of the Swiss citizenship. But in his mistake, or willful misstatement, he is in full accord with the majority of objections he raised against the proposed law. Switzerland discarded her liberal employers' liability law, and admitted in so doing that many deserving employees could not be recompensed under it, and substituted for it a compensation law that benefits every workman.

Paragraph 12 reads:

"In the language of Mr. Carter, president of the Brotherhood of Locomotive Firemen and Enginemen, 'Congress should devote its legislative energy, first, to the prevention of deaths and other injuries to railroad employees by broadening the "safety-appliance" laws and the "employers' liability" laws, and, then, when it exhausts its authority and capacity in that direction, enact laws for the compensation of those whose deaths from injuries were not preventable. Congress should not now accept as inevitable the mangling and killing of thousands of railroad men each month, and then attempt to absolve itself and the employers from further responsibility by enacting a law that is said to compensate this awful slaughter of human beings and "charge it to the consumer."'"

With all deference to the opinion of Mr. Carter, I must call the attention of this committee to the fact that all safety appliances in use today are the result of legislation and not of the voluntary act of any of the companies, and I can not believe that when the railway companies are forced to pay for the death and disability of every employee that it will have the effect of making them less careful of their employees. If railway companies could go to the public, as other businesses can go, and arbitrarily fix the price of transportation, there might be more reason to take this question of increased cost to the public seriously. But when we know how extremely difficult it is for the railway companies to secure an advance in railway rates we know that the railway companies will have to make good cause before they can secure any concessions from the Interstate Commerce Commission. And, again, to get back to the bottom of the operation of this proposed law, every member of your committee knows that it will be several years before the companies will have to pay what they are now paying, for the reason that payments are going to accumulate, and the companies are not going to pay lump sums as they do now, so that we can safely say that it will be at least five years before the accumulated costs to the companies will equal what they are paying now. This fact appears to have been overlooked by our distinguished opponent in his hurry to get before the railway employees to show them the wickedness and ingeniousness of the proposed law.

Paragraph 13 reads:

"13. The statistic show that the number of people killed and wounded by the railroads in this country is 20 times as many in proportion as those occurring on railroads in Europe. If this act is passed and the compensation for death and injury caused by the negligence of railroad companies is shifted to the traveling public and shippers, as is proposed, by increasing rates, and the cost of litigation is to be shifted, as is also proposed, to the United States Treasury, it is easy to foretell that the increase in negligence in the operation of railroads and in the number of employees killed and wounded thereby will be phenomenal."

This is further quoted from Mr. Carter's statements to the compensation commission in Chicago, and I think these statements have been very successfully refuted by Mr. Arthur Holder, representing the American Federation of Labor, who stated to the commission at Washington that the number of accidents had decreased, that greater care was exercised by the employer, and that litigation had decreased to the minimum in England in the past two years.

The statements were corroborated by Mr. Herman Willis, assistant grand chief of the Brotherhood of Locomotive Engineers, who made a personal study of conditions abroad during the fall of 1911 and who came back to us very much impressed with the operation of the English compensation law and this plan in general. His evidence, like that of Mr. Holder, was secured first hand through the organizations of employees. There was not a single objection from them concerning the operation of the law, except that its benefits should be higher. This is a natural objection, as we all know. But so far as the extra care against accidents, the adoption of safety appliances, and the decrease in litigation are concerned the employees of Great Britain unanimously declare that these very excellent results have followed the operation of the law.

We find in our own country that since compensation has been brought forward with a fair chance of a compensation law being enacted that the railway companies have awakened to the conditions under which very much of their work is being performed, and they are taking steps to reduce their casualty records to the lowest possible degree. The largest systems in the country to-day have taken up the question of safety through the appointment of safety committees, who are authorized to point out all of the dangers that attend railway work and are invited to suggest improved methods of safety; and the advice given to the men by those in charge of operation not to sacrifice their lives and limbs for the sake of getting their work done in a hurry is another evidence that the railway companies do not believe that they can reach into the public purse without good reason and reimburse themselves for the added costs that will be necessary because all of the men in the service are to be paid if they are killed or injured.

This lawyer also continually harps on the charge to the consumer. In all fairness, to whom would he charge it? Where does any business get its returns except from the consumer? Even the poor devil who places his case in the hands of an ambulance chaser places him in a position to live off his own returns, in which case the ambulance chaser is the ultimate consumer, and, generally speaking, a very large one in proportion to the amount received. This lawyer pretends to have a tremendous interest in protecting the public, and all through his objections it will be found that his real interest is more in the direction of protecting his own business than it is in protecting the employee.

The lawyer who said the proposed bill is wickedly ingenious might, in full accord with his conscience, have added "so far as we ambulance chasers are concerned." It is natural to look for objection of this kind from men whose principal source of revenue is in jeopardy. The proposed compensation law guarantees to the family of every killed employee a certain revenue for a certain time, and it guarantees the money without giving half of it to any ambulance-chasing attorney. It guarantees to every disabled employee a specific amount for certain injuries and leaves the determination of other amounts to be paid on their apparent effects as compared to other injuries received. There is no law on earth that could go the limit and cover every imaginable accident and its results and give satisfaction. The law, like every other law, will have to be enacted, its principles accepted as correct by the United States Supreme Court, and after it is applied its deficiencies, inaccuracies, and injustices can then be adjusted by amendment.

I can say that a great majority of the members of the Brotherhood of Railway Trainmen are in accord with the principles of the law. They have expressed their desire for it at their convention, and have gone on record in favor of certainty of benefits to take the place of uncertainty of litigation. We believe in doing everything for the benefit of the greatest number, and for this reason we do not point to the high verdicts that are received in exceptional cases as a basis for a compensation law. We realize the impossibility of paying the amount awarded by the exceptional verdict where the employer is absolutely at fault to all cases of injury or death whether caused by the fault of the employer or the fault of the employee. In behalf of my organization I trust that your committee will see fit to report the bill to your respective assemblies as it has come to you from the compensation commission. I subscribe to the language of the commission in submitting its report to the President, that while this proposed law is not, perhaps, the most perfect measure which could be devised, nor the last word which can be said upon the subject, it is the result of careful investigation and the best thought of the commission, and constitutes a step in the direction of a just, reasonable, and practicable solution of the problem with which it deals. I regard it as desirable constructive legislation, to take the place of destructive litigation, and again express the hope that it may be reported by your committee to both Houses of the Congress and that it may pass at this session.

Mr. CHILTON. If Senators will read that paper they will find that practically every position which has been taken in the Senate against the principles of this bill has been met by Mr. Lee just as thoroughly as they will ever be met by any Senator upon this floor. It shows that he has not taken a hurried or cursory view of this subject or of this bill, but that he has studied it carefully, has digested its provisions, and is prepared to recommend to his people and to recommend to this body not that the principle of this bill alone shall be written upon the statute books, but that this bill is the bill which is satisfactory now to the ranks of labor and which they ask us to pass.

Mr. SMITH of Georgia rose.

Mr. CHILTON. I yield to the Senator from Georgia.

Mr. SMITH of Georgia. I wish to ask the Senator whether Mr. Lee presented that as an oral argument or a written paper?

Mr. CHILTON. My recollection is that it was as a paper he had prepared. I recall now exactly what it was.

Some distinguished southern man had prepared a paper seting forth the various objections to this bill, and it was printed in some paper in the South—I have forgotten exactly which one—the Raleigh News and Observer, of March 7, 1912. There was some dispute as to whether the man who wrote it was a lawyer or a railway conductor. I think it turned out that he was a lawyer—I do not recall.

Mr. SMITH of Georgia. He was the chief justice of the supreme bench of North Carolina.

Mr. CHILTON. I recall that he was regarded as a very able man, and it was so understood by the committee.

At any rate, Mr. President, I am willing to go to my people with this argument upon the one side and the answer of Mr. Lee paralleling it, and to abide the consequences, both in my own State and in the Nation, for my vote. I think the objections are answered; they are met completely and fully, and so far as I am concerned, I am willing to stand by Mr. Lee in his position.

But I want especially to call the attention of the Senate to the closing remarks of Mr. Lee, as follows:

I can say that a great majority of the members of the Brotherhood of Railway Trainmen are in accord with the principles of the law. They have expressed their desire for it at their convention, and have gone on record in favor of certainty of benefits to take the place of uncertainty of litigation. We believe in doing everything for the benefit of the greatest number, and for this reason we do not point to the high verdicts that are received in exceptional cases as a basis for a compensation law. We realize the impossibility of paying the amount awarded by the exceptional verdict, where the employer is absolutely at fault, to all cases of injury or death, whether caused by the fault of the employer or the fault of the employee. In behalf of my organization, I trust that your committee will see fit to report the bill to your respective assemblies as it has come to you from the compensation commission. I subscribe to the language of the commission, etc.

Now, Mr. President, it does seem to me——

Mr. WILLIAMS. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Mississippi?

Mr. WILLIAMS. Will the Senator pardon an interruption here?

Mr. CHILTON. With pleasure.

Mr. WILLIAMS. In reenforcement of what the Senator has just said, I want to say this: Before I ever had read the bill I began to receive communications from locals in the State of Mississippi. They were not communications asking me to support the general principles of a compensation bill, but they named this bill by number, by title, and by authorship, and every communication was a request to support it. To those I replied that I had not read the bill; that I would look into it, and, if I thought it to the best interests of the people of the United States, I would support it. I later on looked into it. I concluded that the bill was a good one, and I wrote to some of them accordingly.

But the point I am trying to make here in supplement to what the Senator has said, is that the petitions and requests were signed by the presidents and secretaries of the locals, designating the bill by number, by title, and by authorship.

Mr. SMITH of Georgia rose.

Mr. WILLIAMS. One word more.

I have received only two communications from the State of Mississippi on the other side, one of them last Saturday and the other one this morning, in the face of the great number that came from all the centers of railway work in the State. I am not willing to believe that these men were either so dishonest as to create the impression upon my mind that they were not speaking for a particular bill which they never read or of which they knew nothing, or that they were so ignorant as to be asking me to support a bill the contents of which they did not know when they named it by number, author, and title.

Mr. SMITH of Georgia. Will the Senator from Mississippi let me ask him a question?

Mr. WILLIAMS. Certainly.

Mr. SMITH of Georgia. Is it not true that at least one or two of the local committee here sent out to the various lodges requests for these indorsements, and in the request stated the number of the bill and gave the further description to which the Senator has referred?

Mr. CHILTON. I will say this, that I——

Mr. WILLIAMS. One moment. I would rather reply, if the Senator will permit me.

Mr. CHILTON. All right.

Mr. WILLIAMS. I do not know and I do not care. If these men are so ignorant of their interests and are so reckless with regard to the advice they give me as to lead me to believe they do not know what they are talking about, when naming the very bill and its title and its author, then they have acted dishonestly with me as their representative and Senator.

I do not know that what the Senator from Georgia suggested was said. I know that suggestions were sent to get up protests against it. Some of the very telegrams which have been read here show that they were in response to arguments and analyses that have been sent from here. Am I to give less respect to the opinion of a man because somebody has called his attention to the subject matter on one side or the other? I think not.

Mr. CHILTON. Mr. President, I can say to the Senator from Georgia that what he says is strictly true. It appeared in our hearings—it appeared in one of the hearings that I attended of the joint subcommittee—that the representatives of labor here have sent out this bill and have sent out the House bill, have referred to it, and there is no doubt that the local organizations have had their attention called to this bill by subject matter and by its number. That appeared before us. I say it is possible that that is the only information some of them probably would have on the subject.

But, Mr. President, this committee who heard these men can answer any insinuation as to these representatives of labor being inefficient or being ignorant. I would just as soon believe a statement that the Senator from Georgia did not understand what he was doing on this floor as to hearken for a moment to the statement that one of these men did not understand exactly what he was doing, exactly what this bill would accomplish, exactly the effect it would have on the laboring men under him. They are intelligent men, well-informed men, good talkers, fair in their statements, and they showed that they knew a great deal more about this subject than I did, after I had studied it and had definite and certain ideas about it, and they showed me that they made that kind of careful study of the subject which I had not been able to make.

But going a step further, having shown that Mr. Lee and his organization, so far as we can know of the organization, so far as anybody can speak for it unless he wants to have a rebellion in the ranks, having shown that he and his organization supported this measure, let us see how it is with the railroad conductors.

On page 89 of the same hearing of March 15–26 we have the statement of Mr. Garrettson, of the Order of Railroad Conductors. Some of us asked specifically the question, not whether those in charge of these organizations favored this bill, but how the organizations as organizations stood in reference to this particular bill. We made the question apply as to the organizations and we made it apply to the specific bill that is now pending before the Senate, and we got an answer from them.

Mr. REED. What page is that?

Mr. CHILTON. Page 89 of the second hearing. I will give you this in a moment.

Mr. Garrettson spoke as follows:

There are a few things that I wanted to say in connection with the matters that have been brought out this morning because of my position representing the organization.

The Order of Railroad Conductors, comprising nearly 50,000 men, distributed in 600 subordinate divisions, or lodges, has had this bill under consideration, and the bill has been individually presented, because—

Then he turned to Judge BRANTLEY and said:

Judge BRANTLEY, I want to ask you to verify this: The first complete printed copy of the bill that was ever published was in our official organ, was it not?

Mr. BRANTLEY. Yes.

Mr. GARRETTSON. It went into the hands of every individual member of the organization, because they all receive that paper.

Mr. President, I have not time to go into all these arguments. Our time is limited.

Mr. BACON. Will the Senator permit me to make a suggestion to him?

Mr. CHILTON. Yes, sir.

Mr. BACON. This is a very long and a very intricate bill. I suppose the Senator would recognize that in such meetings as he refers to by these organizations consideration must have been comparatively brief.

I want to call the Senator's memory to the fact that the Judiciary Committee, composed of lawyers accustomed to examining and construing statutes, did not meet simply for one day, in which they found it sufficient to examine the details of the bill, but, as the Senator will remember, held meeting after meeting of two and three hours in length, and that this was necessary for that compact body of lawyers, eight or ten or a dozen, as the case might be, who were present, to go through the bill and examine it; and after its examination we are still engaged in a discussion in which a great many provisions are shown to be difficult of understanding, and even as to the construction of them.

Now, how can the Senator think that this body of men, untrained in such work as the construction of statutes, in the hurried meetings which they could only have had in the intervals of their work, could possibly have arrived at an understanding as to the true meaning and purpose of the many details of the bill and the effect it would have upon them in their vital interests?

Mr. CHILTON. Let me answer the question of the Senator from Georgia. I will say to the Senator I do not expect them to do it, and that is why we should give the greater weight to those trained men whom those laborers have employed to come here and represent them, and who have even gone to Europe, as we have not done, to study this question, and who have studied for years and years every phase of it. Why should we not look upon them as protectors of the men?

I thank the Senator for calling my attention to the fact that the Judiciary Committee of the Senate did consider carefully this measure. The Senator will recall that it was read section by section and discussed and debated.

Mr. BACON. Yes; and it took I do not know how many meetings. Those meetings, as I said, lasted two or three hours, and at the end of it we find the committee divided on this matter, some of us thinking one thing about it and others thinking another. Yet it is expected that these workingmen should gather for an hour or so after their day's labor and with no opportunity for proper discussion or examination of it, in one meeting, probably, as I suppose is true——

Mr. CHILTON. No; Mr. Garrettson says that this was sent to the men individually, and it was considered by the local lodges.

Mr. BACON. So probably in one week.

Mr. CHILTON. I think every week or every month.

Mr. BACON. Passing from that, for I have no intention of unduly interrupting the Senator, I want to say in reference to another suggestion he has made, as to whether or not we ought to override or ignore the desire of these men to inform themselves and to be governed by their own judgment and insist upon it we shall be governed by the judgment of men they appointed as their legislative agents.

The Senator speaks of our encouraging rebellion. These men can have no object for rebellion, except to get what they consider to be best for themselves. If the majority of them think it is best for themselves that this bill should be changed, it seems to me that it ought to be changed, and if they require time within which to make that investigation, as is shown to us by the communications we have, I can see no reason why we should proceed and utterly ignore their wish in that regard.

Of all things, it seems to me a matter which is so radical as this, which proposes to separate them from the balance of all other citizens of the United States, and to say, while all other citizens can go into the courts for their rights, these men shall be debarred from it—such a proposition as that seems to me to be one of such gravity that to make haste is incompatible with the proper discharge of our duty in the matter.

Mr. CHILTON. Mr. President, I will only say it will never be contended—I might say it will never be suspected by anybody where they are known—that a matter presented to the Senate by the Senators from Georgia and the junior Senator from Missouri has been in any sense ignored.

Mr. BACON. If the Senator will pardon me, he misunderstood what I said. I was not speaking about ignoring what we did, but I was speaking about ignoring the wish of this vast body of workingmen.

Mr. CHILTON. That is what I am talking about.

Mr. BACON. The Senator expressed it in another way.

Mr. CHILTON. We heard the objection of these distinguished men, able to present any cause in any presence, and those objections have been presented to labor—militant, organized labor—and all of these objections have been considered and have been disposed of upon the ground of economy and upon the ground of humanity.

Mr. SWANSON. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Virginia?

Mr. CHILTON. With pleasure.

Mr. SWANSON. The Senator is discussing the approval of organized labor affected by the provisions of this bill. Speaking of these unions, I wish to say that in the State of Virginia, which is very near Washington, all these measures are easily accessible to them, and those objections have been distributed through the entire State, which have been presented so interestingly to the Senate. Every union in Virginia affected by this measure has passed resolutions requesting me to extend my support to it, stating that it is one of the most important measures affecting labor pending in Congress. There was only one exception to this, and that was from the Order of Railway Conductors at Bristol, who passed a resolution, which I had printed in the RECORD, protesting against the passage of the bill.

These unions in Virginia have had every opportunity since the discussion of the measure in recent days to reconsider, and not one has reconsidered—not one has asked me to consider their approval of this measure withdrawn. I am satisfied they have had every opportunity to hear both sides of this question in the State of Virginia. They are very near to Washington, and it is very accessible for the information to reach me. I say I am satisfied that the unions affected in Virginia are at this time overwhelmingly in favor of the passage of the bill.

Mr. CHILTON. I thank the Senator for supplementing what I said on that point.

Mr. President, passing on, because I want to be very brief, on the 26th of March, 1912, while the joint subcommittees of the Senate and House were considering this bill this telegram was read to us, and I want to read it to the Senate:

NEW YORK, *March 26, 1912.*

H. E. WILLS,
Congress Hotel, Washington, D. C.:

Impossible for me to be present at hearing on workmen's compensation bill to-day. This will authorize you to give the proposed bill my indorsement in the strongest possible terms. I consider this the most important legislation that has come up in years, and every energy should be used to have it become a law.

W. S. STONE.

Mr. Stone, it will be recalled, is the president of the Brotherhood of Locomotive Engineers, and Mr. Wills is the vice president, if I am not mistaken. I am not sure about that. He is, besides, the legislative representative here of several of these organizations.

So we have not only Mr. Stone and Mr. Lee but I want further to read to the Senate a letter I received since this debate has begun from Mr. Wills, to show how apprehensive are the representatives of organized labor that this session may pass without these principles being placed on the statute books.

The letter is as follows:

CONGRESS HALL HOTEL,
Washington, D. C., May 1, 1912.

Hon. WILLIAM E. CHILTON,
United States Senate.

DEAR SIR: As the authorized representative of the Brotherhood of Locomotive Enginemen, the Order of Railway Conductors, and the Brotherhood of Railway Trainmen, I am instructed to speak for the membership of these three organizations in reference to matters pertaining to national legislation.

During the past year I have devoted much of my time to the workmen's compensation bill now pending in Congress. The chief executives of these organizations, as well as nearly all of their prominent and active members, have taken part in the deliberations before the commission appointed for the purpose of considering this subject. In fact, one of the members of one of our organizations was a member of that commission. The conclusions arrived at by the commission in reference to this bill have the indorsement and approval of over 90 per cent of the approximate 230,000 members, who are citizens and residents of the United States, and we very much desire that the bill, as it is drafted, should pass and become a law. We would, at this time, look upon any amendments offered as being dangerous to the bill and to its passage and to our interests.

I would most respectfully ask that you use your influence to secure the passage of the bill without endangering it by amendments of any kind. We feel that some of the provisions of the bill can and will be improved, but it is our desire at this time to get the principles established, and so far as may be found necessary make the improvements later on.

Trusting you will give this such consideration as it may merit, I am, with respect,

Very truly, yours, H. E. WILLS,
Joint National Legislative Representative.

Now, Mr. President, there is no need for anyone to attack Mr. Wills here before me, for I have heard him talk. The Senate ought to know that this man has been appointed by the labor organizations to go to Europe and study this question. He has gone there. He has studied it for a purpose and studied it intelligently and effectively, and he has given to the commission and has given the committee of this body the benefit of that information.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from North Carolina?

Mr. CHILTON. Certainly.

Mr. SIMMONS. I should like to ask the Senator right at that point a question for my own information. I have regarded all the time the fact that the remedy provided in this bill is made exclusive as one of——

Mr. ROOT. It is impossible for us to hear on this side of the Chamber.

Mr. SIMMONS. I was saying to the Senator from West Virginia, in connection with his statement last made about Mr. Wills going to Europe, that I had regarded the provision of the bill making the remedy it provides an exclusive remedy as one of the fundamental defects in it, perhaps the most fundamental, from my standpoint.

The Senator now has stated that Mr. Wills, who is one of these legislative representatives, had been to Europe for the purpose of investigating the subject matter of the bill. I was going to ask the Senator if Mr. Wills or any of the other members of this legislative committee who went to Europe for that purpose called the attention of the Senate committee to the system of any government regulating this matter where the remedy provided in the act was made exclusive.

Mr. CHILTON. I will say to the Senator I do not know.

Mr. SIMMONS. Has the Senator any information on that subject? Is this remedy exclusive in any workmen's compensation act now in existence in any of the countries of Europe?

Mr. CHILTON. I will say to the Senator that I can not definitely answer that question. The subject of it was discussed. I have no doubt that the Senator from Utah [Mr. SUTHERLAND] will supply that information later on. We know that in some of the countries it is not, because their systems

are different. In most of the countries of Europe they have all the systems. As I understand it, they have an insurance system.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER Does the Senator from West Virginia yield to the Senator from Utah?

Mr. CHILTON. Certainly.

Mr. SUTHERLAND. I do not want to take up the time of the Senator from West Virginia just now, because I intend to discuss that feature of the bill later along, and will undertake to point out to the Senate why it is advisable to put it in and why it is for the advantage of the employees themselves to put it in.

The Senator asks, however, whether or not the men who represented the organizations were in favor of this feature. I will answer——

Mr. SIMMONS. No; I was not asking that. I assume that they favor this feature, but the information I was seeking to get was this: The Senator from West Virginia had stated that these representatives of labor had been to Europe to investigate this system. Now, this is a provision which strikes me as objectionable, and I had assumed that in connection with their investigation in Europe the committee, in its interrogatories directed to these gentlemen, probably made the inquiry as to whether there was a similar provision in any of the labor-compensation acts of Europe. I do not know. I am asking for information, and only for information.

Mr. SUTHERLAND. I do not think that these men who were in England reported specifically upon that feature of the English law. I do not recall whether they did or not.

Mr. SIMMONS. I know that in England the remedy is not exclusive, but I supposed possibly it might be in some other countries, and I should like to examine their law, if the Senator can tell me what other countries or country makes the remedy exclusive, as proposed in this bill.

Mr. SUTHERLAND. Every country in Europe makes it exclusive, except England.

Mr. SIMMONS. In most of the other countries of Europe the railroads are owned by the Government.

Mr. SUTHERLAND. The law applies to other industries as well. It is not confined to railroads.

Mr. SIMMONS. The Senator says that all the other countries make it exclusive except England?

Mr. SUTHERLAND. Every country in Europe except England; and in England, as I shall undertake to show, the provision for optional remedy practically amounts to nothing, because of the limitations placed upon it. Let me just call the attention of the Senator to the statement made by the head of the American Federation of Labor upon this very subject, in answer to the question:

> The CHAIRMAN. Do you mind my asking you one or two questions about these other features of the bill? I do not know whether you have thought about them. You have not told us what you think about the provision for making the law compulsory. Have you thought about that feature?
>
> Mr. GOMPERS. I should say that the law ought to be compulsory.
>
> The CHAIRMAN. That is, it ought to be a system complete in itself, excluding the common-law remedy and the common-law defenses?
>
> Mr. GOMPERS. I would rather see all who were injured and their dependents fairly cared for than to have one get a large verdict or a large amount and the remainder fritter away their time in litigation.

These men have talked about this feature. They have studied it.

Mr. CHILTON. Mr. President, the statement of W. G. Lee, which I have put in the RECORD, shows that they have considered this matter and they have answered the suggestions against it. I have not time to go into the constitutional argument, even if I considered myself competent to do so, but I can well recognize that after all has been said Congress could not make it optional to one side without making it optional to the other side of the controversy. That is the plain, homely way labor states it, and I believe that is about all there is in it.

Mr. SIMMONS. Does the Senator mean to say all four of these gentlemen representing labor approve this provision of the bill making the remedy exclusive?

Mr. CHILTON. I can only say, Mr. President, that I have given what they said, exactly as they said it, have read to the Senate the language in which they indorsed it, have put the statement of Mr. Lee into the RECORD, and it is there for Senators to see.

Mr. SIMMONS. I asked the question because——

Mr. CHILTON. I do not think all of them did in terms agree as to that particular point, for I can not recall whether or not that point was presented to each one. But it is apparent that they could not indorse the bill without indorsing its exclusive-remedy provision.

Mr. SIMMONS. I asked the question because I was advised that they did not all agree to this provision of the bill.

Mr. CHILTON. Well, I have not stated that they did.

Mr. SIMMONS. I know the Senator has not. I asked the Senator whether he meant to say——

Mr. OVERMAN. They have not all agreed to the bill or to its principle.

Mr. CHILTON. The record is here, and it is for each man to decide for himself.

Mr. OVERMAN. The Senator remembers Mr. Carter's statement.

The PRESIDING OFFICER. Senators will please address the Chair and obtain permission to interrupt. Does the Senator from West Virginia yield to the Senator from North Carolina?

Mr. CHILTON. I do.

Mr. OVERMAN. Mr. Carter has rather disapproved of the bill, has he not? The Senator has read his statement, I understand.

Mr. CHILTON. I have not read it and know nothing about it except from statements made on the floor of the Senate.

Mr. SMITH of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Georgia?

Mr. CHILTON. I do.

Mr. SMITH of Georgia. Did not Mr. Garretson, for the conductors, insist before the commission that the bill ought to be made elective and that their present rights ought to be reserved?

Mr. CHILTON. At the last hearing Mr. Garretson—I can not recall all of it—but I think Mr. Garretson said the only objection he would suggest was that possibly some of the amounts agreed upon were not quite right; but of course all of us understand that they have been considerably advanced since that time by amendments, which have been agreed to by the committee.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Utah?

Mr. CHILTON. With pleasure.

Mr. SUTHERLAND. When Mr. Garrettson first appeared before our committee to discuss this matter he said he thought we ought to make the law elective, because the men, when a thing was taken away from them, would always give it a fictitious value. While he himself apparently did not think it was of consequence, his position was that if it was taken away they would at once regard it as of fictitious value; but after the bill was framed and after the reasons were presented to him—and we did present them through the report of the commission—Mr. Garrettson very heartily assented to the proposition that the law ought to be made exclusive.

Mr. CHILTON. I must hurry on, Mr. President. Some criticism has been made here of the haste in regard to this legislation and the desire to vote at this time. I do not know how that strikes others, but to my mind the reasons given by the friends of this measure before the committee are most conclusive upon that point; and I want briefly to call the attention of the Senate to the reasons that lead me to conclude that it is my duty here to advocate haste in the disposition of this legislation.

There are by the figures, roughly speaking, from 85,000 to 90,000 men annually injured on railroads in the United States. I have the figures for 1907 and, I think, the number was given at 92,000. Do we realize that that means 7,500 of these men per month fall victims to our system; that it means 250 a day; that it means a little more than 10 every hour; or 1 every 6 minutes?

Mr. REED. Mr. President, just to get this right——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Missouri?

Mr. CHILTON. Yes.

Mr. REED. Is the Senator reading figures applicable alone to men engaged in interstate railroading or is he reading figures that apply to all persons injured upon railroads or are they applicable to all persons injured in every employment?

Mr. CHILTON. I am reading figures given by the Senator from Oregon [Mr. CHAMBERLAIN] as applying to the men who are engaged in railroad employment.

Mr. REED. Oh, no; the Senator is mistaken.

Mr. CHAMBERLAIN. All railway employees.

Mr. CHILTON. All railway employees, as I understand—those who are employed on railroads, both State and interstate.

Mr. President, that means, going a little further, that since this bill was introduced, on February 20, there have been 37,500 casualties in railway employment. By those figures, since the bill was reported to the Senate, on the 3d day of April, there have been 8,250 of such casualties; and while the distinguished Senator from Missouri [Mr. REED] held the floor of the Senate discussing the bill 250 employees of the railroads were killed or injured.

Mr. REED. May I rise to remark, then, that the railroad managements of this country seem to be more reckless with their men than I have been with the time of the Senate?

Mr. CHILTON. I can never imagine the Senator from Missouri being reckless in anything. I take it that the judgment of mankind has convicted the railroads of being at least the victims of a craze for rapid transit and great tonnage. Unfortunately, that craze has made victims of unfortunate men who are not able to stand it; and that is why I am for this bill.

While the distinguished Senator from Georgia [Mr. SMITH] held the floor, as I make the calculation, there were 100 victims of the present system, more than half of whom can never have any compensation from any source under heaven.

Mr. BACON. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Georgia?

Mr. CHILTON. Yes.

Mr. BACON. I dislike to interrupt the Senator, but I suppose he does not attribute any connection between the occurrence of these accidents and the delivery of the speeches. If so, the Senator himself, I presume, is contributing to that number right now.

Mr. CHILTON. I realize that.

Mr. BACON. But what I really wanted to ask the Senator was this——

Mr. CHILTON. I was just making a comparison or an illustration showing the reasons for prompt action.

Mr. BACON. If he thinks this bill is going to lessen that number of victims or would it lessen the compensation?

Mr. CHILTON. It will absolutely take every helpless human being from his present unfortunate position. That is why I am for this bill. Of course, Mr. President, I meant no reflection upon the Senators who have occupied the floor. It was their right; indeed, it was their duty to take the time of the Senate to present everything that can be urged to sustain their view, which I think they have done.

Mr. SMITH of Georgia. I should like to ask the Senator if he has any accurate statistics to show what proportion of the injured are injured exclusively by their own negligence or by accidents that could not have been provided against, and what proportion are injured who, under existing laws, could recover?

Mr. CHILTON. I have the same data that all Senators have. We all understand that under our system they can not be absolutely accurate—I make that concession—but I certainly insist that my deductions from those figures are as trustworthy as the deductions of the distinguished Senator from Georgia. We both have the same figures. I present my views as to what those figures mean and the direction in which they lead me.

Mr. POINDEXTER. Mr. President——

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from Washington?

Mr. CHILTON. Certainly.

Mr. POINDEXTER. In answer to the question just asked by the Senator from Georgia, I will say that I have here a statement made by John H. Wallace, a member of the Industrial Insurance Commission of the State of Washington, in an address before the American Association for Labor Legislation in this city, December 28, 1911, in which he makes this statement—how accurate it is I do not know; I only give it for what it is worth—

> Able investigators have conclusively demonstrated that not to exceed 15 per cent of the men injured in work accidents could obtain compensation under the old system.

Mr. SMITH of Georgia. That is the old system. I was talking about the new system involved in the recently confirmed employers' liability act.

Mr. POINDEXTER. I do not think he includes that in his statement; I am unable to say; but I will say that he was contrasting it with the law as it existed before the compensation act of October 1, 1911, in the State of Washington.

Mr. CHILTON. The battle cry of modern progress is to put "the man above the dollar." To that I give my approval. Here I give it my vote whenever I can support it by a grant clearly made in terms in the Constitution, or reasonably implied, as necessary, in administering or carrying into the law another grant. In the matter before us there can be no doubt now of the power of Congress. This bill is admitted to be within the powers of Congress. That it will help more people than it can possibly hurt can not be successfully denied. According to the figures furnished by the junior Senator from Oregon, in 1897 there were more than 87 per cent of the injuries to railroad workmen for which there could be no relief. In other words, by those figures for that year there were 3,809 persons whose injuries were compensated in damages under existing law and 25,491 who could recover nothing. In 1907 there were 92,178 injuries and deaths from railroad accidents, or more than three times as many as in 1897. According to the figures of the Senator from Oregon, of these 92,178 killed and injured in 1907 less than 17 per cent could recover under existing law, or 15,600, while the other 76,578 would go without any redress whatever. By the figures of 1897 it is 29,300 men against the dollars of 3,809 and the railroads. By the figures of 1907 it is 92,178 men against the dollars of 15,600 and the railroads. It ought not to be hard to find on which side of that proposition is the dollar and on which side is the man.

