

E. D. Bivens to be postmaster at Farmersville, Tex., in place of Edward W. Morten, deceased.

Henry Bradford to be postmaster at Chillicothe, Tex., in place of John W. Hedley. Incumbent's commission expired April 2, 1912.

M. G. Brooks to be postmaster at Wortham, Tex., in place of George C. Ross, resigned.

McDougal Bybee to be postmaster at Childress, Tex., in place of U. S. Weddington, removed.

W. B. Carson to be postmaster at Pilot Point, Tex., in place of W. B. Carson. Incumbent's commission expired May 22, 1912.

James I. Carter to be postmaster at Arlington, Tex., in place of James I. Carter. Incumbent's commission expired February 19, 1912.

Luther Cline to be postmaster at Emory, Tex. Office became presidential January 1, 1912.

Hugh B. Eades to be postmaster at Blossom, Tex., in place of Newton H. Eades, deceased.

John F. Furlow to be postmaster at Alvord, Tex., in place of Henry L. Sands, deceased.

Howell D. Greene to be postmaster at Sanger, Tex., in place of Howell D. Greene. Incumbent's commission expired April 2, 1912.

Fred P. Ingerson to be postmaster at Barstow, Tex., in place of Fred P. Ingerson. Incumbent's commission expired April 28, 1912.

Thomas Randall Keck to be postmaster at Cotulla, Tex., in place of Caroline Cotulla, deceased.

Ralph H. Kelly to be postmaster at Stanton, Tex., in place of William B. Montgomery, resigned.

D. H. Kennett to be postmaster at Mercedes, Tex., in place of Henry A. Appel, removed.

Henry Krabbenschmidt to be postmaster at Grand Prairie, Tex. Office became presidential January 1, 1912.

Cyrus L. McCullough to be postmaster at Iowa Park, Tex., in place of William L. Yanger, deceased.

William H. Mallory to be postmaster at Port Lavaca, Tex., in place of Charles Rubert. Incumbent's commission expired December 16, 1911.

Frank J. Meason to be postmaster at Crowell, Tex., in place of Jacob A. Wright, removed.

John W. Miller to be postmaster at Dilley, Tex. Office became presidential October 1, 1912.

Albert J. Neece to be postmaster at Pecan Gap, Tex. Office became presidential October 1, 1912.

William J. Porter to be postmaster at Mesquite, Tex., in place of Americus C. Nafus, removed.

Charles W. Showaker to be postmaster at Aransas Pass, Tex. Office became presidential April 1, 1910.

R. B. Slight to be postmaster at Alpine, Tex., in place of Louis W. Durrell. Incumbent's commission expired April 28, 1912.

B. F. Warnock to be postmaster at Dalhart, Tex., in place of Wesley J. Clarke, resigned.

Ross Williams to be postmaster at Jasper, Tex. Office became presidential January 1, 1911.

George Wohleb, jr., to be postmaster at Rogers, Tex., in place of Frank Leahy. Incumbent's commission expired April 2, 1912.

Tillman F. Wolfe to be postmaster at Cross Plains, Tex. Office became presidential July 1, 1912.

VERMONT.

Nelson S. Wood to be postmaster at Fair Haven, Vt., in place of Charles E. Little, removed.

VIRGINIA.

Cecil R. Crabill to be postmaster at New Market, Va., in place of Charles W. Wickes. Incumbent's commission expired May 13, 1912.

Roy T. Hart to be postmaster at Buena Vista, Va., in place of James M. Updike. Incumbent's commission expired April 21, 1912.

Alfred Hayes to be postmaster at Virgilina, Va., in place of William D. Amis. Incumbent's commission expired May 23, 1912.

J. Minor Haynes to be postmaster at Cambria, Va., in place of Archie W. Moses. Incumbent's commission expired May 20, 1912.

D. H. Lewis to be postmaster at Chincoteague Island, Va., in place of John W. Field, deceased.

Edward A. Lindsey to be postmaster at Berryville, Va., in place of John R. Elder. Incumbent's commission expired April 8, 1912.

Albert L. Taylor to be postmaster at Parksley, Va. Office became presidential October 1, 1911.

L. Bruce Wolfe to be postmaster at Mount Jackson, Va., in place of Albert A. Evans, deceased.

WASHINGTON.

Charles E. Leonard to be postmaster at Winlock, Wash., in place of John L. Gruber, resigned.

WEST VIRGINIA.

Albert Snedeker to be postmaster at Wellsburg, W. Va., in place of William R. Miller. Incumbent's commission expired February 4, 1912.

WISCONSIN.

Fred A. Brandt to be postmaster at Sparta, Wis., in place of Fred A. Brandt. Incumbent's commission expires December 14, 1912.

Isa Faulds to be postmaster at Arcadia, Wis., in place of Isa Faulds. Incumbent's commission expires December 14, 1912.

W. A. Jones to be postmaster at Oconomowoc, Wis., in place of John G. Gorth, removed.

Fred W. Kubasta to be postmaster at Merrill, Wis., in place of Christian N. Johnson. Incumbent's commission expired June 1, 1910.

George W. Leberman to be postmaster at Sheboygan, Wis., in place of Edward B. Mattoon, deceased.

Judson L. Marvin to be postmaster at Mauston, Wis., in place of Judson L. Marvin. Incumbent's commission expires December 14, 1912.

Margaret J. Perry to be postmaster at Marion, Wis., in place of Stephen L. Perry, deceased.

WYOMING.

Elizabeth W. Kieffer to be postmaster at Fort Russell, Wyo., in place of John F. Crowley, resigned.

HOUSE OF REPRESENTATIVES.

TUESDAY, December 3, 1912.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Be graciously near to us, O God, our Father, as we thus try to draw near to Thee in spirit and in truth. Help us to seek first Thy kingdom and Thy righteousness, that all things may be added unto us. We are weak, Thou art mighty; impart unto us strength. Our knowledge is limited, Thou knowest all things; impart unto us wisdom that we may direct our knowledge aright. We are selfish, Thou art gracious and kind; make us magnanimous in all our relationships, that Thy kingdom may come in our hearts through Jesus Christ our Lord. Amen.

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

REPORT OF COMMITTEE TO NOTIFY THE PRESIDENT.

MESSRS. UNDERWOOD, JOHNSON of Kentucky, and MANN, the committee appointed to wait on the President and inform him that a quorum of the House was present, appeared at the bar of the House.

MR. UNDERWOOD. Mr. Speaker, I desire to report that the committee appointed by the House on yesterday to wait on the President of the United States, in company with a similar committee on the part of the Senate, have performed that function and the President directs us to say that he will communicate with the House in writing.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. SAMUEL W. SMITH, for four days, on account of important business.

To Mr. BELL of Georgia, for 10 days, on account of sickness.

To Mr. ADAMSON, indefinitely, on account of serious illness in his family.

To Mr. MARTIN of Colorado, indefinitely, on account of sickness.

To Mr. TAYLOR of Colorado, indefinitely, on account of the illness of his wife.

To Mr. HOWARD, indefinitely, on account of sickness in his family.

PROPOSED SIXTEENTH AMENDMENT TO THE CONSTITUTION.

The SPEAKER laid before the House the following communications, which were read:

STATE OF OHIO, EXECUTIVE DEPARTMENT,
Columbus, November 7, 1912.

To the honorable SPEAKER OF THE HOUSE OF REPRESENTATIVES,
Care Clerk of House of Representatives, Washington, D. C.

SIR: By direction of the governor, in accord with the instruction of the senate joint resolution of the Ohio Legislature adopted January 13,

1911. I am herewith inclosing a copy of senate joint resolution No. 6, by Mr. Yount, ratifying the proposed sixteenth amendment to the Constitution of the United States.

Acknowledgment is respectfully requested.

Very truly, yours,

GEO. S. LONG,

Secretary to the Governor.

Seventy-ninth general assembly, regular session. Mr. Yount.
Senate joint resolution 6.

Whereas both Houses of the Sixty-first Congress of the United States of America at its first session by a constitutional majority of two-thirds thereof made the following proposition to amend the Constitution of the United States of America in the following words, to wit:

"A joint resolution proposing an amendment to the Constitution of the United States.

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States which, when ratified by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes as a part of the Constitution, namely:

"ART. XVI. The Congress shall have power to lay and collect taxes on incomes from whatever source derived without apportionment among the several States and without regard to any census or enumeration."

Therefore be it

Resolved by the Senate and House of Representatives of the State of Ohio, That the said proposed amendment to the Constitution of the United States of America be, and the same is hereby, ratified by the General Assembly of the State of Ohio; and further be it

Resolved, That the certified copies of this joint resolution be forwarded by the governor of this State to the Secretary of State at Washington and to the Presiding Officers of each House of the National Congress.

I, W. V. GOSHORN, clerk of Ohio Senate, certify the above and foregoing is a true and correct copy of original resolution passed by General Assembly of Ohio as shown from the records of both houses.

W. V. GOSHORN,

Clerk of Ohio Senate.

STATE OF LOUISIANA,
DEPARTMENT OF STATE,
Baton Rouge, La., October 26, 1912.

HON. CHAMP CLARK,
Speaker of the House of Representatives,
Washington, D. C.

DEAR SIR: I am directed by His Excellency Luther E. Hall, governor of Louisiana, in compliance with act 47 of the General Assembly of the State of Louisiana for the year 1912, to transmit to you a certified copy of said act No. 47 of 1912. I have the honor to be,

Yours, very obediently,

ALVIN E. HEBERT,
Secretary of State.

STATE OF LOUISIANA:

I, the undersigned secretary of state of the State of Louisiana, do hereby certify that the annexed and following one page contains a true and correct transcript of act No. 47 of the session acts of the General Assembly of the State of Louisiana for the year 1912, approved July 1, 1912, as is shown by comparing the same with the original act on file and of record in this office.

Given under my signature, authenticated with the impress of my seal of office, at the city of Baton Rouge, this 26th day of October, A. D. 1912.

[SEAL.]

ALVIN E. HEBERT,
Secretary of State.

Act. No. 47.

House concurrent resolution 8. By Mr. Johnson. Ratifying the sixteenth amendment to the Constitution of the United States.

Whereas the Congress of the United States, on the — day of July, 1903, adopted a joint resolution proposing an amendment to the Constitution of the United States, as follows:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which, when ratified by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes as a part of the Constitution:

"ART. XVI. The Congress shall have power to lay and collect taxes on incomes from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."

And the foregoing amendment having been laid before the General Assembly of the State of Louisiana for consideration and action: Now therefore be it

Resolved by the General Assembly of the State of Louisiana, That the foregoing amendment to the Constitution of the United States be, and the same is hereby, ratified, to all intents and purposes, as a part of the Constitution of the United States.

(2) That the governor of the State of Louisiana is hereby requested to forward to the President of the United States and to the Secretary of State of the United States an authentic copy of the foregoing joint resolution.

L. E. THOMAS,
Speaker of the House of Representatives,
THOMAS C. BARRET,
Lieutenant Governor and President of the Senate.

Approved, July 1, 1912.

L. E. HALL,
Governor of the State of Louisiana.

A true copy.

ALVIN E. HEBERT,
Secretary of State.

ORDER OF BUSINESS.

The SPEAKER. The Chair desires to make an announcement about the order of business for to-day. As soon as the gentleman from Missouri [Mr. LLOYD] presents some little matters, and the President's message is read, the Chair intends to recognize the gentleman from Tennessee [Mr. SIMS] to call up a bill made privileged by a special order of the House in regard to the physical valuation of railroads.

CLERKS, ETC., TO EXPENDITURES COMMITTEES.

Mr. LLOYD. Mr. Speaker, I ask for the present consideration of the following privileged resolution, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 727 (H. Rept. 1259).

Resolved, That there shall be paid out of the contingent fund of the House, for services of a clerk to each of the following-named committees, compensation at the rate of \$125 per month during the third session of the Sixty-second Congress, to wit:

Committee on Expenditures in the State Department;
Committee on Expenditures in the Treasury Department;
Committee on Expenditures in the War Department;
Committee on Expenditures in the Navy Department;
Committee on Expenditures in the Post Office Department;
Committee on Expenditures on Public Buildings;
Committee on Expenditures in the Interior Department;
Committee on Expenditures in the Department of Agriculture;
Committee on Expenditures in the Department of Commerce and Labor; and
Committee on Expenditures in the Department of Justice.

And there shall also be paid out of the contingent fund of the House compensation at the rate of \$60 per month each, during the third session of the Sixty-second Congress, for the services of two messengers, to be appointed by the Doorkeeper, who shall perform messenger-janitor duty in the rooms of said committees on expenditures in the several departments.

Mr. LLOYD. Mr. Speaker, this resolution provides for the several clerks who were assigned to these several expenditure committees in the extra session and also in the regular session. It provides for no additional help beyond that which we had in those sessions.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken, and the resolution was agreed to.

SESSION CLERKS TO COMMITTEES.

Mr. LLOYD. Mr. Speaker, I ask unanimous consent for the present consideration of the following resolution, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 726 (H. Rept. 1258).

Resolved, That clerks to committees of the House during the session provided for by the legislative, executive, and judicial appropriation act for the fiscal year ending June 30, 1913, be, and they are hereby, assigned for the present session of Congress to the following committees, to wit:

Committee on Education.
Committee on Mines and Mining.
Committee on Railways and Canals.
Committee on Reform in the Civil Service.
Committee on Alcoholic Liquor Traffic.
Committee on Election of President, Vice President, and Representatives in Congress.
Committee on Disposition of Useless Executive Papers.
Committee on Enrolled Bills.
Committee on Invalid Pensions (assistant clerk).

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Missouri [Mr. LLOYD] whether this is identical with the resolution passed heretofore?

Mr. LLOYD. It is identical with the resolution passed at the last session.

The SPEAKER. Is there objection?

There was no objection.