But it has been argued that the estimated number of recoveries is too small, and I admit that the Oregon Senator's figures were taken from the statistics of Germany and that any calculation based on them is not accurate; but there is undoubted weight in the estimate of Mr. James Herrington, chairman of the employers' liability commission of Ohio, found on page 7 of the hearings before the Judiciary Committee of the House of March 15 and 26, 1912. He estimates that after giving the men the benefit of all so-called employers' liability acts there are 44 per cent of cases of injury and death that go without redress unless we pass some legislation of this kind. Reduced to the concrete case, that means that at best, with Federal and State liability acts, with jury trial, with the fellow-servant doctrine abolished, according to the figures for 1907, there are 40,000 helpless victims of man's vain effort to put the dollar above the man. Mr. President, much has been said and written in late years about "progressive legislation." Some of this legislation has been so branded or tagged without authority; but a laborer's compensation law, fairly and honestly adjusting the principle to the nature of the business and to the reasonable demands of the laboring man and to the dictates of humanity, comes nearer to being the genuine article than any that can be named. The National Civic Federation, labor organizations generally, political economists, all political parties, and many State legislatures have committed themselves to that principle of settling disputes, lessening litigation, and saving for the helpless the needless waste in witness fees, lawyers' charges, and other costs of litigation.

Suppose that an injured workman recovers $10,000, which is certainly above the average verdict. The fees to lawyers range from one-third of the recovery up to one-half. If one-third be paid, the injured man will receive $6,666, but he will likely be compelled to litigate the claim for years and will be subjected to expense and loss which he can never recover. In a case in which such a recovery as I have mentioned would be probable or even possible, the compensation under this act would so nearly approximate the net sum received by the man in his successful litigation that it could hardly be doubted that he would prefer the settlement fixed by the act in the first instance. But when the laboring man remembers that in accepting this act—and conceding for the argument that he gives up something—he is opening the door of opportunity to 40,000 equally as deserving brothers, he will gladly make the choice in favor of the principles of the pending bill. I object to the consideration of this important economic question from the standpoint of any individual. Any reform that undertakes to embrace over a million and a half men can not put all of them in the situation of the most fortunate any more than it should reduce all of them to the situation of the least fortunate. We are here adding many millions of dollars to the annual expenses of the railroads. To me that means nothing if by so doing I can sleep in the certainty that the 40,000 railroad employees who may be injured annually by causes that will not now entitle them to recover compensation, and their dependent children and wives, will be secure in a living. The increased charge upon the railroads and the possible diminution of verdicts for a few are counterbalanced by the good that will be done for the thousands who are now absolutely helpless.

Mr. President, I can not be made to believe that the officers and leaders of the national labor organizations of this country are so stupid or so untrustworthy as to treat lightly this most important subject. The representatives of these organizations seem to be most intelligent and much in earnest. They are not only in favor of the principle of this bill, but they ask us to pass this particular bill, and if a test shall disclose mistakes or injustices, they comprehend fully that it is easier to amend an act than it is to secure the first passage of the act involving the principle. We should view this effort of theirs to take the first step toward the rising sun largely from the standpoint of humanity. This country can not permit the thousands to become helpless in order to maintain doctrines that have been embalmed under the name of the common law. This statute, under the authority of the interstate-commerce clause of the Constitution, admittedly strikes right and left at decisions, precedents, and the common law, but it preserves the jury, and it compensates every woman and child whose protector and sup-

port is rendered helpless. I have no criticism to make of others who have brought themselves to the conclusion that this is unwise legislation; but I warn the Senate that if we concede that the principle of this bill is right from the standpoint of both the man and the dollar, then I am unwilling to vote that organized labor is a farce and that every man who has appeared before the commission and the committee is begging us to pass a law that will be repudiated by the men in the organizations. Organized labor will be disorganized labor whenever the representatives of the people, in an honest effort to enact a principle into law, shall be blamed by the men for doing what the officers and representatives ask. I am not alarmed that organized labor will repudiate or disgrace the intelligent, sensible, earnest men who appeared at these hearings.

They were, in any company, able representatives who had given deep thought to the subject and were ready to discuss practically every phase of the situation. They are still insisting that this bill shall pass now. They are responsible to their organizations and to their members if they deceive us as to the attitude of those organizations; and I again warn those who insist upon appealing from the expressed wish of the representatives whose duty it is to inform us, to their future successors, that such a course involves serious consequences to those organizations. No greater injury could be done to organized labor than to have it said that its representatives here can not be depended upon. When we call upon organized labor and take it into our counsels upon a problem of economics and humanity, I shall not for slight cause presume to injure those representatives in the eyes of the world or in the estimation of their local lodges. Such a course to my mind would assume that their organization is both unreliable and ignorant. If we consult them as organizations we must do so under their rules and laws. I would hesitate a long time to encourage rebellion in their ranks, even if I had stronger reasons than have yet been submitted to sustain the idea that these representatives of labor have without sufficient information or designedly misrepresented to us the true attitude of their organizations. But this question is more far-reaching than organizations, it is more important than politics, it is bigger than the dollar.

It marks the awakened conscience of humanity, appealing for women, children, and the helpless. It is the cry of the heart that we are our brother's keeper, and that if we indulge the propensity for rapid transit and large tonnage, the soldiers who are killed and wounded in the fierce struggle must not be the only losers. The bill is a form of enforced insurance or a pension to the soldiers of interstate commerce. I have appealed to those soldiers to help me in my efforts to carry out a sincere plan to make the average of all better and more secure. They have answered with their approval of a plan that has been tried. I am willing, indeed glad, to be one of those who vote for this measure, and without reflecting upon those offering the many amendments, I have decided, as have those representatives, that most of the amendments pending will endanger the passage of the bill. The present bill, as amended by the committee, is, in my opinion, stronger and more likely to pass than it would be if amended in the particulars proposed. The bill is the result of long study and investigation. It has been practically agreed upon, as I understand, by the railroads and the representatives of the labor organizations. These representatives are not suspicious because the cry of humanity has been heard by the railroad officials. They do not, for that reason, question the correctness of the data that shows that it will be expensive to the railroads. Figures made before the railroads acquiesced are the same after the acquiescence.

In other words, this bill is satisfactory to both sides to a long contest for the principle which it enacts. Amendments, under these conditions, are dangerous, and for this reason, and not because I am personally opposed to some of the amendments, I shall vote against all the radical amendments. I want a laborers' compensation act passed at this session, and I agree with the representatives of labor here and with the petitions and letters received from my own State, without a single dissenting voice, that the bill as it is has the best chance of passage. For the sake of the thousands falling daily, to give hope to their dependent wives and children, and to atone for a mistake of civilization, this bill, in my humble judgment, should be passed with enthusiasm.

My known respect for the Senators opposing this bill and for those trying to amend it will be sufficient guaranty that no offense is meant when I assert that many of the arguments presented here are the same that have usually appeared when State legislatures have in the past undertaken to enact legislation of this kind. Many of them, if not all, were answered by the arguments before the committee. The difference between the standpoints of the two sides is that the bill's enemies can only point to a few cases in which the bill may reduce the recovery of the injured workman, whereas the friends of the measure give the facts and figures which prove that the measure will improve the condition of the railroad workmen as a class, will increase the aggregate sum which all the injured and their dependents will receive, and will bring about a condition that will leave not a single helpless victim of the tragedy of railroad operation, so far as it is in the power of Congress to deal with the subject.

The friends of the measure do not claim that it is perfect, but they do know that it is an improvement, that it is decided progress in the right direction. There would have been no interstate-commerce act, no antitrust law, no employers' liability law, no safety-appliance law, unless the friends of these progressive measures had in the start made concessions. So it is with this bill. The friends of the principle want Congress to make this substantial beginning and allow experience to perfect it. The overlooked rights of employer and employee, if any, and the effect of the principle upon both will develop. Congress can amend this law at the next session as easily as it can then pass another and different law.

Amazement has been expressed that a certain candidate for President has recently developed great strength among the masses. There is no mystery about it. It is because the people now believe that he will be potential in compelling action in matters that are alarming to the public mind. The people do not expect perfection of Congress, but they demand an honest effort. Those who oppose the candidate to whom I refer must do so by argument based upon facts. They can not defeat him with ridicule, for the people are in earnest about reforms that save life and limb as much as they are alarmed at the evidences of a "corner" in the productive energies, the money, and the credit of the country. Thoughtful men are concerned lest the pendulum swing too far, but these must understand now that the pendulum will swing, and the only way to prevent it from swinging too far is to see that reactionary efforts are not made to prevent it from swinging at all.

The public mind is now centered, as I believe, upon the passage of this bill, and I think that the greatest good to the greatest number can be accomplished by its passage, and that quickly.

Mr. ROOT. Mr. President, I am warmly for this bill, because I believe in its principle and I have believed in and advocated it for many years. Years ago I found myself arguing in favor of the change in public policy which it involves on the same side as Mr. Gompers and Mr. John Mitchell. In the joint subcommittee of the Judiciary Committees of the two Houses of Congress, which gave hearings upon the bill, I found my old and firm convictions reenforced by the approval of the thoughtful and experienced and able official representatives of three of the great organizations of railroad employees in the country, and by the accredited legislative representative of those organizations. And as an individual Senator, in part representing a State through which pass a considerable number of great lines of railroads essential to the interstate commerce of the country, I found my views supported with substantial unanimity by the expressions of opinion on the part of the railroad employees who are among my constituents.

I am for the measure, however, not because these constituents of mine or these representatives of labor are for it, but because I believe in it. I believe that the old system under which we have been running and under which the employees of our great industrial establishments have no recourse under the law when they are disabled by accidents incident to their employment, except a suit for damages against their employer, is a vicious system and based upon an erroneous view of the true relation of the employee to the employment.

It may well be, when one man employs another for a particular service, the question whether there will be an accident is beyond human foresight, and that the responsibility for the accident should be determined by an ascertainment as to whether it was caused by the negligence or fault of the one or the other. But in the great industrial organizations of our time we know beforehand that there will be a certain percentage of accidents, a certain percentage of loss of life and limb. It can be reduced under the doctrine of averages, and it is as certain as sunrise and sunset. The loss of life and limb is just as much an incident to a great railroad or to a great industry or to a great contracting business as is the breaking of tools or the wearing out of implements, and it should be regarded just as much a part of the expense of the business as the cost of replacing tools and machinery.

Therefore I believe that a measure of this kind is sound economically, and I know that it will be far better for the employees—and I think probably better for the employers—in all

the great industrial enterprises of the country than the old method of accident suits. It is far better to give to the employee who is injured a fixed and definite compensation promptly, certainly, without the cost of employing lawyers and without incurring the gambling risk of being able to fix responsibility upon the employer, than it is to leave him in the hands of the lawyer, who may win or may lose, leave him to the delays of litigation for months or years, during which he must be without compensation, living upon credit, upon the most expensive credit, to come at the end possibly into a considerable sum and possibly into nothing, with the certainty that from 30 to 50 per cent of his problematical recovery will be taken for the costs and expenses of his litigation.

I believe the measure is a great constructive measure of progress. I believe it is a measure in recognition of the true interests of our self-governing people and the true interests of humanity. I believe it will be for the benefit not only of the laboring men, not only of the industrial organizations of which they are a part, but for the benefit of the whole people, all of whose interests must be conserved and advanced by a system under which justice is done.

Now, sir, as to this bill. The subject is a complicated one. It affects a great variety of employments; it affects a great variety of different conditions. All of us who have been interested in the subject have been observing for years the efforts made in the different States to draft measures which would give practical effect to the principle. We have seen that a very large number of the measures which have been devised have been defective, some in one way and some in another. All of them have been to some degree unsatisfactory.

Several years ago an effort was made to bring about action on the part of the National Congress for the enactment of a bill which might serve as a model for legislation throughout our various States. The difficulty of reaching a conclusion, and the difficulty of determining just what kind of provision was best adapted to secure the desired result, were so great that the only avenue toward progress in the desired direction appeared to everyone to be the selection of a commission which might really study the subject. And accordingly, two years ago in the coming month, such a commission was agreed to, composed of two Members of the Senate, two Members of the House, and representatives from outside of Congress of the two interests most directly to be affected and most familiar with the subject—Mr. Brown, the president of the New York Central, to represent one point of view and Mr. Cease, the editor of the leading organ of the railway trainmen, to represent the other point of view.

That commission exhibited most commendable industry and painstaking fidelity to their duty. They held long and numerous sittings, they heard testimony, they examined witnesses with a degree of interest and thoroughness and acumen which shows that there was nothing perfunctory in their idea of what they were appointed for. The representatives of the great railroads were examined, and the representatives of the great organizations of railway employees were examined, and representatives of organized labor generally, so every point of view was secured; and, as a result, the committee framed a bill, which was, in substance, the bill that is now before us, modified in some slight details, but in substance the bill that is now here.

An examination of the testimony shows that every paragraph of that bill was subjected to criticism and discussion; that it represents a conclusion reached upon the presentation of views on every side. The bill produced is a balanced bill. It is a bill which represents the unanimous judgment of the commission and which challenges the general assent of the people who represent all the different interests directly affected, not as perfect, but as the best measure which could be framed in view of the different ideas as to the probable workings of its provisions.

The estimates as to costs by the commission were, in round numbers, about these: That the present payments of the railroads by way of compensation for accidents are about $10,000,000 a year, and that the probable payments under the schedule made up by the commission for accidents would be about $15,000,000 a year. That was on the best testimony that the commission could secure, but it is very doubtful. Mr. Lewis, of Baltimore, the draftsman of the Maryland statute, was before the joint subcommittee of the two Houses, and he has given a large part of his life to this subject. He was himself a working miner in the coal mines, and while supporting himself by the work of his pick he studied law and became a lawyer, and he has devoted himself to the interests of his old associates. As I have said, he was the draftsman of the Maryland compensation law. Mr. Lewis said to our subcommittee that although the estimates upon the evidence before the commission showed that the cost to the railroads would probably be $15,000,000 a year as against the present cost of $10,000,000, in his judgment it would be nearer $50,000,000 a year.

Mr. SUTHERLAND. Will the Senator allow me?

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Utah?

Mr. ROOT. Certainly.

Mr. SUTHERLAND. Since the bill was prepared by the commission we have added certain liberalizing amendments. We have provided that the payments shall continue to the children until they reach 16 years of age.

I simply wanted to call the Senator's attention to the fact that if a man should be killed, leaving a widow and four children, one an infant child, one of 2 years, one of 4 years, and one of 6, at the end of the 8-year period there would be one child who would still live 2 years before the 16-year period was ended, one who would live 4 years, one 6, and one 8. To the four children for 2 years the payments at 50 per cent will continue; to three of them for another 2 years 45 per cent will continue; to two of these for another 2 years 35 per cent will continue; and to one, 25 per cent for another 2 years. If the Senator will make the computation he will find that the original maximum of $4,800 payable to the widow and children in case of death is therefore increased to $10,000, and as nearly as I can make the estimate we shall have increased the amount to be paid under this bill with these and other amendments to about $18,000,000 instead of $15,000,000.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Ohio?

Mr. ROOT. Certainly.

Mr. POMERENE. In giving the estimate as to the probable cost of this bill to the railroad companies, can the Senator from New York advise whether the changed condition of the Federal statute was taken into consideration? I refer to the act of 1908.

Mr. ROOT. I think in a general way it was, but it was impossible, of course, to have any data upon which any computation could be made.

The Senator from Utah has called my attention to the fact that a part of the time during which the data were taken the recent statute to which the Senator from Ohio referred was in force. The three years taken were 1908, 1909, and 1910. The act was passed in 1908. So the latter part of the time would carry that act into effect.

Mr. POMERENE. I was aware that the act is a very recent one, but in view of the fact that some of the States have similar statutes it occurred to me that some data may have been gathered, and it would have given a fair basis for computation.

Mr. ROOT. Mr. President, as the Senator from Utah suggests to me, the results of the investigation by our national commission agree with the results of the investigations by the commissioners of the several States who have been considering the subject, and it shows a double basis.

After the commission had done its work and made its report, I think a little more than three months ago, the bill which the commission had prepared was introduced and it was referred to the Judiciary Committees of the two Houses. As the Senator from Georgia [Mr. BACON] has told us, in the Judiciary Committee of the Senate it was considered with very great care and at great length. The committee held many meetings in which, paragraph by paragraph, the provisions of the bill were discussed. When told that there were in one section of the country certain railway employees who had objections and who desired to be heard, an arrangement was made under which the Judiciary Committee of the Senate and the Judiciary Committee of the House appointed subcommittees to sit in joint session and hear whatever opposition there might be. Those subcommittees met, and the only opposition was a request from the representative of certain employees in the State of Georgia that action be postponed. There were also certain remarks made by some Congressmen in opposition to the bill.

Mr. BACON. Mr. President, will the Senator permit me to interrupt him?

Mr. ROOT. Certainly.

Mr. BACON. As I was present on the occasion, it is due to fact to say that while it is true, as stated by the Senator, that the direct application to the committee was limited to such request as he now mentions, it is also true that there were delegations here representing three of the four organizations, and that recalls a fact that I think the Senator overlooked, the fact that there was more than a request by one of the representatives. I think that was the Senator's statement. Was it not?

Mr. ROOT. That was my statement, according to my recollection. If I am wrong, I shall be very glad to be corrected.

Mr. BACON. A Representative in Congress, the Senator means, I presume.

Mr. ROOT. My statement was, or I intended it to be, and I think it was, that a representative of certain labor organizations in the State of Georgia appeared and requested a postponement.

Mr. BACON. I misunderstood the Senator.

Mr. ROOT. And that was the only opposition from any labor people; but there were also some Members of Congress who appeared and spoke in opposition to the bill.

Mr. BACON. The Senator is correct absolutely in that. I want to make the additional statement, however, that there were representatives here from three out of the four great organizations, who came from the State of Georgia, who did not appear before the committee, but who did come to me personally and to my colleague and certain Representatives in Congress, and laid their matters before us and them, in which they not only desired postponement, but they were absolutely opposed to the measure. They did not appear before the subcommittee upon the statement which they made to us that they could not do so with safety; that the rules and regulations were such that if they did appear personally they would endanger their membership in their organizations and endanger even the charter of their suborganizations, and while they went with us to the door they would not go inside the room on that account.

Mr. ROOT. Mr. President——

Mr. OVERMAN. Being on the committee, will the Senator yield to me?

Mr. ROOT. I will.

Mr. OVERMAN. I will state that when we called a meeting I was very much surprised to see not the people there who were protesting against it, but leaders who had been before the joint committee asking for this legislation, to wit, Mr. Garrettson, Mr. Wills, and Mr. Lee. When I went to the committee, I did find a delegation from my State. I asked them in, but they said they could not go in. The spokesman said he could not go in; he had been notified that if he appeared there to protest against the bill he would be dismissed from the order and lose his charter.

Mr. ROOT. Mr. President, I am glad to have my statement of what appeared before the committee corroborated by the Senators from Georgia and North Carolina. What occurred in private between them and any of their constituents, of course, I can not know, but it would not be strange if constituents of theirs had expressed themselves precisely in accordance with the statements now made. Many years ago I had the great pleasure of knowing very well that very distinguished patriot and statesman, Mr. Samuel J. Tilden. I remember once in conversation with him he made a statement to me and said, "Nobody can dispute that," and he instantly caught himself and said, "No; I take that back. You put any hundred men in a room and make any proposition on earth to them, and you will find somebody who will dispute it."

Now, of course, with a measure of this description, which is a balanced measure, a measure taking into consideration views upon both sides and upon a variety of sides, a complicated subject, and which seeks to do what seems most wise upon consideration of all the testimony and all the argument, it is impossible that such a measure should not find opposition from some one who looks at it from only one side and in the light of one set of assumed facts and one set of arguments.

But, Mr. President, the fact remains that the men who are charged by these great employees' organizations with the duty of attending, listening to the testimony, and hearing the arguments, and carefully scanning, with a critical spirit and full knowledge of the conditions, every paragraph of the proposed legislation, in order to see that the interests of their constituents are not sacrificed—the fact remains that those men are in favor of this legislation.

I can well understand that opposition should be stirred up to a measure of this kind by representations as to the character of the measure made by persons who, in perfect sincerity and good faith, but looking from one side only of the subject, consider that the measure ought to be different. I can well understand, sir, that gentlemen who have been engaged in extensive and long-continued practice as lawyers in the prosecution of damage suits against railway companies should have acquired an attitude which leads them, with perfect sincerity, to oppose the bill. The Senator from Arkansas [Mr. DAVIS] was so frank as to avow in the Senate in the course of his remarks the other day that he had enjoyed a long and extensive experience in prosecuting damage suits against railway companies, and he said to us that that was his principal business. I do not wonder that he has acquired an attitude which leads him, with perfect sincerity, to think that this is a bad bill.

But, Mr. President, while I do not doubt the gentlemen who are now opposing the bill from the lawyer's standpoint have rendered honest and faithful service to their clients, let me say to them that, in my mind, upon the basis of long experience and observation, the great advantage of the bill is that it relieves the laboring people of our country from dependence upon the class of lawyers who have fattened upon their misfortunes, and it substitutes the certainty of reasonable compensation without the necessity of paying a large part of it to a lawyer for the gambler's risk that every poor fellow who is hurt now takes.

Mr. BACON. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Georgia?

Mr. ROOT. Certainly.

Mr. BACON. I will say to the Senator, as one who has had experience on both sides of this question, and a very considerable one, that the railroad men in Georgia do not agree with the distinguished Senator. I presume there has been about as much in the way of litigation in Georgia on this subject as in any other State; and, as I said, I speak from knowledge of both sides of this question, having represented both sides very considerably; and so far as I know, in that large State, with very much more than the average railroad mileage compared with other States, there is, so far as my information goes, absolute unanimity in the thousands and tens of thousands of employees in that State in the position that they will be damaged by this bill, and that they are better under the system as it will certainly exist under the present law. So, while the Senator is very emphatic in his view as to what is the interest of these men, he is opposed by their own opinion in regard to that matter, and unanimously so, in my State.

Mr. ROOT. Mr. President, I do not doubt that the attitude of the railroad men in Georgia is due to the superior character of the bar of that State, which we should naturally infer from the representatives we see here in the Senate. But sometime, even as against that beneficent control, the gospel of freedom will be preached in Georgia and the railway men there will be awakened to the true interests of their calling, as the railway men, 90 per cent of them, over the whole country have already been awakened.

Mr. BACON. Without interrupting the Senator further on that line, if he will permit me, I will say, so far as my information goes, every railroad in the State is in favor of this proposed legislation and every employee against it.

Mr. ROOT. Mr. President, the fact that the railroads were in favor of the legislation would not prejudice me against it.

Mr. BACON. No; it would not me either.

Mr. ROOT. But I will say that while I suppose that I should have been as likely to hear from railroads as anybody, because there are many in the State of New York, and I have personal acquaintances with the managers and officers of many of them, friendship of many years with many of them, not a single representative of any railroad has ever communicated to me on the subject of this measure. But I have here, sir, a lot of communications from the railroad employees, and I beg to ask the Senate's attention to them—I hope not too tediously:

A telegram from Division 418 of the Brotherhood of Locomotive Engineers of Mechanicsville, N. Y., desiring my support for this bill.

A telegram from Division 421 of the Brotherhood of Locomotive Engineers of Buffalo, N. Y., desiring my support.

A telegram from Division 152, Brotherhood of Locomotive Engineers, located at Oswego, N. Y., desiring my support.

A similar telegram from Division 59 of the Brotherhood of Locomotive Engineers at Albany.

A similar telegram from Division No. 14, Brotherhood of Locomotive Engineers at Utica.

A similar one from Subdivision 58, Brotherhood of Locomotive Engineers, of Oneonta.

A similar one from Division 15, Brotherhood of Locomotive Engineers, of Buffalo.

A similar one from Division 641, Brotherhood of Locomotive Engineers, of Hornell. It says:

> Comprising 100 members, unanimously request you to use your influence and please support Senate bill 5382, known as Federal compensation bill, as it is of vital importance to us.

Another from Harlem Division 783, Brotherhood of Locomotive Engineers, of Harlem, N. Y.

Another from D. F. Wait Lodge, of Railroad Trainmen, representing 800 men. They say:

> We urge upon you to use your best efforts to further the advancement of Senate bill 5382. We heartily approve of same and trust that your efforts for its passage will meet with success.

Another from Parlor City Lodge, Brotherhood of Railroad Trainmen, of Binghamton, to the same effect.

Another from Schenectady:

The undersigned, representing nearly 600 men employed in railway service, respectfully urge you to lend your favorable assistance toward the passage of Senate bill 5382. Our membership is more interested in this bill than in any proposed legislation in many years.

Another from Lodge 829, of Railroad Trainmen in Brooklyn, N. Y.

Another from Walton Lodge, Brotherhood of Railroad Trainmen, to the same effect.

Another from Lodge 186 of Railroad Trainmen saying:

Our membership—307—earnestly solicit your support for the passage of Federal workmen's compensation bill, No. 5382.

A letter from the International Brotherhood of Locomotive Engineers, Division 41, at Elmira, N. Y., saying:

I have been instructed to write to you in behalf of Division 41, Brotherhood of Locomotive Engineers, and request you to support the Federal accident compensation bill.

From the W. C. Hayes Division, No. 732, Brotherhood of Locomotive Engineers, of Port Jervis, N. Y., saying:

The members of W. C. Hayes Division, No. 732, Brotherhood of Locomotive Engineers, at their meeting held April 12, 1912, directed me in their behalf to urge your support of the measure known as the workmen's compensation act introduced by Senator SUTHERLAND (No. 5382).

Another from Syracuse, N. Y., saying:

At a regular meeting of this division, held April 7, 1912, the following action taken, that we ask you to give your support to help the passage of Senate bill 5382.

That was from the International Brotherhood of Locomotive Engineers. Another from Electric City Division, No. 382, Brotherhood of Locomotive Engineers at Buffalo, asking support of this bill; another from Albany Division, No. 46, asking support for it; another from Champlain Division, No. 217, of the Brotherhood of Locomotive Engineers, saying:

We earnestly believe the proposed law a most meritorious piece of legislation, and we trust it will receive your assistance.

Another from the Brotherhood of Railroad Trainmen in Utica, saying:

The above-named lodge would like you to favor the Federal accident compensation bill introduced by Senator SUTHERLAND.

A letter from Watervliet, N. Y., saying:

Being one of your constituents and a railroad man for a number of years and a member of Trojan Lodge, No. 90, Brotherhood of Railroad Trainmen, and having heard Senate bill 5382, introduced by Senator SUTHERLAND, discussed on several different occasions, I believe the bill, if made a law, would be beneficial to all concerned, as it would stop the waste of money under the present system.

I have traveled quite a few hundred miles in the past four months in different States and have heard railroad men generally discuss the bill and they all favor it.

I believe your support of this bill would be appreciated by the working people of your State.

Another from Trojan Lodge, No. 90, Brotherhood of Railroad Trainmen, at Troy, asking me to do everything in my power to secure the passage of the bill, and saying:

As at our previous meetings the bill was read and freely discussed. There were at this meeting 317 members, who unanimously instructed me to make the above request.

You will perceive, sir, that this letter from Trojan Lodge, No. 90, shows that the bill was up for consideration and was discussed at successive meetings, and that as the result of those successive discussions the 317 members voted unanimously, requesting that the bill be passed.

Another from the Brotherhood of Railroad Trainmen at Albany, saying:

We, as the representatives of a membership of 10,000 trainmen in the State of New York, do most earnestly request you to use your best efforts in securing a favorable report from the committee and the passage of the bill through the Senate.

Another from the Brotherhood of Railroad Trainmen of Newburgh to the same effect; another from the Brotherhood of Railroad Trainmen at Rochester, saying:

We, the president and secretary, on behalf of Genesee Lodge, No. 289, Brotherhood of Railroad Trainmen, which has a membership of 198 citizens of the State of New York, wish to take this opportunity to respectfully urge upon you, and through you the Senate of the United States, to use your influence and vote in an effort to have the pending employers' liability and workmen's compensation bill enacted as a law. The statements of our grand president, Brother Lee, we hope have convinced you that there is need of such a bill without any reiteration of those statements from us; but as we are on the ground and almost daily come in contact with these cases, namely the robbery of the corporations who employ us, as well as the needy and sometimes destitute families of the killed or injured, by these shyster law firms and lawyers. We therefore have personal knowledge that there is need for such legislation.

Another, from G. M. Hallstead Division, No. 434, Brotherhood of Locomotive Engineers, to the same effect; another, from the Locomotive Engineers of Rensselaer Subdivision, No. 752, to the same effect; another, from the Brotherhood of Locomotive Engineers, No. 18, at Rochester, asking support of this bill; another, from Thomas Dickson Division, No. 171, Order of Railway Conductors, saying:

The railroad men for years have fought, worked, and died in their endeavor for such legislation as is covered by Senate bill 5382.

We need the protection that this law would give us. May we not hope for your support of the measure?

This organization is unanimously in its favor and are confident that while railroad companies are compelled to give us this protection they will not, in the aggregate, be great sufferers as against present methods under existing laws.

Another, from Corning Lodge of the Brotherhood of Railroad Trainmen, saying:

As treasurer of Corning Lodge of the Brotherhood of Railroad Trainmen, I ask you to lend your assistance toward the passage of Senate bill No. 5382. I know our membership generally is more heartily in favor of this legislation than in any bill that has been proposed in several years.

Another, from the Empire City Lodge, No. 167, Brotherhood of Railroad Trainmen, to the same effect; another, from Watertown, N. Y., from the members of Brotherhood of Railroad Trainmen, Lodge No. 48, saying:

The members of the Brotherhood of Railroad Trainmen of Watertown Lodge, No. 480, are specially desirous that the Federal workingmen's compensation bill be passed, and ask you to lend your assistance toward the passage of the said bill (S. 5382). Our membership generally are more interested in the passage of this bill than any that has been proposed for a number of years.

Another from Binghamton Division, No. 154, Order of Railway Conductors, saying:

At a regular meeting of Binghamton Division, No. 154, Order of Railway Conductors, a resolution was unanimously adopted that it is the sentiment of this division that they are in favor of the bill introduced in the Senate as S. 5382.

Another from the Frontier City Division, No. 167, of the Order of Railway Conductors, to the same effect; another from the Brotherhood of Railway Trainmen at Mechanicsville, N. Y., to the same effect; another from the Brotherhood of Railroad Trainmen, Now or Never Lodge, No. 517, saying:

NOW OR NEVER LODGE, No. 517,
BROTHERHOOD OF RAILROAD TRAINMEN,
April 7, 1912.

Hon. ELIHU ROOT,
United States Senate, Washington, D. C.

DEAR SIR: Senate bill 5382, known as the workmen's compensation bill, introduced by Mr. SUTHERLAND, of Utah, is now before the branch of the Legislature of which you are a member for consideration.

I represent Lodge 517 of the Brotherhood of Railroad Trainmen, composed of 592 members, all of whom work on the Long Island Railroad. We are more interested in this legislation than in any bill which has been introduced for many years and are very anxious that it should become a law.

If this bill is passed the men who are injured while working will receive damages to an amount fixed by law. There will be no necessity of expensive and tiresome litigation. The injured men or their families will not be compelled to accept what they are offered by the company in whose employ they were injured, because they have not the means of securing just compensation through a lawsuit.

I hope you will view the passage of this bill favorably.

Another from the Champlain Division of the Brotherhood of Locomotive Engineers, at Whitehall, N. Y., to the same effect.

Mr. LODGE. Would it interrupt the Senator for me to make a suggestion at this point?

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Massachusetts?

Mr. ROOT. Certainly.

Mr. LODGE. I merely wanted to say, Mr. President, that I have had a great many letters and telegrams of precisely the same character as those read by the Senator from New York. I had some of them printed on the 16th of April in the CONGRESSIONAL RECORD. One of the first is from Mr. H. H. Wilson, who was chairman of the legislative board of the Locomotive Engineers in my State. I know him very well personally. Two years ago he was badly injured when on duty on his locomotive by an explosion of steam, but he managed to bring his train in safely without injury to anyone else. I mention that because he is a man who has been through a serious accident.

In the same way I know very well the man who represents the legislative board of conductors in Massachusetts, and he also writes a letter on the subject. The communications from those men, Mr. President, and all the other letters that I have read and have had printed with them show that those men know exactly what this bill is and that they know exactly what they are talking about. They discuss the details of the bill; they are anxious for the establishment of the principle which the bill contains; and as we have been speaking about the feeling in the different States, I have received scores of letters and telegrams from men of that character, thoroughly informed as to the subject, while I have not received one syllable of opposition from any railroad man in my State.

Mr. WORKS. Mr. President——.

The PRESIDING OFFICER (Mr. TOWNSEND in the chair). Does the Senator from New York yield to the Senator from California?

Mr. ROOT. Certainly.

Mr. WORKS. I should like to supplement what the Senator from New York [Mr. ROOT] has said on this branch of the sub-

ject by saying that I have received numerous telegrams from my State, not only from individual employees of the railroad companies, but from organizations, and that I have received just one telegram in opposition to the bill.