The resolution was agreed to.

MESSENGER FOR POSTMASTER OF HOUSE.

Mr. LLOYD. Mr. Speaker, I ask unanimous consent for the present consideration of the following privileged resolution from the Committee on Accounts.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 717 (H. Rept. 1256).

Resolved, That the Postmaster of the House be, and he is hereby, authorized to appoint a messenger who shall be paid out of the contingent fund of the House at the rate of \$100 per month during the third session of the Sixty-second Congress.

Mr. LLOYD. Mr. Speaker, this messenger has been heretofore provided, but not provided under the legislative bill, and he has been paid from time to time out of the contingent fund. It does not add anything to the pay roll beyond that which we had in the last session.

The SPEAKER. Is there objection?

There was no objection.

The resolution was agreed to.

MESSENGER FOR COMMITTEE ON DISPOSITION OF USELESS PAPERS.

Mr. LLOYD. Mr. Speaker, I ask unanimous consent for the present consideration of the following privileged resolution from the Committee on Accounts.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 721 (H. Rept. 1257).

Resolved, That the chairman of the Joint Select Committee on Disposition of Useless Executive Papers be, and he is hereby, authorized to appoint a messenger to said committee, who shall be paid out of the contingent fund of the House at the rate of \$60 per month for this session.

Mr. MANN. Is that the same provision which was made before?

Mr. LLOYD. This is the same provision that was made at the last session. This clerk was provided for then.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken, and the resolution was agreed to.

MESSENGER TO OFFICIAL REPORTERS OF DEBATES.

Mr. LLOYD. Mr. Speaker, I ask for the present consideration of the following privileged resolution from the Committee on Accounts.

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

House resolution 728.

Resolved, That the official reporters of debates be, and they are hereby, authorized to appoint a messenger, who shall be paid out of the contingent fund of the House at the rate of \$60 per month during the third session of the Sixty-second Congress.

Report (No. 1261) to accompany House resolution 728.

The Committee on Accounts has had under consideration the accompanying resolution, providing a messenger for the official reporters of debates. The same provision as made at last session is herein asked, and believing it a necessary provision and the resolution a proper one its adoption is recommended.

Mr. LLOYD. Mr. Speaker, this officer was provided in the last Congress and paid out of the contingent fund. The resolution adds nothing to the expense beyond that authorized by the last session of Congress.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken, and the resolution was agreed to.

ADDITIONAL ASSISTANT CLERK, COMMITTEE ON THE JUDICIARY.

Mr. LLOYD. Mr. Speaker, I ask for the present consideration of the following privileged resolution from the Committee on Accounts.

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

House resolution 722.

Resolved, That the Committee on the Judiciary is hereby authorized to employ an additional assistant clerk at the salary of \$6 per day.

With an amendment set forth in the report, as follows:

Report (No. 1260) to accompany House resolution 722.

The Committee on Accounts, to whom was referred House resolution No. 722, have had the same under consideration and recommend the following amendment:

After the word "day," in line 3, insert "during the third session of the Sixty-second Congress, to be paid out of the contingent fund of the House."

The additional assistant clerk herein provided for was found to be necessary during the last session, and believing that the necessity still exists, the committee recommends the adoption of the resolution as amended.

Mr. LLOYD. Mr. Speaker, during the last session of Congress there was an extra clerk provided for the Committee on the Judiciary, and this is to provide for an additional clerk to the Committee on the Judiciary during the present session of Congress.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on agreeing to the resolution as amended.

The question was taken, and the resolution as amended was agreed to.

MESSAGES FROM THE PRESIDENT OF THE UNITED STATES.

Sundry messages, in writing, from the President of the United States were communicated to the House of Representatives by Mr. Latta, one of his secretaries.

REPORT OF THE COMMISSION OF FINE ARTS.

The SPEAKER laid before the House the following message from the President of the United States, which was read and, with the accompanying documents, referred to the Committee on the Library and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith for the information of the Congress the report of the Commission of Fine Arts for the fiscal year ended June 30, 1912.

WM. H. TAFT.

THE WHITE HOUSE, December 3, 1912.

INTERNATIONAL WATERWAYS COMMISSION (S. DOC. NO. 959).

The SPEAKER also laid before the House the following message from the President of the United States, which was read and, with the accompanying documents, referred to the Committee on Rivers and Harbors and ordered to be printed:

To the Senate and House of Representatives:

The act making appropriations for sundry civil expenses of the Government approved August 24, 1912, provided for the International Waterways Commission in the following terms, viz:

For continuing until December 31, 1912, the work of investigation and report by the International Waterways Commission, authorized by section 4 of the river and harbor act approved June 13, 1902, \$10,000: *Provided*, That report as to the progress of the work be made by the American commissioners to Congress at the beginning of the next session.

The American commissioners have rendered a full report of all their acts up to this time, which I herewith transmit. It appears from this report that the commission still has two pieces of work to complete before it can properly go out of existence.

One is its final report upon a dam at the outlet of Lake Erie, a difficult and important question, upon which it has expended a vast amount of labor. It should be allowed to finish this work to clear the ground for its successor, the International Joint Commission, which will consider all future questions of this nature. I am informed that the report has been delayed, and may be further delayed, by the illness and absence in Europe of one of the Canadian engineers, but that it can probably be completed within a few months—certainly before the completion of the other piece of unfinished work.

The other is to ascertain and reestablish, to mark upon the ground, and to delineate upon modern charts the location of a portion of the international boundary between the United States and Canada, which work was specifically assigned to the International Waterways Commission by article 4 of the treaty between the United States and Great Britain dated April 11, 1908. This work, the commission states, can not be completed by December 31, 1912, but will require from a year to 15 months' more time beyond that date.

The work of the commission has been of a high order and has been prosecuted with diligence. International courtesy, as well as treaty obligations, require that the commission be allowed to complete its work. I recommend that the items to be found in the estimates for its support during the second half of the current fiscal year and for a part of the next fiscal year receive the favorable consideration of Congress.

WM. H. TAFT.

THE WHITE HOUSE, December 3, 1912.

OUR FOREIGN RELATIONS (H. DOC. NO. 927).

The SPEAKER also laid before the House the following message from the President of the United States, which was read and referred to the Committee of the Whole House on the state of the Union and ordered to be printed:

To the Senate and House of Representatives:

The foreign relations of the United States actually and potentially affect the state of the Union to a degree not widely realized and hardly surpassed by any other factor in the welfare of the whole Nation. The position of the United States in the moral, intellectual, and material relations of the family of nations should be a matter of vital interest to every patriotic citizen. The national prosperity and power impose upon us duties which we can not shirk if we are to be true to our ideals. The tremendous growth of the export trade of the United States has already made that trade a very real factor in the industrial and commercial prosperity of the country. With the development of our industries the foreign commerce of the United States must rapidly become a still more essential factor in its economic welfare. Whether we have a farseeing and wise diplomacy and are not recklessly plunged into unnecessary wars, and whether our foreign policies are based upon an intelligent grasp of present-day world conditions and a clear view of the potentialities of the future, or are governed by a temporary and timid expediency or by narrow views befitting an infant nation, are questions in the alternative consideration of which must convince any thoughtful citizen that no department of national polity offers greater opportunity for promoting the interests of the whole people on the one hand, or greater chance on the other of permanent national injury, than that which deals with the foreign relations of the United States.

The fundamental foreign policies of the United States should be raised high above the conflict of partisanship and wholly dissociated from differences as to domestic policy. In its foreign affairs the United States should present to the world a united front. The intellectual, financial, and industrial interests of the country and the publicist, the wage earner, the farmer,

and citizen of whatever occupation must cooperate in a spirit of high patriotism to promote that national solidarity which is indispensable to national efficiency and to the attainment of national ideals.

The relations of the United States with all foreign powers remain upon a sound basis of peace, harmony, and friendship. A greater insistence upon justice to American citizens or interests wherever it may have been denied and a stronger emphasis of the need of mutuality in commercial and other relations have only served to strengthen our friendships with foreign countries by placing those friendships upon a firm foundation of realities as well as aspirations.

Before briefly reviewing the more important events of the last year in our foreign relations, which it is my duty to do as charged with their conduct and because diplomatic affairs are not of a nature to make it appropriate that the Secretary of State make a formal annual report, I desire to touch upon some of the essentials to the safe management of the foreign relations of the United States and to endeavor, also, to define clearly certain concrete policies which are the logical modern corollaries of the undisputed and traditional fundamentals of the foreign policy of the United States.

REORGANIZATION OF THE STATE DEPARTMENT.

At the beginning of the present administration the United States having fully entered upon its position as a world power, with the responsibilities thrust upon it by the results of the Spanish-American War, and already engaged in laying the groundwork of a vast foreign trade upon which it should one day become more and more dependent, found itself without the machinery for giving thorough attention to, and taking effective action upon, a mass of intricate business vital to American interests in every country in the world.

The Department of State was an archaic and inadequate machine lacking most of the attributes of the foreign office of any great modern power. With an appropriation made upon my recommendation by the Congress on August 5, 1909, the Department of State was completely reorganized. There were created Divisions of Latin-American Affairs and of Far Eastern, Near Eastern, and Western European Affairs. To these divisions were called from the foreign service diplomatic and consular officers possessing experience and knowledge gained by actual service in different parts of the world, and thus familiar with political and commercial conditions in the regions concerned. The work was highly specialized. The result is that where previously this Government from time to time would emphasize in its foreign relations one or another policy, now American interests in every quarter of the globe are being cultivated with equal assiduity. This principle of politico-geographical division possesses also the good feature of making possible rotation between the officers of the departmental, the diplomatic, and the consular branches of the foreign service, and thus keeps the whole diplomatic and consular establishments under the Department of State in close touch and equally inspired with the aims and policy of the Government. Through the newly created Division of Information the foreign service is kept fully informed of what transpires from day to day in the international relations of the country, and contemporary foreign comment affecting American interests is promptly brought to the attention of the department. The law offices of the department were greatly strengthened. There were added foreign-trade advisers to cooperate with the diplomatic and consular bureaus and the politico-geographical divisions in the innumerable matters where commercial diplomacy or consular work calls for such special knowledge. The same officers, together with the rest of the new organization, are able at all times to give to American citizens accurate information as to conditions in foreign countries with which they have business and likewise to cooperate more effectively with the Congress and also with the other executive departments.

MERIT SYSTEM IN CONSULAR AND DIPLOMATIC CORPS.

Expert knowledge and professional training must evidently be the essence of this reorganization. Without a trained foreign service there would not be men available for the work in the reorganized Department of State. President Cleveland had taken the first step toward introducing the merit system in the foreign service. That had been followed by the application of the merit principle, with excellent results, to the entire consular branch. Almost nothing, however, had been done in this direction with regard to the Diplomatic Service. In this age of commercial diplomacy it was evidently of the first importance to train an adequate personnel in that branch of the service. Therefore, on November 26, 1909, by an Executive order I placed the Diplomatic Service up to the grade of secretary of embassy, inclusive, upon exactly the same strict nonpartisan basis of the merit system, rigid examination for appointment and pro-

motion only for efficiency, as had been maintained without exception in the Consular Service.

STATISTICS AS TO MERIT AND NONPARTISAN CHARACTER OF APPOINTMENTS.

How faithful to the merit system and how nonpartisan has been the conduct of the Diplomatic and Consular Services in the last four years may be judged from the following: Three ambassadors now serving held their present rank at the beginning of my administration. Of the 10 ambassadors whom I have appointed, 5 were by promotion from the rank of minister. Nine ministers now serving held their present rank at the beginning of the administration. Of the 30 ministers whom I have appointed, 11 were promoted from the lower grades of the foreign service or from the Department of State. Of the 19 missions in Latin America, where our relations are close and our interest is great, 15 chiefs of mission are service men, 3 having entered the service during this administration. The 37 secretaries of embassy or legation who have received their initial appointments after passing successfully the required examination were chosen for ascertained fitness, without regard to political affiliations. A dearth of candidates from Southern and Western States has alone made it impossible thus far completely to equalize all the States' representations in the foreign service. In the effort to equalize the representation of the various States in the Consular Service I have made 16 of the 29 new appointments as consul which have occurred during my administration from the Southern States. This is 55 per cent. Every other consular appointment made, including the promotion of 11 young men from the consular assistant and student interpreter corps, has been by promotion or transfer, based solely upon efficiency shown in the service.

In order to assure to the business and other interests of the United States a continuance of the resulting benefits of this reform, I earnestly renew my previous recommendations of legislation making it permanent along some such lines as those of the measure now pending in Congress.

LARGER PROVISION FOR EMBASSIES AND LEGATIONS AND FOR OTHER EXPENSES OF OUR FOREIGN REPRESENTATIVES RECOMMENDED.

In connection with legislation for the amelioration of the foreign service, I wish to invite attention to the advisability of placing the salary appropriations upon a better basis. I believe that the best results would be obtained by a moderate scale of salaries, with adequate funds for the expenses of proper representation, based in each case upon the scale and cost of living at each post, controlled by a system of accounting, and under the general direction of the Department of State.

In line with the object which I have sought of placing our foreign service on a basis of permanency, I have at various times advocated provision by Congress for the acquisition of Government-owned buildings for the residence and offices of our diplomatic officers, so as to place them more nearly on an equality with similar officers of other nations and to do away with the discrimination which otherwise must necessarily be made, in some cases, in favor of men having large private fortunes. The act of Congress which I approved on February 17, 1911, was a right step in this direction. The Secretary of State has already made the limited recommendations permitted by the act for any one year, and it is my hope that the bill introduced in the House of Representatives to carry out these recommendations will be favorably acted on by the Congress during its present session.