I want to say, in addition, that I favor this bill because I believe it to be just and fair in principle. Whether the details will all work out justly and fairly will have to be determined by putting it in operation. I am not supporting it alone because the railroad employees of my State have asked it, but because the bill appeals to my own judgment, and I am not going to hold them responsible for the mistake, if there is any mistake, in enacting it.

Mr. ROOT. Mr. President, the Senator from California has stated much better than I have been able to state the precise attitude which I occupy toward this proposed legislation. It is not because these constituents of mine, to whose communications I have referred, ask for it, but it is because I believe the bill to be wise and just, and their communications confirm me in my belief that it is wise and just, that I am for the bill.

I know many of these men, Mr. President. I know that there is no more intelligent set of men in this country than the railroad trainmen, the railroad conductors, and the locomotive engineers, from whom these communications come. Let nobody make the mistake of supposing that they do not understand their business, of supposing that they have called for the passage of a bill without having given most careful, thorough, and intelligent consideration as to the effect it is going to have upon them and their families. There is nothing stereotyped about these communications. No manufacturer ever studied a tariff law to determine whether he would be for it or against it with greater solicitude and greater intelligence than have these men studied this measure. When I find the members of these organizations, scattered all over the country, employed on a dozen different railroads, expressing the same conclusions which the heads of their organizations have expressed and which their legislative representative has expressed, I feel pretty confident that I have not made any mistake in my judgment that this measure is a wise one for the labor side of the interest involved.

Mr. President, as to the make-up of the bill, it is a difficult thing to draft a bill that will be just, and it is an easy thing to destroy a bill that relates to a complicated subject and involves delicate adjustment. I do not say that any amendment of which we have notice, that any amendment that will be offered, will be for the purpose of defeating this bill, but I do say that any bill that involves a complicated and delicate adjustment like this can be defeated by amendment. I do say that the offering of numerous amendments to a bill of delicate adjustment is a most common and ordinary method of defeating such a bill. I do say that this bill can not be made over successfully on the floor of the Senate or on the floor of any legislative body. Its provisions to be effective and just must be carefully and deliberately studied in committee, and I do say that there is only one way for those who are in favor of putting the principles of this bill into our statutes to accomplish that purpose, and that is to stand by this bill as it is and to prevent its being torn to pieces by amendment. For that reason I shall vote against the amendments which have been proposed and which are to be proposed, except in so far as they commend themselves to the judgment of the gentlemen who have studied this bill week after week and month after month and who are familiar with all the balancing considerations which have led to the present adjustment.

I believe that the true dictate of wisdom for all persons who can be affected by this legislation is expressed in an article in the Railroad Trainman, the organ of the Brotherhood of Railroad Trainmen, in the issue for May of the present year.

Mr. CHAMBERLAIN. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Oregon?

Mr. ROOT. Certainly.

Mr. CHAMBERLAIN. I merely desire to call the attention of the Senator to the fact that the editor of that magazine, who is an old railroad man himself, was a member of the commission.

Mr. ROOT. Precisely so. The editor is Mr. D. L. Cease, who was a member of the commission representing the labor point of view. This article says:

> The chief purpose of the commission, and we believe of the thinking members of the railroad organizations, is to secure the enactment of the law and the establishment of its principles by our courts. Afterwards, if the amounts are found to be inadequate, it will then be within the province of the railway employees of this country to amend the law and abolish objectionable features that may be found and increase the amounts provided in the proposed law.

I suppose he means it will be within their province to ask Congress to amend the law.

The attitude of the American Federation of Labor, as exhibited in their official organ, the American Federationist, for May, 1912, is in substance the same. They say:

> The House Committee on the Judiciary ordered the Howland bill—

The Howland bill is a bill of the same character, relating to Government employees generally—

> ordered the Howland bill favorably reported out of committee on April 11. This is a very fortunate circumstance, and will be instrumental in obtaining a uniform basis of benefits for Government employees and for employees of common carriers, and while it may be said that the scale of benefits are, comparatively speaking, small, yet the fact remains that this scale is greater than that provided by any of the State laws or by any of the laws in vogue in foreign countries, and if it is found that the scale of benefits are too low they can be increased at a future date by amendment to the act.

So, Mr. President, if it appears that the estimates of cost to the railroad companies are not substantiated by experience under the law, the law can be modified to conform to the actual facts as they are ascertained. At present the important thing for every man who believes in substituting this new system for the old, vicious, wasteful system under which we have been living is to pass this bill as it is, exhibiting, as it does, the best judgment and the most painstaking inquiry and thought of our own associates, with all the assistance that it was possible to get in our country—to pass this bill and depend upon the experience under the bill to determine what modification, if any, it may require.

Mr. NEWLANDS. Mr. President, I shall vote for the pending bill, first, because it accords with the convictions of many years regarding the best method of establishing industrial peace between the railroad corporations and their employees, and, second, because as a measure of peace it has received the support of the organizations of railroad employees in my State and, I believe, throughout the country. I have received many telegrams and communications from officials and members of various railroad organizations in my State regarding this bill, and all urge its adoption as the most important measure that has been produced affecting the interests of railroad employees. I have not received a single communication protesting against it. I ask leave of the Senate to insert in the RECORD some of these telegrams and communications.

The PRESIDING OFFICER (Mr. GALLINGER in the chair). Without objection, that order will be made.

The letters and telegrams referred to are as follows:

WINNEMUCCA, NEV., *March 29, 1912.*

Hon. E. E. ROBERTS,
Member of Congress.
Hon. GEORGE S. NIXON,
United States Senator.
Hon. FRANCIS G. NEWLANDS,
United States Senator, Washington, D. C.

SIRS: We, the undersigned, members of Harry Wilson Lodge, No. 313, Brotherhood of Railroad Trainmen, urgently request that you lend your assistance and influence in the passage of the bill known as the Federal accident compensation act, introduced in the House of Representatives by Representative BRANTLEY as bill No 20847, and introduced in the Senate by Senator SUTHERLAND as bill No. 5382.

We also desire to correct any impression that may have been urged upon you in reference to the railway employees not being interested in the passage of this legislation, and earnestly request that you give this measure whatever aid you consistently can.

I have the honor to be, sirs,

Your obedient servant,

F. M. AYERS,
General Chairman, Brotherhood of Railroad Trainmen.

JAMES RITCHIE,	R. CALIHAN,
J. W. DAVY,	GEO. GINGERY,
N. P. MORE,	T. D. LA POINT,
J. N. HOHN,	L. D. BRADY,
J. C. GRAMLEY,	THOMAS FOX,
E. FREIDLEIN,	W. C. GAASH,
S. R. COULTER,	J. D. REED,
C. P. CALVERT,	E. THOMPSON,

Members of Harry Wilson Lodge, No. 313, Brotherhood of Railroad Trainmen.

—

ELKO, NEV., *April 8, 1912.*

Hon. F. G. NEWLANDS,
Washington, D. C.

In behalf of Division 794, Brotherhood of Locomotive Engineers, I earnestly request that you use all honorable means to have the workmen's compensation bill become a law.

Yours, truly,

H. L. CASE,
Secretary-Treasurer Division 794, Brotherhood of Locomotive Engineers.

—

WINNEMUCCA, NEV., *April 9, 1912.*

Hon. FRANCIS G. NEWLANDS,
Senate, Washington, D. C.

Members of Harry Wilson Lodge, No. 313, Brotherhood of Railroad Trainmen, respectfully request you give Senate bill No. 5382 your earnest consideration. Workingmen more interested in this bill than any other for years.

C. P. CALVERT, *Secretary.*

—

SPARKS, NEV., *April 9, 1912.*

Senator FRANCIS G. NEWLANDS,
Washington, D. C.

Division 158, Brotherhood of Locomotive Engineers, located at Sparks, Nev., earnestly request that you use your best efforts to urge the

passage of Senate bill 5382, known as the Federal accident-compensation bill, as we believe it is the most important legislation that has come up for years.

By order of the division.

J. A. ROSS, *Secretary-Treasurer.*

—

SPARKS, NEV., *April 8, 1912.*

Senator F. G. NEWLANDS,
Washington, D. C.

Meeting this day, Brotherhood of Railway Trainmen, 170 members, passed unanimous resolution urging you to do all in your power to support Senate bill 5382; House of Representatives, 2047. Our membership is more interested in this bill than any that has been proposed for a number of years.

G. HOLLAND, *President.*

—

ORDER OF RAILWAY CONDUCTORS, DIVISION 94,
Sparks, Nev.

Hon. FRANCIS G. NEWLANDS,
United States Senate, Washington, D. C.:

DEAR SIR: I am instructed to write and earnestly request you to use your influence and vote in favor of workmen's compensation bill, H. R. 20487.

Very truly,

FRANK HART,
Secretary Division 94, Order of Railway Conductors.

—

DEATH VALLEY LODGE, No. 781,
BROTHERHOOD OF RAILROAD TRAINMEN,
Las Vegas, Nev., April 2, 1912.

Hon. F. G. NEWLANDS,
Washington, D. C.

DEAR SIR: After years of agitation and strenuous effort on the part of labor organizations to secure an equitable workmen's compensation law through Congress, a bill has at last been introduced in the Senate as S. 5382, by Senator SUTHERLAND, and in the House as H. R. 20487, by Mr. BRANTLEY.

This bill, coming up at the next session of Congress, will no doubt meet with strong opposition and protest on the part of railroad companies, and in order to become a law will need true and loyal support to watch and push its progress.

Mr. NEWLANDS, you have during your stay in the Senate shown fair and courteous treatment to the man who labors and toils for a living. This bill is of vital importance to us, and, with this one object in view, I write to you to investigate same, and hope you will intercede in its behalf and favor so as to become a law.

Will you kindly acknowledge receipt of this letter, and oblige?

J. S. ROBERTS,
Secretary, Box 32.

Mr. NEWLANDS. I remarked that this bill accords with my convictions long entertained. Six years ago I offered in the Senate a bill for the national incorporation of the great systems of interstate railways. In that bill I endeavored to shape just provisions relating to the stockholders, the shippers, and the employees of the railway systems. One important provision of that bill—the most important in addition to the one providing for a board of conciliation—was the provision for an accident and insurance fund for the employees of the great interstate railway systems. It provided that 1 per cent of the gross receipts of the interstate railways should go into a fund in the Treasury for the payment of allowances to employees who were disabled, either by accident or old age, and provided that the Interstate Commerce Commission should establish the rules and regulations under which relief from this fund should be given.

In advocating this national incorporation bill in a speech, delivered April 4 and 5, 1906, I said:

A national incorporation act should also provide for an insurance fund. We all know that in every State in the Union the employees of railroads are pushing legislation fixing the liability of corporations for injuries to employees, even though caused by the negligence of fellow employees. There is constant warfare between the railroads and their employees upon this question, and it is another fruitful source of the activity of railroads in politics. In order to protect themselves, they are omnipresent in all the legislatures of the country upon this subject. It seems to me that we should frankly recognize such liability as a charge upon the transportation of the country. There should be a fund created to aid those employees who are disqualified for active service by accident or old age by providing that the national corporations should pay into the National Treasury 1 per cent of their gross receipts, which, under the present system, would amount to about $20,000,000 annually.

This fund should be invested by the Interstate Commerce Commission in interest-bearing securities, and the Interstate Commerce Commission should frame rules and regulations with regard to its payment to the employees disqualified either by age or by accident. This $20,000,000 would not be taken from the profits of the stockholders, but would be imposed upon the commerce of the country as part of the operating expenses of the companies. In this way we would do much to relieve the present hostility between the corporations and their employees regarding this matter, and we would do much to protect the men who are engaged in this public service of an extra hazardous character.

Later on in 1906, when an amendment to the bill to regulate interstate commerce was offered, relating to employers' liability, I announced that I would favor the amendment, but that I regarded all legislation relating to contributory negligence, the negligence of a coemployee, and to employers' liability as a brutal way of dealing with the entire subject. In that speech I went on to say:

When an employee is injured he must commence a suit against the railroad company. He must employ a lawyer, to whom he gives an agreement entitling him probably to 50 per cent of the judgment. Railroads make a business of contesting almost all these cases, for they fear if they do not they will be subjected to infinite litigation.

* * * * * * *

I can understand how a railroad, as a matter of settled policy, would contest these cases, for oftentimes the suits are exaggerated as to the amount claimed; the services of unscrupulous lawyers are obtained; a popular prejudice is aroused; and as a result of this system, the railroads often feel themselves compelled to defend all cases lest the settlement of one would only be an invitation for the commencement of another. So, also, when a man is killed, his representatives are compelled to sue, and they go through the same long and weary process, failing in proper relief to the employee or his representatives, and resulting largely in vexation and harassment to the corporation.

I believe that the Congress of the United States, in dealing with interstate commerce, should recognize the hazardous nature of the occupation, should recognize these injuries as incident to the occupation, and should provide a pension and insurance fund by these corporations which will automatically take care of these cases and relieve the courts of their determination.

In another part of this speech I urged that the charge should not be imposed in whole or in part either on the employees or the shareholders of the corporation, but that it should be frankly imposed upon the transportation of the country as one of the expenses of operation.

Later on, in 1908, the question of compensation for injuries to Government employees came up, and with reference to that subject I said:

I have to say on that subject that I regard any amendment to this bill which will turn over the liability of this Government to an employee for injuries received to the determination of a court of justice really inflicts a cruelty upon such employee. I can imagine an ideal administration of justice without delay, without expense to the litigant, but unfortunately we have not such ideal conditions for the administration of justice; and to give an employee a mere right to bring a lawsuit is no substantial relief. We all know how such lawsuits are conducted; that the injured employee is usually without funds to pay an attorney; that he is oftentimes compelled to make a contingent arrangement with an attorney, and is oftentimes obliged to divide with him the amount of a possible judgment. Oftentimes at the end of the litigation the injured employee will receive little or nothing, the entire judgment being absorbed in counsel fees and the expenses of litigation.

In addition to that is the hardship of delay, more demoralizing to an employee than anything that can be conceived of, for, relying upon a possible realization of a judgment, he is likely to neglect his business, and thus he becomes a mere expectant of fortune, abandoning his occupation for the chance of a future realization.

And in another place in this speech I said:

The occupation is a hazardous one. The service is paid for by the public, and there is no reason why the public should not pay a charge in proportion to the hazard of the occupation, that charge to go into an insurance funds for the compensation of the employees.

I have not as yet been able to secure consideration by the Senate of this national incorporation bill to which I have referred, but I hope that some day that bill or the provisions of that bill will be substantially incorporated in the law. I should have preferred the method pointed out by that bill of dealing with this subject. I should have preferred that 1 per cent should be levied upon the gross receipts of all the railway companies for this purpose. At the time the bill was introduced 1 per cent of the gross receipts would have been about $20,000,000. To-day 1 per cent of such gross receipts would amount to $27,000,000 annually. I would prefer to turn over the administration of such a fund to the Interstate Commerce Commission, under rules and regulations provided by it, for that commission would have an easy and informal way of conferring with the different railway organizations of the country, and could from time to time make such readjustment and reapportionment of the allowances made under it as would be just according to existing conditions.

One fault I have to find with this proposed act is that it will be difficult hereafter to make any amendment to any of the provisions, for such an amendment would require careful inquiry before the committees of both Houses and the action of Congress. I think it would be much better to leave such matters to the rules and regulations of the Interstate Commerce Commission, for the reason that that commission is gaining a constantly increasing knowledge of the problems that relate to transportation, and that all these problems are interrelated in determining the question of the reasonable charge. I believe that the commission should have control not only of the rate making, but of all the factors that relate to rate making, such as the determination of stock and bond issues, the valuation of the roads, the allowance for operating expenses, including allowances made to disabled employees, and how that they should above all have control over the great question of conciliation between the railroads on the one hand and the employees upon the other.

But, Mr. President, whilst I would prefer the method of adjusting these matters which I have suggested, I regard the bill which has been presented and which has the support of the railroad organizations as a vast improvement upon existing law, and I shall, therefore, support it as a measure intended to promote industrial peace and to produce more harmonious rela-

tions between the railroads and their employees than those which have hitherto obtained.

I must confess, Mr. President, that I am somewhat embarrassed regarding some of the amendments which have been introduced to this bill, amendments which by themselves I would be disposed to favor, in so far as they increase the allowances made for certain disabilities provided for by this bill. But I am conscious of the fact that this is a bill of nice adjustment, and that it is extremely difficult in a body of this kind, of such large membership, to produce the readjustments that will maintain the general harmony and proportion of the bill.

The bill does not cover disability caused by long service and old age and does not in its entirety carry sufficient money. I think that at least 1 per cent of the gross receipts of the corporations should be devoted to the humane purposes of guarding against disability caused either by accident or old age, and 1 per cent would be $27,000,000 annually, judged by the present receipts, instead of $18,000,000 carried by this bill. But I am conscious of the fact that if each Member of the Senate should seek to insert in the bill his individual convictions as to a particular compensation or as to a particular disability, serious disharmony may be produced which may imperil or delay the measure.

So far as the communications which I have received are concerned, not one suggests an amendment. The bill as framed is recommended by the labor leaders. A representative of the railway employees organizations was a member of the commission that framed it. I shall therefore feel content, unless some amendment is offered which I regard as of overwhelming importance, not to destroy the general proportion and adjustment of this bill. I shall vote against recommitting the bill to the Judiciary Committee or any postponement of its consideration such as has been proposed. It is late in the session, and as the tariff, the appropriation bills, and other important measures are pressing, delay may imperil action at this session. The bill will go from this body to the House of Representatives. Doubtless the very able, searching, and thorough discussions which it has been our good fortune to listen to will go to the entire country, will be considered by the officials of the railroad organizations, will be debated in these railroad organizations themselves, and later on in the House committee there will be opportunity for some expression from them upon this important subject. All that I can say, from the communications which I have received from these organizations and their members thus far, is that they regard the principle as so essential and so immediately important that they would not welcome any advocacy of changes that would imperil the bill or even delay it. And so, Mr. President, my inclination will be not to vote for any of the amendments offered to this bill, however meritorious I may regard them individually.

Mr. REED obtained the floor.

Mr. BRYAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Florida?

Mr. REED. I do.

Mr. BRYAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Florida suggests the absence of a quorum. The Secretary will call the roll.

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

Bacon	Cullom	Lippitt	Root
Borah	Cummins	Lodge	Sanders
Bradley	Curtis	McCumber	Shively
Brandegee	Davis	McLean	Simmons
Briggs	Dillingham	Martine, N. J.	Smith, Ariz.
Bristow	du Pont	Nelson	Smith, Ga.
Brown	Fall	Newlands	Smoot
Bryan	Fletcher	Nixon	Stone
Burnham	Foster	Oliver	Sutherland
Burton	Gallinger	Overman	Swanson
Catron	Gore	Owen	Thornton
Chamberlain	Guggenheim	Page	Tillman
Clapp	Hitchcock	Paynter	Warren
Clark, Wyo.	Johnson, Me.	Percy	Williams
Clarke, Ark	Johnston, Ala.	Perkins	Works
Crane	Jones	Pomerene	
Crawford	Kern	Reed	
Culberson	Lea	Richardson	

The PRESIDING OFFICER. Sixty-nine Senators have answered to their names. A quorum of the Senate is present. The Senator from Missouri is recognized.

Mr. STONE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to his colleague?

Mr. REED. I do.

Mr. STONE. Before my colleague proceeds, I will ask permission to have read, in the nature of a preface to his remarks, a letter which I received this morning.

The PRESIDING OFFICER. Without objection, the letter will be read, as requested.

The Secretary read as follows:

ANCHOR LODGE, No. 54,
BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN,
Moberly, Mo., May 4, 1912.

Hon. W. J. STONE,
United States Senate, Washington, D. C.

DEAR SIR: At a regular meeting of Anchor Lodge, No. 54, Brotherhood of Locomotive Firemen and Enginemen, at Moberly, Mo., May 2, 1912, the lodge considered House bill, known as employees' liability and compensation bill. This lodge represents 250 engineers and firemen.

The lodge voted unanimously their disapproval of this bill in its present form, and instructed the secretary to respectfully request both United States Senators and our Representative in Congress to oppose this bill. There has been an effort to convince the labor organizations of the country that this measure is in the interests of labor, and to conceal the real results of the passage of such a law, especially, that it deprives injured employees of the constitutional right of a trial by jury, and deprives him of the benefits of all existing laws.

First. We are opposed to any repeal of the Federal employees' liability act now in force and recently held valid by the United States Supreme Court.

Second. We are opposed to any bill that deprives employees of their right to try their cases in State courts, or that deprives us of a right to a jury trial.

Third. We are opposed to the extension of Federal jurisdiction over the railroad employees. We are opposed to the appointment of Federal adjusters or Federal physicians to determine controversies.

Fourth. We are opposed to the unreasonable limitations upon the amount of recovery.

Fifth. We recognize that there are many provisions of the law whose interpretations and efforts can not be foreseen. It would throw the whole matter in a state of chaos.

Sixth. We do not know, and doubt whether any lawyer knows whether the bill would be constitutional at all or not. We are opposed to experiments that might deprive us of any recovery at all for years.

Seventh. We denounce the measure as it stands as a railroad measure, designed to deprive us of the fruits of many years battle for a fair liability legislation.

We believe that mostly, if not all, labor organizations who have indorsed this measure have done so under false representation. When once the provisions of this bill are understood, especially that it is exclusive of any other remedy, State or Federal, no one can support it except through a disposition to lessen liability.

The members of this lodge are watching with interest the debate upon this bill, and will appreciate all effort to defeat it.

Very respectfully,

[SEAL.] R. L. MAXWELL.

Mr. BRYAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Florida?

Mr. REED. I do.

Mr. BRYAN. I have several amendments which I propose to offer before the vote is taken, and now take advantage of the courtesy extended to me by the Senator from Missouri to explain the amendments. I propose to offer three amendments, whose aim is to extend the period of limitation fixed by this act from six months to two years.

Those amendments propose to strike out the words "six months," in line 21, on page 20, and to insert in lieu thereof the words "two years"; on page 21, line 20, strike out "six months" and insert "two years"; and on page 22, line 1, strike out "one year" and insert "two years."

Then again, on page 29, section 20 of the bill provides that the monthly wage shall be considered as 26 times—

the established day's pay prevailing in the business of his employer for the class of service for which such employee was receiving pay.

Now, in each class of service men are drawing different wages, and it seems to me it would be more fair to take the wage the man himself was receiving, and if injured or killed that the compensation should be based upon the salary he was receiving, irrespective of the salary received by the particular class to which he belongs.

Again, on page 20, section 22, I offer an amendment to strike out the words "such injured employee," page 37, line 1, and insert in lieu thereof "an employee entitled to compensation under clause E of section 21." I do that for the reason that it is not stated in this bill whether the employees there intended to be cared for are those suffering from a partial disability or from total disability. I understood the Senator from Utah to construe that provision as applying only to employees suffering from partial disability.

It was the contention of the Senator from Georgia [Mr. SMITH] and the Senator from Missouri [Mr. REED] that the language "such injured employee," as appears in section 22, would be applicable to those suffering from total disability as well as to those suffering from partial disability. It was the intention of both the Senator from Utah and the Senator from Georgia that it should not apply to those suffering from total disability, and this amendment simply makes that certain.

Then, again, on page 38 of the bill, I will offer an amendment to strike out lines 9 to 14, which read as follows:

Second. By deducting from such amount a sum equal to the payments for the period between the accident and the death, which, if the accident

had immediately resulted in death, the employer, by reason of the happening of any of the contingencies mentioned in clause (A) of section 21, would have been relieved from making.

I shall move that amendment for the reason that it seems, when you have taken and computed the amount which dependents would have received if death had been immediate, and taken from that amount the amount which the employee himself had received, in justice there should be no further deduction from the total amount to be allowed to the dependents.

Mr. DAVIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Arkansas?

Mr. DAVIS. I did not know the Senator from Missouri has the floor.

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. REED. Did the Senator from Arkansas want to put in some telegram?

Mr. DAVIS. I have here just a couple of telegrams that I wanted to offer.

Mr. REED. I yield for that purpose.

Mr. DAVIS. I do not care to have them read, but merely printed in the RECORD.

The PRESIDING OFFICER. Without objection, that order will be made.

The telegrams referred to are as follows:

LITTLE ROCK, ARK., *May 4, 1912.*

Senator JEFF DAVIS,
Raleigh Hotel, Washington, D. C.:

Just read extracts from your speech delivered in Senate yesterday in opposition to proposed workmen's compensation bill and heartily concur with you in the objections you set forth. Have made careful analysis of proposed bill and have before me concise report of the commission that drafted bill, also President Taft's special message recommending its passage. I trust that it will meet its Waterloo next Monday if vote is taken. Large majority of well-informed railway employees that have given this bill careful consideration in this vicinity have repudiated its entirety.

W. E. PEARSALL.

LITTLE ROCK, ARK., *May 6, 1912.*

Senator JEFF DAVIS, *Washington, D. C.:*

Railroad men in Arkansas are practically in unit against employees' compensation bill. Our orders have wired CLARKE and other Senators.

LEE FARRABEE.

Mr. REED. Mr. President, I do not intend to take much time, but before this debate closes it seems to me one or two matters ought to be cleared up. In the first place, I protest against the doctrine advocated by the Senator from New York [Mr. ROOT] that the employees of railways should be put upon the same basis as the machinery and rolling stock of the road. I do not concur in the idea that the flesh and blood engaged in railway transportation shall be thus regarded and treated. I do not believe that modern legislation has advanced to that point where human beings can be placed in the same category with inert matter. I do not assent to that doctrine because it is inhuman and revolting to every sense of right and to every sentiment of the heart.

But if we were to eliminate the humane thought we would, nevertheless, not be able to justify that kind of argument, because the rolling stock and the roadbed have no legal rights to be affected, while the great mass of men coming within the purview of the present bill have legal rights both at common law and under the statutes of the United States and of the several States.

This bill has to be approached from some other standpoint than the one advanced by the Senator from New York. We must understand, to begin with, that we are not only dealing with human beings, but we are dealing with the legal rights of those human beings, and that the first proposition contained in this bill is to deprive the railroad men of this country of their present rights under the law.

I desire, Mr. President, to clear up another statement, not only made by the distinguished Senator from New York, but by other Senators, and apparently concurred in by many men, that this bill abolishes trials in court, because it fixes the amount to be recovered. That is a statement which has been constantly asserted here upon the floor of the Senate, that has been sent broadcast throughout the land, and that is absolutely without any foundation whatever to stand upon.

This bill does provide the amount which is to be paid for the loss of a hand or of two hands, or a foot or of two feet, or of a leg or of two legs, of both ears, of both eyes, and of one eye. At about that point the fixed amount ceases to be operative. Yet it is a fact not only sustainable by statistics, but one of common observation, that the injuries specified do not cover one-tenth of the injuries suffered by railway men. To illustrate, suppose a man's jaw is broken. Suppose a man is disfigured for life. Suppose a man's chest is crushed. Suppose a man's back is injured. Suppose a man's heart action is interfered with. Suppose a man's circulatory apparatus is disarranged. Suppose a man is paralyzed in one arm partially.

Mr. President, I can stand here and go through the list of human ills, and they will come before you by the thousand, whereas there are only some 10 or 20 injuries covered by this bill and specific amounts of compensation named.

Now, sir, when you get beyond the 10 or 20 which are specified, the amount of the damage is a thing which must be settled by some tribunal, and it must be settled by a trial of fact, just the same as you settle the identical questions now by a trial of fact. The questions to be determined will be, What is the extent of the injury; how much has it deprived the man of the ability to earn a living; and how long will it last? Every question, so far as the measure of damages is concerned, or the amount of damage is concerned, that now must be litigated in the courts will be litigated under this bill, and every man who is fair understands that to be the case if he has read the bill. So let us have done with the claim that the bill ends litigation. It does not end litigation. It will not even diminish the number of controversies.

That is not all, Mr. President. The bill introduces into the contests a mystery that no legal mind upon this continent can solve. The Lord has not yet made a man so wise that he can draw an instruction under the terms of this bill giving to a jury an intelligible rule of damages applicable to any one of that great class of injuries where the specific amount to be paid is not set forth.

Mr. SMITH of Arizona. Or any injury not mentioned in the bill.

Mr. REED. Or any other injury not mentioned in the bill. I thank the Senator from Arizona.

Why, sir, at common law and under the statutes the matter was sufficiently difficult, and yet the instruction read something like this: In considering the amount of damage the jury may take into consideration the age and the expectancy of life of the injured party, the lessening of his earning capacity, his pain and suffering, the necessary expense for physicians, nursing, medicines, and so forth. That rule was understandable. Let me read you the mysterious rule of damages in this bill.

Mr. CLARKE of Arkansas. While the Senator is looking for that clause may I ask him a question?

Mr. REED. Certainly.

Mr. CLARKE of Arkansas. If an injury should occur that is not described in this bill, would not that be ground for insisting that the provisions of this bill did not apply to it, and the person injured would be remitted to his rights under the existing law?

Mr. REED. No; not as I understand it.

Mr. CLARKE of Arkansas. It is exclusive as to the things it covers, but not exclusive as to the things it does not cover.

Mr. REED. But it has a clause in here which specifies what you are to get for the loss of hearing or the loss of a leg or an arm——

Mr. CLARKE of Arkansas. But it is a compensation bill. That is the dominant idea, and the first idea with reference to its construction that will take place. But if a case should be clearly developed that is not in the terms or meaning of the bill, does the Senator think the party injured would be entirely deprived of all remedy?

Mr. REED. No. The Senator does not understand me or else I do not understand him.

Mr. CLARKE of Arkansas. Probably I am the one at fault.

Mr. CULBERSON. I call the attention of the Senator from Missouri to section 3 of the bill.

Mr. REED. In answer to the Senator from Arkansas I call his attention now——

Mr. CLARKE of Arkansas. I am quite familiar with the general language of the section, but I think the dominant purpose of the bill, that controls the generality of language, is, if it should be developed that an injury had been inflicted for which there is no compensation provided by the bill, the person injured would be remitted to his rights under the existing law.

Mr. REED. I did not make myself plain in my statement. I was perhaps unfortunate in language. There are certain injuries listed and the proposed law states the specific amount which is to be paid in these cases. There is then a general clause which reads:

In all other cases of injury resulting in permanent partial disability the compensation shall bear such relation to the periods stated in subdivision 1 of this clause (D) as the disabilities bear to those produced by the injuries named therein, and payments shall be made for proportionate periods not in any case exceeding 72 months.

That, I take it, was intended to furnish a measure of damages and recovery for those who are not specifically mentioned in the list I have called attention to.

Mr. CLARKE of Arkansas. That is somewhat in the nature of an answer to the suggestion I made. Then either one of two things results—this bill must either provide compensation for the injury or the passage of the bill does not deprive the person injured of his rights as they exist under the present law.

Mr. REED. I agree with the Senator that that would possibly follow. I am not clear on that, but I am speaking now of the uncertainty introduced into the law by this bill.

I say not a lawyer or a judge upon the earth can draw an instruction a jury can understand and which will comply with the section I have just read. For instance, I find that one of my ribs is torn loose from my spinal column and that I am going to suffer from it all my life. Now, what relation does that bear to the clause in the bill that fixes the value of my finger or of my thumb or of my hand or of my foot? How can a jury pile comparison upon comparison and draw deduction after deduction and get at a result? I say that you have not only kept in this bill all the uncertainty as to damages except in the few instances I have referred to, but you have introduced a rule and measure of damages that is beyond the comprehension of any man on this earth.

There is not a Senator here, and there are many learned and able lawyers in this body, who can in a week's time draw an instruction under that clause which will give a jury a fair guide and that he can assert with any degree of confidence will be within the meaning of the law.

So, Mr. President, the talk that you do not need courts, the talk that you do not need lawyers, under this bill sinks into a condition where it can hardly be said to be respectable.

Moreover, the bill itself gives the lie to that claim, because it provides a vast machinery of the law—trial before an adjuster, trial before the court, the right of appeal, and then the right to reopen the case a dozen times or more for further trials. All the way through the bill we have the machinery of the law provided for. So when these railroad men are being told in one breath, here is a bill that preserves your rights and does away with litigation, and in the next breath are told that their rights are preserved through trials by court, a contradiction which is so plain as to be laughable is manifest.

Mr. President, it was stated here by the Senator from Nevada [Mr. NEWLANDS] that he favored a bill which would permit settlements out of court. It is a consummation devoutly to be wished, but, in the name of high heaven, do we need this bill to create that right? That privilege antedates every court and every law of the world—the right of men to get together and adjust their own differences has always existed and will continue, regardless of the fate of this measure. It is provided here, of course, that certain men can get together and agree, but aside from the bill they can do that. They can do it as well now as they can after the bill is passed.

Mr. SMITH of Arizona. Will the Senator allow me to ask him a question for information?

Mr. REED. Certainly.

Mr. SMITH of Arizona. Does not section 3 so involve the rule of damages as to take away by its insertion in the bill the general rule for damages in the case of accidents? Section 3, as the Senator from Texas [Mr. CULBERSON] called attention to, seems to me to make the rule more involved and to make it impossible to lay down under that section any clear measure of damages that the adjuster or even the court could fix.

Mr. REED. I concur with the view of the Senator entirely. Section 3 wipes out all the legal remedies and leaves us in a new and unexplored field. We must grope our way. Probably the courts will be inclined to look at old precedents for a guide, but their application will be difficult. Not only does section 3 leave us in that uncertain position, but when we come to the rule of damages which is prescribed nobody on earth can understand it.

Mr. SMITH of Arizona. That is what I was speaking about.

Mr. REED. Now, Mr. President, I want to answer another proposition, because it has been asserted here not once but scores of times. It is the plea in confession and avoidance with which we are met every time we point out a defect of this bill, namely, "that, of course, the bill is probably imperfect, but it can be amended hereafter." It does not make any difference apparently how grave is the mistake of the bill, how fraught with danger is a provision of the bill, how clearly that danger is pointed out nor how certain it is to fail, we are met by the argument, "pass this bill in its imperfect shape, and then some day, somewhere, somehow, maybe, we will fix up that mistake."

Senators, what are we here for to-day? I grant you that no perfect law probably has ever been framed by any body of men. But what kind of a proposition is it to advance that because a perfect law has never been framed we should deliberately enact a statute full of imperfections which we now see? What kind of logic is that?

Mr. SHIVELY. Will the Senator yield to me for a moment?

Mr. REED. Certainly.

Mr. SHIVELY. It has been argued here that this is a good measure for the employer and for the employee; that it opens up a method by which adjustments can be made and tedious, expensive litigation avoided. The Senator has just pointed out the dangers and the risks involved in this proposed legislation. If it contains the merit that has been ascribed to it by Senators, then would it not be a good thing to make the remedy elective instead of compulsory? Would not that avoid all the danger and the risk to which the Senator points and at the same time equip the machinery for the application of the rule of compensation?

Mr. REED. And have a test by experience.

Mr. SHIVELY. Yes.

Mr. REED. I agree with the Senator from Indiana, but the point I am making is—and I do not know whether I talk to the deaf ears of the adder or not—that while we may not expect to make a perfect bill, while we must anticipate that imperfections will hereafter be discovered in any law, that affords no reason for passing a bill which we now know is full of imperfections. How will you justify that sort of action? The 10,000,000 people who are to be affected by it will have to live under this law, which you say is imperfect, until it can be amended.

And, sir, I make you the prediction that when you come to amend this bill and strengthen it in favor of these laboring men you will find that concensus of opinion, that agreement of mind, which is now so startlingly exemplified between Mr. Wills claiming to represent the railway men and the president of the New York Central Railway Co. You will not find that concurrence of railway presidents in amending the law you now find favoring the railroading of this bill. I hesitate to use the slang expression—but it will go well with the followers of Roosevelt. If the railroads ever get this strangle hold once upon their employees you will find there will be activity on the part of the railroads against every possible amendment to this bill which is in the interest of the employees.

Now, Mr. President, right there is a good time, I think, and a good place to challenge attention to this peculiar thing. These railroad men, a million six hundred and fifty thousand of them, appear to be represented by just four men, and one of them withdrew from the conference. It appears further that of the three who remained one of them is dissatisfied with the bill. The three did select Mr. Wills to represent them.

So in the last analysis a million six hundred and fifty thousand railroad men in this country and all their wives and all their children have been placed in the care and keeping of Mr. Wills alone.

Now, we have been told on this floor by the Senator from West Virginia [Mr. CHILTON] that which I formerly suspected, that Mr. Wills has made an agreement with the railroads to pass this particular bill without amendment. Conceive, if you can, Mr. Wills in an intellectual contest with the president of the New York Central Railway, with the claim department of the New York Central Railway, with all the skilled lawyers of the New York Central Railway, with the president of the New York Central Railway sitting upon the commission, with his claim agent beside him, and Mr. Willis standing there alone.

I do not reflect upon Mr. Wills. He, I understand, was once an engineer; at least, for a long time he was employed on a railroad. He is a man, I think, with a good average mind, and only a good average mind for that class of people; but when you put him in a contest with the skilled attorneys of these railways, he standing there to represent his men and they to represent their interests and their capital, the contest is as unequal and as uneven as a race between a thoroughbred horse that can trace its ancestry to some flying steed that a thousand years ago spurned the sands of Arabia and a broken-down, overworked plowhorse. Mr. Wills stood no more show than that poor plowhorse.

Now, let us see how shrewd is Mr. Wills, who represents these men. He sent here a letter, which was read to-day by the Senator from West Virginia, demanding that this bill be passed without the dotting of an "i" or the stroking of a "t." He declared the bill to be the best that could be obtained; and yet the Senator from Utah, who is the sponsor for the bill, tells us this very blessed day of grace that here in the Senate, in the face of Mr. Wills's protest, the bill has been so amended that there will be $6,000,000 annually added to the liability of the railway companies—that the benefits the men who are hurt

and their wives and children will receive are by these amendments increased $6,000,000.

What does Mr. Wills think of his judgment, and what do you think of Mr. Wills's judgment, when he protested against any amendment, and yet because of the fight a few of us have made $6,000,000 has already been added for the benefit of the railway men?

Why, if Mr. Wills would pack his grip and go home and leave this bill to the real friends of these men, who occupy this floor, we will do more than add $6,000,000; we will restore to these men their rights under the law, or rather we will preserve those rights to them. The idea of the Senate of the United States sitting here and saying that it is bound to support this bill because Mr. Wills has put his O. K. upon it is preposterous. When did you abdicate the throne of your reason? When did you lay aside your duty to the country and to these men?

It was said here by the Senator from West Virginia [Mr. CHILTON] that the doctrine is acknowledged to-day that "we are our brother's keeper." Well, if I am my brother's keeper I intend to be his keeper to the best of my ability, according to my own judgment, and I do not intend to constitute myself a proxy for the judgment of Mr. Wills or any other one man.

But, sir, how does Mr. Wills stand here before this body? What right has he to speak? He does not represent these organizations directly. He is the legislative agent, we are told, appointed by these three men, and his business is to look after legislation. Let us concede that he represents the three men. Did he or the three men represent the railroad men of this country upon these measures? Sir, it is idle to talk about them representing the men upon these measures, because this bill was not before the men.

I utterly deny and repudiate the assertion that it has ever been put before these men. They are 1,650,000 men scattered all over the United States engaged in their various employments. Have they had the opportunity to examine this bill, to study its merits, and to counsel together? They have been busy running their trains; they have been at their daily toil. It is but 30 days since the bill was reported. It could not be passed upon by those men at this very moment, because it is yet subject to change. They have not seen this bill; they have not had an opportunity to consult about it; and if they had, what will be said to the evidence which was produced here that there is a rule which closes their lips and silences their tongues? What has the Senate to say to the assertion made by the Senator from North Carolina [Mr. OVERMAN], when he stood in his place and said the railroad men had come to the doors of the Judiciary Committee, which had the bill under consideration, and turned back, and said they dared not speak?

My very good friend, the able and genial Senator from Mississippi [Mr. WILLIAMS], said this morning that he had received a large number of telegrams, all in favor of the bill, and he added that those telegrams contained the number of the bill and the name of its author or sponsor. A little further on he made a statement which I do not believe he meant, or else I misheard him, that if those men had recklessly wired him without knowing what was in the bill, they could take the responsibility, and he did not care. Ah, I know better than that, Mr. President. I know the Senator well enough to know that his heart is so kind and his spirit so generous that, even if he got a thousand telegrams of that kind, and he found the men had sent them under a mistake, he would quickly allow them to rectify that mistake.

Mr. President, the Senator did receive that kind of telegrams.

Mr. WILLIAMS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Mississippi?

Mr. REED. Certainly.

Mr. WILLIAMS. Of course the Senator from Missouri does not want to misquote what I said.

Mr. REED. I certainly do not.

Mr. WILLIAMS. What I said was, if they had wired me to support a particular bill, as they did, describing it by number, by title, and by authorship, leading me to believe that they knew what they were doing and had seen it and read it, when they had not in fact done so, they had done, in my estimation, an unfair and dishonest thing with me. That is what I said.

Mr. REED. Well, I will accept that statement. No remark I have made has been intended in criticism of the Senator from Mississippi. I think entirely too much of him to criticize him, even if he were wrong, and he is seldom wrong; but he does not mean what he said just now—that is, he does not mean it in the sense some people might take it, because if Mr. Wills sent a telegram or a letter out to these various societies, and said to these men, "We have got a compensation bill at last, boys; its author is So-and-so and its number is so-and-so"—giving its number and its authorship—and added, "Please wire Senator WILLIAMS to support it;" and they, relying upon Mr. Wills, sent that kind of a message and were mistaken, I know the Senator from Mississippi well enough to know that his generous spirit would not hold them to any grave responsibility nor would he say they had intentionally misled him.

Mr. WILLIAMS. Mr. President, if the Senator from Missouri understood me to say that I shall either support or oppose the bill because these men or anybody else asked me to support or oppose it, he misunderstood me. I did not say that I had supported the bill because they had asked me to do so. I stated the fact that they had asked me, and that I had replied saying that I would study the bill, look into it, and see if it was in the interests of the public, and if I found it was I would support it, and later on I did support it.

Then what I added was that if any body of men anywhere—I will modify it and extend it—if they or anybody else undertook to instruct me in my legislative duty by asking me to support a specific measure which they themselves had not even read, they had done one of two things—they had either acted very unfairly toward me or very stupidly for themselves.

What I say is not that they are responsible for my vote, but they are responsible for their own action. If I had not agreed with them, such telegrams might have been forty times as numerous and I would not have voted for the bill, of course. We were discussing the question as to whether organized labor was in favor of this particular bill, and the Senator from Missouri in a previous speech had made the statement that, while they were in favor of a compensation bill, none of them had ever said they were in favor of this particular compensation bill. It was relevant to that matter that I quoted what had occurred in my own State, and the Senator from Virginia quoted what had occurred in his State.

Now, I should like to ask the Senator from Missouri—it is very general with the people everywhere to undertake to instruct Senators upon their duties and to advise them, and they have a perfect right to do so; of course the Senator ought not to be bound by the instructions or advice unless his own judgment agrees with it, but does not the Senator agree with me, when a man asks me to support a particular measure, describing it so that it can be identified, that that man, if he has never seen the measure and does not know what it contains, has either acted with stupid unfairness to himself or with great unfairness to me?

Mr. REED. No; I can not concur in that last statement, and for this reason: I think the Senator from Mississippi leaves out of consideration the fact that men may, without being stupid, repose confidence in others; and if such men had a statement made to them by some one in whom they thought they had the right to repose confidence, that a bill was proposed which was of great benefit to them, I would not want to say that they were stupid or I would not want to say that they were dishonest if, acting upon that assumption, they sent a message asking for the support of the bill, always believing, as they would have the right to believe, especially when they wired the Senator from Mississippi, that he would not act upon their request blindly, but that he would give to it such consideration as would be warranted by the gravity of the proposition.

I do not care, however, to pursue that further than to say that the very fact that these men, almost before the bill had been reported to Congress, sent in messages specifying its title, its number, and its author indicates to my mind that they were sending those messages in response to an instruction or request from Mr. Wills or from some other person; that from him they got their information, and from him they got their inspiration.

Mr. LEA. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Tennessee?

Mr. REED. Certainly.

Mr. LEA. I have received a great many telegrams like the one to which the Senator has just referred, when the bill was first introduced; but recently I have been receiving telegrams like the one which I shall send to the desk and ask to have read.

The PRESIDING OFFICER. In the absence of objection, the Secretary will read as requested.

The Secretary read as follows:

MEMPHIS, TENN., *May 5, 1912.*

LUKE LEA,
Senate, Washington, D. C.:

Be it resolved by 324 members, Division 175, Order Railway Conductors, Memphis, Tenn., That they are opposed to passage of bill known as employees' compensation act.

Resolved further, That Senators from this State be requested to read this resolution in United States Senate.

F. J. WRIGHT, *Secretary.*

Mr. SHIVELY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Indiana?

Mr. REED. Certainly.

Mr. SHIVELY. I, too, have received many telegrams, resolutions, and petitions on this bill. These I have had printed in the RECORD. It is only just to say that a majority of them favor this legislation. That was, however, earlier in the period of agitation of the question before the Senate. I am now in receipt of communications, from one of which I read a few sentences. This communication is from F. M. Pence, secretary of Logan Division, No. 110, Order of Railway Conductors of America, in which he says:

At to-day's meeting of Logan Division, No. 110, Order of Railway Conductors, after considering the employers' liability and compensation act and thoroughly dissecting the same and finding the jokers therein, they ask that you disregard the former request for your support of this legislation. They ask you to lend your support to defeat this measure, as it is vicious legislation.

That is an indication of the changing attitude on the part of some of these organizations after they have made an investigation of the matter. It is easily seen how men may earnestly support the general principle of compensation, but may find on examination of the pending bill that it offers no compensation commensurate with the rights given under the Federal act of 1908, and which rights are withdrawn by the pending bill. I certainly favor the principle of compensation, but I want it without indiscriminate sacrifice of existing rights. If the bill is as meritorious as its advocates insist, make the remedy it offers optional, and its merit can be fully tested in practice without exchanging what is certain for that which must be experimental.

Mr. REED. Why, Mr. President, it is as clear as the noonday sun just what has happened here.

Mr. ASHURST. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Arizona?

Mr. REED. Certainly.

Mr. ASHURST. Inasmuch as other Senators, with entire propriety, it seems to me, have asked permission to have incorporated in the RECORD telegrams upon this subject, I ask permission to have read at the desk the telegram which I hold in my hand with reference to this bill, so that it may be incorporated in the RECORD.

The PRESIDING OFFICER. Without objection, the Secretary will read as requested.

The Secretary read as follows:

WILLISTON, N. DAK., *May 5, 1912.*

Senator ASHURST, *Washington, D. C.:*

Every locomotive engineer in Montana is opposed to workmen's compensation act. Montana Brotherhood of Locomotive Engineers legislative board have sent resolutions, letters, and telegrams to Wills, national legislation representative of engineers, conductors, and trainmen's orders, demanding he advise Senators and Representatives of their opposition to bill. Please show our friends this message. I am satisfied engineers' legislative board chairman of Montana will verify this statement if called upon to do so.

A MEMBER OF BROTHERHOOD OF LOCOMOTIVE ENGINEERS.

Mr. REED. The fact that there is no name signed to that telegram points an important lesson: There is another man who is opposed to the bill but does not dare to speak unless he first gets the right from his chief.

Mr. President, I started to say when I was interrupted that it is as plain as the noonday sun how the Senate came to be flooded with these telegrams. The union labor men of the world for 30 years have been contending for a compensation act—an act that would take care of all of them in case of injury. They have been denounced as socialists and bad citizens for advancing that doctrine, and the denunciation has come loudest from that element of our standpat Republican friends who are now most loudly proclaiming their interest in this bill. It is a refreshing sign to see some of them stand upon the floor of the Senate and put up even any kind of an appeal on behalf of the laboring men, and particularly the union laboring men, of the country; it is a unique spectacle. If they were only advocating a bill that did in fact take care of these men, I would believe that the day was at hand when the lion and the lamb could lie down together; I would turn my expectant eyes toward the horizon to catch—confident that I would soon behold—the glories of the rising sun of the millennium. But when I find them so earnestly advocating a measure which deprives the railway employees of their legal rights I am constrained to inquire whether they are interested in the railway trainmen or the railway directors.

Mr. President, these messages were sent in the way I have indicated. The men now are beginning to discover the truth; their eyes are beginning to be opened, and the messages that are now coming, so far as I know, are about 10 to 1 against the bill. Upon our side we have called attention to the fact that a great meeting of one of these organizations will be held on the 8th day of this month. Why not wait until the men at that speak? The reply of the Senator from West Virginia was—and I was sorry to hear a Democrat make it—that we, by asking that delay, were trying to introduce discord and rebellion into the ranks of labor.

Almost the very first principle that union labor began contending for among its own members was the right of a referendum vote. All of the Senators upon the other side of this Chamber who have not been included in the denunciations of being engaged in crooked politics by Theodore the First, all of those men who love to call themselves "progressives," have been advocating the initiative and referendum in politics; they have stood here with outstretched hands, saying: "Let the people rule; give the common people the right to vote upon every proposition." That has found very hearty response in my bosom; but now, when we ask that this measure, that strikes at the homes, that strikes at the income, that strikes at the legal rights of 1,650,000 men, when we ask that this measure now formulated and in Congress shall be allowed to lie until the men themselves shall have the right of a referendum vote, we are met by the claim that that introduces rebellion into the ranks of labor.

I affirm, sir, that no honest friend of labor has any right to assume that Mr. Wills represents union labor upon this bill, and I will tell you why. If this bill had been laid before the respective lodges of railway men, if time for discussion had elapsed, if delegates had then been elected to their grand councils or general meetings, by whatsoever name they are known, and if those representatives had passed a resolution in favor of this bill and had then instructed Mr. Wills or anybody else to come here and insist upon its adoption without amendment, Mr. Wills would be representing the railroad men; but this bill has never been before a single one of these organizations; it has not been before the subordinate lodges, unless within the last 20 days; it has never been before a single general meeting of these bodies; it has never received their sanction or their support; and when Mr. Wills stands here and says he represents them, he assumes a thing which does not exist.

The Senator from Nevada asked us to pass this bill without amendment, on the theory that over in the House of Representatives it might be amended. It is not proper, I believe, to discuss what they are doing or what they may do in the House of Representatives; but it is a matter reported in the public press that they are already having hearings over there on this bill or one just like it; that they are trying to railroad it through the committee in the House; that Mr. Wills is most active in that movement, and that the whole effort is by whip and spur to drive this bill through before it can be reported back to the men that Mr. Wills and the other two gentlemen claim to represent.

They tell us it is a matter of agreement with the railroads. That is the statement contained in the letter of Mr. Wills. If it is a matter of agreement with the railroads, will the railroads repudiate that agreement if this bill is passed over for 20 or 30 days? Will they break with Mr. Wills if the bill is laid over for a short time? Ah, it is not opposition from the railroads that Mr. Wills fears; it is not opposition from the railroads the distinguished Senators who are supporting this bill on the other side fear; but it is the opposition of the men who are about to be despoiled of their rights that they fear. If you have an agreement with the railroad presidents to pass this bill, will they not keep it, sir?

If you have gone into a back room or into a front hall—I care not where—and agreed with them upon this measure, then is it not safe to let it stand for a little while? Why is it that you come here clamoring for action now, now, now, when the bill is agreed upon and can be passed at any time? The answer is you dare not wait for the voice of the laboring men, the men affected. When you hear that voice it will come like the voice of many waters, and ft will overwhelm those who put this thing upon these defenseless men who are running their engines and trains of cars the while they are here betrayed.

Mr. MARTINE of New Jersey. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from New Jersey?

Mr. REED. Certainly.

Mr. MARTINE of New Jersey. I feel that the Senator's wholesale arraignment is utterly ungenerous. I shall vote for this bill, and I say advisedly there is no Senator in this body who is closer in heart, in activity, and in sentiment to the laboring men that am I; and, thank God, I can say that my identity and closeness with the laboring men has not been in the line of

counsel or lawyer, but it has been simply as their friend and adviser. I feel that the assertion made by the Senator, wherein he would arraign all who fail to stand by the proposition on his side, is ungenerous and unfair.

I feel, Mr. President, that this bill does not contain all I desire, but I believe it is a step in the right direction. I would amend it; I would leave it optional with the employees whether they would avail themselves of the privileges of this bill or have a trial by jury. I shall vote for such an amendment, and I shall vote for other amendments; but, in the end, if those amendments fail I shall vote for the bill.

Mr. President, within two hours, almost within the precincts of the Senate, I met a railroad man and I asked him how he and his associates stood on this measure. He replied: "We laboring men want this bill passed because it takes from us that terrible uncertainty which to-day prevails whenever a railroad employee is injured." So, I insist that the wholesale denunciation of gentlemen who choose to stand upon the other side is unfair, ungenerous, undemocratic, and utterly beyond the lines of that principle which the Senator loves as I do.

Mr. REED. Why, Mr. President, when I was talking about the "other side" I was looking at the other side of the Chamber. I had my back turned toward the Senator from New Jersey.

Mr. MARTINE of New Jersey. I know, but the Senator's voice, as a friend of mine used to say of my voice, is like an Irishman's whisper—you can hear it around the block. [Laughter.]

Mr. REED. Ah! I am glad it reached around to the Senator from New Jersey and actually got through his epidermis. I am glad that it has reached around far enough now so that he admits this bill is full of iniquities. I think if we had the bill to consider a little longer we could awaken the voice of his conscience so that it would clamorously demand that he vote against a bill full of iniquities.

Mr. President, a little further in regard to the proposition of amendment. What a peculiar situation! An amendment suggested by the Senator from Utah can be accepted on the other side, but an amendment suggested by anybody else must be voted down regardless of its merit; and yet amendments have been suggested here that every man in the Senate knows ought to be in this bill. There are not, I think, two men in the Senate who will say that the right of trial by jury ought to be taken away from any man merely because he forgets or is unable to serve a notice demanding a jury within five days after appeal from the adjuster. Is there anybody on the other side; is there any progressive Republican over there who is progressing in the direction of an abolition of trial by jury? Is there any progressive Republican on the other side who has been standing and painting pictures of the glorious plains upon which we are to advance, where human rights shall be protected—is there any one of them who believes that the only place where a laboring man should be allowed to get a trial is in a Federal court? Is that the newest doctrine of the Progressive?

You say we will amend it afterwards. Why not amend it now? Why not make this bill right now? You tell us it is a step in the right direction. I have heard about that step in the right direction until I have actually grown leg weary. Is it necessary because you are going to take a step in the right direction that you should at the same time take two steps in the wrong direction? Is it necessary because you are going to pass a compensation act that you should at the same time do grievous wrongs in passing it? Is it necessary, in order to take care of that class of employees who are injured through accident for which no one is directly responsible, to take away the rights of those men who are injured without fault and without negligence?

Is it necessary to strike down the common law and the laws of Congress and the laws of the States in order that you may take a step in the right direction? That is not progress. That is taking one step forward and two steps backward. You are taking a step forward which will include some men not now included within the beneficence of the law, and you are taking two steps backward when you undertake to deny the right of trial by jury, when you undertake to deny the right of trial in the State courts, and a still further step backward when you deprive these men of those rights for which they have been contending all these years.

But there is a catch phrase going around here. It is said the certainty of recovery will end litigation. We have been entertained with a lot of figures showing the amount of litigation that has been had in the past. But every man in the Senate knows that those figures are misleading. Why are they misleading? Because they are made up partially from States where the old common-law defenses exist. They are made up from States where the old common-law defenses have only been partially abolished. They are made up, so far as they apply to the Federal courts, under a new law which has not been really tested, and was not approved by the Supreme Court until the 15th day of last January. That law has not been generally appealed to because of the doubt as to its validity. And so, sir, the figures advanced are as misleading as figures can be. The men who bring them forward here well know they are misleading.

I want to give some statistics which it will not take very long to present, and I say that this statement I am about to read shows that if you will only allow the present Federal liability acts to stand a little longer there will not be much work in the courts for any lawyer and there will not be much litigation for the injured men.

Ralph C. Richards has for many years been at the head of the claim department of the great Chicago & Northwestern Railway. When he was talking before his claim-agent associates he said:

> But there are one or two points I would like to make in connection with the subject: That is that these new statutes have practically taken away the defenses of fellow servant—assumption of risk and contributory negligence. In other words, they have practically given every employee who is injured a right of action if there is any negligence on the part of the employer. That is about where we have gotten to. That being so, it becomes essential and extremely necessary that the claim departments and men connected with claim departments be efficient and capable. That instead of making lawsuits we should make settlements. We all know how many claims a $10,000 verdict will settle. We all know that every time we have a personal injury of any severity and we have litigation we are running the risk of a $10,000 verdict. We all know how hard it is to get a verdict set aside after it is rendered. Therefore it seems to me it is essential that we should settle more cases and have less litigation. And in order to settle cases the claim department must be efficient, etc.

And then he adds:

> Now, I think during the last 10 months the line I represent has had some 6,000 or 7,000 employees injured and something like a hundred killed, and out of that vast number of injured and killed, and that is about 80 per cent of our personal injuries, we had 40 lawsuits, and I think we had that small number of lawsuits because of the efficiency of the men who are working under me and their promptness in settling claims.

That statement was made at the claim agents' meeting; that statement was made by Mr. Richards on the 25th day of May, 1910, before we had the full benefit of the Federal liability act, and yet there is the plain admission of the great claim agent of this great system of roads that there were only 40 lawsuits, although 6,000 or 7,000 were injured. They paid everybody else off.

There is not a compensation law that has ever been passed in a European country where the figures will show as large a percentage of settlements. Why? Because now the right to recover under the Federal liability act is practically certain, and because, as was said by the Senator from Georgia, railroads know that if they do not settle at a fair sum they may have to pay a very large verdict. But when you pass this law, where the liability is specifically fixed and can never exceed the amount there fixed, the railroads can litigate to the day of doom and not be in any danger.

I know that this bill is going to be passed; it is going to be passed in spite of all that has been said here. It is going to be passed by men who will try to shield themselves behind the claim that it has been supported by labor organizations; but the labor organizations will reply to you that they were not notified, they had no chance to be heard; the labor organizations will reply to you that they sent you down here to guard their interests and that you have not guarded them. The labor organizations will not be solaced by the pretense that you voted for this bill under a misapprehension.

I know you are going to pass this bill, and I also know that you will tell these men that some time, somewhere, you are going to amend it. They will reply: "What of the widows and children; what of the maimed and crippled during those intervening years? You had the wrongs pointed out to you and you did not respond to the warnings." I know you are going to pass the bill. I know, and you do, that when you pass it every railroad claim agent will be delighted, to use the phrase that has been worn threadbare by a distinguished citizen who, when he is not delighted, is always abusing somebody.

I know you are going to pass it, and I have only this to say as a final word: Ride on, my lords; but in the end you will find it difficult to justify your conduct, in standing with the railroad presidents, in supporting a bill that every railroad president in the country has already O. K'd and every railroad lawyer in the country has already approved, which was introduced in the name of labor, but has not been sanctioned by labor. I dare to make this prophecy, that when the labor organizations of this country find they must go into the Federal courts to litigate their rights, when they find themselves substantially deprived

of the right of trial by jury, when they find that all the rights they have contended for during all these years have been taken away, they will speak to you in no uncertain tone.

Mr. ASHURST. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Arizona?

Mr. REED. I was about to yield the floor. I had in fact concluded, but if the Senator desires I will yield to him.

Mr. ASHURST. Mr. President, just a word, with the permission of the Senate, by the courtesy of the Senator from Missouri [Mr. REED]. I desire to make a statement at this time because, if I understand the situation correctly, I may not have the opportunity to do so later.

We all remember the great effort made by the railroad employees to secure the enactment of a law which would enable them to institute suits for damages for injuries, without being obliged to run the gantlet of the rigorous common law, and as a culmination of the work on the part of the railroad employees the employers' liability law of 1906 was passed. This act was, by the Supreme Court of the United States, declared to be unconstitutional. Then the present efficient employers' liability law of April 22, 1908, was enacted, over the intense opposition of the railroad companies, and subsequently, on April 5, 1910, the act of April 22, 1908, was amended as follows:

Under this act an action may be brought in a circuit court of the United States in the district of the residence of the defendant, or in which the cause of action arose, or in which the defendant shall be doing business at the time of commencing such action. The jurisdiction of the courts of the United States under this act shall be concurrent with that of the courts of the several States, and no case arising under this act and brought in any State court of competent jurisdiction shall be removed to any court of the United States.

SEC. 2. That said act be further amended by adding the following section as section 9 of said act:

"SEC. 9. That any right of action given by this act to a person suffering injury shall survive to his or her personal representative for the benefit of the surviving widow or husband and children of such employee, and if none, then of such employee's parents, and if none, then of the next of kin dependent upon such employee, but in such cases there shall be only one recovery for the same injury."

Approved, April 5, 1910.

This amendment, approved April 5, 1910, struck terror to the railroad attorneys, for, prior to that time, under the question of diverse citizenship, the defendant company could remove such cases to a Federal court. This amendment affirmatively provided that no case arising under the act of April 22, 1908, brought in any State court should be removed to any court of the United States, and now we find that within three months after the enactment of the amendment of April 5, 1910, the railroad companies became very active, and with suspicious generosity came forward asking and unanimously advocating a compulsory compensation law which would vest exclusive jurisdiction of these cases in the Federal courts, thus striking down the amendment of April 5, 1910, which gave the railroad employees the right to go into the State courts. This may serve as an explanation of the activity on the part of the railroad companies in their attempt to secure the passage of the pending bill.

Mr. President, I question the motives of no Senator. I concede to all Senators who are in favor of this bill the same measure of patriotism, purity, and integrity of purpose that I claim for myself. That much I cheerfully grant. But I shall not be silent when a bill so unusual is hurried through. It has been stated that if the bill should be amended, the railroad companies will withdraw their friendship for the bill and that, therefore, it will fail of passage. Mr. President, if the railroad companies have that much power, their power is too great.

The Senator from New York [Mr. ROOT]—and I regret he is not present, because I wish to say something to him and of him—during his able speech cast a glance over to this side of the Chamber and said he could well understand how attorneys who have been instituting suits against the railroad companies could oppose this bill. I say to the Senator, in reply, that I can and do well understand why attorneys who have been active as representatives for railroad companies and vested interests all their lives can consistently try to pass this bill. I desire further to tell the distinguished Senator from New York that I am not looking at this bill from the standpoint of a lawyer who institutes suits against railroad companies. Neither am I looking at it from the standpoint of a man who represents railroad companies, but I am looking at it simply, solely, and only from the standpoint of an American Senator.

Mr. SMITH of Georgia obtained the floor.

Mr. POINDEXTER. Will the Senator yield for just a moment?

Mr. SMITH of Georgia. Certainly.

Mr. POINDEXTER. I hold in my hand a statement giving an account of the operations of the employees' compensation act of the State of Washington during the first four months in which it was in operation, and I have also in the same connection a statement made by John H. Wallace, a member of the Industrial Insurance Commission of the State of Washington, as to the operation of industrial insurance from the workmen's standpoint. I ask that these documents may be printed in the RECORD without being read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

REVIEW OF THE FIRST FOUR MONTHS' OPERATION OF THE WORKMEN'S COMPENSATION ACT.

Summary of operation.

Firms listed and assessed	4,540
Employees listed and protected	100,000
Accidents reported	2,700
Claims adjusted	1,500
Disallowed, waived, and in process of adjustment	1,200
Paid into accident fund	$428,057.42
Paid out for claims	57,329.08
Balance in fund	370,728.34
Invested in 5 per cent reserves	62,716.35

STANDING OF STAR CLASSES.

Class 5. General construction, balance	$19,809.04
Class 6. Power line construction, balance	16,804.21
Class 7. Railroad construction, balance	22,776.71
Class 10. Lumbering, milling, etc	123,308.18
Class 14. Street-railway operation	26,058.56
Class 16. Coal-mining operation	30,788.92
Class 29. Woodworking	13,159.46
Class 34. Steel and iron manufacturing	11,953.08

The workmen's compensation act went into effect as between employer and employee, October 1, 1911, at which time the preliminary work of the commission had been fairly well done, as far as listing employers, collecting contributions, and establishing an accident fund were concerned. The great work, however, of building up a claim system whereby industrial accidents could be promptly reported, investigated, passed upon, and paid for, was very largely to be worked out.

From the beginning the accidents reported to the commission in one form or another averaged considerably over 500 a month. At the beginning a large number of trivial and unimportant accidents were reported, which had to be passed upon with as much care as a major accident. The commission, however, soon adopted the 5 per cent rule, in which it declined to consider a claim in which the workman had lost less time than 5 per cent of a working month (26 days) or had suffered an accident which impaired his earning capacity less than 5 per cent.

On the other hand the average held good throughout the four months from the fact that as employer and employee began to understand the law more thoroughly accidents which had previously been unnoticed and unreported began to reach the commission in large numbers. On January 31, 1912, approximately 2,700 accidents had been reported to the commission; 1,500 had been passed upon; a considerable number disallowed, waived, and withdrawn; while a large proportion of the balance remained incomplete, owing to the failure of the employer or employee to file the proper papers or procure the necessary medical certificates.

The standing of the accident fund on the above date was as follows:

Total amount paid in	$428,057.42
Claims paid	57,329.08
Leaving a balance of	370,728.34
Reserves to guarantee pensions	62,716.35

While the reserves have been formally transferred from the accident fund to reserve fund by the purchase of interest-bearing bonds, it is hardly proper to deduct that amount from the balance in the class funds, for the reason that the money is being used up solely in paying out monthly pensions to widows and children of deceased workmen, but the large balance of over $370,000 should be considered in relation to the reserves of over $62,000. Both of these funds are bearing interest, the working balance carried in the bank of 2 per cent and the reserves invested in the interest-bearing securities of 5 per cent and 6 per cent.