In some Latin-American countries the expense of Government-owned legations will be less than elsewhere, and it is certainly very urgent that in such countries as some of the Republics of Central America and the Caribbean, where it is peculiarly difficult to rent suitable quarters, the representatives of the United States should be justly and adequately provided with dignified and suitable official residences. Indeed, it is high time that the dignity and power of this great Nation should be fittingly signalized by proper buildings for the occupancy of the Nation's representatives everywhere abroad.

DIPLOMACY A HANDMAID OF COMMERCIAL INTERCOURSE AND PEACE.

The diplomacy of the present administration has sought to respond to modern ideas of commercial intercourse. This policy has been characterized as substituting dollars for bullets. It is one that appeals alike to idealistic humanitarian sentiments, to the dictates of sound policy and strategy, and to legitimate commercial aims. It is an effort frankly directed to the increase of American trade upon the axiomatic principle that the Government of the United States shall extend all proper support to every legitimate and beneficial American enterprise abroad. How great have been the results of this diplomacy, coupled with the maximum and minimum provision of the tariff law, will be seen by some consideration of the wonderful increase in the export trade of the United States.

Because modern diplomacy is commercial, there has been a disposition in some quarters to attribute to it none but materialistic aims. How strikingly erroneous is such an impression may be seen from a study of the results by which the diplomacy of the United States can be judged.

SUCCESSFUL EFFORTS IN PROMOTION OF PEACE.

In the field of work toward the ideals of peace this Government negotiated, but to my regret was unable to consummate, two arbitration treaties which set the highest mark of the aspiration of nations toward the substitution of arbitration and reason for war in the settlement of international disputes. Through the efforts of American diplomacy several wars have been prevented or ended. I refer to the successful tripartite mediation of the Argentine Republic, Brazil, and the United States between Peru and Ecuador; the bringing of the boundary dispute between Panama and Costa Rica to peaceful arbitration; the staying of warlike preparations when Haiti and the Dominican Republic were on the verge of hostilities; the stopping of a war in Nicaragua; the halting of internecine strife in Honduras. The Government of the United States was thanked for its influence toward the restoration of amicable relations between the Argentine Republic and Bolivia. The diplomacy of the United States is active in seeking to assuage the remaining ill-feeling between this country and the Republic of Colombia. In the recent civil war in China the United States successfully joined with the other interested powers in urging an early cessation of hostilities. An agreement has been reached between the Governments of Chile and Peru whereby the celebrated Tacna-Arica dispute, which has so long embittered international relations on the west coast of South America, has at last been adjusted. Simultaneously came the news that the boundary dispute between Peru and Ecuador had entered upon a stage of amicable settlement. The position of the United States in reference to the Tacna-Arica dispute between Chile and Peru has been one of nonintervention, but one of friendly influence and pacific counsel throughout the period during which the dispute in question has been the subject of interchange of views between this Government and the two Governments immediately concerned. In the general easing of international tension on the west coast of South America the tripartite mediation, to which I have referred, has been a most potent and beneficent factor.

CHINA.

In China the policy of encouraging financial investment to enable that country to help itself has had the result of giving new life and practical application to the open-door policy. The consistent purpose of the present administration has been to encourage the use of American capital in the development of China by the promotion of those essential reforms to which China is pledged by treaties with the United States and other powers. The hypothecation to foreign bankers in connection with certain industrial enterprises, such as the Hukuang railways, of the national revenues upon which these reforms depended, led the Department of State early in the administration to demand for American citizens participation in such enterprises, in order that the United States might have equal rights and an equal voice in all questions pertaining to the disposition of the public revenues concerned. The same policy of promoting international accord among the powers having similar treaty rights as ourselves in the matters of reform, which could not be put into practical effect without the common consent of all, was likewise adopted in the case of the loan desired by China for the reform of its currency. The principle of international cooperation in matters of common interest upon which our policy had already been based in all of the above instances has admittedly been a great factor in that concert of the powers which has been so happily conspicuous during the perilous period of transition through which the great Chinese nation has been passing.

CENTRAL AMERICA NEEDS OUR HELP IN DEBT ADJUSTMENT.

In Central America the aim has been to help such countries as Nicaragua and Honduras to help themselves. They are the immediate beneficiaries. The national benefit to the United States is twofold. First, it is obvious that the Monroe doctrine is more vital in the neighborhood of the Panama Canal and the zone of the Caribbean than anywhere else. There, too, the maintenance of that doctrine falls most heavily upon the United States. It is therefore essential that the countries within that sphere shall be removed from the jeopardy involved by heavy foreign debt and chaotic national finances and from the ever-present danger of international complications due to disorder at home. Hence the United States has been glad to encourage and support American bankers who were willing to lend a helping hand to the financial rehabilitation of such countries, because this financial rehabilitation and the protection of their customhouses from

being the prey of would-be dictators would remove at one stroke the menace of foreign creditors and the menace of revolutionary disorder.

The second advantage to the United States is one affecting chiefly all the southern and Gulf ports and the business and industry of the South. The Republics of Central America and the Caribbean possess great natural wealth. They need only a measure of stability and the means of financial regeneration to enter upon an era of peace and prosperity, bringing profit and happiness to themselves, and at the same time creating conditions sure to lead to a flourishing interchange of trade with this country.

I wish to call your especial attention to the recent occurrences in Nicaragua, for I believe the terrible events recorded there during the revolution of the past summer—the useless loss of life, the devastation of property, the bombardment of defenseless cities, the killing and wounding of women and children, the torturing of noncombatants to exact contributions, and the suffering of thousands of human beings—might have been averted had the Department of State, through approval of the loan convention by the Senate, been permitted to carry out its now well-developed policy of encouraging the extending of financial aid to weak Central American States, with the primary objects of avoiding just such revolutions by assisting those Republics to rehabilitate their finances, to establish their currency on a stable basis, to remove the customhouses from the danger of revolutions by arranging for their secure administration, and to establish reliable banks.

During this last revolution in Nicaragua, the Government of that Republic having admitted its inability to protect American life and property against acts of sheer lawlessness on the part of the malcontents, and having requested this Government to assume that office, it became necessary to land over 2,000 marines and bluejackets in Nicaragua. Owing to their presence the constituted Government of Nicaragua was free to devote its attention wholly to its internal troubles, and was thus enabled to stamp out the rebellion in a short space of time. When the Red Cross supplies sent to Granada had been exhausted, 8,000 persons having been given food in one day upon the arrival of the American forces, our men supplied other unfortunate, needy Nicaraguans from their own haversacks. I wish to congratulate the officers and men of the United States Navy and Marine Corps who took part in reestablishing order in Nicaragua upon their splendid conduct, and to record with sorrow the death of seven American marines and bluejackets. Since the reestablishment of peace and order, elections have been held amid conditions of quiet and tranquillity. Nearly all the American marines have now been withdrawn. The country should soon be on the road to recovery. The only apparent danger now threatening Nicaragua arises from the shortage of funds. Although American bankers have already rendered assistance, they may naturally be loath to advance a loan adequate to set the country upon its feet without the support of some such convention as that of June, 1911, upon which the Senate has not yet acted.

ENFORCEMENT OF NEUTRALITY LAWS.

In the general effort to contribute to the enjoyment of peace by those Republics which are near neighbors of the United States, the administration has enforced the so-called neutrality statutes with a new vigor, and those statutes were greatly strengthened in restricting the exportation of arms and munitions by the joint resolution of last March. It is still a regrettable fact that certain American ports are made the rendezvous of professional revolutionists and others engaged in intrigue against the peace of those Republics. It must be admitted that occasionally a revolution in this region is justified as a real popular movement to throw off the shackles of a vicious and tyrannical government. Such was the Nicaraguan revolution against the Zelaya régime. A nation enjoying our liberal institutions can not escape sympathy with a true popular movement, and one so well justified. In very many cases, however, revolutions in the Republics in question have no basis in principle, but are due merely to the machinations of conscienceless and ambitious men, and have no effect but to bring new suffering and fresh burdens to an already oppressed people. The question whether the use of American ports as foci of revolutionary intrigue can be best dealt with by a further amendment to the neutrality statutes or whether it would be safer to deal with special cases by special laws is one worthy of the careful consideration of the Congress.

VISIT OF SECRETARY KNOX TO CENTRAL AMERICA AND THE CARIBBEAN.

Impressed with the particular importance of the relations between the United States and the Republics of Central America and the Caribbean region, which of necessity must become still more intimate by reason of the mutual advantages which will be presented by the opening of the Panama Canal, I directed

the Secretary of State last February to visit these Republics for the purpose of giving evidence of the sincere friendship and good will which the Government and people of the United States bear toward them. Ten Republics were visited. Everywhere he was received with a cordiality of welcome and a generosity of hospitality such as to impress me deeply and to merit our warmest thanks. The appreciation of the Governments and peoples of the countries visited, which has been appropriately shown in various ways, leaves me no doubt that his visit will conduce to that closer union and better understanding between the United States and those Republics which I have had it much at heart to promote.

OUR MEXICAN POLICY.

For two years revolution and counter-revolution have distraught the neighboring Republic of Mexico. Brigandage has involved a great deal of depredation upon foreign interests. There have constantly recurred questions of extreme delicacy. On several occasions very difficult situations have arisen on our frontier. Throughout this trying period the policy of the United States has been one of patient nonintervention, steadfast recognition of constituted authority in the neighboring nation, and the exertion of every effort to care for American interests. I profoundly hope that the Mexican nation may soon resume the path of order, prosperity, and progress. To that nation in its sore troubles the sympathetic friendship of the United States has been demonstrated to a high degree. There were in Mexico at the beginning of the revolution some thirty or forty thousand American citizens engaged in enterprises contributing greatly to the prosperity of that Republic and also benefiting the important trade between the two countries. The investment of American capital in Mexico has been estimated at \$1,000,000,000. The responsibility of endeavoring to safeguard those interests and the dangers inseparable from propinquity to so turbulent a situation have been great, but I am happy to have been able to adhere to the policy above outlined—a policy which I hope may be soon justified by the complete success of the Mexican people in regaining the blessings of peace and good order.

AGRICULTURAL CREDITS.

A most important work, accomplished in the past year by the American diplomatic officers in Europe, is the investigation of the agricultural credit system in the European countries. Both as a means to afford relief to the consumers of this country through a more thorough development of agricultural resources and as a means of more sufficiently maintaining the agricultural population, the project to establish credit facilities for the farmers is a concern of vital importance to this Nation. No evidence of prosperity among well-established farmers should blind us to the fact that lack of capital is preventing a development of the Nation's agricultural resources and an adequate increase of the land under cultivation; that agricultural production is fast falling behind the increase in population; and that, in fact, although these well-established farmers are maintained in increasing prosperity because of the natural increase in population, we are not developing the industry of agriculture. We are not breeding in proportionate numbers a race of independent and independence-loving landowners, for a lack of which no growth of cities can compensate. Our farmers have been our mainstay in times of crisis, and in future it must still largely be upon their stability and common sense that this democracy must rely to conserve its principles of self-government.

The need of capital which American farmers feel to-day had been experienced by the farmers of Europe, with their centuries-old farms, many years ago. The problem had been successfully solved in the Old World and it was evident that the farmers of this country might profit by a study of their systems. I therefore ordered, through the Department of State, an investigation to be made by the diplomatic officers in Europe, and I have laid the results of this investigation before the governors of the various States with the hope that they will be used to advantage in their forthcoming meeting.

INCREASE OF FOREIGN TRADE.

In my last annual message I said that the fiscal year ended June 30, 1911, was noteworthy as marking the highest record of exports of American products to foreign countries. The fiscal year 1912 shows that this rate of advance has been maintained, the total domestic exports having a valuation approximately of \$2,200,000,000, as compared with a fraction over \$2,000,000,000 the previous year. It is also significant that manufactured and partly manufactured articles continue to be the chief commodities forming the volume of our augmented exports, the demands of our own people for consumption requiring that an

increasing proportion of our abundant agricultural products be kept at home. In the fiscal year 1911 the exports of articles in the various stages of manufacture, not including foodstuffs partly or wholly manufactured, amounted approximately to \$907,500,000. In the fiscal year 1912 the total was nearly \$1,022,000,000, a gain of \$114,000,000.

ADVANTAGE OF MAXIMUM AND MINIMUM TARIFF PROVISION.

The importance which our manufactures have assumed in the commerce of the world in competition with the manufactures of other countries again draws attention to the duty of this Government to use its utmost endeavors to secure impartial treatment for American products in all markets. Healthy commercial rivalry in international intercourse is best assured by the possession of proper means for protecting and promoting our foreign trade. It is natural that competitive countries should view with some concern this steady expansion of our commerce. If in some instances the measure taken by them to meet it are not entirely equitable, a remedy should be found. In former messages I have described the negotiations of the Department of State with foreign Governments for the adjustment of the maximum and minimum tariff as provided in section 2 of the tariff law of 1909. The advantages secured by the adjustment of our trade relations under this law have continued during the last year, and some additional cases of discriminatory treatment of which we had reason to complain have been removed. The Department of State has for the first time in the history of this country obtained substantial most-favored-nation treatment from all the countries of the world. There are, however, other instances which, while apparently not constituting undue discrimination in the sense of section 2, are nevertheless exceptions to the complete equity of tariff treatment for American products that the Department of State consistently has sought to obtain for American commerce abroad.

NECESSITY FOR SUPPLEMENTARY LEGISLATION.

These developments confirm the opinion conveyed to you in my annual message of 1911, that while the maximum and minimum provision of the tariff law of 1909 has been fully justified by the success achieved in removing previously existing undue discriminations against American products, yet experience has shown that this feature of the law should be amended in such way as to provide a fully effective means of meeting the varying degrees of discriminatory treatment of American commerce in foreign countries still encountered, as well as to protect against injurious treatment on the part of foreign Governments, through either legislative or administrative measures, the financial interests abroad of American citizens whose enterprises enlarge the market for American commodities.

I can not too strongly recommend to the Congress the passage of some such enabling measure as the bill which was recommended by the Secretary of State in his letter of December 13, 1911. The object of the proposed legislation is, in brief, to enable the Executive to apply, as the case may require, to any or all commodities, whether or not on the free list from a country which discriminates against the United States, a graduated scale of duties up to the maximum of 25 per cent ad valorem provided in the present law. Flat tariffs are out of date. Nations no longer accord equal tariff treatment to all other nations irrespective of the treatment from them received. Such a flexible power at the command of the Executive would serve to moderate any unfavorable tendencies on the part of those countries from which the importations into the United States are substantially confined to articles on the free list as well as of the countries which find a lucrative market in the United States for their products under existing customs rates. It is very necessary that the American Government should be equipped with weapons of negotiation adapted to modern economic conditions, in order that we may at all times be in a position to gain not only technically just but actually equitable treatment for our trade, and also for American enterprise and vested interests abroad.

BUSINESS SECURED TO OUR COUNTRY BY DIRECT OFFICIAL EFFORT.

As illustrating the commercial benefits to the Nation derived from the new diplomacy and its effectiveness upon the material as well as the more ideal side, it may be remarked that through direct official efforts alone there have been obtained in the course of this administration, contracts from foreign Governments involving an expenditure of \$50,000,000 in the factories of the United States. Consideration of this fact and some reflection upon the necessary effects of a scientific tariff system and a foreign service alert and equipped to cooperate with the business men of America carry the conviction that the gratifying increase in the export trade of this country is, in substantial amount, due to our improved governmental methods of protecting and stimulating it. It is germane to these observations

to remark that in the two years that have elapsed since the successful negotiation of our new treaty with Japan, which at the time seemed to present so many practical difficulties, our export trade to that country has increased at the rate of over \$1,000,000 a month. Our exports to Japan for the year ended June 30, 1910, were \$21,959,310, while for the year ended June 30, 1912, the exports were \$53,478,046, a net increase in the sale of American products of nearly 150 per cent.

SPECIAL CLAIMS ARBITRATION WITH GREAT BRITAIN.

Under the special agreement entered into between the United States and Great Britain on August 18, 1910, for the arbitration of outstanding pecuniary claims, a schedule of claims and the terms of submission have been agreed upon by the two Governments, and together with the special agreement were approved by the Senate on July 19, 1911, but in accordance with the terms of the agreement they did not go into effect until confirmed by the two Governments by an exchange of notes, which was done on April 26 last. Negotiations are still in progress for a supplemental schedule of claims to be submitted to arbitration under this agreement, and meanwhile the necessary preparations for the arbitration of the claims included in the first schedule have been undertaken and are being carried on under the authority of an appropriation made for that purpose at the last session of Congress. It is anticipated that the two Governments will be prepared to call upon the arbitration tribunal, established under this agreement, to meet at Washington early next year to proceed with this arbitration.

FUR SEAL TREATY AND NEED FOR AMENDMENT OF OUR STATUTE.

The act adopted at the last session of Congress to give effect to the fur-seal convention of July 7, 1911, between Great Britain, Japan, Russia, and the United States provided for the suspension of all land killing of seals on the Pribilof Islands for a period of five years, and an objection has now been presented to this provision by the other parties in interest, which raises the issue as to whether or not this prohibition of land killing is inconsistent with the spirit, if not the letter, of the treaty stipulations. The justification for establishing this close season depends, under the terms of the convention, upon how far, if at all, it is necessary for protecting and preserving the American fur-seal herd and for increasing its number. This is a question requiring examination of the present condition of the herd and the treatment which it needs in the light of actual experience and scientific investigation. A careful examination of the subject is now being made, and this Government will soon be in possession of a considerable amount of new information about the American seal herd, which has been secured during the past season and will be of great value in determining this question; and if it should appear that there is any uncertainty as to the real necessity for imposing a close season at this time I shall take an early opportunity to address a special message to Congress on this subject, in the belief that this Government should yield on this point rather than give the slightest ground for the charge that we have been in any way remiss in observing our treaty obligations.

FINAL SETTLEMENT OF NORTH ATLANTIC FISHERIES DISPUTE.

On the 20th of July last an agreement was concluded between the United States and Great Britain adopting, with certain modifications, the rules and method of procedure recommended in the award rendered by the North Atlantic Coast Fisheries Arbitration Tribunal on September 7, 1910, for the settlement hereafter, in accordance with the principles laid down in the award, of questions arising with reference to the exercise of the American fishing liberties under article 1 of the treaty of October 20, 1818, between the United States and Great Britain. This agreement received the approval of the Senate on August 1 and was formally ratified by the two Governments on November 15 last. The rules and a method of procedure embodied in the award provided for determining by an impartial tribunal the reasonableness of any new fishery regulations on the treaty coasts of Newfoundland and Canada before such regulations could be enforced against American fishermen exercising their treaty liberties on those coasts, and also for determining the delimitation of bays on such coasts more than 10 miles wide, in accordance with the definition adopted by the tribunal of the meaning of the word "bays" as used in the treaty. In the subsequent negotiations between the two Governments, undertaken for the purpose of giving practical effect to these rules and methods of procedure, it was found that certain modifications therein were desirable from the point of view of both Governments, and these negotiations have finally resulted in the agreement above mentioned by which the award recommendations as modified by mutual consent of the two Governments are finally adopted and made effective, thus bringing this century-old controversy to a final conclusion, which is equally beneficial and satisfactory to both Governments.

IMPERIAL VALLEY AND MEXICO.

In order to make possible the more effective performance of the work necessary for the confinement in their present channel of the waters of the lower Colorado River, and thus to protect the people of the Imperial Valley, as well as in order to reach with the Government of Mexico an understanding regarding the distribution of the waters of the Colorado River, in which both Governments are much interested, negotiations are going forward with a view to the establishment of a preliminary Colorado River commission, which shall have the powers necessary to enable it to do the needful work and with authority to study the question of the equitable distribution of the waters. There is every reason to believe that an understanding upon this point will be reached and that an agreement will be signed in the near future.

CHAMIZAL DISPUTE.

In the interest of the people and city of El Paso this Government has been assiduous in its efforts to bring to an early settlement the long-standing Chamizal dispute with Mexico. Much has been accomplished, and while the final solution of the dispute is not immediate, the favorable attitude lately assumed by the Mexican Government encourages the hope that this troublesome question will be satisfactorily and definitely settled at an early day.

INTERNATIONAL COMMISSION OF JURISTS.

In pursuance of the convention of August 23, 1906, signed at the Third Pan American Conference, held at Rio de Janeiro, the International Commission of Jurists met at that capital during the month of last June. At this meeting 16 American Republics were represented, including the United States, and comprehensive plans for the future work of the commission were adopted. At the next meeting, fixed for June, 1914, committees already appointed are instructed to report regarding topics assigned to them.

OPIUM CONFERENCE—UNFORTUNATE FAILURE OF OUR GOVERNMENT TO ENACT RECOMMENDED LEGISLATION.

In my message on foreign relations communicated to the two Houses of Congress December 7, 1911, I called especial attention to the assembling of the Opium Conference at The Hague, to the fact that that conference was to review all pertinent municipal laws relating to the opium and allied evils, and certainly all international rules regarding these evils, and to the fact that it seemed to me most essential that the Congress should take immediate action on the antinarcotic legislation before the Congress, to which I had previously called attention by a special message.

The international convention adopted by the conference conforms almost entirely to the principles contained in the proposed antinarcotic legislation which has been before the last two Congresses. It was most unfortunate that this Government, having taken the initiative in the international action which eventuated in the important international opium convention, failed to do its share in the great work by neglecting to pass the necessary legislation to correct the deplorable narcotic evil in the United States as well as to redeem international pledges upon which it entered by virtue of the above-mentioned convention. The Congress at its present session should enact into law those bills now before it which have been so carefully drawn up in collaboration between the Department of State and the other executive departments, and which have behind them not only the moral sentiment of the country but the practical support of all the legitimate trade interests likely to be affected. Since the international convention was signed, adherence to it has been made by several European States not represented at the conference at The Hague and also by 17 Latin-American Republics.

EUROPE AND THE NEAR EAST.

The war between Italy and Turkey came to a close in October last by the signature of a treaty of peace, subsequently to which the Ottoman Empire renounced sovereignty over Cyrenaica and Tripolitania in favor of Italy. During the past year the Near East has unfortunately been the theater of constant hostilities. Almost simultaneously with the conclusion of peace between Italy and Turkey and their arrival at an adjustment of the complex questions at issue between them, war broke out between Turkey on the one hand and Bulgaria, Greece, Montenegro, and Serbia on the other. The United States has happily been involved neither directly nor indirectly with the causes or questions incident to any of these hostilities and has maintained in regard to them an attitude of absolute neutrality and of complete political disinterestedness. In the second war in which the Ottoman Empire has been engaged the loss of life and the consequent distress on both sides have been appalling, and the United States has found occasion, in the interest of humanity, to carry out the charitable desires of the American people, to extend a measure of relief to the sufferers on either side through

the impartial medium of the Red Cross. Beyond this the chief care of the Government of the United States has been to make due provision for the protection of its nationals resident in belligerent territory. In the exercise of my duty in this matter I have dispatched to Turkish waters a special-service squadron, consisting of two armored cruisers, in order that this Government may if need be bear its part in such measures as it may be necessary for the interested nations to adopt for the safeguarding of foreign lives and property in the Ottoman Empire in the event that a dangerous situation should develop. In the meanwhile the several interested European powers have promised to extend to American citizens the benefit of such precautionary or protective measures as they might adopt, in the same manner in which it has been the practice of this Government to extend its protection to all foreigners resident in those countries of the Western Hemisphere in which it has from time to time been the task of the United States to act in the interest of peace and good order. The early appearance of a large fleet of European warships in the Bosphorus apparently assured the protection of foreigners in that quarter, where the presence of the American stationnaire the U. S. S. *Scorpion* sufficed, under the circumstances, to represent the United States. Our cruisers were thus left free to act if need be along the Mediterranean coasts should any unexpected contingency arise affecting the numerous American interests in the neighborhood of Smyrna and Beirut.

SPITZBERGEN.

The great preponderance of American material interests in the subarctic island of Spitzbergen, which has always been regarded politically as "no man's land," impels this Government to a continued and lively interest in the international dispositions to be made for the political governance and administration of that region. The conflict of certain claims of American citizens and others is in a fair way to adjustment, while the settlement of matters of administration, whether by international conference of the interested powers or otherwise, continues to be the subject of exchange of views between the Governments concerned.

LIBERIA.

As a result of the efforts of this Government to place the Government of Liberia in position to pay its outstanding indebtedness and to maintain a stable and efficient government, negotiations for a loan of \$1,700,000 have been successfully concluded, and it is anticipated that the payment of the old loan and the issuance of the bonds of the 1912 loan for the rehabilitation of the finances of Liberia will follow at an early date, when the new receivership will go into active operation. The new receivership will consist of a general receiver of customs designated by the Government of the United States and three receivers of customs designated by the Governments of Germany, France, and Great Britain, which countries have commercial interests in the Republic of Liberia.

In carrying out the understanding between the Government of Liberia and that of the United States, and in fulfilling the terms of the agreement between the former Government and the American bankers, three competent ex-army officers are now effectively employed by the Liberian Government in reorganizing the police force of the Republic, not only to keep in order the native tribes in the hinterland but to serve as a necessary police force along the frontier. It is hoped that these measures will assure not only the continued existence but the prosperity and welfare of the Republic of Liberia. Liberia possesses fertility of soil and natural resources which should insure to its people a reasonable prosperity. It was the duty of the United States to assist the Republic of Liberia in accordance with our historical interest and moral guardianship of a community founded by American citizens, as it was also the duty of the American Government to attempt to assure permanence to a country of much sentimental and perhaps future real interest to a large body of our citizens.

MOROCCO.

The legation at Tangier is now in charge of our consul general, who is acting as chargé d'affaires, as well as caring for our commercial interests in that country. In view of the fact that many of the foreign powers are now represented by chargés d'affaires it has not been deemed necessary to appoint at the present time a minister to fill a vacancy occurring in that post.

THE FAR EAST.

The political disturbances in China in the autumn and winter of 1911-12 resulted in the abdication of the Manchu rulers on February 12, followed by the formation of a provisional republican government empowered to conduct the affairs of the nation until a permanent government might be regularly established. The natural sympathy of the American people with the assump-

tion of republican principles by the Chinese people was appropriately expressed in a concurrent resolution of Congress on April 17, 1912. A constituent assembly, composed of representatives duly chosen by the people of China in the elections that are now being held, has been called to meet in January next to adopt a permanent constitution and organize the Government of the nascent Republic. During the formative constitutional stage and pending definitive action by the assembly, as expressive of the popular will, and the hoped-for establishment of a stable republican form of government, capable of fulfilling its international obligations, the United States is, according to precedent, maintaining full and friendly de facto relations with the provisional Government.

The new condition of affairs thus created has presented many serious and complicated problems, both of internal rehabilitation and of international relations, whose solution it was realized would necessarily require much time and patience. From the beginning of the upheaval last autumn it was felt by the United States, in common with the other powers having large interests in China, that independent action by the foreign Governments in their own individual interests would add further confusion to a situation already complicated. A policy of international cooperation was accordingly adopted in an understanding, reached early in the disturbances, to act together for the protection of the lives and property of foreigners if menaced, to maintain an attitude of strict impartiality as between the contending factions, and to abstain from any endeavor to influence the Chinese in their organization of a new form of government. In view of the seriousness of the disturbances and their general character, the American minister at Peking was instructed at his discretion to advise our nationals in the affected districts to concentrate at such centers as were easily accessible to foreign troops or men of war. Nineteen of our naval vessels were stationed at various Chinese ports, and other measures were promptly taken for the adequate protection of American interests.