An examination of some of the principal classes in the accident fund shows that the rates levied upon the various industries for the purposes of the accident fund are probably ample for the purpose. Every taxpayer who calls to inspect the books of the commission is referred to the "star fund," class No 10, lumbering, logging, etc., into which has been paid $150,887.51, with $27,579.33 paid out for claims, leaving a balance of $123,308.18, with $24,150.43 invested in interest-bearing securities. This fund was originally collected on estimated pay rolls for October, November, and December, 1911, and the commission had the right to call for an additional assessment for the month of January. This, however, is never done unless the fund has been so heavily drawn upon that the danger line has been passed and additional money is needed to pay claims.

If, however, the lumbermen's class continues its wonderful record for the first four months' operation of the law, it is likely that no assessment will be needed for many months to come, probably not before July 1, 1912, in which event the preliminary assessment, instead of covering three months only, would actually cover nine months' operation of the law.

The same condition is present in some degree in class 5, general construction work, in which the gross amount of $22,428.79 has been collected and only $2,619.75 paid out, leaving a balance of $19,809.04 in the fund, $5,324.02 of which is invested in interest-bearing reserves.

Another class in this same desirable category is class 7, construction of railroads, which shows a credit collection of $26,702.71, with paid claims amounting to $3,926 and a working balance of $22,776.71, of which balance $5,585.86 is invested in reserves.

With these two classes is somewhat intimately associated class 6, installing power lines, which paid into the accident fund $19,170.02; claims paid, $2,365.81; leaving a balance of $16,804.21.

In a way the street railways of the State are also entitled to a star classification on their operations for four months, their statement of class condition being as follows:

Total amount paid in	$27,228.22
Claims paid	1,169.66
Balance	26,058.56
Invested in reserves	1,486.00

The employers of this class have always given the act a very liberal interpretation, and, although strongly imbued with the fear that the operations of the law would be along socialistic lines, they placed no opposition whatever in the way of the commission, paid their assessments promptly, and have established systems of accident reports which are well-nigh perfect in their completeness.

Perhaps the most important class in the way of administration is class 16, coal mines, statement of whose funds is as follows:

Total amount paid in	$36,050.12
Claims paid	5,261.20
Working balance	30,788.92
Invested in reserves	9,299.83

The importance of this class lies in the fact that although the operation of coal mining is one of the most hazardous in the State, only four deaths have occurred therein since the law went into effect, and no disaster of any kind has overtaken the workmen comprised within this class. It was freely argued at the time when the act was discussed on the floor of the legislature that one accident in a coal mine would wipe out a whole accident fund, and it is undoubtedly true that any of the old-fashioned disasters would speedily deplete class 16. The significant and hopeful phase of the situation, however, is the belief of competent miners with whom Commissioner John H. Wallace is in close touch that the old-fashioned disaster is practically a thing of the past, owing to better methods of ventilation, illumination, and spread of intelligent cooperation in the mining industries of the State.

But 1 class of the 48 shows a balance "in the red," which is class 46, including manufactures of powder and fireworks. The reason for this is the Chehalis disaster, in which eight young women lost their lives, requiring a reserve of $7,659.35 to be set aside. The powder class comprises practically only four plants—the Du Pont Powder Co., near Tacoma; the Imperial Powder Co., near Chehalis; the powder works at Mukilteo, and a fireworks-manufacturing concern in Seattle. Of these the Du Pont Powder Co., which is the Washington branch of the Powder Trust (the legality of whose methods is now under scrutiny by the Federal Government), is by far the largest.

On the basis of pay rolls, Du Pont would pay over 90 per cent of the contributions into class 46, and the commission feels that it is the irony of fate that on the very day when the draft had been authorized from the main office of the trust in Wilmington, Del., the disaster in Chehalis occurred, which caused the Du Pont Co. to refuse to pay its contribution and serve notice on the commission that, no matter what rules and regulations should be adopted for the government of class 46, it would nevertheless contest the constitutionality of the law in the highest tribunal of the Nation, viz, the Supreme Court of the United States.

Pension payments were, however, begun out of the funds in hand.

It should also be noted that the Imperial Powder Co. was the first employer to appeal from the rulings of the commission on account of a penalty assessed against it under section 9, which forbids the employment of minors in the hazardous industries of the State. This penalty amounted to $1,297.16, and, had it been paid by the Imperial Co. without protest, it would have kept the fund balance on the right side of the ledger.

It is significant also that up to the 1st of January it had not been necessary to institute proceedings against any firm in the State for nonpayment of its contribution. With the expiration of the first three months, however, a careful check was made by the chief auditor of the commission and a small number of delinquent firms (less than 5 per cent of the total of nearly 5,000 listed by the commission) were reported to the attorney general in order that suits might be brought. A round dozen of these are under way. Various other suits are in progress where workmen have been injured in hazardous pursuits while their employers were in default. These suits are instituted by the claimants themselves, who have the right to sue under such conditions, with the usual defenses of "fellow servant,' assumption of risk, and contributory negligence" abolished.

Litigation is also in prospect which will define the powers of the commission in respect to listing occupations on railroads doing interstate business, the latter claiming that practically every occupation in the operating department is of an interstate character and at least one claimant alleging that the occupation of a watchman at a bridge is of a purely local character.

So far only one claimant has taken his case into court, and, on the other hand, the commission has received hundreds of congratulatory letters from employers and employees, in which they set forth their satisfaction with the law and with the administration thereof by the commission.

The burning issue of the industrial situation to-day is the need of a first-aid fund. When the act was discussed in the legislature it already bore a provision for first aid, which was stricken out at the urgent request of the manufacturers, who declared that they desired to establish their own first-aid funds. It was also felt that the law, revolutionary as it was in a great many respects, would prove to be of sufficient burden without the addition of a first-aid provision. The whole matter was therefore stricken out and the schedules designed to accompany that provision were allowed to remain as they are, which is substantially as follows:

An unmarried workman gets $20 a month during disability, with $5 added for a wife and $5 for each child, up to $35, which may be increased 50 per cent during the first six months of disability. The most that any workman may draw, therefore, is $52.50, which, however, may never be over 60 per cent of his wages.

Practically the same figures apply to pension payments, so it will be seen that the law provides simply for the bare necessities of life during disability or after the death of a workman, and the expense of doctors' bills, hospital dues, etc., is absolutely unprovided for. It is clearly up to the employers and employees of the State to give this question of first aid careful and serious consideration, inasmuch as it constitutes, in the opinion of the commission, the most imminent problem in connection with the administration of industrial insurance in this State to-day.

On reaudit it was found that a reclassification of various industries was possible, by means of which many weak classes may be materially strengthened, thus making it a more practical business proposition to administer the funds in the event of crippling or disabling disasters.

The commission is continually confronted by new questions of administration, such as firms not formally included under the law who desire to take advantage of its benefits, now that it has been proven an unqualified success. Such firms are being referred by the commission to class 48, "nonhazardous firms under elective adoption," in which they and their employees may be included by mutual agreement and fully protected at the rate of 1.35 per cent.

COMPULSORY STATE INSURANCE FROM THE WORKMAN'S VIEWPOINT.

An address by John H. Wallace, member Industrial Insurance Commission of the State of Washington, before the American Association for Labor Legislation, Washington, D. C., December 28, 1911.

It has been said that so long as the workman receives compensation for work accidents he is not concerned with the source of the money; that he cares not whether the employer goes bankrupt paying the bill, whether insurance corporations assume the indebtedness, or whether it is paid out of a common fund contributed by all the industries. The attitude of the workman in the State of Washington, in the formation and final passage by the legislature of our compensation act, must tend to disprove this statement. The members of the American Association for Labor Legislation are familiar with the text of the act passed in my State. Other members of the Washington commission have explained to some of you the salient points. As members of a national organization concerned with the procuring for the American States the best system of compensation possible to replace the slow, unjust, and obsolete common-law procedure, you will be interested in the unique system of Washington, in formation and in process of administration, as viewed by the working people who are the beneficiaries.

I. WORKINGMEN UNDER THE COMMON LAW.

It is unnecessary for me to point out to this body the universal experience of working people under the so-called common-law system. Able investigators have conclusively demonstrated that not to exceed 15 per cent of the men injured in work accidents could obtain compensation under the old system, leaving the heaviest burden in modern life to fall on the weakest members of society in 85 per cent of such cases. Not only this, but the funds paid out by employers to protect themselves against excessive verdicts, if not all verdicts, have been largely wasted from the workman's viewpoint. Not less than $1,000,000 a year in each great industrial State was paid out by employers. Not more than 20 or 25 per cent reached the working people in the 15 per cent class entitled to compensation heretofore under the old system. This situation clearly demonstrates that where some few may have obtained heavy damages, the vast majority of workmen were left as charges upon society or to bear their burden alone with the best courage their crippled condition permitted.

The president of the United States Casualty Co., in a widely circulated address opposing State insurance, solicits condolence because for five-year periods he shows that the insistence of juries that damages be paid injured men has compelled these companies to disburse over 50 per cent of their premiums received, which means that less than 25 per cent of the premiums collected have reached the victims of accidents, the other 25 per cent being eaten up in attorney fees, court costs, time lost, and expense in going to lawyers, as against the 100 per cent collected in premiums from the industries, all going to injured workmen where the State insures the employees against industrial accidents.

Casualty companies, with their liking for litigation and their limitation of protection to $5,000, except with double or quadruple premiums, have not afforded protection to the many young industries endeavoring to get a foothold in our undeveloped State, and we were not sure that a system which would practically compel all employers to insure with these companies would protect the injured workman against the irresponsible, the bankrupt, or absconding employers who had lapsed their policies or violated some technical requirement in the same. The establishment of a State fund rests on the insurance principle of distribution of risk—that one employer should not bear alone the exceptional stroke of bad luck.

Economically the old system is wholly indefensible because of the waste of the 75 or 80 per cent of the funds taken out of industry to repair the man loss thereof—a waste absorbed my lawyers, by commissions paid for placing insurance policies, by executive salaries of numerous insurance corporations, by duplicated clerical forces, by dividends to clamorous stockholders of such companies, by claim agents who sought advancement by a record of elimination of claims and contemptible settlements, by payment of unnecessary witness fees and court costs, by maintaining the machinery of appeals and the multiplication of judges necessary to hear such lawsuits, both meritorious and born of fraud. The magnitude of this litigation which necessarily arouses class antagonism, recrimination, and bitterness, also in no small way has contributed to the restlessness of the working class caused by the delays of justice, and of the criticism of the courts as institutions. It is useless to say to this body that the system so characterized is universally condemned, and the only question which arises in the minds of thinking people is, What is the best system to replace it?

In the State of Washington the workmen have contributed their full share of time and thought and cooperation in evolving a system which, we think, is in most respects superior to any piece of compensation legislation in the United States. To quote Mr. Robert W. Bruere in the October Harper's Monthly, "One State, Washington, honoring the liberal spirit of the West, has inaugurated a system of compulsory State insurance against industrial accidents which for comprehensive justice and social wisdom compares favorably with the most advanced legislation in Europe."

An able corporation lawyer of Spokane had in a previous legislature submitted a compensation bill under the elective plan, providing a maximum of $3,000 in event of death. This bill, not having the indorsement of either employers or the workmen of the State, got scant consideration at the hands of the legislature of 1909.

The Tacoma Commercial Club, in August, 1910, at a time when the United Mine Workers were in convention in Seattle, issued a call for a meeting of manufacturers and labor men of the State to discuss some form of remedial legislation.

II. THE INVESTIGATION COMMISSION.

As might have been anticipated, neither the representatives of capital nor labor came into the meeting with any concrete program, yet as a result the governor of the State, Hon. M. E. Hay, was empowered to appoint an investigating commission of 10 members, 5 representing the employers and 5 the employees. On September 29, 1910, the commission so appointed organized and secured the services of Harold Preston, of Seattle, as it legal advisor, that gentleman being a profound student of industrial problems and one of the ablest constitutional lawyers in the Pacific Northwest.

While the sessions of this commission were often heated and the interests represented not always harmonious, yet it must be said that the prompt, courageous, remedial legislation which was born in this commission was made possible by the fact that in this new north western State are to be found not only big, generous employers who were disgusted with the legal system surrounding them, and who often drew large checks, not in charity but in justice, to compensate the

men in their employ or their dependents; but because likewise, among the working people of this State are to be found the youngest and best blood of this continent and of Europe—brave spirits who left the old home conditions to become full-blown men in a new land of opportunity and do their part in obtaining justice for themselves and their fellows—the same mingling of stocks which we find in the early settlement of the Atlantic coast, building a people which, we believe, represents the very flower of civilized mankind.

This body will be interested in the contested questions before that commission. The limitation of the amount to be paid in event of death was one resulting in the adoption of the principle that $4,000 to a beneficiary aged 30 years would be a reserve that would guarantee a pension throughout life or dependency and insure the self-respect and good citizenship—insure the grocery bill, if you please—of all survivors, most of whom heretofore had been obliged to lower their standard of living, if not to accept the bitter bread of public or private charity. In other words, the principle adopted in the State of Washington is not the damage measured by the earning power of the workman killed or permanently disabled, but the insuring of a monthly payment to one who in the front ranks of industry has gone down before the flying shafts or whirring saws or munching cogs, smothering gases or falls of rock, and stands before society a crippled and deserving veteran. Heretofore Governments have gladly pensioned the young soldier injured in the course of duty in defending hearth and home or in righting insufferable wrongs abroad; the working people, at least, now insist that the soldier of peace, also obeying the commands of society, who produces clothing for the body or food for the blood or a roof for the household, shall also be pensioned when mangled, maimed, and dismembered by the machinery that moves with nerves of steel and fingers of brass, so gigantic and elemental that flesh and bone are as nothing in its power.

The committee, therefore, with one accord agreed on the principle that lump-sum payments to helpless survivors should rarely be given. However, the commission, at its discretion, has ample power to pay off a mortgage on a widow's home, or advance money to permanently cure a crippled child, or, in other words, commute a portion or all of the reserve fund set aside for the survivor's use into a lump-sum payment. The scale of payments for partial disability was graduated down from $1,500 maximum, the compensation for the loss of the major arm, other injuries to be compensated in proportion to the $1,500 maximum.

III. First-Aid Fund.

The principle of a fund as a buffer for first aid to the injured was recognized by the commission on the insistence of labor's representatives, and the following sections were taken from the draft presented by the commission to the legislature:

"CREATION OF FIRST-AID FUND.

"SEC. 10. A fund is hereby created in the State treasury to be known as the first-aid fund. Into it shall be paid by each employer on or before the 15th day of November, 1911, and each month thereafter, the sum of 4 cents for each day's work or fraction thereof done by each workman for him during the preceding calendar month or part thereof. Two cents of such 4 cents shall be deducted by the employer from the pay of the workman.

"DISBURSEMENTS OF FIRST-AID FUND.

"SEC. 11. Upon the occurrence of any injury to a workman he shall receive from the first-aid fund proper and necessary medical, surgical, and hospital services and compensation for the period of temporary or other disability in the sum of $5 per week for not to exceed three weeks, payable at the end of each week. It shall be the duty of the employer to see to it that immediate medical and surgical services are rendered and transportation to hospital provided, and all charges therefor shall be audited and paid and be payable only by the department out of the first-aid fund."

In the first aid the principle of joint contribution by employer and workman as approved and the amount—4 cents a day—equally divided, approximates the payment of $1 per month, the usual contribution to hospital funds in the lumbering and coal-mining industries in our State. The payment for ambulances, physicians, and hospital treatment and surgical appliances, limited to three weeks and to $5 per week, was designed to prevent simulation and fraud upon the State, in addition to securing that instant attention to the injured on which humanity insists.

Labor opposed joint contribution to the fund further and other than first aid for the reason that the employer owns and operates the dangerous agencies for his own profit, and has heretofore contributed, so far as compelled to, to the man-loss resulting from such dangerous agencies by payments to casualty companies or through the channels of the courts—in many instances both, since the usual limit of protection in a casualty policy is $5,000 and the amounts claimed in lawsuits tend to greatly exceed that sum.

The employer, so far as allowed by competition and if not bankrupted by a sympathetic jury, has passed these charges on to the public in the price of the product, along with the depreciation of machinery and plant. Labor saw no injustice in providing that in the same way the buying public should pay for broken men in the industry as well as for broken machinery, the equivalent paid out and wasted heretofore being now turned into legitimate channels for the actual sufferers of the industrial system. In either event the public must pay the price either in the product or in institutions of relief or in charity's grudging doles.

In the fixing of rates, according to the presumed hazard of the occupations regarded as extra hazardous, the commission was guided by an actuary of long casualty experience. In the lumbering industry, for instance, $1.50 per $100 of pay roll was the average rate charged on insurance policies. One per cent more was added, making the State rate $2.50.

The term "extra hazardous" in the Washington draft and law was inserted out of fear of constitutional objections otherwise, but all employers outside the law may voluntarily bring their business under its terms by joint agreement with the employees.

IV. In the Legislature.

The Washington Compensation Act as approved by the commission reached the legislature as one of the leading measures of the administration of Gov. Hay, and its passage was widely advocated and as vigorously opposed, particularly in the State senate, where various other bills were proposed to protect particular interests or promote pet schemes or to advance political interests of several senators. As the bill emerged into law the first-aid feature was stricken out. It was opposed in fear that State supervision of hospital treatment would result in the upbuilding of a political machine for administration and in the location and construction of State-built hospitals. It was opposed as abolishing hospital funds in remote logging camps where a resident physician is commonly retained on salary to look after not only accidents but sickness and family ills as well.

It was opposed also because the deduction from wages operated to take a heavy percentage out of earnings of low-paid employees; and, lastly, because it was argued that this was a daring piece of social legislation, and would be sufficiently cumbrous for the first two years of its experimentation without the burden of the first-aid feature and the close supervision and weekly payment of bills required. In the discussions one representative, representing a district devoted largely to logging and lumbering interests, insisted that the State, with its slow, incompetent, and bureaucratic tendencies could not give men the paternal care which the corporations were now efficiently supplying, to which Representative Teats, a Tacoma lawyer who had built up a fortune as a damage-case specialist and who handled the measure in the house, replied that unquestionably the first-aid feature would interfere with a well-known corporation graft, where men were kept in constant rotation in order to obtain from them a hospital fee—a deduction of $1 per man—that working in conjunction with the so-called employment agencies they kept three crews constantly moving—one crew coming, one crew leaving, and one at work—a dollar a head per month collected from five or six crews each 30 days.

While in the legislature the bill was improved in two important particulars; first, the objections against a huge fund being taken out of the industries of the State and piled up in the State treasury by the continuous compulsory payment of a flat rate on the pay rolls, instead of one common accident fund of all employers, with men in all degrees of hazard, the legislature established 47 funds, representing 47 compulsory associations of employers. Related industries are grouped together, and the opportunity for criticism of particular establishments and mutual steps toward prevention of accidents thereby greatly encouraged.

For instance, class 10 embraces only employers engaged in logging operations, sawmills, shingle mills, etc.

Class 14, street railways.

Class 16, coal mines, etc.

Already the lumbering organization is looking forward to standardizing of plants and machinery in order to prevent accidents and save themselves money. Under our law the fewer the accidents in any class the smaller the amount which those particular employers must contribute. The State pays the costs of administration out of general taxes.

Second. Provision is made in the law as enacted that whenever any one of the 47 groups of employers has sufficient funds on hand to care for the accidents of their particular class no further sums will be assessed until the fund is reasonably depleted by the drain of compensatory payments.

Other than the changes just enumerated the act passed our legislature as recommenedd by the investigating commission. A handsome majority was given in the house, but in the senate, owing to the attitude of senators with bills of their own, all the resources of the governor were caled upon to obtain the two votes needed to pass the measure. Some of these lawyer senators saw no further into social needs than the limitation of lawyers' fees in damage cases to 10 or 25 per cent of the verdict. At this point the remarkable speech of Peter Henretty, a coal miner from Cle Elum, on the floor of the senate probably did more than any other one thing in compelling the passage of the law to compensate injured workmen.

V. The Law in Operation.

The workmen's compensation act was pasesd and signed by Gov. Hay on March 14, 1911, the three members of the administrative commission were appointed, and the new department organized June 8, 1911. Beginning July 1, the commission procured the services of about 20 men as traveling auditors and began a preliminary survey of the State to ascertain the industries within the scope of the law. It was gratifying that in this first contact not less than 90 per cent of the employers were found to be in the most hearty accord with the law, gladly giving every courtesy and the heartiest cooperation to the agents of the commission seeking information and their pay rolls, and remitted about $400,000 on approximately 4,000 pay rolls.

The State-wide feeling of employers was that this law, dispensing with middlemen and with court processes, enabled the man hurt to receive one hundred cents on the dollar paid out for such purpose by the employer. Suggestive of this attitude is a statement by one of the largest employers of labor in the city of Spokane, who when the question arose as to whether this system would not increase the rate of insurance, said: "What if the rates were a little higher, so long as the benefits went directly to the injured employee or his dependents and tended to a better feeling between employer and employee."

The employers were quite unfamiliar with the break-up of the accident fund into 47 groups, and were gratified to learn that they were classed with employers of their own kind and yet in groups sufficiently large to give effect to the insurance principle of distributing the risk and not bankrupting the establishment that might have a series of accidents.

Administratively the division of the plant into extra hazardous and nonhazardous departments constituted a vexatious problem, but the commission's attitude in treating the plant as a unit and including all employees therein was generally approved.

Another problem is the twilight zone between State and Federal jurisdiction in interstate commerce as applied to steamboats on Puget Sound and on the Columbia River, State boundary bridges and various railway operations, Alaska fishing boats with canning establishments in the State of Washington, stevedores and longshoremen loading and unloading ocean carriers under admiralty jurisdiction.

It is certainly to be hoped that Congress in its forthcoming legislation will so dovetail with State activities that compensation will be sure and the process of obtaining it rendered certain as between State and Federal courts or systems.

The problem of contractors is vexatious, jumping in their operations from one class to another with big jobs or small jobs or no jobs at all—in many instances without offices or records—now employed by municipalities and now by private citizens. The contractor erecting a 42-story building in Seattle is embraced under the law, and also the one employing two men building a chicken coop, who may fall from a trestle and claim State compensation. These items suggest the complexity of administrative detail.

The rates are tentative, subject to future adjustment; not by the commission, however, but by the legislature. A rate of 2½ per cent for sawmill employees is apparently yielding ample funds for their protection; but with a rate of 5 per cent placed on bricklaying and 3½ per cent on "carpenter work not otherwise specified," it remains to be seen if inequalities are not here present to be worked out and

remedied by the legislature with the aid and advice of the present commission.

Rates in the State of Washington, while apparently fixed by the text of the law, are, in fact, automatically adjustable to the accidents which occur in all continuously operating classes at least. In the contractor classes equity between competitors seems to demand continuous monthly payment until the legislature revises construction rates.

The employers of my State have been marvelously fruitful in suggesting variations in rates and reasons therefor—often unmindful of the fact that a small class is a dangerous class for an individual employer to be in; for instance, the powder class, where eight girls from 14 to 21 years of age were instantly killed on November 1, requiring a fund to be set aside amounting to about $8,000 to insure the monthly payments to their parents. Only four powder plants, all but one very small, operate in the State of Washington. These plants, by reason of that accident, have witnessed their joint fund more than absorbed, making a deficit to be made up at the end of this year, a condition which applies to any class at the end of any year where a deficit at the present rates results.

On this question of rates it does not follow that casualty companies' rates heretofore represent the real hazard—rather "what the traffic will bear." Two sawmills of the same company operating within a short distance of each other illustrate my point. With no apparent difference in hazard one plant paid $1.35 and the other $1.50 per $100 of payroll.

We are not convinced in Washington that the casualty companies' experience at the present time will give any adequate standard of rates. They refused to give to the public figures which their actuaries had already compiled, but in their experience they have dealt with only 15 or 20 per cent of the injuries chargeable to industry. We are not sure that our State department is not as competent to find correct rates by experimentation as they are. Four times in one year in Seattle they changed the rates on automobile insurance. (Under our Washington law we adjust the rate each month by making an assessment or *passing* up the opportunity.) This is recognized by the companies themselves, as Actuary Wolfe, in a widely circulated address, recommends State control of rates as a cure for evils admittedly existing in these companies.

The business interests of the State, always jealous of the drain of funds to Wall Street or other eastern localities, are pleased with the principle of home rule of compensation funds. Says Gov. Hay:

"Out of $600,000 collected from the employers of the State of Washington in 1909 only $100,000 ever reached the injured workman or his family—half a million dollars drawn from the avenues of commerce and industry to pay an army of officers, agents, and adjusters of the liability companies and to line the pockets of the stockholders whose only interest is that of a dollar-and-cent proposition."

Administratively the absence of the first-aid feature has of course raised problems. Employers whose injured men have heretofore been sent to the hospital and first aid paid for by casualty companies now find the State gives no relief except by the payment after 30 days in part or in full to the workman on account of the injury. In some cases the attending physicians and city hospitals are reported not to give the best care and attention the case warrants, which, of course, represents ultimately an unnecessary burden upon the class to which his employer belongs.

VI. TWO MONTHS OF ACCIDENT EXPERIENCE.

Opponents of compulsory State insurance point out as the two greatest weaknesses of the system: First, that such a system does not operate effectively in preventing accidents, and, second, that it operates unfairly in grouping together employers whose establishments represent great differences in danger to the employees.

Affirmatively the Washington State Asylum endeavors to check accidents: First, with a penal increase of rates applied to any establishment where accidents for a sufficient period show careless management, defective or obsolete machinery; second, it also penalizes the violation of safeguarding statutes and the employment of children under working age by requiring the employer to pay into the fund as penalty 50 per cent of what the law allows the victim.

The present commission is in contact and cooperation with the State University and the State Industrial College to obtain special studies in causes of accidents and university extension lectures on methods and appliances for safeguarding, hence we anticipate large results, since it must be evident that employers will desire to save money rather than have accidents, for in many instances all they need is education.

Mr. Tecumseh Sherman, former labor commissioner of the State of New York, is much concerned for fear State bureaus will either be unable to afford as prompt compensation as the individual firms or casualty companies could, or if they do act with speed, it will be with a paternal indulgence that must cripple industries or seriously burden the general taxpayer who maintains the officials of inspection.

We feel that it is not proven that the State can not procure as competent employees as casualty companies, since we have been able to obtain in our service in Washington some of the best-trained and most-ambitious claim agents and auditors heretofore connected with casualty corporations in the State, and the compulsory associations of employers in our State where establishments, big and little, are peculiarly anxious that their competitor pay equally with themselves are prolific in suggestion, and they are ready for the voluntary associations looking to standardizing and accident prevention, which this commission will be active in getting organized.

Mr. Sherman does not like the Washington law, because the compensation is not measured in all cases by the wage, but we in Washington did not like Mr. Sherman's New York law, which provided a payment to a widow of a sum equal to four years' wages of her husband, in no case to exceed $3,000, which she might dissipate in her ignorance of financial pitfalls, or the provision to a workman totally disabled that he should receive a weekly payment not to exceed $10 a week, nor to extend more than eight years from the date of the injury, leaving the widow or the blind workman in old age a helpless charge on public or private charity, and depriving, under these conditions, the child of its legitimate birthright under such a law. Under our Washington law the first care has been that the child of the present shall have an opportunity to be a good citizen of the future.

Mr. Sherman, in his memorial to the congressional committee, insists that the excess paid by the good employer appears to give gratuitous insurance to the escaping firm. We must grant that our administrative problem is difficult as to the intermittent or alien contractor, the dummy corporation, the tramp ship, and the elusive little shop, but we believe that our system will catch such employers as readily as the casualty company, because the man hurt will come to the State for compensation and the employer must then deal with our department. If he refuses, we reach him with summary process, with civil suit in the name of the State, or with criminal procedure, or all three.

Our law is criticized as merely an insurance against destitution, and we grant the charge as to the widow and her flock, or as to the sightless or armless victim of a bloody misfortune of peace. Our law does give compensation in other cases.

Perhaps it is fair to the employer to say that no workman has any assurance that he will continue to earn his present wage for eight years or one year; but every workman is entitled that he shall not starve in civilized society if rendered unable to labor, and that his helpless dependents shall not be driven to charity, or worse. Our law provides for a monthly payment of from $20 to $52.50 to a workman temporarily totally disabled, providing such payment does not exceed 60 per cent of his wages; and our compensation scale for permanent partial disability runs from $1,500 for a major arm at or above the elbow, and $1,250 for loss of one eye or hand at wrist, down to $25 for the little toe or first joint of the little finger.

Furthermore, we see no reason why, as a matter of public policy, the State should not encourage a skilled workman with large earning power to provide private insurance for his family through the fact of being familiar with the maximum allowed by the State in event of his death or disability.

Mr. Sherman believes that the State commission would allow exaggerated and doubtful claims to please the working people. In Washington, however, the commission, with the maximum laid down by the legislature, has prepared a scale for practically all injuries, based on scientific information obtained from reports of the Surgeon General of the United States Army, standard texts, and 100 detailed schedules from eminent surgeons throughout the United States. The practice of the present commission is that no claim is allowed until the employer has made a detailed report, the claimant likewise, and also the physician and witnesses. In case of doubt the nearest agent is ordered to make special investigation; in case of continuing disability condition reports by the physician or employer are required to check simulation, fraud, and error.

The legal theory in Washington is that the sovereign State practically licenses these dangerous agencies operating for profit, requiring that degree of care from all operating them that none shall cause accidents, and if accidents do happen, as we know they must, then that the employer shall pay into a guaranty fund to care for the victims, and we believe that the Supreme Court of the United States, when it comes to this question, will find that the public welfare demands this legislation more imperatively than it demands contribution by banks to protect depositors.

The first two months of experience seem to show about 600 accidents per month, varying from the loss of life and total permanent disability down to trivial bumps and bruises and even torn trousers.

In closing, gentlemen of the Labor Legislation Association, as a citizen of one of the newest and most virile States of the American sisterhood, as a workman almost born in the mines of England and a graduate of the child-labor system of the mines of Pennsylvania, as an operative in and about the coal mines of Washington for 10 years, and having been honored with the privilege of representing organized labor on various occasions and for considerable periods, I point with pride, as an old phrase goes, to my magnificent State that without cowardice and without hypocrisy threw aside all fetters of ancient custom and entangling legal verbage and hide-bound decisions and enacted a law not in charity and not in malice but in justice to every man who invests his brain or his brawn in developing the resources of the Commonwealth. And in so doing the workmen of the State and the employers thereof are not unmindful of the greatness which must come to this State and its people.

The Panama Canal will bring ships and products not only from the Atlantic seaboard but from Europe with the steerage cargoes of wistful-eyed men from all sections of the Old World seeking work in a new land. We are tributary to the undeveloped empire of Alaska and the front door to the millions of the Orient. We are providing for that industrial empire on the western edge of the continent which is yet in its infancy. We are not unmindful of the magnificent mountains that surround the valleys and inland sea of Puget Sound, from which leap white torrents with the unharnessed energy of a million wild horses and sufficient for the turning of countless wheels that will needlessly grind and maim and dismember men unless such dangerous agencies are so operated that accidents will be reduced to the minimum. And we are not evading full responsibility that human beings who have given all that God gave them to the service of mankind shall be compensated for their mite offering, even though they be known by number and are of that class which have heretofore been termed "just wops."

Mr. SMITH of Georgia. Mr. President, we are about to vote on this bill.

Mr. SUTHERLAND. Will the Senator from Georgia yield to me for a moment?

Mr. SMITH of Georgia. Certainly.

Mr. SUTHERLAND. I wish to call attention to an obvious error made in the reprint of the bill. On page 44 of this new print I find the words "or after," as though the amendment had been offered and adopted. As a matter of fact, no such amendment has been adopted, and I ask that the words be stricken out.

The PRESIDING OFFICER. Without objection, the words will be stricken from the bill.

Mr. GORE. Mr. President, I ask leave to have printed in the RECORD several telegrams and communications from railway men in Oklahoma. I have not the papers with me at the moment, and I ask permission to insert them hereafter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH of Georgia. Mr. President, we have about reached the time to vote on this measure. The few minutes remaining give little opportunity for further debate. I can only state the case.

After years of effort on the part of the men organized and doing the work for the railroad companies the Congress of the United States passed the most favorable legislation in behalf of

the men that has ever been passed by any country in the world. Doubt existed as to the constitutionality of the act. Lawyers throughout the country hesitated to trust their clients' cases under it, and only last February was the law sustained by the Supreme Court of the United States.

Immediately upon establishing their rights the proposition comes to us to repeal the law establishing their rights and to substitute this new untried measure.

I am opposed to this substitute because I do not think it does the men justice. The Senator from New York [Mr. ROOT] favors it and manifests much interest in the men. I yield to his greater interest, because we all know his big heart, filled with love of mankind, that makes his very presence warm the neighborhood which he occupies.

Mr. President, two reasons are submitted in support of this bill. First, it is urged that we are to do away with litigation, a thing greatly to be desired, but who has shown that this measure can do away with litigation? Such a measure has not done away with it anywhere else. Our reports from England show us to-day an increase in litigation in their courts where the workmen's compensation act is involved. The reports that come to the commission from the various roads indicate that litigation is being minimized under existing law.