It was further mutually agreed, in the hope of hastening an end to hostilities, that none of the interested powers would approve the making of loans by its nationals to either side. As soon, however, as a united provisional Government of China was assured, the United States joined in a favorable consideration of that Government's request for advances needed for immediate administrative necessities and later for a loan to effect a permanent national reorganization. The interested Governments had already, by common consent, adopted, in respect to the purposes, expenditure, and security of any loans to China made by their nationals, certain conditions which were held to be essential, not only to secure reasonable protection for the foreign investors, but also to safeguard and strengthen China's credit by discouraging indiscriminate borrowing and by insuring the application of the funds toward the establishment of the stable and effective government necessary to China's welfare. In June last representative banking groups of the United States, France, Germany, Great Britain, Japan, and Russia formulated, with the general sanction of their respective Governments, the guaranties that would be expected in relation to the expenditure and security of the large reorganization loan desired by China, which, however, have thus far proved unacceptable to the provisional Government.

SPECIAL MISSION OF CONDOLENCE TO JAPAN.

In August last I accredited the Secretary of State as special ambassador to Japan, charged with the mission of bearing to the imperial family, the Government, and the people of that Empire the sympathetic message of the American Commonwealth on the sad occasion of the death of His Majesty the Emperor Mutsuhito, whose long and benevolent reign was the greater part of Japan's modern history. The kindly reception everywhere accorded to Secretary Knox showed that his mission was deeply appreciated by the Japanese nation and emphasized strongly the friendly relations that have for so many years existed between the two peoples.

SOUTH AMERICA.

Our relations with the Argentine Republic are most friendly and cordial. So, also, are our relations with Brazil, whose Government has accepted the invitation of the United States to send two army officers to study at the Coast Artillery School at Fort Monroe. The long-standing Alsop claim, which had been the only hindrance to the healthy growth of the most friendly relations between the United States and Chile, having been eliminated through the submission of the question to His Britannic Majesty King George V as "amiable compositeur," it is a cause of much gratification to me that our relations with Chile are now established upon a firm basis of growing friendship. The Chilean Government has placed an officer of the

United States Coast Artillery in charge of the Chilean Coast Artillery School, and has shown appreciation of American methods by confiding to an American firm important work for the Chilean coast defenses.

Last year a revolution against the established Government of Ecuador broke out at the principal port of that Republic. Previous to this occurrence the chief American interest in Ecuador, represented by the Guayaquil & Quito Railway Co., incorporated in the United States, had rendered extensive transportation and other services on account to the Ecuadorian Government, the amount of which ran into a sum which was steadily increasing and which the Ecuadorian Government had made no provision to pay, thereby threatening to crush out the very existence of this American enterprise. When tranquillity had been restored to Ecuador as a result of the triumphant progress of the Government forces from Quito, this Government interposed its good offices to the end that the American interests in Ecuador might be saved from complete extinction. As a part of the arrangement which was reached between the parties, and at the request of the Government of Ecuador, I have consented to name an arbitrator, who, acting under the terms of the railroad contract, with an arbitrator named by the Ecuadorian Government, will pass upon the claims that have arisen since the arrangement reached through the action of a similar arbitral tribunal in 1908.

In pursuance of a request made some time ago by the Ecuadorian Government, the Department of State has given much attention to the problem of the proper sanitation of Guayaquil. As a result a detail of officers of the Canal Zone will be sent to Guayaquil to recommend measures that will lead to the complete permanent sanitation of this plague and fever infected region of that Republic, which has for so long constituted a menace to health conditions on the Canal Zone. It is hoped that the report which this mission will furnish will point out a way whereby the modicum of assistance which the United States may properly lend the Ecuadorian Government may be made effective in ridding the west coast of South America of a focus of contagion to the future commercial current passing through the Panama Canal.

In the matter of the claim of John Celestine Landreau against the Government of Peru, which claim arises out of certain contracts and transactions in connection with the discovery and exploitation of guano, and which has been under discussion between the two Governments since 1874, I am glad to report that as the result of prolonged negotiations, which have been characterized by the utmost friendliness and good will on both sides, the Department of State has succeeded in securing the consent of Peru to the arbitration of the claim, and that the negotiations attending the drafting and signature of a protocol submitting the claim to an arbitral tribunal are proceeding with due celerity.

An officer of the American Public Health Service and an American sanitary engineer are now on the way to Iquitos, in the employ of the Peruvian Government, to take charge of the sanitation of that river port. Peru is building a number of submarines in this country and continues to show every desire to have American capital invested in the Republic.

In July the United States sent undergraduate delegates to the Third International Students' Congress held at Lima, American students having been for the first time invited to one of these meetings.

The Republic of Uruguay has shown its appreciation of American agricultural and other methods by sending a large commission to this country and by employing many American experts to assist in building up agricultural and allied industries in Uruguay.

Venezuela is paying off the last of the claims the settlement of which was provided for by the Washington protocols, including those of American citizens. Our relations with Venezuela are most cordial, and the trade of that Republic with the United States is now greater than with any other country.

CENTRAL AMERICA AND THE CARIBBEAN.

During the past summer the revolution against the administration which followed the assassination of President Caceres a year ago last November brought the Dominican Republic to the verge of administrative chaos, without offering any guaranties of eventual stability in the ultimate success of either party. In pursuance of the treaty relations of the United States with the Dominican Republic, which were threatened by the necessity of suspending the operation under American administration of the customhouses on the Haitian frontier, it was found necessary to dispatch special commissioners to the island to reestablish the customhouses and with a guard sufficient to insure needed protection to the customs administration. The efforts which have been made appear to have resulted in

the restoration of normal conditions throughout the Republic. The good offices which the commissioners were able to exercise were instrumental in bringing the contending parties together and in furnishing a basis of adjustment which it is hoped will result in permanent benefit to the Dominican people.

Mindful of its treaty relations, and owing to the position of the Government of the United States as mediator between the Dominican Republic and Haiti in their boundary dispute, and because of the further fact that the revolutionary activities on the Haitian-Dominican frontier had become so active as practically to obliterate the line of demarcation that had been heretofore recognized pending the definitive settlement of the boundary in controversy, it was found necessary to indicate to the two island Governments a provisional de facto boundary line. This was done without prejudice to the rights or obligations of either country in a final settlement to be reached by arbitration. The tentative line chosen was one which, under the circumstances brought to the knowledge of this Government, seemed to conform to the best interests of the disputants. The border patrol which it had been found necessary to reestablish for customs purposes between the two countries was instructed provisionally to observe this line.

The Republic of Cuba last May was in the throes of a lawless uprising that for a time threatened the destruction of a great deal of valuable property—much of it owned by Americans and other foreigners—as well as the existence of the Government itself. The armed forces of Cuba being inadequate to guard property from attack and at the same time properly to operate against the rebels, a force of American marines was dispatched from our naval station at Guantanamo into the Province of Oriente for the protection of American and other foreign life and property. The Cuban Government was thus able to use all its forces in putting down the outbreak, which it succeeded in doing in a period of six weeks. The presence of two American warships in the harbor of Habana during the most critical period of this disturbance contributed in great measure to allay the fears of the inhabitants, including a large foreign colony.

There has been under discussion with the Government of Cuba for some time the question of the release by this Government of its leasehold rights at Bahia Honda, on the northern coast of Cuba, and the enlargement, in exchange therefor, of the naval station which has been established at Guantanamo Bay, on the south. As the result of the negotiations thus carried on an agreement has been reached between the two Governments providing for the suitable enlargement of the Guantanamo Bay station upon terms which are entirely fair and equitable to all parties concerned.

At the request alike of the Government and both political parties in Panama, an American commission undertook supervision of the recent presidential election in that Republic, where our treaty relations, and, indeed, every geographical consideration, make the maintenance of order and satisfactory conditions of peculiar interest to the Government of the United States. The elections passed without disorder, and the new administration has entered upon its functions.

The Government of Great Britain has asked the support of the United States for the protection of the interests of British holders of the foreign bonded debt of Guatemala. While this Government is hopeful of an arrangement equitable to the British bondholders, it is naturally unable to view the question apart from its relation to the broad subject of financial stability in Central America, in which the policy of the United States does not permit it to escape a vital interest. Through a renewal of negotiations between the Government of Guatemala and American bankers, the aim of which is a loan for the rehabilitation of Guatemalan finances, a way appears to be open by which the Government of Guatemala could promptly satisfy any equitable and just British claims, and at the same time so improve its whole financial position as to contribute greatly to the increased prosperity of the Republic and to redound to the benefit of foreign investments and foreign trade with that country. Failing such an arrangement, it may become impossible for the Government of the United States to escape its obligations in connection with such measures as may become necessary to exact justice to legitimate foreign claims.

In the recent revolution in Nicaragua which, it was generally admitted, might well have resulted in a general Central American conflict but for the intervention of the United States, the Government of Honduras was especially menaced; but fortunately peaceful conditions were maintained within the borders of that Republic. The financial condition of that country remains unchanged, no means having been found for the final adjustment of pressing outstanding foreign claims. This makes it the more regrettable that the financial convention between the United States and Honduras has thus far failed of ratifica-

tion. The Government of the United States continues to hold itself ready to cooperate with the Government of Honduras, which, it is believed, can not much longer delay the meeting of its foreign obligations, and it is hoped at the proper time American bankers will be willing to cooperate for this purpose.

NECESSITY FOR GREATER GOVERNMENTAL EFFORT IN RETENTION AND EXPANSION OF OUR FOREIGN TRADE.

It is not possible to make to the Congress a communication upon the present foreign relations of the United States so detailed as to convey an adequate impression of the enormous increase in the importance and activities of those relations. If this Government is really to preserve to the American people that free opportunity in foreign markets which will soon be indispensable to our prosperity, even greater efforts must be made. Otherwise the American merchant, manufacturer, and exporter will find many a field in which American trade should logically predominate preempted through the more energetic efforts of other governments and other commercial nations.

There are many ways in which through hearty cooperation the legislative and executive branches of this Government can do much. The absolute essential is the spirit of united effort and singleness of purpose. I will allude only to a very few specific examples of action which ought then to result. America can not take its proper place in the most important fields for its commercial activity and enterprise unless we have a merchant marine. American commerce and enterprise can not be effectively fostered in those fields unless we have good American banks in the countries referred to. We need American newspapers in those countries and proper means for public information about them. We need to assure the permanency of a trained foreign service. We need legislation enabling the members of the foreign service to be systematically brought in direct contact with the industrial, manufacturing, and exporting interests of this country in order that American business men may enter the foreign field with a clear perception of the exact conditions to be dealt with and the officers themselves may prosecute their work with a clear idea of what American industrial and manufacturing interests require.

CONCLUSION.

Congress should fully realize the conditions which obtain in the world as we find ourselves at the threshold of our middle age as a Nation. We have emerged full grown as a peer in the great concourse of nations. We have passed through various formative periods. We have been self-centered in the struggle to develop our domestic resources and deal with our domestic questions. The Nation is now too mature to continue in its foreign relations those temporary expedients natural to a people to whom domestic affairs are the sole concern. In the past our diplomacy has often consisted, in normal times, in a mere assertion of the right to international existence. We are now in a larger relation with broader rights of our own and obligations to others than ourselves. A number of great guiding principles were laid down early in the history of this Government. The recent task of our diplomacy has been to adjust those principles to the conditions of to-day, to develop their corollaries, to find practical applications of the old principles expanded to meet new situations. Thus are being evolved bases upon which can rest the superstructure of policies which must grow with the destined progress of this Nation. The successful conduct of our foreign relations demands a broad and a modern view. We can not meet new questions nor build for the future if we confine ourselves to outworn dogmas of the past and to the perspective appropriate at our emergence from colonial times and conditions. The opening of the Panama Canal will mark a new era in our international life and create new and world-wide conditions which, with their vast correlations and consequences, will obtain for hundreds of years to come. We must not wait for events to overtake us unawares. With continuity of purpose we must deal with the problems of our external relations by a diplomacy modern, resourceful, magnanimous, and fittingly expressive of the high ideals of a great nation.

WM. H. TAFT.

THE WHITE HOUSE, December 3, 1912.

PHYSICAL VALUATION OF RAILROADS.

Mr. SIMS. Mr. Speaker, I call up House bill 22593, to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of the property of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors, made privileged under a special order of the House, and ask for its present consideration.

The SPEAKER. This bill is on the Union Calendar.

Mr. SIMS. Then, Mr. Speaker, I move to go into Committee of the Whole House on the state of the Union for the considera-

tion of the bill mentioned, and, pending that motion, I wish to ask if there can not be some arrangement made as to general debate. I believe the gentleman from Minnesota [Mr. STEVENS] desires time.

The SPEAKER. The gentleman from Tennessee [Mr. SIMS] moves that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 22593, for the physical valuation of railroads, and, pending that, he desires to make some arrangement about the length of time to be consumed in debate.

Mr. SIMS. About how much time does the gentleman from Minnesota desire for general debate?

Mr. STEVENS of Minnesota. I think, Mr. Speaker, that this side would like about two hours.

Mr. SIMS. Does the gentleman mean two hours for that side?

Mr. STEVENS of Minnesota. Yes. The time that has been asked for will consume nearly two hours. It is a very important subject, and quite a number of bills have been presented to the committee, and quite a number of gentlemen desire to discuss their measures.

Mr. SIMS. I am anxious, under the request of the Chair, to try and get the bill passed this afternoon.

Mr. STEVENS of Minnesota. Mr. Speaker, I have half a dozen bills here, and the authors of those bills desire time in which to discuss this very important matter.

Mr. SIMS. Does the gentleman think we can complete the consideration of the bill this afternoon under the five-minute rule?

Mr. STEVENS of Minnesota. There are some amendments to be offered. I have some amendments, and I understand others have some which they desire to offer under the five-minute rule, but the consideration of those amendments ought not to consume very much time. They are for the correction of obvious defects in the bill.

Mr. SIMS. If we conclude the general debate in less than four hours, the gentleman will have no objection to taking up the bill under the five-minute rule?

Mr. STEVENS of Minnesota. Not at all. We desire to expedite the passage of the bill. We have no objection whatever to the general features of it.

Mr. SIMS. Then, Mr. Speaker, I ask unanimous consent that the general debate on this bill be limited to four hours, the gentleman from Minnesota [Mr. STEVENS] to control one half of that time and myself to control the other half.

The SPEAKER. The gentleman from Tennessee [Mr. SIMS] asks that the general debate on this bill be limited to four hours, two hours on a side, one-half the time to be controlled by himself and the other half by the gentleman from Minnesota [Mr. STEVENS].

Mr. SIMS. With the understanding that if we consume less time than that, we may enter upon the consideration of the bill under the five-minute rule at the conclusion of the general debate.

The SPEAKER. And with the further understanding that the general debate will not necessarily have to run four hours, but that if it runs out in less time, then the bill may be taken up under the five-minute rule. Is there objection?

There was no objection.

The SPEAKER. The question is on the motion of the gentleman from Tennessee that the House resolve itself into the Committee of the Whole House on the state of the Union.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 22593) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of the property of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors, with Mr. RAINEY in the chair.

Mr. SIMS. Mr. Chairman, I ask that the bill be read.

The CHAIRMAN. The Clerk will read the bill.

The Clerk began the reading of the bill.

Mr. SIMS. Mr. Chairman, I ask unanimous consent that the further first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that the first reading of the bill be dispensed with. Is there objection?

There was no objection.

Mr. SIMS. Mr. Chairman, this is a very important bill, as its title indicates. It was introduced by the chairman of the Committee on Interstate and Foreign Commerce, the gentleman from Georgia [Mr. ADAMSON], and was reported by him. It was his intention to call up the bill this morning under the special

rule which authorizes it to be called up, and he had intended to take charge of it himself. As the gentleman from Georgia [Mr. ADAMSON] reported the bill, some members of the committee, I for one, did not give to its details that attention that would have been given had I expected to have charge of it on the floor of the House.

The gentleman from Georgia [Mr. ADAMSON] was called home this morning by a telegram announcing the serious and dangerous illness of Mrs. Adamson. In view of the fact that he is so familiar with this subject, and that he wrote the report, I ask that the report be read in my time as a part of my remarks.

The CHAIRMAN. If there be no objection, the Clerk will read the report in the time of the gentleman from Tennessee.

There was no objection.

The Clerk read as follows:

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 22503) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of the property of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors, having considered the same, report thereon with a recommendation that it pass.

The Interstate Commerce Commission in its annual reports has often set forth the importance of an official valuation of the property of the carriers subject to the act to regulate commerce. The difficulties encountered in the effort to correct rates through the claims as to valuation of property have been described. The opinions of the courts likewise have laid great stress upon the element of valuation as a factor in determining rates. The people not only acquiesce in those views but they desire accurate information on the subject. Perhaps at one time or another every Member of the House of Representatives who has served more than one term has voted to authorize such official valuation. It seems to be universally favored regardless of partisan lines. Not less important is the matter of information as to the stocks and bonds of the carrier corporations, the manipulation of the finances which control those carriers, and the boards of directors, stockholders, and bondholders themselves, who really give direction to all their affairs. The anomaly has grown up, gradually and unconsciously as it were, grown up in the courts themselves as well as the commission, that public carriers are to be allowed to charge an income on what they owe as well as on what they own. Nobody else in the world with whom we are acquainted is allowed that privilege. First, there is a claim set up of the investment, actual or watered, and an income is allowed for that. Then, as a part of the fixed charges—annual burden of doing business—the interest on the bonds is considered and allowance made for that, whether the bonds sold at par or at a liberal discount, or whatever the circumstances may have been. Furthermore, financial institutions and sources either identical or more or less related secure control of the issues of stock and the boards of directors and thereby easily control the issues of bonds. Then it is not surprising that common stockholders and common directors in different corporations manage to place the bonds in the hands of common bondholders.

Whatever the evils or advantages of such financial manipulation and consolidation may be it is unnecessary in this report to discuss. The complaints of millions of shippers attest the dissatisfaction of the people. They are entitled to have the truth known. Full information, full publicity as to the true conditions of the issues of stocks and bonds, the cost to the holder, the price realized by the carriers, the disposition of the money, the facts as to the manipulations, will all shed light upon the question of correcting rates by the commission and their revision by the courts, and the information of all those things will help the people to a correct understanding thereof. If the wrongs complained of have been exaggerated, the people will be satisfied when they know the truth. If, on the other hand, the alleged wrongs or any considerable part of them are shown by the investigation really to exist, in the light of the truth they can be corrected. It is our intention in reporting this bill that when the proposed investigation shall have revealed the truth as to the matters involved, the light shall continue to shine on all future transactions and operations as to physical property, stocks, bonds, boards of directors, and financial control. To that end the bill provides that the commission shall continue to keep itself informed by continuing the investigation as to all extensions and new constructions and improvements and all increases in physical value, so as to keep such official valuation up to date all the time. Existing law, in section 20 of the act to regulate commerce, already provides for similar work and information as to stocks and bonds, so that if this bill passes it will not only result in securing information as to present conditions but also in continuing the work so as to show forth the full truth and exact facts as to future transactions as they occur, so as to show the true condition at all times.

We hope that the bill herewith reported may meet with the approval of Congress and speedily become a law.

Mr. SIMS. Mr. Chairman, the very able and clear report which has just been read, and which was prepared by the chairman of the committee, Mr. ADAMSON, explains the objects and purposes of the bill. This is not a new subject. This matter has been before the committee many years, as I am informed by Members who have served longer than I have on the committee. The question of the physical valuation of the property of common carriers is made necessary in every question in which the reasonableness of a rate is involved in the courts and before the Interstate Commerce Commission and before the various State commissions. I am informed by those who have served longer than I have on the committee that this bill, or similar bills, have been favorably reported frequently by the committee. This is a unanimous report from the committee. There is no objection to the bill that I know of coming from any member of the committee, and for the present, not knowing

what objections, if any, there may be to the bill, I will reserve the balance of my time.

Mr. MANN. Will the gentleman from Tennessee yield?

Mr. SIMS. Certainly.

Mr. MANN. Would not the gentleman be willing to inform the House what the bill does do?

Mr. SIMS. The bill speaks for itself. The report analyzes the bill and states the objects and purposes of the bill, I expect, with more clearness and precision than I am prepared to do.

Mr. MANN. Oh, the gentleman from Tennessee always speaks with clearness of definition in the House, and I am sure he will be able to explain what this bill will accomplish.

Mr. SIMS. Does the gentleman from Illinois mean what the effect of the bill will be?

Mr. MANN. What will be done under the provisions of the bill.

Mr. SIMS. The bill states what ought to be done, what is expected, and what will be done.

Mr. MANN. If we should proceed on that theory we never would have any speeches explaining a measure, but only the reading of the bill. The bill always speaks for itself. Still, it seems to me, the gentleman from Tennessee ought to explain the provisions of the bill so that it will be in the RECORD.

Mr. SIMS. At present, Mr. Chairman, while I would like very much to grant the gentleman's request, but inasmuch as this is a unanimous report of the committee, put in shape by the chairman of the committee, it seems to me that any statement of mine would be a mere repetition at least in substance, and at present I hope the gentleman from Illinois will excuse me from taking further time of the committee in explaining the bill.

Mr. MANN. I would like to ask the gentleman from Tennessee a question in reference to the provisions of the bill, as he is familiar with it. I notice, next to the last paragraph of the bill, on page 6, there is a penalty provision which provides that in case of failure or refusal on the part of any carrier, receiver, or trustee to comply with all the requirements of this act, and so forth, he shall forfeit \$500 for each such offense. The language "this act" there means, as I understand it, the interstate-commerce act, because this is a new section of the interstate-commerce act. Here is a penalty provision relating to the failure to comply with all the requirements of the interstate-commerce act, but there are now many penalty provisions in the interstate-commerce act itself. The question I want to ask the gentleman is, Would not this operate as a repeal, this being a new provision relating to penalty, assuming that you can not have two penalties for the same violation of the law?

Mr. SIMS. Mr. Chairman, I think this amendment which has just been read, which is an amendment to the interstate-commerce law, has reference to the penalty that will be applied to the violation of the provisions of this amendment and will not apply to the entire interstate-commerce act. That is my opinion.

Mr. SABATH. I think it is quite clear, Mr. Chairman, that the language of this section applies to the refusal of the carrier, receiver, or trustee in this section alone.

Mr. MANN. I think my colleague from Illinois did not hear what I read from the bill. Immediately following the provision which my colleague refers to is a provision relating to the requirements of the act. The act is the interstate-commerce act, and it is so treated in all amendments of the interstate-commerce act.

Mr. SABATH. I notice what the gentleman has in mind.

Mr. MANN. I think that ought to be made the provisions of the section, because some of the penalties provided in the interstate-commerce act are much more onerous than the penalties provided in this section. I did not know whether there was any reason for it or not.

Mr. SIMS. Of course it is not the purpose of the committee to relax, reduce, or minimize any penalty now in the law with reference to other matters.

Mr. MANN. I am quite sure that is not the desire of the committee.

Mr. SIMS. And the words "this act," I feel, were intended to apply only to this section. I think that would be a fair construction, especially in penal cases.

Mr. MANN. I think that would not be the construction given by the act, because in all the amendments to the interstate-commerce act, and there are many of them, wherever the term "this act" is used in any of the amended sections it means the entire interstate-commerce act and not the act making the amendment.

Mr. SIMS. And if it should be thought by the committee that the word "act" should be stricken out and the word

"section" inserted in lieu thereof, of course that can be done when we consider the bill under the five-minute rule. As I stated before, I did not prepare this bill.

Mr. MANN. I thought possibly it would be easier to arrive at an understanding now than it would be when we had exhausted the general debate.

Mr. SIMS. I would not be willing myself to say what the committee would be willing to do without consulting the other members of the committee.

I reserve the balance of my time.

Mr. BUTLER. Mr. Chairman, before the gentleman sits down I desire to ask him a question. It is stated in the report here that a measure similar to this has been voted for by the Members of the House who have attended more than one session of Congress. No such bill as this has ever passed the House, has it?

Mr. SIMS. I can not state from my own knowledge. I have been a member of this committee only one Congress prior to this Congress.

Mr. MANN. Mr. Chairman, if the gentleman will pardon me, I think I can answer the gentleman from Pennsylvania.

Mr. SIMS. Certainly.

Mr. MANN. When there was up for consideration in the last Congress a bill to amend the interstate-commerce law, on the floor of the House my colleague from Illinois [Mr. MADDEN] offered an amendment very similar to the provisions of this bill, providing for the physical valuation of railroads, which amendment was agreed to. In conference I tried to have that provision retained, but was unable to do so. It was not in the law when it was enacted. The provision went out in conference.

Mr. SIMS. Mr. Chairman, I reserve the balance of my time, and ask that the gentleman from Minnesota now use some of his time.

[Mr. STEVENS of Minnesota addressed the committee. See Appendix.]

Mr. SIMS. Mr. Chairman, I yield to the gentleman from Indiana [Mr. CULLOP], a member of the committee, such time as he may desire to use.

Mr. CULLOP. Mr. Chairman, the purpose of this measure is to ascertain the physical valuation of the railroads, for the purpose of preventing impositions on the public, in the sale of capital stock, bonds, and the fixing of transportation charges.

There can be no question that there is a demand for such legislation, and the object of this bill is to satisfy that demand.

Railroad rates are to-day fixed in a manner which is absolutely unjust to the ultimate consumers and the shippers of the country. Transportation rates are fixed on three items of consideration as the basis, first, to pay operating expenses and improvement charges; second, to pay interest on the bonded indebtedness; and, third, to pay a reasonable dividend upon the capital stock. The first basis is just. The second is absolutely wrong, and if the second and third are both employed, as is now done, they constitute a double charge upon the shipping public, which must be paid by the ultimate consumers of the country and thereby constitutes a burden on them. It is not fair to charge a rate that will make a sufficient earning to pay the interest on the bonded indebtedness and a dividend on the capital stock. Either the money raised by the bonded indebtedness went into the pockets of the owners of the railroad as a net profit, or it was invested in the construction and equipment of the road. If, therefore, a rate is charged which will create earnings to pay the interest on the bonded indebtedness and also a dividend on the capital stock—which more than covers every dollar of bonded indebtedness—such a basis necessarily constitutes a double charge. For that reason the present basis of fixing railroad rates in this country is absolutely erroneous, and gives the owners an unjust advantage over other business enterprises.

I call attention to the fact that the ultimate consumer necessarily pays every dollar of freight rates imposed in this country. Those freight rates are a charge upon the products which are shipped, and are added to the cost price, which the ultimate consumer must inevitably pay. He suffers the unjust consequences of such a method and bears the burden of the intolerable system.

Again it is a well-known fact that there is an overcapitalization of nearly every railroad in the country. The capital stock, as a usual thing, is more than double the actual cost of the building and equipping of the railroad. In many instances not only is the capital stock double the amount of the bonded indebtedness, but sometimes three or four times the value of the road, and in many instances the bonded indebtedness, the mortgage indebtedness, of the railroad is greater than the actual cost of the building and equipping of the road itself. So that,

therefore, to charge a freight rate and fix it on the basis now employed enough to pay the interest on the bonded indebtedness and a dividend on the capital stock is an outrage against the ultimate consumers of the country. It is this manner of fixing rates as now employed in this country, this manner of fixing transportation charges by the great common carriers of the country, which retards the development of the country and prevents the full realization on investments in other industrial enterprises.