In my own State, in 1910, we duplicated for intrastate transactions the Federal employers' liability act. We have had the operation of the laws applied to intrastate transactions, and suits by employees against railways have practically stopped in Georgia. Liability being practically established by the employers' liability act, nearly every case is settled by the claim agents, and the percentage of litigation as compared to the accidents is less under our employers' liability act than it is under the English compensation laws.

To broadly state that you are presenting a measure which will stop litigation is easy. To present an argument to sustain the statement was not undertaken. What is there in this measure to stop litigation? You have made it much worse than the English act. The English act has a provision calculated to lessen litigation, in that it gives the maximum recovery for the most extreme injury and leaves all the subordinate injuries with the right to claim that maximum. The railroad companies have an inducement to settle all the smaller injuries lest the employee sue and the courts allow the maximum.

But this bill not only makes a maximum for the largest injuries, but goes on down to the smallest injuries and makes a very small maximum for them, leaving therefore no latitude to the employee to recover any considerable sum in any case and leaving him with no margin for negotiation. Under your proposed bill the claim agent can hold over the injured employee a threat that if he does not accept whatever is offered him he will be compelled to sue before the trial judge without a jury, with the right in the railroad to take the case up to the higher court, and with the further right to the latter, whenever it sees fit, to bring him back through the same process time and time again, and with the further threat that even if the employee recovers the workman's compensation act will give him practically nothing.

With this bill you are passing, confronting the employee, giving a maximum very small for all kinds of injuries, and graded smaller and smaller as you get to the smaller injuries, there is nothing to help him to settle and everything to say to the railroad company, "Litigate as much as you want. You can not have much to pay. Offer as little as you please. The employee must take it, or else the burden of the trial you put on him will be more than the amount he can possibly recover." Instead of stopping litigation, this provision furnishes the means to facilitate it, unless it is intended that the employee's compensation is reduced to nothing.

There is another way you could have stopped litigation as well as this. You could have passed a bill providing that under no circumstances could the employee have anything at all. I am surprised that that plan did not occur to some of the warm advocates of terminating litigation.

Now I want to come for a moment to the amounts provided in this bill and show you how unjust they are. It is said that you are providing for the man whose own negligence causes the accident, and you are also providing for the man who is injured through nobody's negligence, and because you are extending by the bill the compensation principle to these men heretofore not compensated you must make these severe cuts in the rights of those who can now recover full compensation.

I want to show Senators—and I can do it in a moment—that not one out of ten will receive rights in the future who have not them now. They have shown you no figures. They have talked loudly about $10,000,000, the present amount, and $15,000,000, the future amount. They have given you nothing to sustain this claim. There are no statistics as applied to the present law. Let us take the case of a conductor. What are the opportunities of a conductor being injured by his own negligence? He occupies practically the same place as a passenger. Not one case occurs out of fifty where under the present law he could not recover. This bill would pay him, if injured, in this one more case in fifty where now he can not recover, but it will cut down two-thirds from his present right of recovery in the 49 cases, and in the one additional case give him only one-third of his loss.

Take the case of an engineer. What are the opportunities for him to be injured outside of his own negligence? Through the negligence of the operators, through the negligence of the other engineer, through the negligence of the trainmen, through the condition of the track, and through defects in the engine. There are ten other ways to injure him to one from his own negligence. There are ten chances in which he is protected to-day to the one chance of protection that you give him, and yet for giving him that one new chance you cut the chances he now has down two-thirds, to give him one-third of his injury if he is hurt by this new chance.

You may take the case of any railroad employee, and the employee may take his own case, and look around and see that when you undertake to make him believe that you are adding ninety new opportunities to recover to the ten he now has, you are wasting words and that your claims are utterly without foundation.

I submit to the personal information of any Senator, I submit to his personal consideration, the case of any one of these employees of a railroad. Look over the field and see what the chances are for him to be injured, and see how many of them he already has covered, and how little you give him by this new legislation. You do not know whether it will apply to trackmen or not. You do not know whether it will apply to yardmen. You do not know whether it will apply to the men in the machine shops.

Now, how are the employees cut down by this new bill? You provide, first, that however much he may make he shall not be considered to have been making over $100. Is it fair? Would it spoil the whole scheme, instead of limiting him to $100, if you were to treat him on the basis of what he actually earned? Would such an amendment be destructive to this beautiful structure that has been so carefully prepared? It would increase the compensation more nearly to what the men actually lose by injuries.

Let me ask your attention to the second plan of compensation, which is based, it seems to me, upon a radically unsound principle. You take the men with permanent injuries—the loss of an arm or the loss of a limb or a foot. There is a permanent injury, and yet instead of fixing the percentage of his wages lost by the injury and giving him permanently that amount you give it to him for only a few months. If the injury is permanent, the compensation should be permanent.

The Senator from West Virginia [Mr. CHILTON], almost in tears, talked about these people who were going to be hurt between now and December, if you do not pass the bill to-day. I should like for him to tell what is to become of the men, after they have been hurt and have drawn the pittance you give them for several months, when your bill stops all payments to them? I would be glad to gather a few of his tears and mingle them with the tears of some of the Senators on the other side, and save them for the men permanently injured, whom you would compensate for only a few short months.

I insist, Senators, that any sound principle of compensation, where the injury is a permanent one—permanently lessening the capacity of the man to labor—should continue coequal with the time that the injury is to last.

I have prepared a number of amendments, and others will be offered. Amendments that I submit will not destroy the entire structure of the bill, but they will be a little improvement to it, and they are amendments which ought to appeal to those Senators whose sole concern is the good of the men, who are not thinking for one moment about the stockholders who own the road, who have no associations with those who own the road, but whose close relations with the men cause them to act solely for the good of the men.

The PRESIDING OFFICER (at 4 o'clock). The time for voting has commenced.

Mr. SMITH of Arizona. May I, just before the time is up, ask permission to have printed in the RECORD two letters on this matter in explanation, in part, of my vote?

The PRESIDING OFFICER. Without objection, permission is granted.

The letters are as follows:

SAN XAVIER DIVISION, NO. 313,
ORDER OF RAILWAY CONDUCTORS OF AMERICA,
Tucson, Ariz., April 1, 1912.

Hon. MARCUS A. SMITH,
United States Senate.

DEAR SIR: Division No. 313 of the Order of Railway Conductors of America has instructed me to address a communication to you respectfully requesting that you support the bill that has been introduced in the Senate as S. 5382, by Senator SUTHERLAND, who was chairman of the committee appointed to secure an equitable workman's compensation law, and in the House as H. R. 20487, by Mr. BRANTLEY, vice chairman. Our joint national representative, Mr. H. E. Wills, who is now in Washington, will explain to you more fully the time, labor, and expense that the labor organizations have been to in getting these bills introduced. He not only represents the Order of Railway Conductors, but the Brotherhood of Locomotive Engineers and the Brotherhood of Railroad Trainmen as well, and we would deem it as a special favor if you would make an effort to become acquainted with Mr. Wills. Trusting that you will give this matter your attention and favorable consideration, we are,

Yours, truly, SAN XAVIER DIVISION, NO. 313,
By C. F. DAVANT,
Secretary and Treasurer.

—

DEWEY LODGE, NO. 460,
BROTHERHOOD OF RAILROAD TRAINMEN,
Tucson, Ariz., April 4, 1912.

Mr. MARK SMITH,
Washington, D. C.

DEAR SIR: The members of this lodge are very anxious for the passage of workingmen's compensation act, and favor the bill introduced in the Senate as S. 5382, by Senator SUTHERLAND, and in the House as H. R. 20487, by Mr. BRANTLEY.

Any assistance you can give toward the passage of this bill will be appreciated by the members of this organization.

Thanking, etc.,

[SEAL.] J. H. HIGHBAUGH,
Secretary 460, Brotherhood of Railroad Trainmen.

Mr. SUTHERLAND. I offer the following amendment: In section 4, page 2, line 20, after the word "specified," insert "but this shall not be construed to reduce the length of time over which payments shall extend wherever specific periods are herein fixed."

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Utah.

Mr. REED. I want to get the reference.

The SECRETARY. Section 4, page 2, of the bill, after the word "specified," in lines 19 and 20.

Mr. BACON. I should like to have the Secretary read the section as it would read when amended. It is impossible to understand the amendment without the context.

The PRESIDING OFFICER. The section will be read as it would stand if amended.

The SECRETARY. If amended, section 4 will read:

SEC. 4. That the first 14 calendar days of disability resulting from any injury shall be excluded from the period of time for which compensation is hereinafter specified, but this shall not be construed to reduce the length of time over which payments shall extend wherever specific periods are herein fixed: *Provided, however,* That during said 14 days the employer shall furnish all medical and surgical aid and assistance that may be reasonably required, including hospital services.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Utah.

The amendment was agreed to.

Mr. OVERMAN. Mr. President, in response to the request of hundreds of thousands of these working men, and in order that Senators may understand the amendments in the bill, I move that the further consideration of the bill——

Mr. SUTHERLAND. I make the point of order that debate is not in order.

The PRESIDING OFFICER. Debate is not in order.

Mr. OVERMAN. I move that the further consideration of the bill be postponed until June 4.

The PRESIDING OFFICER. The Chair will remind the Senator from North Carolina that under the unanimous consent agreement that motion is to be entertained immediately before the vote upon the final passage of the bill is taken; so it can not well be made now.

Mr. OVERMAN. I thought the understanding was that it could be made at any time before the vote on the final passage of the bill.

The PRESIDING OFFICER. No; "immediately before," as the Chair understands it. The Chair will have the unanimous consent agreement read.

The Secretary read as follows:

It is further agreed that on Monday next, not later than 4 o'clock p. m., the Senate will proceed, without further debate, to vote upon any amendment then pending or which may be offered to the said bill, and upon the bill itself; and further, that immediately prior to the time for taking the vote on the passage of the bill, if a motion then be made to postpone the further consideration thereof to a day certain, it shall be entertained.

Mr. OVERMAN. I see I am wrong, Mr. President. Having made the original proposition and having asked that that exception be made, and that the motion might be made at any time after 4 o'clock, I thought it in order now; but I see that under the unanimous consent agreement, as it here appears, it is not now in order.

Mr. CULBERSON. I offer an amendment which I send to the desk.

The PRESIDING OFFICER. The Senator from Texas offers an amendment, which will be read.

The SECRETARY. On page 24, lines 6 to 8, inclusive, strike out the following:

The findings of the adjuster filed as aforesaid shall be received as prima facie evidence of the facts herein set forth in any trial before the court or jury.

The PRESIDING OFFICER. The question is on agreeing to the amendment. [Putting the question.] The "noes" appear to have it.

Mr. CULBERSON. I ask for the yeas and nays.

Mr. CLARKE of Arkansas. Mr. President, I think if the Senator from Utah is heard from about the amendment it will obviate the necessity of a roll call on agreeing to it.

Mr. SUTHERLAND. If I may be permitted, so far as I can, I accept that amendment.

The PRESIDING OFFICER. The vote will be taken vive voce again. The question is on agreeing to the amendment proposed by the Senator from Texas.

The amendment was agreed to.

Mr. CULBERSON. I offer another amendment, which I send to the desk.

The PRESIDING OFFICER. The Chair suggests to the Senator that it relates to the title, and the title will be considered after the bill has passed.

Mr. CULBERSON. It relates to the title and to section 3 also. They go together necessarily.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. In the title of the bill strike out the word "exclusive" and insert the word "optional," and strike out section 3 of the bill entirely.

The PRESIDING OFFICER. The question is on agreeing to the amendment presented by the Senator from Texas. [Putting the question.] The noes appear to have it.

Mr. SMITH of Georgia. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BACON. I ask for the reading of the section proposed to be stricken out.

The PRESIDING OFFICER. The section will be read.

The SECRETARY. It is proposed to strike out section 3 in the following words:

SEC. 3. That except as provided herein no such employer shall be civilly liable for any personal injury to or death of any such employee resulting from any such accident.

The PRESIDING OFFICER. The question is on agreeing to the amendment, on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. JOHNSTON of Alabama (when Mr. BANKHEAD's name was called). I wish to state that the Senator from Texas [Mr. BAILEY] is paired with the Senator from Montana [Mr. DIXON]. The Senator from Alabama [Mr. BANKHEAD] is paired with the Senator from Idaho [Mr. HEYBURN]. I make the announcement for the day.

Mr. BURNHAM (when his name was called). I have a general pair with the junior Senator from Maryland [Mr. SMITH], who is absent. I transfer that pair to the junior Senator from Illinois [Mr. LORIMER] and vote. I vote "nay."

Mr. CRAWFORD (when Mr. GAMBLE's name was called). I desire to state that my colleague [Mr. GAMBLE] is necessarily absent. He has a general pair with the senior Senator from Oklahoma [Mr. OWEN]. I am advised that if my colleague were present he would vote to sustain the committee and against the amendment.

Mr. BORAH (when Mr. HEYBURN's name was called). I desire to state that my colleague [Mr. HEYBURN] is necessarily absent. As has been stated, he is paired with the Senator from Alabama [Mr. BANKHEAD]. I will allow this statement to stand for the day.

Mr. CUMMINS (when Mr. KENYON's name was called). My colleague [Mr. KENYON] is necessarily absent from the city. I will allow this statement to stand for every vote save the one upon the final passage of the bill.

Mr. OWEN (when his name was called). I am paired with the Senator from South Dakota [Mr. GAMBLE]. If he were present, I should vote "yea." I withhold my vote.

Mr. OLIVER (when Mr. PENROSE's name was called). My colleague [Mr. PENROSE] is necessarily absent and is paired with the Senator from Mississippi [Mr. WILLIAMS]. If present my colleague would vote "nay." I will allow this statement to stand for the day.

Mr. RICHARDSON (when his name was called). I have a general pair with the junior Senator from South Carolina [Mr. SMITH]. In his absence I withhold my vote.

Mr. WILLIAMS (when his name was called). I have a general pair with the senior Senator from Pennsylvania [Mr. PENROSE], but I have just been informed that if he were present he would vote "nay." I therefore desire to vote. I vote "nay."

The roll call was concluded.

Mr. FOSTER (after having voted in the negative). I understood that my pair, the junior Senator from Wyoming [Mr. WARREN], has not voted, and I withdraw my vote.

Mr. RICHARDSON. I will transfer my pair with the junior Senator from South Carolina [Mr. SMITH] to the senior Senator from Pennsylvania [Mr. PENROSE] and vote. I vote "nay."

The result was announced—yeas 26, nays 52, as follows:

YEAS—26.

Ashurst	Hitchcock	Overman	Smith, Ga.
Bacon	Johnston, Ala.	Paynter	Stone
Bryan	Kern	Poindexter	Swanson
Culberson	Lea	Reed	Tillman
Davis	Martine, N. J.	Shively	Watson
Fletcher	Myers	Simmons	
Gore	O'Gorman	Smith, Ariz.	

NAYS—52.

Borah	Clark, Wyo.	Guggenheim	Perkins
Bourne	Clarke, Ark.	Johnson, Me.	Pomerene
Bradley	Crane	Jones	Richardson
Brandegee	Crawford	Lippitt	Root
Briggs	Cullom	Lodge	Sanders
Bristow	Cummins	McCumber	Smith, Mich.
Brown	Curtis	McLean	Smoot
Burnham	Dillingham	Nelson	Sutherland
Burton	du Pont	Newlands	Thornton
Catron	Fall	Nixon	Townsend
Chamberlain	Gallinger	Oliver	Wetmore
Chilton	Gardner	Page	Williams
Clapp	Gronna	Percy	Works

NOT VOTING—17.

Bailey	Heyburn	Owen	Stephenson
Bankhead	Kenyon	Penrose	Warren
Dixon	La Follette	Rayner	
Foster	Lorimer	Smith, Md.	
Gamble	Martin, Va.	Smith, S. C.	

So Mr. CULBERSON's amendment was rejected.

Mr. REED. I send to the desk an amendment which I offer.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. On page 24 of the last print of the bill, amend section 14, paragraph 4, by striking out of that paragraph the following words:

If a trial by jury is not demanded by either party within five days after the filing and service of the exceptions a jury shall be deemed to be waived, and the court shall thereupon hear and determine the case without a jury.

Mr. STONE. Let us see how the section would read if amended as proposed.

The PRESIDING OFFICER. The paragraph will be read as it would read if amended.

The SECRETARY. If amended, paragraph 4 of section 14, beginning at the bottom of page 23, would read:

(4) Where exceptions are filed, either party shall have the right, upon a written demand filed with the clerk, to a trial by jury, upon the claim for compensation under this act, as in cases at common law. The party making such demand shall at the time thereof pay to the clerk the sum of $5 as a jury fee. The findings of the adjuster filed as aforesaid shall be received as prima facie evidence of the facts therein set forth in any trial before the court or jury. Where the case is tried by a jury the court may submit special interrogatories, to be answered by the jury in the form of a special verdict.

Mr. CLARKE of Arkansas. Just at that place I have an amendment to the amendment to perfect the section. I intended to offer it at a later time, but I think I will do so at this stage.

I move to amend, on page 24 of the last print, by striking out all after the word "by," in line 3, down to and including the word "exceptions," in line 4, and insert:

The party filing said exceptions within five days after the service of the exceptions, then the other party shall have the right for an additional five days to demand a jury on the terms aforesaid, and if neither party shall demand a jury within the times herein respectively allowed—

Then the section goes on to read—

a jury shall be deemed to be waived, etc.

The intention of the amendment is to give the party to file the exceptions five days in which to demand a jury, and if he does not do so within five days then the other party shall have the right to five days.

Mr. REED. Mr. President, as a matter of inquiry, would not the Senator be willing to let the amendment I offer be voted on and then offer his later?

Mr. CLARKE of Arkansas. I would be very glad to do so if it will not preclude my rights by doing that.

The PRESIDING OFFICER. The amendment of the Senator from Arkansas is to perfect the text of the bill, the Chair understands, and that is perfectly in order.

Mr. CLARKE of Arkansas. I call the attention of the Senator from Utah to my amendment. Possibly it may not be antagonized.

Mr. SUTHERLAND. Let it be read. Let that part of the section be read as it would read if amended.

The SECRETARY. On page 24, beginning with line 3, after the word "by," strike out the words "either party within five days after the filing and service of the exceptions," and insert the words:

The party filing said exceptions within five days after the service of the exceptions, then the other party shall have the right for an additional five days to demand a jury on the terms aforesaid, and if neither party shall demand a jury within the times herein respectively allowed—

So that if amended it will read:

If a trial by jury is not demanded by the party filing said exceptions within five days after the service of the exceptions, then the other party shall have the right for an additional five days to demand a jury on the terms aforesaid, and if neither party shall demand a jury within the times herein respectively allowed, a jury shall be deemed to be waived, and the court shall thereupon hear and determine the case without a jury. The findings of the adjuster filed as aforesaid shall be received as prima facie evidence of the facts therein set forth in any trial before the court or jury. Where the case is tried by a jury the court may submit special interrogatories, to be answered by the jury in the form of a special verdict.

Mr. SUTHERLAND. I see no objection to that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment submitted by the Senator from Arkansas.

Mr. REED. A parliamentary inquiry. That amendment is offered as an amendment to the amendment I offered?

Mr. CLARKE of Arkansas. It is offered as an amendment to perfect the original text before the Senator proposes to strike out. That is the parliamentary course. Then will come the question on the motion to strike out.

Mr. REED. Very well. I merely wished to understand it.

The PRESIDING OFFICER. The question is on the amendment submitted by the Senator from Arkansas [Mr. CLARKE].

The amendment was agreed to.

Mr. REED. Now, Mr. President, I offer the amendment which I send to the desk. I desire to modify it, however, to include this language——

The PRESIDING OFFICER. It will be so included. The Secretary will read the amendment as modified.

Mr. REED. So that the entire limitation will be stricken out.

Mr. LODGE. The question now is to strike out the words as they have been amended.

The PRESIDING OFFICER. As amended. The Secretary will state the amendment.

The SECRETARY. It is proposed, in section 14, on page 24, of the reprint of the bill, beginning in line 2 with the word "If," to strike out the following words:

If a trial by jury is not demanded by the party filing said exceptions within five days after the service of the exceptions, then the other party shall have the right for an additional five days to demand a jury on the terms aforesaid, and if neither party shall demand a jury within the times herein respectively allowed a jury shall be deemed to be waived, and the court shall thereupon hear and determine the cause without a jury.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Missouri.

Mr. REED. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BURNHAM (when his name was called). As before stated, I have a general pair with the junior Senator from Maryland [Mr. SMITH]. In his absence, I transfer that pair to the junior Senator from Illinois [Mr. LORIMER], and shall vote. I desire this statement to stand for the remainder of the day. I vote "nay."

Mr. CLAPP (when Mr. DIXON's name was called). The senior Senator from Montana [Mr. DIXON] is paired with the senior Senator from Texas [Mr. BAILEY]. I make that statement for the day.

Mr. FOSTER (when his name was called). In the absence of the Senator from Wyoming [Mr. WARREN], with whom I am paired, I withhold my vote.

Mr. CRAWFORD (when Mr. GAMBLE's name was called). I desire that the statement made by me on the former roll call as to my colleague [Mr. GAMBLE] shall stand during all the votes taken through the day.

Mr. SWANSON (when the name of Mr. MARTIN of Virginia was called). I desire to announce that my colleague [Mr. MARTIN] is paired with the junior Senator from Wisconsin [Mr. STEPHENSON]. I wish this announcement to stand for the day.

Mr. RICHARDSON (when his name was called). I have a general pair with the Senator from South Carolina [Mr. SMITH]. Under the arrangement with the Senator from Missis-

sippi [Mr. WILLIAMS], I transfer that pair to the senior Senator from Pennsylvania [Mr. PENROSE], which will enable both the Senator from Mississippi and myself to vote. I vote "nay."

Mr. WILLIAMS (when his name was called). I have a general pair with the senior Senator from Pennsylvania [Mr. PENROSE]. I transfer that pair to the junior Senator from South Carolina [Mr. SMITH], and ask that the pair and the announcement stand for the remainder of the day. I vote "nay."

The roll call having been concluded, the result was announced—yeas 25, nays 53, as follows:

YEAS—25.

Ashurst	Gronna	O'Gorman	Smith, Ga.
Bacon	Hitchcock	Overman	Stone
Bryan	Johnston, Ala.	Paynter	Swanson
Culberson	Kern	Reed	Tillman
Davis	Lea	Shively	
Fletcher	Martine, N. J.	Simmons	
Gore	Myers	Smith, Ariz.	

NAYS—53.

Borah	Clarke, Ark.	Lippitt	Root
Bourne	Crane	Lodge	Sanders
Bradley	Crawford	McCumber	Smith, Mich.
Brandegee	Cullom	McLean	Smoot
Briggs	Cummins	Nelson	Sutherland
Bristow	Curtis	Newlands	Thornton
Brown	Dillingham	Nixon	Townsend
Burnham	du Pont	Oliver	Watson
Burton	Fall	Page	Wetmore
Catron	Gallinger	Percy	Williams
Chamberlain	Gardner	Perkins	Works
Chilton	Guggenheim	Poindexter	
Clapp	Johnson, Me.	Pomerene	
Clark, Wyo.	Jones	Richardson	

NOT VOTING—17.

Bailey	Heyburn	Owen	Stephenson
Bankhead	Kenyon	Penrose	Warren
Dixon	La Follette	Rayner	
Foster	Lorimer	Smith, Md.	
Gamble	Martin, Va.	Smith, S. C.	

So Mr. REED's amendment was rejected.

Mr. BACON. Mr. President, I offer the amendment which I send to the desk as a proviso to the third section of the bill.

The PRESIDING OFFICER. The amendment proposed by the Senator from Georgia will be stated.

The SECRETARY. It is proposed to add at the end of section 3, on page 2, the following words:

Provided, That it shall be competent for such employer and employee to stipulate and agree in writing that the liability of the employer to the employee for any personal injury to or death of such employee shall be as prescribed in the act of April 22, 1908, entitled "An act relating to the liability of common carriers by railroad to their employees."

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Georgia.

Mr. BACON. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. RICHARDSON (when his name was called). I have heretofore announced the transfer of my pair with the Senator from South Carolina [Mr. SMITH] to the senior Senator from Pennsylvania [Mr. PENROSE]. I now make that announcement to stand for the remainder of the day. I vote "nay."

The roll call having been concluded, the result was announced—yeas 28, nays 51, as follows:

YEAS—28.

Ashurst	Foster	Martine, N. J.	Simmons
Bacon	Gardner	Myers	Smith, Ariz.
Bryan	Gore	O'Gorman	Smith, Ga.
Clarke, Ark.	Hitchcock	Overman	Stone
Culberson	Johnston, Ala.	Paynter	Swanson
Davis	Kern	Reed	Tillman
Fletcher	Lea	Shively	Watson

NAYS—51.

Borah	Clark, Wyo.	Jones	Richardson
Bourne	Crane	Lippitt	Root
Bradley	Crawford	Lodge	Sanders
Brandegee	Cullom	McCumber	Smith, Mich.
Briggs	Cummins	McLean	Smoot
Bristow	Curtis	Nelson	Sutherland
Brown	Dillingham	Newlands	Thornton
Burnham	du Pont	Nixon	Townsend
Burton	Fall	Oliver	Warren
Catron	Gallinger	Page	Wetmore
Chamberlain	Gronna	Perkins	Williams
Chilton	Guggenheim	Poindexter	Works
Clapp	Johnson, Me.	Pomerene	

NOT VOTING—16.

Bailey	Heyburn	Martin, Va.	Rayner
Bankhead	Kenyon	Owen	Smith, Md.
Dixon	La Follette	Penrose	Smith, S. C.
Gamble	Lorimer	Percy	Stephenson

So Mr. BACON's amendment was rejected.

Mr. OVERMAN. I send forward an amendment, and on its adoption I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from North Carolina offers an amendment, which the Secretary will state.

The SECRETARY. It is proposed to add a new section to the bill, to be numbered section 31½, as follows:

SEC. 31½. That nothing in this act shall be held, in any manner, to deprive any State court of jurisdiction of all common-law and statutory remedies heretofore existing for all cases of negligence occurring upon any railroad doing business in the State in which said railroad is incorporated, notwithstanding the fact that said railroad at the time is engaged in doing an interstate business.

The PRESIDING OFFICER. The Senator from North Carolina demands the yeas and nays on the amendment.

The yeas and nays were ordered and taken.

Mr. DILLINGHAM (after having voted in the negative). I should like to inquire whether the senior Senator from South Carolina [Mr. TILLMAN] has voted?

The PRESIDING OFFICER. The Chair is informed the Senator from South Carolina has not voted.

Mr. DILLINGHAM. Having a general pair with that Senator, I withdraw my vote.

The result was announced—yeas 23, nays 52, as follows:

YEAS—23.

Ashurst	Gore	O'Gorman	Simmons
Bacon	Hitchcock	Overman	Smith, Ariz.
Bryan	Johnston, Ala.	Paynter	Smith, Ga.
Culberson	Kern	Poindexter	Stone
Davis	Lea	Reed	Swanson
Fletcher	Myers	Shively	

NAYS—52.

Borah	Clark, Wyo.	Johnson, Me.	Pomerene
Bourne	Clarke, Ark.	Jones	Richardson
Bradley	Crane	Lippitt	Root
Brandegee	Crawford	Lodge	Sanders
Briggs	Cullom	McCumber	Smoot
Bristow	Cummins	McLean	Sutherland
Brown	Curtis	Nelson	Thornton
Burnham	du Pont	Newlands	Townsend
Burton	Fall	Nixon	Warren
Catron	Gallinger	Oliver	Watson
Chamberlain	Gardner	Page	Wetmore
Chilton	Gronna	Percy	Williams
Clapp	Guggenheim	Perkins	Works.

NOT VOTING—20.

Bailey	Gamble	Martin, Va.	Smith, Md.
Bankhead	Heyburn	Martine, N. J.	Smith, Mich.
Dillingham	Kenyon	Owen	Smith, S. C.
Dixon	La Follette	Penrose	Stephenson
Foster	Lorimer	Rayner	Tillman

So Mr. OVERMAN's amendment was rejected.

Mr. CULBERSON. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The Senator from Texas offers an amendment, which will be stated.

The SECRETARY. On page 29, lines 20 and 21, after the word "hundred" and before the word "dollars," it is proposed to insert the words "and fifty," and in line 21, after the word "than," to strike out "fifty" and insert "seventy-five," so as to read:

For the purpose of such calculation, no employee's wages shall be considered to be more than $150 a month or less than $75 a month.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Texas. [Putting the question.] By the sound the "noes" seem to have it.

Mr. CULBERSON and Mr. SMITH of Georgia demanded the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. DILLINGHAM (when his name was called). I notice the absence from the Chamber of the distinguished Senator from South Carolina [Mr. TILLMAN]. Having a pair with him I withhold my vote.

The roll call having been concluded, the result was announced—yeas 27, nays 50, as follows:

YEAS—27.

Ashurst	Hitchcock	Overman	Smith, Ariz.
Bacon	Johnston, Ala.	Paynter	Smith, Ga.
Bryan	Kern	Poindexter	Stone
Culberson	Lea	Pomerene	Swanson
Davis	Martine, N. J.	Reed	Watson
Fletcher	Myers	Shively	Williams
Gore	O'Gorman	Simmons	

NAYS—50.

Borah	Clark, Wyo.	Guggenheim	Perkins
Bourne	Clarke, Ark.	Johnson, Me.	Richardson
Bradley	Crane	Jones	Root
Brandegee	Crawford	Lippitt	Sanders
Briggs	Cullom	Lodge	Smoot
Bristow	Cummins	McCumber	Sutherland
Brown	Curtis	McLean	Thornton
Burnham	du Pont	Nelson	Townsend
Burton	Fall	Newlands	Warren
Catron	Foster	Nixon	Wetmore
Chamberlain	Gallinger	Oliver	Works
Chilton	Gardner	Page	
Clapp	Gronna	Percy	

NOT VOTING—18.

Bailey	Heyburn	Owen	Smith, S. C.
Bankhead	Kenyon	Penrose	Stephenson
Dillingham	La Follette	Rayner	Tillman
Dixon	Lorimer	Smith, Md.	
Gamble	Martin, Va.	Smith, Mich.	

So Mr. CULBERSON's amendment was rejected.

Mr. REED. I offer the amendment I send to the desk.

The SECRETARY. On page 29, lines 20 and 21, after the word "hundred," insert "and twenty-five"; on page 29, line 21, after the word "than," strike out "fifty" and insert "seventy-five," so that if amended it will read:

For the purpose of such calculation, no employee's wages shall be considered to be more than $125 a month or less than $75 a month.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Missouri.

Mr. REED. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. DILLINGHAM (when his name was called). Again I announce my pair, and I withhold my vote. If the Senator from South Carolina [Mr. TILLMAN] were present, I would vote "nay."

The result was announced—yeas 26, nays 51, as follows:

YEAS—26.

Ashurst	Gore	O'Gorman	Smith, Ariz.
Bacon	Hitchcock	Overman	Smith, Ga.
Bryan	Johnston, Ala.	Paynter	Stone
Culberson	Kern	Poindexter	Swanson
Davis	Lea	Reed	Watson
Fletcher	Martine, N. J.	Shively	
Foster	Myers	Simmons	

NAYS—51.

Borah	Clark, Wyo.	Johnson, Me.	Richardson
Bourne	Clarke, Ark.	Jones	Root
Bradley	Crane	Lippitt	Sanders
Brandegee	Crawford	Lodge	Smith, Mich.
Briggs	Cullom	McCumber	Smoot
Bristow	Cummins	McLean	Sutherland
Brown	Curtis	Nelson	Thornton
Burnham	du Pont	Nixon	Townsend
Burton	Fall	Oliver	Warren
Catron	Gallinger	Page	Wetmore
Chamberlain	Gardner	Percy	Williams
Chilton	Gronna	Perkins	Works
Clapp	Guggenheim	Pomerene	

NOT VOTING—18.

Bailey	Heyburn	Newlands	Smith, S. C.
Bankhead	Kenyon	Owen	Stephenson
Dillingham	La Follette	Penrose	Tillman
Dixon	Lorimer	Rayner	
Gamble	Martin, Va.	Smith, Md.	

So Mr. REED's amendment was rejected.

Mr. CULBERSON. There is one other amendment which I propose.

The SECRETARY. On page 2, lines 2 and 3, strike out the words "arising out of and in the course of his employment."

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Texas.

The amendment was rejected.

Mr. POMERENE. I offer an amendment. I move to strike out, beginning with line 17, on page 32, and ending with line 12, on page 33, both lines inclusive. The purpose is to do away with the discrimination between resident and nonresident dependents.