Many things are produced on the farm and in the factories for which there is a demand in the congested centers of population, but because the cost of the conveyance of these things from the point of production to the point of consumption is so expensive such articles can not enter the commerce of the country and are valueless to the producer. The manner in which these rates are fixed does injury to the investment of the people in other lines of business as well as to the ultimate consumers of the country. Producers and consumers are affected alike.

That is why a new policy and a new system for the levying of transportation rates should be adopted by every line of common carriers throughout the country. This is why the demand for this legislation is so universal and is hailed as a relief.

Some objection has been made to this measure because of its cost. On this subject I wish to call the attention of the committee to what the institution of this system of ascertaining the physical valuation of railroads would cost the country. I want to read from the testimony of Judge Clements, a member of the Interstate Commerce Commission, upon this subject. On page 4 of the hearings before the committee he said:

Speaking of the probable cost, it is, of course, very difficult even to make an estimate that would be at all reliable. Prof. Adams, who was our former statistician, and who was employed as a special agent of the commission to aid us in putting in practice the operation of a system of bookkeeping and accounting of reports under the twentieth section of the Hepburn Act, considered this matter when he was with us a few years ago, and his final estimate was, as well as he could judge, that it would probably take \$3,000,000 for valuation. He had previously made a smaller estimate than that, but on account of increased mileage and a review of what would probably be necessary in the way of employing a sufficient corps of engineers and experts to do this work, and do it accurately and satisfactorily, he revised his estimate and, in the year 1908, when this subject was up, expressed the view, in connection with a bill that was pending before the Senate committee and some correspondence we had with President Roosevelt, that it would probably take \$3,000,000. Mr. Adams had aided in making the valuation in Michigan of the railroads in that State some years ago, which I understand was made for taxation purposes.

Now, it may be further added that it will probably take from three to five years' time to do this work properly, thoroughly, and well. This demand made for the revision of the method of levying rates now requires early action in order to afford the facilities necessary to aid the public in seeking lower rates for transportation and relief from unjust burdens which bear heavily on the business of the entire country.

There is another thing about this bill that ought to be considered, and that is that it will to a large degree, if not altogether, stop the overcapitalization of railroads and the overbonding of them. It will stop the imposition which to-day and for years has been practiced, the abuse of selling watered stocks and inflated bonds to innocent purchasers. I am aware of one argument that will be made against it, and that is that these stocks have passed into the hands of widows and orphans of the country and superannuated preachers. I take it that that argument is not sufficient in the mind of any gentleman upon this floor to oppose the passage of such a measure as this. If such people have been unfortunate in their investments, they must stand upon the same basis with other people who have been likewise unfortunate. But it is not fair to 90,000,000 of people that they should be required to pay unjust and enormous transportation tolls and have the development of our country restricted in order that the investments of a few may be made safe and good. Better it would be that Congress would appropriate the money to make restitution to them than to impose upon 90,000,000 of people, as is being done now in the fixing of transportation rates in this country, and retarding the commerce of a great country. It would be cheaper to the people in the end.

Mr. COX of Indiana. Will the gentleman yield?

Mr. CULLOP. I will.

Mr. COX of Indiana. In that connection I want to ask this question, if I can make myself plain to the gentleman. I do not remember the total bonded indebtedness of the railroads, but it is several billion dollars.

Mr. CULLOP. And then some.

Mr. COX of Indiana. I do not remember the total capitalization; but the gentleman stated a moment ago, and I think truthfully, that now railroads charge freight rates with the view of paying the interest on fixed charges, and some of the

fixed charges are the bonded indebtedness of the railroads. Suppose this bill becomes a law, and then suppose the commission finds that certain railroads in this country are overcapitalized—that they have more bonds issued which are making fixed charges against the railroad than are really necessary. Does not the gentleman believe that still the railroads will have the right to fix their freight rates with a view to meeting those fixed charges?

Mr. CULLOP. Mr. Chairman, I will answer the gentleman in this way. It is the object of this bill, according to my understanding, that the capital stock and bonded indebtedness should have nothing whatever to do with the fixing of the railroad rates in this country. It should be the policy of the Government that private business is never to be guaranteed; and if the owners of railroads make bad investments in their business methods, make extravagant purchases, and the construction of the roads is imprudently done, then the innocent public should never, as a matter of common justice, be taxed to make up for the errors of any man's business judgment. It is not right as a public policy, and it is not the intention, I will say to the gentleman, to let the bonded indebtedness or the overcapitalization, the creation of great financiers, those engaged in high finance, be the subjects for the plunder of the innocent people of the country or to retard the development of the greatest country on earth, as is now being done. In every line of business men suffer for their own mistakes in judgment and not the public.

Mr. COX of Indiana. Will the gentleman permit me further?

Mr. CULLOP. Certainly.

Mr. COX of Indiana. Right in that connection, that may all be true, but does the gentleman believe that the Supreme Court of the United States would stand for the Interstate Commerce Commission or any other power fixing freight rates to the extent that the freight rates thus fixed would become confiscatory of the bonded indebtedness or capitalization of the railroads of the country?

Mr. CULLOP. Mr. Chairman, the term "confiscation" has been used as a scarecrow in this country for more than a quarter of a century. It has been made do overtime. Why should the Government guarantee anybody's private investment? It has no more right to do that than to guarantee the investment of a man in his farm, in a store, or in a factory.

Yet it is proposed by some that when a man undertakes to build a public utility, building it for making profit, for earning money on his investment, the Government ought to step in and permit him to fleece the public in order to make his business successful. Such a proposition is indefensible, and whenever presented it should be rebuked. Governments were instituted for the benefit of the governed and not the governed for the benefit of governments. Courts should uphold, if it can reasonably be done, the will of the people as expressed by their law-making powers, and the principle involved in this measure is not repugnant to the rule of our courts so far expressed on similar questions.

To-day, under the method in which railroad rates are levied, the basis employed, there is not a railroad in the country that can lose money if it employs intelligent business methods. If it does not earn profits, it is because of its bad business management. Against this no legislation could safely be enacted which would assure good business management.

Mr. COX of Indiana. Will the gentleman yield for one other question?

Mr. CULLOP. Certainly.

Mr. COX of Indiana. Let me ask the gentleman this question: Does he believe it would be just and equitable to any person, innocent or otherwise, who is the holder of railroad stock or bonds, for any commission or power to fix freight rates to the extent that the railroad company that had issued the bonds or the stock would be unable to meet those obligations when they fell due?

Mr. CULLOP. Which side does the gentleman mean to be fair and just to? There are two sides. I want to be fair and just to both; but that question implies to be fair to only one side, and that is the railroad side of the question. The public, which bears the burdens, have some rights which should not be ignored.

Mr. COX of Indiana. Oh, I beg the gentleman's pardon. I mean the investors in the stock.

Mr. CULLOP. But it was the duty of the investor in the stock to examine before he invested. If he was careless, he must suffer the consequences.

Mr. COX of Indiana. Suppose he did examine before he invested and satisfied himself that he was safe in investing his money?

Mr. CULLOP. Then he stands upon the same basis as every other investor in this country. He can ask no more and should expect no less.

Mr. COX of Indiana. He stands upon the basis, then, of an innocent purchaser for value.

Mr. CULLOP. No; he took his chances. He was not an innocent purchaser if he knew there was more capital stock than the property was worth. If he purchased inflated stock he, rather than the public, should suffer.

Mr. COX of Indiana. But suppose he did not know that?

Mr. CULLOP. But it was his duty to examine and see. He was not an innocent purchaser if he knew or by vigilance could have known there were more bonds or stock issued than the railroad was worth.

Mr. COX of Indiana. But perhaps the fault might have been in Congress or in some other legislative body.

Mr. CULLOP. Then his duty was to examine more carefully before he put his money into the project, and if he did not he would be estopped from complaining.

Mr. COX of Indiana. Suppose he exhausted his ability in examination? Then, does the gentleman believe that man should be cut out?

Mr. CULLOP. Then he made a bad business venture, and, like many others have done, must suffer the consequences. Suppose the same arguments were made as to the reduction of the tariff? Then revision downward could never be made—and here is a greater source of fleecing the public as now employed than ever existed by virtue of any protective tariff in this country, because where the protective tariff takes one dollar out of the pockets of the ultimate consumers the railroad companies take five every day in the year.

Now, if some man, in his zeal to buy cheap stock and earn large dividends or large interest on his investment, steps in and takes his chance with the rest of the world, he can not come to Congress and demand legislation to make it good at the expense of the public. The many who are made to suffer by it have as much right to be protected in the fruits of their toil as does the man who buys railroad stock or railroad bonds or any other speculative security.

Mr. SABATH. There is nothing in this bill that would prevent anyone from disposing of any of his stocks or bonds?

Mr. CULLOP. Nothing whatever. Every holder is at liberty to sell when he pleases.

Mr. SABATH. And anyone could easily dispose of his holdings.

Mr. CULLOP. Certainly he could. Now, let us look at the origin of the present system employed. Fifteen years ago there started in a movement for legislation to make just such a thing as we have now constructed the basis upon which rates should be levied. Railroad companies increased their capital stock three, four, and five hundred per cent without adding values. Why? Because it was to be taken as the basis for earning dividends for them on the amount of capitalization. It was a well-directed and well-conceived plan to get exorbitant rates—dividends on watered stocks, on fictitious values. There was a well-directed plan to get at the basis which is now employed, and with that purpose in view the railroad companies began to increase their capital stock without additional investment of any consequence until they increased it in many instances more than three hundredfold. What was the result? Then they began to bond, and many of the best railroads of the country to-day are bonded for more than enough to build and equip them. What was the object in all of this? The object was to increase earnings, and not to improve facilities. It is the only institution so far known which earns a profit on its indebtedness. Indebtedness is always loss, but here is an instance in which indebtedness is a great profit to the transportation companies. Such has been the method all along the line in the regulation of this great business.

Mr. HARDY. Will the gentleman yield just for a question or suggestion?

Mr. CULLOP. Yes.

Mr. HARDY. It seems to me by way of answer to what the gentleman from Indiana [Mr. Cox] asked, or the proposition he has suggested, that the supreme courts themselves have already held that the standard of rate or measure of rate is not to be determined by the capitalization of the road.

Mr. CULLOP. Certainly.

Mr. HARDY. And that the capitalization is only to be considered by the court, if at all, as one of the elements of evidence as to what is the real capital upon which the companies are entitled to earn a dividend, and they are entitled to earn a dividend upon nothing more than their real capital, I think that is the holding of the courts.

Mr. CULLOP. The gentleman is correct. Now, I will call the attention of the gentleman from Indiana [Mr. Cox] to the cases collated in the hearings in which the doctrine is laid down in a number of them, in which the very basis that the gentleman from Indiana incorporated in his question is denied by the court and the opposite contention is sustained.

Mr. COX of Indiana. I beg the gentleman's pardon, I am not assuming any position; I was simply seeking information.

Mr. CULLOP. Well, the one involved in your question.

Mr. COX of Indiana. I was trying to get at the gentleman's views, taking it for granted that the gentleman, being a member of the committee, has given it a lot of study. I have not.

Mr. CULLOP. The courts all over the country have held, as I recall the cases, that the proper basis of levying of rates for transportation is not by taking into consideration alone the capital stock and the bonded indebtedness, but it is the real investment as the true basis. The actual investment is the proper basis, and that is a fair way to look at it; that is an equitable basis that the courts ought to and do assume and which individuals ought to assume in adjusting this matter by legislation. This question has become a public matter—one of the greatest importance. Its proper solution requires the serious consideration of every lover of our country who has its welfare at heart. Every year upon the farm go to waste great values in products, cheap products, because the cost of conveyance to market is too expensive. In the congested centers of population hungry mouths are pleading for them, but the cost of transportation between the points of production and the points of consumption is so great that the people can not afford to have these products; neither the producer nor the consumer can afford to pay the cost charged for conveying them to points of consumption. Now, that is the situation which confronts us. Go to your coal mines, and to-day coal rates in the best part of the coal-mining districts of the great Mississippi Valley are so high that it hampers this great industry and retards its development. Cost of transportation eats up the profits and retards the industry.

It is the cost of transporting the coal from the mines to the places of consumption which is holding back in our country one of the greatest industries ever developed in it. It is reducing the amount of production in the manufactories. It is holding back industrial pursuits, because the cost of putting the goods upon the market is so great. The cheaper you make an article to the ultimate consumer the more of it is consumed. The higher you make it the less of it is consumed. And the cost of transportation to-day is doing more to affect the high cost of living than perhaps any other one item which enters into it at this time. Products which are going to waste on the farms, for which the farmer ought to realize profits on his investment, on his labor, could be, if properly regulated, transported for less money to the places where there are demands for them and thereby be of value to the country and the people who desire them and a profit to the men who produce them. But this is prevented because of the cost of transportation as levied upon the basis fixed at the present time.

It is not fair to the public that it be taxed to earn dividends on watered stock; that freight rates be fixed at such price as to pay dividends upon watered stock that cost the railroads nothing. When such a procedure is permitted nothing is turned into value, and millions are made by such a policy which have never been earned. Such a policy is unjust and unfair. This bill will in a very large measure eliminate that system and will to a certain extent wipe out the system of high financing in this country by which the innocent public is exploited so often. That is one of the objects of it, and the country will approve it.

Mr. BUCHANAN. Will the gentleman yield?

Mr. CULLOP. Certainly.

Mr. BUCHANAN. I am aware that there is a great difference between the price of products at the farm and the price in the cities, but I do not know that it is all due to the high freight rates. For example, I have known potatoes to sell for 30 cents a bushel on the farm and probably sell for 40 or 50 cents a peck in the cities. I am not certain that the railroad rates has all to do with that. I think commission merchants and stock exchanges have often something to do with this great difference in the cost of the price to the producer and the price to the consumer. Can the gentleman give any information in regard to that? Has there been any explanation given in the hearing?