The SECRETARY. On page 32 it is proposed to strike out subsection 7 of section 21, which reads as follows:

(7) The foregoing subdivisions of this clause (A) shall apply only to dependents who at the time of the death of the deceased employee are actual residents of the United States or contiguous countries, except (a) if the nonresident dependent be a widow and there be no resident child or children entitled to compensation under this act, there shall be paid to her a lump sum equal to one year's wages of the deceased employee, as hereinbefore defined and limited, for the benefit of herself and nonresident children, if any; (b) if the nonresident dependent be a child or children under the age of 16 years and there be no widow, resident or nonresident, and no resident children entitled to compensation under this act, there shall be paid to such nonresident child or children a like lump sum to be divided among them share and share alike; it being the intention of the foregoing to exclude from the benefits of this act any such nonresident widow, child, or children, if there be any resident child or children entitled to compensation under this act, and to exclude from the benefits of this act all other resident dependents if there be any nonresident widow, child, or children entitled to take under the provisions of this subdivision.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Ohio.

Mr. POMERENE. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. DILLINGHAM (when his name was called). Not knowing whether the Senator from South Carolina [Mr. TILLMAN] intends to return to the Chamber this afternoon, I make the announcement of my pair with him and will let it stand on all questions in connection with this bill until he returns.

The roll call was concluded.

Mr. DU PONT (after having voted in the negative). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. As I observe he has not voted, I withdraw my vote.

The result was announced—yeas 29, nays 45, as follows:

YEAS—29.

Ashurst	Gore	Myers	Smith, Ariz.
Bacon	Gronna	O'Gorman	Smith, Ga.
Bryan	Hitchcock	Overman	Stone.
Chilton	Johnson, Me.	Paynter	Watson
Davis	Johnston, Ala.	Pomerene	Williams
Fletcher	Kern	Reed	
Gallinger	Lea	Shively	
Gardner	Martine, N. J.	Simmons	

NAYS—45.

Borah	Clark, Wyo.	McCumber	Sanders
Bourne	Crane	McLean	Smoot
Bradley	Crawford	Nelson	Sutherland
Brandegee	Cullom	Newlands	Swanson
Briggs	Cummins	Nixon	Thornton
Bristow	Curtis	Oliver	Townsend
Brown	Fall	Page	Warren
Burnham	Foster	Percy	Wetmore
Burton	Guggenheim	Perkins	Works
Catron	Jones	Poindexter	
Chamberlain	Lippitt	Richardson	
Clapp	Lodge	Root	

NOT VOTING—21.

Bailey	du Pont	Martin, Va.	Smith, S. C.
Bankhead	Gamble	Owen	Stephenson
Clarke, Ark.	Heyburn	Penrose	Tillman
Culberson	Kenyon	Rayner	
Dillingham	La Follette	Smith, Md.	
Dixon	Lorimer	Smith, Mich.	

So Mr. POMERENE's amendment was rejected.

Mr. POMERENE. I offer the following amendment, to come in on page 33, at the conclusion of line 12, as a proviso:

The PRESIDING OFFICER. The Senator from Ohio submits an amendment, which will be read.

The SECRETARY. On page 33, after the word "subdivision," at the end of line 12, insert the following proviso:

Provided, however, That nonresident dependents living in foreign countries not contiguous to the United States shall have the same rights hereunder as resident dependents, if those countries accord to the nonresident dependents of their employees the same rights as are given to their resident dependents.

Mr. POMERENE. On that amendment I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. DU PONT (when his name was called). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. As he is not in the Chamber, I withhold my vote.

The roll call having been concluded, the result was announced—yeas 29, nays 44, as follows:

YEAS—29.

Ashurst	Gronna	O'Gorman	Smith, Ga.
Bacon	Hitchcock	Overman	Stone
Bryan	Johnson, Me.	Paynter	Swanson
Chilton	Johnston, Ala.	Pomerene	Watson
Davis	Kern	Reed	Williams
Fletcher	Lea	Shively	
Gardner	Martin, N. J.	Simmons	
Gore	Myers	Smith, Ariz.	

NAYS—44.

Borah	Clapp	Lippitt	Richardson
Bourne	Clark, Wyo.	Lodge	Root
Bradley	Crane	McCumber	Sanders
Brandegee	Crawford	McLean	Smith, Mich.
Briggs	Cullom	Nelson	Smoot
Bristow	Cummins	Nixon	Sutherland
Brown	Curtis	Oliver	Thornton
Burnham	Fall	Page	Townsend
Burton	Gallinger	Percy	Warren
Catron	Guggenheim	Perkins	Wetmore
Chamberlain	Jones	Poindexter	Works

NOT VOTING—22.

Bailey	du Pont	Lorimer	Smith, Md.
Bankhead	Foster	Martin, Va.	Smith, S. C.
Clarke, Ark.	Gamble	Newlands	Stephenson
Culberson	Heyburn	Owen	Tillman
Dillingham	Kenyon	Penrose	
Dixon	La Follette	Rayner	

So Mr. POMERENE's amendment was rejected.

Mr. HITCHCOCK. I offer the following amendment.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 31, line 19, after the word "years" in the reprint, insert:

But any female child shall continue to receive her share until she reaches 20 years of age, unless sooner married.

So that if amended the paragraph will read:

(4) In the event of the death or remarriage of a widow receiving payments under subdivision (2) of this clause, the amounts stated in subdivision (3) shall thereafter be paid to the child or children of the deceased employee therein specified for the unexpired part of the period of eight years from the date of the employee's death, but to continue in any event until the youngest child shall have attained the age of 16 years, but any female child shall continue to receive her share until she reaches 20 years of age, unless sooner married, subject to the provisions of subdivision (9) of this clause (A).

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Nebraska. [Putting the question.] The noes seem to have it.

Mr. HITCHCOCK. I ask for the yeas and nays.

The yeas and nays were ordered; and, being taken, resulted—yeas 30, nays 47, as follows:

YEAS—30.

Ashurst	Hitchcock	Overman	Smith, Ga.
Bacon	Johnson, Me.	Paynter	Stone
Bryan	Johnston, Ala.	Poindexter	Swanson
Culberson	Kern	Pomerene	Tillman
Davis	Lea	Reed	Watson
Fletcher	Martine, N. J.	Shively	Williams
Gardner	Myers	Simmons	
Gore	O'Gorman	Smith, Ariz.	

NAYS—47.

Borah	Clark, Wyo.	Jones	Richardson
Bourne	Crane	Lippitt	Root
Bradley	Crawford	Lodge	Sanders
Brandegee	Cullom	McCumber	Smith, Mich.
Briggs	Cummins	McLean	Smoot
Bristow	Curtis	Nelson	Sutherland
Brown	Dillingham	Newlands	Thornton
Burnham	du Pont	Nixon	Townsend
Burton	Fall	Oliver	Warren
Catron	Gallinger	Page	Wetmore
Chamberlain	Gronna	Percy	Works
Clapp	Guggenheim	Perkins	

NOT VOTING—18.

Bailey	Foster	Lorimer	Smith, Md.
Bankhead	Gamble	Martin, Va.	Smith, S. C.
Chilton	Heyburn	Owen	Stephenson
Clarke, Ark.	Kenyon	Penrose	
Dixon	La Follette	Rayner	

So Mr. HITCHCOCK's amendment was rejected.

Mr. JOHNSTON of Alabama. I offer the following amendment.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 23, line 25, strike out all, after the word "law," and, on page 124, strike out all, in lines 1 and 2 to the word "if," striking out the following words:

The party making such demand shall at the time thereof pay to the clerk the sum of $5 as a jury fee.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Alabama.

The amendment was rejected.

Mr. KERN. I offer the following amendment.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. Amend section 21 by striking out the word "forty," in line 20, page 30, and inserting in lieu thereof the word "fifty," so as to read:

(1) If the deceased employee leave a widow and no child under the age of 16, and no dependent child over the age of 16, there shall be paid to the widow 50 per centum of the monthly wages of the deceased.

Mr. KERN. On that I ask for the yeas and nays.

The yeas and nays were ordered; and, being taken, resulted—yeas 28, nays 50, as follows:

YEAS—28.

Ashurst	Gore	O'Gorman	Simmons
Bacon	Hitchcock	Overman	Smith, Ariz.
Bryan	Johnston, Ala.	Paynter	Smith, Ga.
Culberson	Kern	Poindexter	Stone
Davis	Lea	Pomerene	Swanson
Fletcher	Martine, N. J.	Reed	Tillman
Gardner	Myers	Shively	Watson

NAYS—50.

Borah	Clark, Wyo.	Jones	Root
Bourne	Crane	Lippitt	Sanders
Bradley	Crawford	Lodge	Smith, Mich.
Brandegee	Cullom	McCumber	Smoot
Briggs	Cummins	McLean	Sutherland
Bristow	Curtis	Nelson	Thornton
Brown	Dillingham	Newlands	Townsend
Burnham	du Pont	Nixon	Warren
Burton	Fall	Oliver	Wetmore
Catron	Gallinger	Page	Williams
Chamberlain	Gronna	Percy	Works
Chilton	Guggenheim	Perkins	
Clapp	Johnson, Me.	Richardson	

NOT VOTING—17.

Bailey	Gamble	Martin, Va.	Smith, S. C.
Bankhead	Heyburn	Owen	Stephenson
Clarke, Ark.	Kenyon	Penrose	
Dixon	La Follette	Rayner	
Foster	Lorimer	Smith, Md.	

So Mr. KERN's amendment was rejected.

Mr. CLARKE of Arkansas. Mr. President, I offer the amendment which I send to the desk as a proviso at the end of subdivision 3, section 14, on page 23. I call the attention of the Senator from Utah [Mr. SUTHERLAND] to the amendment.

The PRESIDING OFFICER. The Senator from Arkansas submits an amendment, which will be stated.

The SECRETARY. On page 23, line 21, at the end of subdivision 3, after the word "judgments," it is proposed to insert the following proviso:

Provided, That if the employer shall file exceptions to the findings of the adjuster, and shall not on the trial de novo in the district court reduce the amount awarded by the adjuster to the employee, there shall be added by the court when judgment is entered on the finding of the court or the verdict of the jury on the trial in said district court, 25 per cent on the sum awarded to the employee by said court in its findings or by the verdict.

Mr. SUTHERLAND. I see no objection to that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. KERN. I have some other amendments which I desire to offer. I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment proposed by the Senator from Indiana will be stated.

The SECRETARY. On page 30, line 26, paragraph 2 of subdivision A, section 21, after the word "deceased," it is proposed to insert:

Provided, That if such deceased employee shall leave more than four children under the age aforesaid, or dependent as aforesaid, said payment shall be increased 10 per cent for each of such additional children, not exceeding in all 80 per cent of such total monthly wages.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Indiana.

Mr. KERN and Mr. SMITH of Georgia called for the yeas and nays on the amendment.

The yeas and nays were ordered; and, being taken, resulted—yeas 29, nays 49, as follows:

YEAS—29.

Ashurst	Gore	Overman	Smith, Ga.
Bacon	Hitchcock	Paynter	Stone
Bryan	Johnson, Me.	Poindexter	Swanson
Chilton	Johnston, Ala.	Pomerene	Tillman
Culberson	Kern	Reed	Watson
Davis	Lea	Shively	
Fletcher	Myers	Simmons	
Gardner	O'Gorman	Smith, Ariz.	

NAYS—49.

Borah	Crane	Lippitt	Sanders
Bourne	Crawford	Lodge	Smith, Mich.
Bradley	Cullom	McCumber	Smoot
Brandegee	Cummins	McLean	Sutherland
Briggs	Curtis	Nelson	Thornton
Bristow	Dillingham	Newlands	Townsend
Brown	du Pont	Nixon	Warren
Burnham	Fall	Oliver	Wetmore
Burton	Foster	Page	Williams
Catron	Gallinger	Percy	Works
Chamberlain	Gronna	Perkins	
Clapp	Guggenheim	Richardson	
Clark, Wyo.	Jones	Root	

NOT VOTING—17.

Bailey	Heyburn	Martine, N. J.	Smith, S. C.
Bankhead	Kenyon	Owen	Stephenson
Clarke, Ark.	La Follette	Penrose	
Dixon	Lorimer	Rayner	
Gamble	Martin, Va.	Smith, Md.	

So Mr. KERN's amendment was rejected.

Mr. KERN. I now offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment proposed by the Senator from Indiana will be stated.

The SECRETARY. It is proposed to strike out, in section 21, subdivision 3, of clause (A), on page 31, lines 1 to 11, inclusive, and to insert the following:

(3) If the deceased employee leave any child under the age of 16, or dependent child over the age of 16, but no widow, there shall be paid, if one such child, one-third of the monthly wages of the deceased to such child, and if more than one such child, 10 per cent additional for each of such children, not exceeding a total of 80 per cent of the monthly wages of the deceased, divided among such children, share and share alike: *Provided*, That such payments to said children shall continue until they severally reach the age of 16 years, and in the case of female children as hereinafter provided in section 27: *And provided further*, That as the number of children entitled to payment shall be subsequently reduced by reaching the age limit as herein fixed, or otherwise, the amount of the payments shall be correspondingly diminished.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Indiana.

Mr. KERN. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered; and, being taken, resulted—yeas 25, nays 50, as follows:

YEAS—25.

Ashurst	Hitchcock	Poindexter	Stone
Bacon	Kern	Pomerene	Swanson
Bryan	Lea	Reed	Tillman
Culberson	Myers	Shively	Watson
Davis	O'Gorman	Simmons	
Fletcher	Overman	Smith, Ariz.	
Gore	Paynter	Smith, Ga.	

NAYS—50.

Borah	Clark, Wyo.	Johnson, Me.	Root
Bourne	Crane	Jones	Sanders
Bradley	Crawford	Lippitt	Smith, Mich.
Brandegee	Cullom	Lodge	Smoot
Briggs	Cummins	McCumber	Sutherland
Bristow	Curtis	McLean	Thornton
Brown	Dillingham	Nelson	Townsend
Burnham	du Pont	Nixon	Warren
Burton	Fall	Oliver	Wetmore
Catron	Gallinger	Page	Williams
Chamberlain	Gardner	Percy	Works
Chilton	Gronna	Perkins	
Clapp	Guggenheim	Richardson	

NOT VOTING—20.

Bailey	Gamble	Lorimer	Penrose
Bankhead	Heyburn	Martin, Va.	Rayner
Clarke, Ark.	Johnston, Ala.	Martine, N. J.	Smith, Md.
Dixon	Kenyon	Newlands	Smith, S. C.
Foster	La Follette	Owen	Stephenson.

So Mr. KERN's amendment was rejected.

Mr. KERN. I have one more amendment, which I now offer.

The PRESIDING OFFICER. The Senator from Indiana offers an amendment, which will be stated.

The SECRETARY. It is proposed to amend section 21 by striking out the words "seventy-two months," in line 13, page 35, and inserting in lieu thereof the words "ninety-six months."

The PRESIDING OFFICER. The question is on the amendment.

Mr. REED. I ask for a roll call.

Mr. KERN. I ask that the clause be read as it will appear if amended.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

The permanent and complete loss of hearing in both ears, 96 months.

Mr. KERN. I ask for the yeas and nays.

The yeas and nays were ordered; and, being taken, resulted—yeas 28, nays 49, as follows:

YEAS—28.

Ashurst	Gore	O'Gorman	Simmons
Bacon	Hitchcock	Overman	Smith, Ariz.
Bryan	Johnston, Ala.	Paynter	Smith, Ga.
Culberson	Kern	Poindexter	Stone
Davis	Lea	Pomerene	Swanson
Fletcher	Martine, N. J.	Reed	Tillman
Gardner	Myers	Shively	Watson

NAYS—49.

Borah	Clark, Wyo.	Jones	Sanders
Bourne	Crane	Lippitt	Smith, Mich.
Bradley	Crawford	Lodge	Smoot
Brandegee	Cullom	McCumber	Sutherland
Briggs	Cummins	McLean	Thornton
Bristow	Curtis	Nelson	Townsend
Brown	Dillingham	Nixon	Warren
Burnham	du Pont	Oliver	Wetmore
Burton	Fall	Page	Williams
Catron	Gallinger	Percy	Works
Chamberlain	Gronna	Perkins	
Chilton	Guggenheim	Richardson	
Clapp	Johnson, Me.	Root	

NOT VOTING—18.

Bailey	Gamble	Martin, Va.	Smith, Md.
Bankhead	Heyburn	Newlands	Smith, S. C.
Clarke, Ark.	Kenyon	Owen	Stephenson
Dixon	La Follette	Penrose	
Foster	Lorimer	Rayner	

So Mr. KERN's amendment was rejected.

Mr. WILLIAMS. I move to strike out "four," in line 10, on page 31, and substitute for it the word "three."

The SECRETARY. On page 31, line 10, it is proposed to strike out "four" and insert "three," so as to read:

Provided, That if the number of children entitled to payment be subsequently reduced to less than three, the amount of the payments shall be correspondingly diminished.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Mississippi. [Putting the question.] The noes seem to have it.

Mr. MYERS. I ask for the yeas and nays.

The yeas and nays were not ordered.

The amendment was rejected.

Mr. REED. I send to the desk an amendment, and upon it I ask for the yeas and nays. I have several other amendments, but I shall not ask for the yeas and nays upon the others.

The PRESIDING OFFICER. The Senator from Missouri offers an amendment, which will be stated.

The SECRETARY. Amend section 27, page 42, by striking out lines 1 to 6, inclusive, as follows:

The term "dependent child over the age of 16 years," wherever it occurs in this act, or any reference to such child, shall be construed to mean a dependent child over the age of 16 years unable to earn a living by reason of mental or physical incapacity or a female child under the age of 20 years, unless sooner married.

And inserting in lieu thereof the following:

The term "dependent child" shall be construed to mean a child that is wholly or in part dependent for its livelihood or education upon the financial assistance of the person injured.

The PRESIDING OFFICER. On the amendment the Senator from Missouri demands the yeas and nays.

The yeas and nays were ordered; and, being taken, resulted—yeas 27, nays 49, as follows:

YEAS—27.

Ashurst	Gardner	O'Gorman	Simmons
Bacon	Gore	Overman	Smith, Ariz.
Bryan	Johnston, Ala.	Paynter	Smith, Ga.
Culberson	Kern	Poindexter	Stone
Davis	Lea	Pomerene	Swanson
Fletcher	Martine, N. J.	Reed	Watson
Foster	Myers	Shively	

NAYS—49.

Borah	Clark, Wyo.	Jones	Sanders
Bourne	Crane	Lippitt	Smith, Mich.
Bradley	Crawford	Lodge	Smoot
Brandegee	Cullom	McCumber	Sutherland
Briggs	Cummins	McLean	Thornton
Bristow	Curtis	Nelson	Townsend
Brown	Dillingham	Nixon	Warren
Burnham	du Pont	Oliver	Wetmore
Burton	Fall	Page	Williams
Catron	Gallinger	Percy	Works
Chamberlain	Gronna	Perkins	
Chilton	Guggenheim	Richardson	
Clapp	Johnson, Me.	Root	

NOT VOTING—19.

Bailey	Heyburn	Martin, Va.	Smith, Md.
Bankhead	Hitchcock	Newlands	Smith, S. C.
Clarke, Ark.	Kenyon	Owen	Stephenson
Dixon	La Follette	Penrose	Tillman
Gamble	Lorimer	Rayner	

So Mr. REED's amendment was rejected.

Mr. REED. I offer an amendment, and call the attention of the Senator from Utah to it, it being an amendment that he practically accepted the other day.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 23, after the amendment already agreed to at that point, offered by the Senator from Arkansas [Mr. CLARKE], it is proposed to insert:

The evidence produced before the adjuster shall be taken in writing or in shorthand, and shall be, in case of appeal from the finding of the adjuster, transcribed and duly authenticated and filed with the clerk of the United States court, and may be thereafter read in evidence in any future hearing or trial in said cause under the same circumstances and with the same force and effect as a deposition may now be read in suits at law.

Mr. SUTHERLAND. I suggest that it be amended by adding the word "if"; so as to read, "if the evidence * * * shall be taken."

The PRESIDING OFFICER. Debate is not in order.

Mr. SUTHERLAND. That if the testimony shall be taken in shorthand it may be used, and then I shall have no objection, but I do not think we ought to compel the taking of testimony in shorthand before the adjuster.

Mr. REED. I will accept the modification suggested by the Senator.

The PRESIDING OFFICER. The Chair will suggest that technically this amendment is not in order, it being an amendment to an amendment which has been agreed to as in Committee of the Whole, but it can be offered in the Senate. Perhaps meanwhile it may be perfected. Does the Senator withdraw the amendment for the present?

Mr. REED. I ask now to change the amendment by inserting in the amendment the word "if," and offer it in that way.

The PRESIDING OFFICER. The Secretary will report the amendment as modified. It is suggested to the Chair that the amendment would more properly come before the other amendment than after it.

Mr. REED. I offer it with reference to the bill and not the amendment.

The SECRETARY. On page 23, line 21, after the word "judgments," insert:

If the evidence produced before the adjuster shall be taken in writing or in shorthand, it shall be, in case of appeal from the finding of the adjuster, transcribed and duly authenticated and filed with the clerk of the United States court, and may be thereafter read in evidence in any future hearing or trial in said cause under the same circumstances and with the same force and effect as a deposition may now be read in suits at law.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified.

The amendment as modified was agreed to.

Mr. REED. I offer the amendment I send to the desk.

The SECRETARY. Amend section 13, paragraph 9, page 19, of the last print, by adding at the end of said paragraph the following:

That no costs shall be taxed against the employee if the adjuster or the court shall find as a fact that the refusal of the employee to accept the amounts offered was not unreasonable or unjustifiable.

Mr. SUTHERLAND. I have no objection to the amendment.

The amendment was agreed to.

Mr. REED. I offer the following amendment, and I call the attention of the Senator from Utah to it.

The PRESIDING OFFICER. The Senator from Missouri submits an amendment, which will be read.

The SECRETARY. On page 36, amend section 21 by adding at the end thereof the following words:

Whenever it shall appear that the injury was occasioned, or directly contributed to, by the failure or neglect of the employer to provide the safety appliances required by the laws of Congress, then there shall be added to the sums provided to be paid under this bill 25 per cent.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri. [Putting the question.] The noes appear to have it.

Mr. MYERS. I ask for the yeas and nays.

The yeas and nays were not ordered.

The amendment was rejected.

Mr. SMITH of Georgia. I ask the Secretary to turn to the printed amendments that I have submitted and take them in their order.

The PRESIDING OFFICER. The first amendment submitted by the Senator from Georgia will be read.

The SECRETARY. At the top of page 2 of the proposed amendments, amend the bill by adding at the close of section 5 the following proviso:

Provided, That if the employee elects to furnish his own physician or surgeon to care for himself he may recover from his employer such expenses incurred therefor by him as are reasonable and just.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Georgia.

The amendment was rejected.

The PRESIDING OFFICER. The Senator from Georgia submits the following amendment, which will be read.

Mr. SMITH of Georgia. And on this amendment I ask for the yeas and nays.

The SECRETARY. After line 16, on page 4, section 7, add the following proviso:

Provided, That where it is made to appear that the employer, through its officers and agents, had received knowledge of the accident within 30 days after the happening thereof no notice whatever shall be required to be given of the action by the employee to the employer.

The PRESIDING OFFICER. The Senator from Georgia demands the yeas and nays on agreeing to the amendment.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. DILLINGHAM (when his name was called). The senior Senator from South Carolina [Mr. TILLMAN] has left the Chamber for the afternoon. As I have a general pair with that Senator, I shall withhold my vote on all the subsequent amendments to the bill.

The roll call having been concluded, the result was announced—yeas 23, nays 49, as follows:

YEAS—23.

Bacon	Foster	Overman	Smith, Ariz.
Bryan	Hitchcock	Paynter	Smith, Ga.
Chilton	Kern	Pomerene	Swanson
Culberson	Lea	Reed	Watson
Davis	Myers	Shively	Williams
Fletcher	O'Gorman	Simmons	

NAYS—49.

Borah	Crane	Lippitt	Root
Bourne	Crawford	Lodge	Sanders
Bradley	Cullom	McCumber	Smith, Mich.
Brandegee	Cummins	McLean	Smoot
Briggs	Curtis	Martine, N. J.	Sutherland
Bristow	du Pont	Nelson	Thornton
Brown	Fall	Nixon	Townsend
Burnham	Gallinger	Oliver	Warren
Burton	Gardner	Page	Wetmore
Catron	Gronna	Percy	Works
Chamberlain	Guggenheim	Perkins	
Clapp	Johnson, Me.	Poindexter	
Clark, Wyo.	Jones	Richardson	

NOT VOTING—23.

Ashurst	Gamble	Lorimer	Smith, Md.
Bailey	Gore	Martin, Va.	Smith, S. C.
Bankhead	Heyburn	Newlands	Stephenson
Clarke, Ark.	Johnston, Ala.	Owen	Stone
Dillingham	Kenyon	Penrose	Tillman
Dixon	La Follette	Rayner	

So the amendment of Mr. SMITH of Georgia was rejected.

The PRESIDING OFFICER. The Senator from Georgia offers the following amendment, which will be stated.

The SECRETARY. Add at the close of section 7, at the bottom of page 5, the following words:

It shall be the duty of the employer, within five days after receiving notice through its officers or agents that an employee has received an injury in its service, to notify such employee whether said injury was received while such employee was employed in such commerce by such employer; and in any legal procedure which may follow the employer shall be bound by such notice, and will not be permitted to deny its truth, and on failure of said employer to give said notice said employer shall not be permitted to deny, in any legal procedure, the claim that said injury was received by such employee while employed in such commerce.

The PRESIDING OFFICER. The question is on agreeing to the amendment submitted by the Senator from Georgia.

The amendment was rejected.

The PRESIDING OFFICER. The Senator from Georgia offers the following amendment, which will be read.

Mr. SMITH of Georgia. I will skip the next two amendments, and as the next one has been agreed to I will go down to line 9.

The PRESIDING OFFICER. The next amendment will be stated.

The SECRETARY. On page 22, section 14, at the end of line 11, after the word "payment," insert the following proviso:

Provided, That where an employee institutes suit for an injury claiming that same did not take place while he was employed in interstate or foreign commerce and fails to recover in such suit, the limitation of the time for his right to proceed under this act shall begin with the termination of such suit, and not with the time when the injury to him occurred.

Mr. SMITH of Georgia. After the word "suit," where it occurs in the fourth line of the paragraph, I move to add "on the ground he was employed in interstate commerce," so that the proviso will read "that where an employee institutes," and so forth, "and fails to recover in such suit on the ground he was employed in interstate commerce."

Mr. SUTHERLAND. I suggest to the Senator from Georgia that if he would let his amendment read "upon the ground that he was engaged in such commerce" it would refer to both interstate and foreign commerce.

Mr. SMITH of Georgia. I will accept that modification, and say "in such commerce."

Mr. SUTHERLAND. I see no objection to that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Georgia as modified.

The amendment as modified was agreed to.

Mr. SMITH of Georgia. I requested the Secretary to begin on line 9 on that page. He skipped an amendment on page 3 of my amendments.

The PRESIDING OFFICER. Will the Senator from Georgia state the amendment?

Mr. SMITH of Georgia. After the word "require," in section 13, paragraph 9, line 11, insert the words:

The reasonable attorney's fees of the employee shall be taxed as cost against the defendant by the adjuster or by the court.

The PRESIDING OFFICER. The Chair is of opinion that as the Senator had his amendment reprinted quite likely the Secretary has not the same draft the Senator has.

The SECRETARY. On page 3, of the reprint, beginning with line 3, the amendment to come in on page 19, paragraph 9, of section 13, after the word "require," insert the words:

The reasonable attorney's fees of the employee shall be taxed as cost against the defendant by the adjuster or by the court.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Georgia.

The amendment was rejected.

Mr. SMITH of Georgia. The next amendment was perfected on yesterday. It it on page 20, section 14, line 21.

The PRESIDING OFFICER. The Chair is informed that that amendment has been agreed to.

Mr. SMITH of Georgia. Then we come down to line 18.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. Amend section 14 by adding paragraph 8 after paragraph 7, as follows:

(8) Employees shall have the privilege of enforcing the rights given to them under this act before the adjuster or to proceed in any State court having jurisdiction, and no suit brought in a State court under this act shall be removed to the United States court.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Georgia.

Mr. SMITH of Georgia. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered, and the Secretary proceeded to call the roll, Mr. ASHURST responding in the affirmative.

Mr. CHILTON. I should like to have the amendment read.

The PRESIDING OFFICER. A response having been made, under the rule the amendment can not be read again.

The roll having been called, the result was announced—yeas 24, nays 48, as follows:

YEAS—24.

Ashurst	Gore	Myers	Shively
Bacon	Hitchcock	O'Gorman	Simmons
Bryan	Johnston, Ala.	Overman	Smith, Ariz.
Culberson	Kern	Paynter	Smith, Ga.
Davis	Lea	Poindexter	Stone
Fletcher	Martine, N. J.	Reed	Watson

NAYS—48.

Borah	Clark, Wyo.	Jones	Richardson
Bourne	Crane	Lippitt	Root
Bradley	Crawford	Lodge	Sanders
Brandegee	Cullom	McCumber	Smith, Mich.
Briggs	Cummins	McLean	Smoot
Bristow	Curtis	Nelson	Sutherland
Brown	du Pont	Nixon	Thornton
Burnham	Fall	Oliver	Townsend
Burton	Gallinger	Page	Warren
Catron	Gronna	Percy	Wetmore
Chamberlain	Guggenheim	Perkins	Williams
Clapp	Johnson, Me.	Pomerene	Works

NOT VOTING—23.

Bailey	Foster	Lorimer	Smith, Md.
Bankhead	Gamble	Martin, Va.	Smith, S. C.
Chilton	Gardner	Newlands	Stephenson
Clarke, Ark.	Heyburn	Owen	Swanson
Dillingham	Kenyon	Penrose	Tillman
Dixon	La Follette	Rayner	

So the amendment of Mr. SMITH of Georgia was rejected.

Mr. SMITH of Georgia. I have very few more amendments to offer. I move to amend by striking out section 16, on page 26, where it appears in the bill, and in lieu to insert what I ask may be read.

The PRESIDING OFFICER. The amendment proposed by the Senator from Georgia will be read.

The SECRETARY. Strike out section 16, and in lieu insert the following as section 16:

SEC. 16. That on the hearing of a cause of action arising under this act either party shall have the right to elect to commute the monthly payments into a fixed sum, and in that event the fixed sum shall be the present value of the annuities herein provided for, the present value to be calculated on the basis of interest at 5 per cent.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Georgia.

The amendment was rejected.

The PRESIDING OFFICER. The Senator from Georgia proposes an amendment, which will be stated.

The SECRETARY. It is proposed to amend section 20 by striking out in lines 19, 20, and 21 the following words:

No employee's wages shall be considered to be more than $100 a month.

The amendment was rejected.

The PRESIDING OFFICER. The Senator from Georgia proposes another amendment, which will be stated.

The SECRETARY. It is proposed to amend section 21, line 14, by striking out the words "for a period of eight years," and add, in line 15, after the word "death," the words "during the life expectancy of the deceased," so that if amended it will read:

(A) Where death results from any injury, except in the cases provided for in section 23, and except in those cases in which, in certain contingencies, a reduced period is hereinafter provided for, the following amounts shall be paid from the date of the death during the life expectancy of the deceased:

Mr. SMITH of Georgia. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered, and taken.

Mr. LIPPITT (after having voted in the negative). Has the Senator from Tennessee [Mr. LEA], with whom I am paired, voted?

The PRESIDING OFFICER. The Chair is informed that he has not voted.

Mr. LIPPITT. Then I withdraw my vote.

The result was announced—yeas 22, nays 49, as follows:

YEAS—22.

Ashurst	Gore	O'Gorman	Smith, Ariz.
Bacon	Hitchcock	Overman	Smith, Ga.
Bryan	Johnston, Ala.	Paynter	Swanson
Culberson	Kern	Reed	Watson
Davis	Martine, N. J.	Shively	
Fletcher	Myers	Simmons	

NAYS—49.

Borah	Clark, Wyo.	Lodge	Sanders
Bourne	Crane	McCumber	Smith, Mich.
Bradley	Crawford	McLean	Smoot
Brandegee	Cullom	Nelson	Sutherland
Briggs	Cummins	Nixon	Thornton
Bristow	Curtis	Oliver	Townsend
Brown	du Pont	Page	Warren
Burnham	Fall	Percy	Wetmore
Burton	Gallinger	Perkins	Williams
Catron	Gronna	Poindexter	Works
Chamberlain	Guggenheim	Pomerene	
Chilton	Johnson, Me.	Richardson	
Clapp	Jones	Root	

NOT VOTING—24.

Bailey	Gamble	Lippitt	Rayner
Bankhead	Gardner	Lorimer	Smith, Md.
Clarke, Ark.	Heyburn	Martin, Va.	Smith, S. C.
Dillingham	Kenyon	Newlands	Stephenson
Dixon	La Follette	Owen	Stone
Foster	Lea	Penrose	Tillman

So the amendment of Mr. SMITH of Georgia was rejected.

The PRESIDING OFFICER. The Senator from Georgia submits another amendment, which will be stated.

The SECRETARY. It is proposed to amend section 21, on page 30, in lines 17, 18, 21, and 22, by striking out the word "sixteen" and inserting "twenty-one."

The amendment was rejected.

The PRESIDING OFFICER. The Senator from Georgia proposes another amendment, which will be stated.

The SECRETARY. On page 31, line 16, it is proposed to strike out the words "for the unexpired part of the period of eight years."

The amendment was rejected.

The PRESIDING OFFICER. The Senator from Georgia offers a further amendment, which will be stated.

The SECRETARY. On page 34, lines 5 and 6, it is proposed to strike out "50 per cent," so as to read:

Where permanent total disability results from any injury there shall be paid to the injured employee the monthly wages of such employee during the remainder of his life.

The amendment was rejected.

The PRESIDING OFFICER. The Senator from Georgia submits another amendment, which will be stated.

The SECRETARY. On page 34, line 17, it is proposed to strike out the words "fifty per centum," so as to read:

Where temporary total disability results from any injury there shall be paid the monthly wages of the employee during the continuance of such temporary total disability.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Georgia.

The amendment was rejected.

The PRESIDING OFFICER. The next amendment submitted by the Senator from Georgia will be stated.

The SECRETARY. On page 34, section 21, paragraph 9, subdivision D, it is proposed to strike out the remainder of page 34 and page 35, down to line 6, page 36, and in lieu thereof to insert the following:

(D) Where permanent partial disability results from any injury—

(1) An amount equal to 50 per cent of his wages shall be paid to the injured employee for the balance of his life in the following instances:

The loss by separation of arm at or above the elbow joint or the permanent and complete loss of use of one arm.

The loss by separation of one hand at or above the wrist joint or the permanent and complete loss of the use of one hand.

The loss by separation of one leg at or above the knee joint or the permanent and complete loss of the use of one leg.

The loss by separation of one foot at or above the ankle joint or the permanent and complete loss of the use of one foot.

The permanent and complete loss of hearing in both ears.

An amount equal to 25 per cent of his wages shall be paid to the injured employee during the remainder of his life for the following injuries:

The permanent or complete loss of hearing in one ear.

The permanent and complete loss of sight of one eye.

An amount shall be paid to the injured employee during the balance of his life for the percentages of his wages stated against such injuries, respectively, as follows:

In case of the permanent loss of hearing in one ear, 20 per cent.

The permanent and complete loss of sight of one eye, 20 per cent.

The loss by separation of a thumb, 15 per cent; of first finger, 12½ per cent; second, third, or fourth finger, 10 per cent.

The loss of one phalanx of a thumb, two phalanges of a finger, 7½ per cent.

The loss of more than one phalanx of a thumb and more than two phalanges of a finger, 10 per cent.

The loss by separation of a toe, 6 per cent.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia.

The amendment was rejected.

The PRESIDING OFFICER. The next amendment submitted by the Senator from Georgia will be stated.

The SECRETARY. On page 36, article 2, it is proposed to strike out subdivision E and insert in lieu thereof the following:

(E) Where temporary partial disability results from an injury the employee shall receive, during the time he is unable to secure work, his full wages, but after he secures work he shall only receive the difference between the amount of compensation of the work secured and his former wages: *Provided*, That if work is offered to him of a suitable character by his employer, with compensation equal to the amount of his former wages, and he refuses the same, he shall not be entitled to any compensation for such disability during the continuance of such refusal.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was rejected.

The PRESIDING OFFICER. The next amendment proposed by the Senator from Georgia will be stated.

The SECRETARY. It is proposed to amend section 22, on page 37, line 6, by striking out the words "90 per cent of"; in lines 7 and 8, by striking out the words "as limited by the provisions of section 20 hereof"; and by striking out the remainder of the section continued in lines 8 to 17, inclusive, and inserting in lieu thereof:

If his wages received fall below the wages he was receiving at the time of the accident, an amount of compensation shall be payable equal to the difference between the wages received and his former wages.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. SMITH of Georgia. I ask that the next amendment of which I have given notice, and which is in print, be omitted.

The PRESIDING OFFICER. That amendment will be omitted. The next amendment proposed by the Senator from Georgia will be stated.

The SECRETARY. It is proposed to amend, on page 39, by striking out section 24.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was rejected.

The PRESIDING OFFICER. The next amendment submitted by the Senator from Georgia will be stated.

The SECRETARY. On pages 43 and 44, it is proposed to strike out——

Mr. SMITH of Georgia. I ask that that be omitted, but I should like to have a vote on the amendment appearing on page 7 of the printed amendment, line 17.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 36, after line 23, it is proposed to add a new subdivision to section 21, entitled "F," as follows:

Mr. SMITH of Georgia. In view of the shape the bill is now in, I will not tender that amendment. It was tendered in the case of other amendments which have been offered.

Mr. SUTHERLAND. Mr. President, I suggest that the amendment offered by the Senator from Missouri, which has been incorporated in the bill on page 23, come after subdivision 4, on page 24, line 11, and that the word "and" in the second line be changed to "it."

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

Mr. REED. May I inquire of the Senator from Utah, Does that conform to the copy that we have here? I could not hear the Senator.

Mr. SUTHERLAND. It does.

Mr. REED. Very well. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. It is proposed to amend section 3, paragraph 9, by striking out all that portion of the paragraph after the word "*Provided*," in line 11 thereof.

Mr. REED. I ask that the portion proposed to be stricken out be read.

The SECRETARY. On page 19, line 12, it is proposed to strike out:

Provided, however, That the employer may in any case pending before an adjuster, in writing, offer to allow findings to be made in favor of the employee, specifying the amount of the monthly payment and the length of time such monthly payments shall continue, and in that event, unless compensation (time and amount both considered) exceeding that offered by the employer be found by the adjuster or by the court, no costs thereafter incurred on behalf of the employee shall be taxed against the employer.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. REED. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. It is proposed to amend section 13, paragraph 9, by adding at the end thereof the following:

Provided further, That if the findings in favor of the employee are in excess of the amount tendered, then the employer shall pay all of the costs, including a reasonable attorney's fee of the employee.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. REED. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. It is proposed to amend section 27, at the top of page 42, by striking out, "The term 'dependent child over the age of 16 years,' whenever it occurs in this act, or any reference to such child, shall be construed to mean a dependent child over the age of 16 years unable to earn a living by reason of mental or physical incapacity, or a female child under the age of 20 years, unless sooner married," and inserting in lieu thereof the following: "The term 'dependent child' shall be construed to mean a child over 16 years of age that is wholly or in part dependent for its livelihood or education upon the financial assistance of the person injured."

Mr. REED. I will say that the amendment is very similar to one that was voted down, but has a correction. I wish to say that because I do not want to be understood as offering the same amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. BRYAN. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. It is proposed to amend section 22 by striking out the words "such injured employee," on page 37, line 1, and inserting in lieu thereof the words "an employee entitled to compensation under clause E of section 21."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was rejected.

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

Mr. REED. Mr. President, I offer the amendment, which I send to the desk, and ask for the yeas and nays upon it. It is the last time I will ask for them.

The PRESIDING OFFICER. The Senator from Missouri submits an amendment, which will be stated.

The SECRETARY. Amend section 21 by adding, at the end thereof the following words:

Wherever it shall be proven that the injury suffered was directly contributed to by the failure of the employer to comply with a public law, then there shall be added to the amounts herein to be paid 25 per centum.

The PRESIDING OFFICER. The Senator from Missouri demands the yeas and nays on the question of agreeing to the amendment.

The yeas and nays were ordered; and, being taken, resulted—yeas 29, nays 46, as follows:

YEAS—29.

Ashurst	Gardner	O'Gorman	Smith, Ga.
Bacon	Gore	Overman	Stone
Bryan	Hitchcock	Paynter	Swanson
Chilton	Johnston, Ala.	Poindexter	Watson
Clarke, Ark.	Kern	Reed	Williams
Culberson	Lea	Shively	
Davis	Martine, N. J.	Simmons	
Fletcher	Myers	Smith, Ariz.	

NAYS—46.

Bourne	Crawford	Lippitt	Root
Brandegee	Cullom	Lodge	Sanders
Briggs	Cummins	McCumber	Smith, Mich.
Bristow	Curtis	McLean	Smoot
Brown	du Pont	Nelson	Sutherland
Burnham	Fall	Nixon	Thornton
Burton	Foster	Oliver	Townsend
Catron	Gallinger	Page	Warren
Chamberlain	Gronna	Percy	Wetmore
Clapp	Guggenheim	Perkins	Works
Clark, Wyo.	Johnson, Me.	Pomerene	
Crane	Jones	Richardson	

NOT VOTING—20.

Bailey	Dixon	Lorimer	Rayner
Bankhead	Gamble	Martin	Smith, Md.
Borah	Heyburn	Newlands	Smith, S. C.
Bradley	Kenyon	Owen	Stephenson
Dillingham	La Follette	Penrose	Tillman

So Mr. REED's amendment was rejected.

The PRESIDING OFFICER. If there be no further amendments, the bill will be ordered to be engrossed for a third reading.

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

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. OVERMAN. I move that the further consideration of the bill be postponed until Monday, the 27th day of May, when it shall be taken up as the unfinished business.

The PRESIDING OFFICER. The Senator from North Carolina moves that the further consideration of the bill be postponed until the 27th day of May.

Mr. OVERMAN. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. DILLINGHAM (when his name was called). I have a general pair with the senior Senator from South Carolina [Mr. TILLMAN], which I transfer to the junior Senator from Iowa [Mr. KENYON], and will vote. I vote "nay."

The roll call was concluded.

Mr. DILLINGHAM (after having voted in the negative). The senior Senator from South Carolina [Mr. TILLMAN] having come into the Chamber since I announced the transfer of my pair with him to the junior Senator from Iowa [Mr. KENYON], I withdraw the announcement, but I will allow my vote to stand.

The result was announced—yeas 24, nays 55, as follows:

YEAS—24.

Ashurst	Gardner	Martine, N. J.	Simmons
Bacon	Gore	Myers	Smith, Ariz.
Bryan	Hitchcock	O'Gorman	Smith, Ga.
Culberson	Johnston, Ala.	Overman	Stone
Davis	Kern	Reed	Tillman
Fletcher	Lea	Shively	Watson

NAYS—55.

Borah	Clarke, Ark.	Lippitt	Richardson
Bourne	Crane	Lodge	Root
Bradley	Crawford	McCumber	Sanders
Brandegee	Cullom	McLean	Smith, Mich.
Briggs	Cummins	Nelson	Smoot
Bristow	Curtis	Newlands	Sutherland
Brown	Dillingham	Nixon	Swanson
Burnham	du Pont	Oliver	Thornton
Burton	Fall	Page	Townsend
Catron	Gallinger	Paynter	Warren
Chamberlain	Gronna	Percy	Wetmore
Chilton	Guggenheim	Perkins	Williams
Clapp	Johnson, Me.	Poindexter	Works
Clark, Wyo.	Jones	Pomerene	

NOT VOTING—16.

Bailey	Gamble	Lorimer	Rayner
Bankhead	Heyburn	Martin, Va.	Smith, Md.
Dixon	Kenyon	Owen	Smith, S. C.
Foster	La Follette	Penrose	Stephenson

So Mr. OVERMAN's motion was rejected.

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. SUTHERLAND, Mr. WILLIAMS, and others called for the yeas and nays, and they were ordered.

Mr. MYERS. I move that the further consideration of the bill be postponed until the second legislative day of the next regular session of Congress, and on that I ask for the yeas and nays.

Mr. LODGE. I make the point of order that only one motion to postpone is allowable under the unanimous-consent agreement.

The PRESIDING OFFICER. The Chair sustains the point of order. The question is, Shall the bill pass, on which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. FLETCHER (when his name was called). On this vote I am paired with the senior Senator from Maryland [Mr. RAYNER]. If he were present, he would vote "yea" and I should vote "nay."

Mr. CUMMINS (when Mr. KENYON's name was called). My colleague [Mr. KENYON] is necessarily absent. If he were present, he would vote "yea."

Mr. SWANSON (when Mr. MARTIN's name was called). My colleague [Mr. MARTIN] is detained from the Senate Chamber on account of serious illness in his family. If he were present, he would vote "yea."

Mr. GORE (when Mr. OWEN's name was called). My colleague [Mr. OWEN] is paired with the Senator from South Dakota [Mr. GAMBLE].

The roll call was concluded.

Mr. SMOOT. The junior Senator from Wisconsin [Mr. STEPHENSON] is necessarily detained from the Senate. If he were here, he would vote "yea."

The result was announced—yeas 64, nays 15, as follows:

YEAS—64.

Borah	Crawford	Jones	Pomerene
Bourne	Cullom	Lea	Richardson
Bradley	Cummins	Lippitt	Root
Brandegee	Curtis	Lodge	Sanders
Briggs	Dillingham	McCumber	Smith, Ariz.
Bristow	du Pont	McLean	Smith, Mich.
Brown	Fall	Martine, N. J.	Smoot
Burnham	Foster	Nelson	Sutherland
Burton	Gallinger	Newlands	Swanson
Catron	Gardner	Nixon	Thornton
Chamberlain	Gore	O'Gorman	Townsend
Chilton	Gronna	Oliver	Warren
Clapp	Guggenheim	Page	Watson
Clark, Wyo	Hitchcock	Percy	Wetmore
Clarke, Ark.	Johnson, Me.	Perkins	Williams
Crane	Johnston, Ala.	Poindexter	Works

NAYS—15.

Ashurst	Davis	Paynter	Smith, Ga.
Bacon	Kern	Reed	Stone
Bryan	Myers	Shively	Tillman
Culberson	Overman	Simmons	

NOT VOTING—16.

Bailey	Gamble	Lorimer	Rayner
Bankhead	Heyburn	Martin, Va.	Smith, Md.
Dixon	Kenyon	Owen	Smith, S. C.
Fletcher	La Follette	Penrose	Stephenson

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed a joint resolution (H. J. Res. 312) making appropriations for the relief of sufferers from floods in the Mississippi and Ohio Valleys, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill of the Senate (S. 5930) to extend the time for the completion of dams across the Savannah River by authority granted to Twin City Power Co. by an act approved February 29, 1908, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House insists upon its amendment to the bill (S. 5624) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. RUSSELL, Mr. ANDERSON of Ohio, and Mr. FULLER managers at the conference on the part of the House.

HOUSE JOINT RESOLUTION REFERRED.

H. J. Res. 312. Joint resolution making appropriations for the relief of sufferers from floods in the Mississippi and Ohio Valleys was read twice by its title and, on motion by Mr. FOSTER, referred to the Committee on Appropriations.

PETITIONS AND MEMORIALS.

Mr. GALLINGER presented the petition of T. C. Leckey, of Portsmouth, N. H., praying for the enactment of legislation to prohibit the use of trading coupons, which was referred to the Committee on the Judiciary.

He also presented a petition of Mount Prospect Grange, No. 242, Patrons of Husbandry, of Lancaster, N. H., and a petition of Lamprey River Grange, No. 240, Patrons of Husbandry, of Newmarket, N. H., praying for the establishment of a parcel-post system, which were referred to the Committee on Post Offices and Post Roads.

Mr. SHIVELY presented a petition of sundry citizens of Odon, Ind., praying for the establishment of a parcel-post system, which was referred to the Committee on Post Offices and Post Roads.

REPORTS OF COMMITTEES.

Mr. WARREN, from the Committee on Appropriations, to which was referred the bill (H. R. 20840) to provide for deficiencies in the fund for police and firemen's pensions and relief in the District of Columbia, asked to be discharged from its further consideration and that it be referred to the Committee on the District of Columbia, which was agreed to.

Mr. BOURNE, from the Committee on Commerce, submitted a report (No. 698) to accompany the bill (S. 6412) to regulate radio communication, heretofore reported by him.

BILLS INTRODUCED.

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

By Mr. GALLINGER:

A bill (S. 6687) to authorize the extension of Oak Street NW., in the District of Columbia (with accompanying paper); to the Committee on the District of Columbia.

A bill (S. 6688) to repeal section 13 of the act approved March 2, 1907, entitled "An act amending an act entitled 'An act to increase the limit of cost of certain public buildings, to authorize the purchase of sites for public buildings, to authorize the erection and completion of public buildings, and for other purposes'" (with accompanying papers); to the Committee on Public Buildings and Grounds.

By Mr. STEPHENSON:

A bill (S. 6689) granting an increase of pension to Jairus P. Heath (with accompanying paper); to the Committee on Pensions.

By Mr. FLETCHER:

A bill (S. 6690) granting an increase of pension to Edwin W. Johnson; to the Committee on Pensions.

By Mr. LODGE:

A bill (S. 6691) to indemnify the State of Massachusetts for expenses incurred by it in defense of the United States; to the Committee on Claims.

By Mr. SMOOT:

A bill (S. 6692) to provide for a permanent supply of coal for the use of the United States Navy and other governmental purposes, to provide for the leasing of coal lands in the Territory of Alaska, and for other purposes; to the Committee on Public Lands.

By Mr. JONES:

A bill (S. 6693) to provide water for irrigating lands of the Yakima Indian Reservation, Wash., and for other purposes; to the Committee on Indian Affairs.

A bill (S. 6694) to amend the laws relating to navigation; to the Committee on Commerce.

By Mr. JOHNSON of Maine:

A bill (S. 6695) granting an increase of pension to James A. Wise (with accompanying papers); to the Committee on Pensions.

AMENDMENT TO POST OFFICE APPROPRIATION BILL.

Mr. CULLOM submitted an amendment relative to the renewal of contracts made in any city providing for 3 miles or more of double lines of tube for the transmission of mail, etc., intended to be proposed by him to the Post Office appropriation bill (H. R. 21279), which was referred to the Committee on Post Offices and Post Roads and ordered to be printed.

OMNIBUS CLAIMS BILL.

Mr. LEA submitted seven amendments intended to be proposed by him to the bill (H. R. 19115) making appropriation for the payment of certain claims in accordance with the findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and Tucker Acts, which were referred to the Committee on Claims and ordered to be printed.

WORKMEN'S COMPENSATION ACTS (S. DOC. NO. 643).

Mr. CHAMBERLAIN. I present a paper, being a summary of the laws of other countries on the subject of workmen's compensation, including the Federal employees' liability act of 1908, the Government employees' compensation act of 1908, and the British workmen's compensation act of 1906. I move that the paper be printed as a Senate document.

The motion was agreed to.

CANADIAN HOMESTEAD LAWS (S. DOC. NO. 644).

Mr. SMOOT. There is certain correspondence from the Secretary of the Interior transmitting the exact wording of the Canadian statutes upon which the three-year homestead law of that country is based, taken from the Canadian Dominion lands act. I ask that the correspondence be printed as a Senate document.

The PRESIDING OFFICER (Mr. GALLINGER in the chair). Without objection, an order therefor is entered.

RELIEF OF FLOOD SUFFERERS.

Mr. WARREN. From the Committee on Appropriations, I report back favorably with amendments the joint resolution (H. J. Res. 312) making appropriations for the relief of sufferers from floods in the Mississippi and Ohio Valleys, and I submit a report (No. 699) thereon. I ask consent for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be read for the information of the Senate.

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

The amendments were, on page 1, line 12, before the word "thousand," to strike out "two hundred and seventy-seven" and insert "four hundred and two," and on page 2, line 6, before the word "thousand," to strike out "four hundred and twenty" and insert "eight hundred and thirty-seven," so as to make the joint resolution read:

Resolved, etc., That there is appropriated, out of any money in the Treasury not otherwise appropriated, the following sums for the relief of sufferers from floods in the Mississippi and Ohio Valleys, namely:

WAR DEPARTMENT.

Under the Quartermaster General: For providing tents and other necessary supplies and services and for reimbursement of the several appropriations of the Quartermaster's Department, United States Army, from which temporary relief has already been or may be afforded, $402,179.65.

Under the Commissary General: For rations issued and to be issued by the Commissary Department and for reimbursement of appropriations for subsistence of the Army, from which temporary relief has already been or may be afforded, $837,000.

The amendments were agreed to.

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

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

Mr. WARREN. I ask that the report which accompanies the joint resolution may be printed in the RECORD. The joint resolution as it came from the House contained an appropriation of nearly $700,000. It carries now over $1,200,000. So I ask that the report and papers be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

Mr. WARREN, from the Committee on Appropriations, submitted the following report (No. 699), to accompany House joint resolution 312:

The Committee on Appropriations, to which was referred the joint resolution (H. J. Res. 312) making appropriations for the relief of sufferers from floods in the Mississippi and Ohio Valleys, having considered the same, reports it back herewith and recommends its passage with the following amendments:

That the amount under the Quartermaster General be increased from $277,179.65 to $402,179.65—an increase of $125,000.

That the amount under the Commissary General be increased from $420,000 to $837,000—an increase of $417,000.

Total increase recommended, $542,000.

Amount of resolution as passed the House, $697,179.65.

Amount of resolution as reported to Senate, $1,239,179.65.

The following correspondence is respectfully submitted, showing the necessity for the increases recommended:

UNDER THE QUARTERMASTER GENERAL.

WAR DEPARTMENT,
Washington, May 6, 1912.

Hon. FRANCIS E. WARREN,
Chairman Appropriations Committee,
United States Senate.

DEAR SENATOR WARREN: I have the honor to inclose herewith copies of additional estimate of $125,000, submitted by the Quartermaster General for relief of sufferers from floods in the Mississippi and Ohio Valleys, and the papers pertaining thereto, which were sent this morning to the Secretary of the Treasury. It is understood that this estimate has been transmitted by the Secretary of the Treasury to the Speaker of the House of Representatives.

Very respectfully,

H. L. STIMSON,
Secretary of War.

WAR DEPARTMENT,
Washington, May 4, 1912.

The honorable the SECRETARY OF THE TREASURY.

SIR: I have the honor to forward herewith for transmission to Congress a special additional estimate of an appropriation of $125,000 required by the War Department for providing tents and other necessary supplies and services for the relief of sufferers from floods in the Mississippi and Ohio Valleys and for reimbursement of the several appropriations of the Quartermaster's Department, United States Army, from which temporary relief has already been or may be afforded.

The distress resulting from the floods in the Mississippi Valley, which have continued longer than was expected, necessitates the expenditure of larger amounts than were anticipated when the estimate for $275,000, now before Congress, was submitted.

Very respectfully,

H. L. STIMSON,
Secretary of War.

WAR DEPARTMENT,
Washington, May 4, 1912.

The honorable the SECRETARY OF THE TREASURY.

SIR: I have the honor to advise you that the special additional estimate of $125,000, for providing tents and other necessary supplies and services for the relief of sufferers from floods in the Mississippi and Ohio Valleys, this date forwarded to you by the Secretary of War for transmission to Congress, has received the approval of the President and that evidence of such approval is on file in this office.

Very respectfully,

JOHN C. SCOFIELD,
Assistant and Chief Clerk.

WAR DEPARTMENT,
Washington, April 30, 1912.

The PRESIDENT.

MY DEAR MR. PRESIDENT: I submit herewith for your consideration and action a special estimate for an appropriation of $125,000 required by the War Department for providing tents and other necessary supplies and services for relief of the sufferers from floods in the Mississippi and Ohio Valleys in 1912 and for reimbursement of the several appropriations of the Quartermaster's Department, United States Army, from which temporary relief has already been or may be afforded.

The Quartermaster General states that the distress resulting from the floods in the Mississippi Valley, which have continued longer than was expected, necessitates the expenditure of larger amounts than were anticipated when the estimate for $275,000 now before Congress was submitted.

Very respectfully,

HENRY L. STIMSON,
Secretary of War.

Approved.

WM. H. TAFT.

MAY 3, 1912.

WAR DEPARTMENT,
OFFICE OF THE QUARTERMASTER GENERAL,
Washington, April 30, 1912.

The SECRETARY OF WAR.

SIR: I have the honor to transmit herewith additional estimate for the relief of sufferers from floods in the Mississippi and Ohio Valleys which, it would now appear, will be required in addition to the $275,000 estimated for on the 14th instant.

Very respectfully,

J. B. ALESHIRE,
Quartermaster General United States Army.

UNDER THE COMMISSARY GENERAL.

WAR DEPARTMENT,
OFFICE OF THE SECRETARY OF WAR,
Washington, May 6, 1912.

Hon. F. E. WARREN,
United States Senate, Washington, D. C.

MY DEAR SENATOR: We have found that the $420,000 for the relief of flood sufferers, which it is understood passed the House on Saturday night, will be inadequate. The latest reports from officers on the ground indicate that relief must be extended to 150,000 people for 35 days, at a cost of approximately $15,000 per day, and that the additional sum of $417,000 is necessary.

Estimate has been submitted to the President for this additional amount, and in order to expedite matters I am sending one to you, with a copy of the telegram on which it is based.

The Commissary General conferred with Gen. Bixby, Chief of Engineers, who confirms the statement made by Maj. Normoyle that the conditions will undoubtedly continue for at least six weeks more.

I urge that this additional amount of $417,000 be added to the $420,000 already appropriated by the House, making a total amount for subsistence of $837,000.

Very respectfully,

HENRY L. STIMSON,
Secretary of War.

VICKSBURG, MISS., *May 4, 1912.*

COMMISSARY GENERAL UNITED STATES ARMY,
Washington, D. C.:

On April 16 I wired from Memphis as follows: First district, 15,000 destitutes; second, 15,000; third, 23,000; fourth, 30,000; total, 83,000 flood sufferers, with reports from all districts that more are coming in daily. Consensus of opinion that we will be obliged to take care of these people from three to six weeks. This estimate based on the cost of $10,000 per day for subsistence. Reports from districts at Vicksburg to-day as follows: First district, 5,000; second district, 17,000; third district, 30,000; fourth district, 105,000; fifth district, 8,000; total, 165,000. As to the fourth district, Capt. Hegeman, in charge, advises that the following is a conservative list: Natchez, 15,000 people; Greenville, 22,000; Tensas Parish, 15,000; Yazoo City, 2,500; Sunflower River, Miss., 15,000; Millekens Bend, La., 2,200; Atherton, 1,000; Mounds, La., 3,000; Thomastown, La., 1,400; Steels Bayou, 10,000; Delhi, La., 2,000; Jena, La., 1,000; Columbia, 1,500; Delta, La., 400; Black River district, Tensas River, Mason Bayou, 11,000; total, 105,000. As to the fifth district, Capt. Logan reports 8,000 to-day, but advises that he expects an increase to 15,000 under present conditions—that is, the break at Torras and Bayou Sara. Should break occur at Morganza, he states the number in the fifth district will be at least 50,000. In view of the pessimistic reports in consequence of the rise in the upper Mississippi and tributaries and the return to flood conditions in the first and second districts, where until recently conditions were improving daily, it is difficult to arrive at any definite conclusion as to the length of time flood conditions will prevail, especially in the fourth and fifth districts. From St. Louis I heard unofficially to-day that river men in general are of the opinion that the highest stage of water ever known there is expected with the June rise. It was stated, further, that a 40-foot stage was expected at that point in June. These reports, together with other unfavorable local reports from Memphis, are mentioned to show that it is difficult to make an estimate of the situation. Liabilities incurred for subsistence in all five districts to date is $312,000. The rations covered by same and remaining on hand to date should carry us to include May 10. In addition to the balance of the $420,000 appropriated for subsistence—that is, $108,000—I believe we should count on caring for 150,000 people for at least 35 days from May 10, at an approximate cost of $15,000 per day. This would call for an aditional appropriation of $417,000 over and above the original $420,000 appropriated for susbsistence. We have officers on duty as inspectors in the several districts, and by watchful administration the additional appropriation recommended should take care of the situation, and possibly beyond that date if necessary.

NORMOYLE.

DESIGNATION OF PRESIDENT PRO TEMPORE.

Mr. SHIVELY. Mr. President, information has come that it will be impossible for the President of the Senate to be in the Senate to-morrow to preside. I therefore ask the unanimous consent of the Senate that the senior Senator from New Hampshire [Mr. GALLINGER] be chosen as President pro tempore to preside over the proceedings of the Senate on Tuesday, the 7th day of May, 1912.

The PRESIDING OFFICER. Is there objection to the request made by the Senator from Indiana? The Chair hears none, and it is so ordered.

Mr. SHIVELY submitted the following resolution (S. Res. 304), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Secretary wait upon the President of the United States and inform him that the Senate has elected JACOB H. GALLINGER, a Senator from the State of New Hampshire, President of the Senate pro tempore, to hold and exercise the office in the absence of the Vice President on Tuesday, May 7, 1912.

Mr. SHIVELY submitted the following resolution (S. Res. 305), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Secretary notify the House of Representatives that the Senate has elected JACOB H. GALLINGER, a Senator from the State of New Hampshire, President of the Senate pro tempore, to hold and exercise the office in the absence of the Vice President on Tuesday, May 7, 1912.

Mr. SMOOT. I move that the Senate adjourn until 12 o'clock Tuesday.

The motion was agreed to, and (at 7 o'clock and 5 minutes p. m., Monday, May 6) the Senate adjourned until Tuesday, May 7, 1912, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

MONDAY, *May 6, 1912.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., delivered the following prayer:

Our Father in heaven, we thank Thee for the power and efficacy of prayer; that the way is open; that whosoever will may come to the fountain of life and drink freely. When the sky is black above us and the heart is bowed in sorrow, out of the deeps we may cry unto Thee, and deep answers deep and the heart is comforted. When the skies are bright above us and the heart beats high with fondest hopes, we may be cheered on our way to every good purpose. When doubts arise and temptations assail us, our faith may be strengthened and the power of resistance increased. Hence we pray for Thy blessing, that we may be guided and strengthened for the work of this day, that it may be in consonance with Thy will. For Thine is the kingdom and the power and the glory forever. Amen.

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

SWEARING IN OF A MEMBER.

Mr. WILLIAM S. VARE, Member-elect from the State of Pennsylvania, appeared at the bar of the House and took the oath of office as prescribed by law.

CHANGE OF REFERENCE.

Mr. HENRY of Texas. Mr. Speaker, I desire to submit a request for unanimous consent. I ask unanimous consent for a change of reference of House resolution No. 512 from the Committee on Expenditures in the Department of Agriculture to the Committee on Rules.

The SPEAKER. What is the resolution about?

Mr. FLOYD of Arkansas. Will the gentleman yield? What resolution is that?

Mr. HENRY of Texas. It is the resolution for the investigation and inspection of meats, and so forth. It is a very extensive resolution, and should go to the Committee on Rules, inasmuch as it embraces a great deal of power and privileges that have never been conferred upon the Committee on Expenditures in the Department of Agriculture.

Mr. FLOYD of Arkansas. Has the gentleman conferred with the chairman of that committee as to the matter?

Mr. HENRY of Texas. I have not.

Mr. FLOYD of Arkansas. Then I object.

LEVEE ACROSS BRANCH OF ST. FRANCIS RIVER.

The SPEAKER. This is the day for unanimous consent and the suspension of the rules, and the Clerk will report the first bill on the Unanimous Consent Calendar.

The first business on the Calendar for Unanimous Consent was the bill (H. R. 21590) to authorize levee and drainage district No. 25, Dunklin County, to construct and maintain a levee across a branch or cut-off of St. Francis River in Missouri.

The Clerk read the bill, as follows:

Be it enacted, etc., That levee and drainage district No. 25, of Dunklin County, in the State of Missouri, a corporation organized under the laws of the State of Missouri, is hereby authorized to construct and maintain a levee across an arm or branch of the St. Francis River, known as "Dunklin County Cut-off," at a point in section 32, township 19 north, range 9 east, in Dunklin County, Mo., along the bank of the St. Francis River, and near the head of the said branch or cut-off; and also to construct and maintain a levee across the mouth of the Varney River where it runs into the St. Francis River, in or near section 32, township 18 north, range 8, in Dunklin County, Mo.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The question is on the engrossment and third reading of the bill.

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

The title was amended to read as follows:

Amend the title so as to read: "A bill to authorize levee and drainage district No. 25, of Dunklin County, Mo., to construct and maintain a levee across a branch or cut-off of St. Francis River and to construct and maintain a levee across the mouth of the Varney River, in the State of Missouri."

DAMS ACROSS KANSAS RIVER.

The next business on the Calendar for Unanimous Consent was the bill (S. 1524) to authorize the construction and maintenance of a dam or dams across the Kansas River in western Shawnee County or in Wabaunsee County, in the State of Kansas.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the assent of Congress is hereby given to the Topeka Commercial Club, organized under the laws of Kansas, its successors and assigns, to erect, construct, and maintain a dam or dams across the Kansas River at a suitable place or places in western Shawnee County, or in Wabaunsee County, in the State of Kansas, in accordance with the provisions of the act approved June 23, 1910, entitled "An act to amend an act entitled 'An act to regulate the construction of dams across navigable waters,'" approved June 21, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. Is there objection?

Mr. JACKSON. Is there anyone here appearing for this bill? I would like to know something about it, in the meantime reserving the right to object. I do not know anything about it.

Mr. ANTHONY. I would suggest to the gentleman that if he would look up the bill he would find all the facts in the report.

Mr. JACKSON. I will ask the gentleman if he would as soon let it go over?

Mr. ANTHONY. I see no reason why the bill should go over, and if the gentleman knows any reason I would like to have him state it.

Mr. JACKSON. I do not know anything about it. I am trying to find out something about it.