Mr. CULLOP. I will be pleased to answer the gentleman so far as I can. I do not claim, and never have claimed, that the cost of transportation was the sole cause of the high cost of living. But I do claim it is an element which enters into it.

Mr. BUCHANAN. If the gentleman will please permit—

Mr. CULLOP. Let me answer the gentleman's question.

Mr. BUCHANAN. I would like to get at just one thing. Is that due to the fact that the farmer can not often ship his produce because of not being able to get a market for it and abnormal high price for the product that the producer can not market?

Mr. CULLOP. In part, yes. What I do claim is that one of the items which enters into the high cost of living is the high cost of transporting the products to market. There are other items which enter into it. This bill will not eliminate all of them. We are not claiming that for it. But we must eliminate those, if we can, one by one. You will not eliminate all of them with one great legislative swoop, because there is a combination of circumstances which brings about that result, and this is one of them. Now, it is true that sometimes the want of transportation facilities does have something to do with it. The scarcity of cars, bad roads, and a number of things may enter into it which prevent producers from putting products on the market.

Why is wheat higher in the district of the gentleman from Illinois [Mr. CANNON] than it is in my district? Is it because he is nearer the initial market than the people of my district? The difference in transportation alone makes the difference in the price of wheat between my city and his city.

Why is wheat higher in Indiana than it is in Oklahoma? Because of the difference in the cost of the difference in distance from the initial market. Chicago is the initial wheat market for all the Mississippi Valley. Why is wheat higher in Chicago than it is in St. Louis? Because Chicago is the initial market and the cost of transportation from St. Louis to Chicago is the difference. Now, just as long as the present system prevails that long will the public have to bear this unjust burden. Just as soon as it is eliminated the burden it imposes will be removed and the producer and consumer alike will be benefited thereby.

It is unfair to the public that the Government should guarantee the investment in stocks and bonds, and yet that is the effect of the present system. If the stock and bond speculator wants to go on the market and speculate, the Government ought not to guarantee his investments. Who ought the Government to protect? The producers and consumers, and not alone the speculator who thrives by the manipulation of the stock market. The speculator is taking his chances in the mad race of speculation. Should the Government throw its strong arm around him and protect his chance speculation at the expense of the innocent producer and the helpless ultimate consumer of the country, or should it protect the one who earns his living by the employment of his muscle and mind? That is the proposition involved here. For me, I want to stand by the producer; I want to help the helpless consumer of this country, and not the stock speculator who takes his chances on the opportunities of trade of this country, because he is not so deserving as the other, whoever he may be. It would give a great impetus to every manufacturing industry, to every mining industry, to every farmer in this country, and it would multiply the productions of the farm, factory, and mine, and the cheaper products which now go to waste could be put into the markets of the world where there is a demand by the ultimate consumer, and it would thereby help all.

Now, Mr. Chairman—

Mr. FOSTER. Mr. Chairman, I would like to ask the gentleman from Indiana a question.

The CHAIRMAN. Does the gentleman yield?

Mr. CULLOP. With pleasure.

Mr. FOSTER. Is there anything in this bill which excludes watered stock in railroads, or which in the future would prevent the issuance of watered stocks, or which makes the investment secure in stocks where the railroads do not go out and sell watered stocks?

Mr. CULLOP. I may state to the gentleman from Illinois that the theory of this bill is that the physical valuation of the properties shall be determined irrespective of their capitalization and their bonded indebtedness, and the rates fixed upon that, so that there will be no inducements to the overzealous speculator of the country to rush in and buy watered stock or inflated bonds.

Mr. FOSTER. Well, is there anything in this bill to prevent that?

Mr. CULLOP. No, there is nothing to prevent it; but the basis for regulation, if adopted, will of itself prevent it. It is to ascertain what is watered stock, how much is overbonded indebtedness, and get at the genuine or real value of the property, and fix the transportation rates upon what the real values are. That is the purpose and object of the bill. Then it takes away, when fixed on that basis, the inducement to persons to buy watered stocks, because the opportunity to earn dividends

on such stocks by the operation of the properties will be destroyed, and hence there will be no demand on the market for them.

I can say further to the gentleman, here is the trouble about that proposition in Federal legislation: These corporations, as a rule, get their charters from States and not from the National Government, and that regulation necessarily belongs to the several States of the Union. But when you fix the rate on the basis contemplated by this bill, there will be no inducement for overcapitalization or excessive bonded indebtedness.

Mr. FOSTER. Well, does the gentleman think that when this valuation is made that will prevent the issuance of watered stock by common carriers?

Mr. CULLOP. Yes; I think there would be no inducement, and if there is no inducement to issue watered stocks, then none would be issued. Such stock is issued only upon the inducement that it can be sold, and if you will eliminate the inducement entirely, then you will have removed the evil from the public.

Mr. ADAIR. Mr. Chairman, will the gentleman yield for a moment?

The CHAIRMAN. Does the gentleman yield?

Mr. CULLOP. Yes; certainly.

Mr. ADAIR. Would not the very fact that the valuation of these roads is known make it impossible to unload watered stock on the public, because the public would know the value?

Mr. CULLOP. Exactly. That is it exactly.

There is another proposition which I want to call to the attention of the committee. These companies give one valuation for purposes of taxation, to raise public revenues, and then an altogether different valuation of the property to the Interstate Commerce Commission for the basis of charging the public for service to earn revenues from the public, which all, I take it, will concede to be unfair to the public. If the roads fix one value for taxation, why should they not be bound by the same valuation for the fixing of service charges. If it is fair that they should be taxed upon a certain valuation, then it is also fair that the public should be taxed on the same valuation for the transportation services performed. I do not believe any man will deny that proposition.

The question involved in this legislation is of vast importance to the public and upon the result depends much the conditions which shall follow, whether it shall retard or accelerate the development of our country and inspire the prosperity of the people. Common carriers render public service and should be regulated to the end that the country should be benefited thereby.

We are living in an age of wonderful progress and the evolution of the times produces marvelous strides in the development of every human activity. More is being done daily and more is required to be done to aid every agency human ingenuity can employ to facilitate the progress of the times so essential to secure the contentment and happiness of the people and to inspire and accelerate the prosperity of our country. Legislation to this end is demanded in order that the requirements of public weal may be assisted and public wants supplied for the promotion of the common welfare and the general benefit of the entire public.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. ESCH] 10 minutes.

[Mr. ESCH addressed the committee. See Appendix.]

Mr. STEVENS of Minnesota. Mr. Chairman, I now yield 10 minutes to the gentleman from Wisconsin [Mr. LENROOT].

Mr. LENROOT. Mr. Chairman, I shall vote very cheerfully for this bill, although I am not wholly in favor of certain provisions of it. My chief criticism is found in the first paragraph, which is a mandate to the commission to find the value of the property of every common carrier subject to the provisions of the act and used by it for the convenience of the public. That is a mandate to the commission to find the value of the property, and the value so found is to be taken as the value for rate-making purposes.

Now I believe, Mr. Chairman, that that is a mistake, for the question is far from being settled in this country, either by judicial interpretation or legislation, as to what elements go to make up the value of the property of the railroad for rate-making purposes. No hard and fast rule has ever been declared by any court; but the courts are unanimous upon one proposition, and that is that the physical valuation of the railroads is an indispensable element to be taken into consideration in the making of rates, and for that reason I wish, instead of a mandate to the commission to find what the value of the property is, that this bill had been limited, as far as value is concerned, to finding the physical value of the property, and then leaving

to the commission to determine the question of value in each particular case as it comes up.

Now, Mr. Chairman, there are a great many questions that remain to be settled with reference to this question of value. For instance, take this great passenger station of the Pennsylvania Railroad here in this city, their station in New York, and the North Western Station in Chicago. Under this bill I take it the commission in finding the value of the property of the Pennsylvania Railroad used for the convenience of the public, will include the value of this station, running into many millions of dollars, and I take it that the policy of this bill is that that shall be included as a basis of rate-making purposes. Mr. Chairman, it is not at all certain that that is the correct basis for rate-making purposes, especially for freight rates.

It is certainly a doubtful question whether those who ship freight upon the Pennsylvania Railroad should be compelled to pay in freight rates for these expensive passenger stations, erected exclusively for the use of passenger traffic. That is one of the questions; and yet if we have the commission in an ex parte way find the value of these properties as an entity, I take it that the railroads will claim that Congress has declared the policy that they shall be entitled to exact such rates as will pay a fair return upon the total value of the property so found.

And so, Mr. Chairman, I wish that the very first paragraph might be limited to ascertaining the value of the physical property of the railroads, leaving the question entirely open, to be decided in each given case, as to what the value of the property is when used in that particular case for the purpose of rate making. If the commission had the value of the physical property—and that is the difficult thing to ascertain always—and kept it corrected and revised and changed from time to time as is provided in this bill, there would be no difficulty for the commission to apply the other elements as the cases may arise.

Further, Mr. Chairman, we have now a case pending in the Supreme Court, which will shortly be decided, namely, the Minnesota case, which will no doubt settle many of these questions and may indeed form a new basis, or at least a somewhat different basis, for the fixing of valuations for the purposes of rate making. Let me say here, Mr. Chairman, that the value of the property of a common carrier for purposes of taxation or for commercial purposes may be and very often is—yes, usually is—a very different one than a valuation used for rate-making purposes. If we are fixing the value of a railway for taxation purposes we look at the market value of that property, and the market value of that property depends almost wholly upon the earnings that the property makes.

The earnings depend upon the rates that the railroad charges, and if the railroad is permitted to charge rates 50 per cent higher than it ought to charge, 50 per cent greater than are reasonable, that is immediately reflected in the market value of the road; and the very purpose of regulation is to get a reasonable rate, and with a reasonable rate the market value of the road would be very much less than it is, of course, with an unreasonable rate.

I should seriously object to, and in fact feel compelled to vote against, this bill if it rested with the first paragraph as to the value of property; but there is another section later on that permits the commission to revise its valuations from time to time and change and correct them, so that I do not know that any great harm will come; but when this bill comes up for amendment I shall offer an amendment limiting the valuation of the property to a physical valuation. If we have the physical valuation, if we have the other information that is provided for in the bill, which I am heartily in favor of, then I see no occasion for the commission at this time in an ex parte proceeding going any further. I doubt if the railroads will be heard in this proceeding, because they will have an opportunity, a constitutional right, to be heard upon the question when the matter gets into the courts, for, after all, we make this valuation only prima facie evidence of the value and that is all we can do. I shall offer an amendment limiting the finding to the physical valuation, and then we will have all of the elements; but so far as the final conclusion of the commission is concerned, in fixing the value of a particular road, we can well leave that until the question comes before the commission with reference to the rates of that carrier. [Applause.]

Mr. FOWLER. Mr. Chairman, before the gentleman takes his seat I desire to ask him a question. On what does he base the physical valuation of the property?

Mr. LENROOT. Just what the term implies—the value of the right of way, the value of the rolling stock, the rails, the equipment, and everything that is physical that is used for the convenience of the public.

Mr. FOWLER. The gentleman means the cost value of these articles?

Mr. LENROOT. I do not. The value of the physical property in a railway is derived in this way: First, one consideration is the original cost both of equipment and right of way. Another is the present value. That is readily ascertainable. The cost of reproduction is another element, and from those elements we arrive at the present value of the physical property of the railway company.

Mr. HARDY. Is not that just the standard this bill prescribes?

Mr. LENROOT. It does when you go into detail, but the commission is required to ascertain the valuation of the property.

Mr. HARDY. And the gentleman would add the word "physical"?

Mr. LENROOT. Yes.

Mr. HARDY. And the gentleman would define it—

Mr. LENROOT. Exactly.

Mr. HARDY. So that there is no real substantial difference?

Mr. LENROOT. No; except that I do not think it is confined, so far as the final conclusion of the commission is concerned, to the physical property.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. SIMS. Mr. Chairman, I yield 15 minutes to the gentleman from Missouri [Mr. BORLAND].

Mr. BORLAND. Mr. Chairman, waiving any criticism as to the details or language of this particular bill, it seems to me that there is a very unanimous sentiment in this House in favor of it. I am heartily in favor of the measure and substantially in accord with the language in which the bill is drawn. There is no problem now before the people of the great interior sections of this country so serious, so constant, or so pressing as the problem of railway transportation. Many of the Members of this House come from districts the whole commercial and economic advancement of which depends entirely upon railroad transportation, and most of us come from districts where that is substantially true. In a great extent of the interior country such as we have, a great productive area removed from the seaboard, railroad rates are a general tax upon the entire consuming and producing public. I would not undertake to set up as an authority on economics and say who ultimately pays the cost of transportation, whether it be the producer or the consumer. I have always believed that as to the foreign transportation, as to export goods, the producer in this country pays the cost of transportation. When we export a bushel of wheat we must sell it upon a free-trade market in competition with the strongest competitive forces in the world, the wheat of South America, of Australia, of Russia, of India, of Canada, and of every wheat-producing area on the globe. The advantage we have over them is in the quality of our wheat and the cheapness of getting that wheat to the seaboard, for in water transportation distance is rare—the main factor. The great cost of putting our wheat on the foreign market is ordinarily the cost between the farm and the seaboard, and every penny saved in the cost of transportation from the farm to the seaboard is a penny left in the pocket of the producer of the wheat to enter into the channels of legitimate trade in that community.

As to domestic commerce, so much of our products as were consumed here in our own country, I have always believed that the consumer must ultimately pay the cost of everything that went upon his table or upon his back. No matter how much the cost of transportation was, he must ultimately pay a price sufficient to cover it all. Regarding, therefore, the two great elements of the transportation business, the export and the domestic consumption, as to one it has occurred to me we were in competition with the nations of the world where every facility and improvement of transportation was a direct economic gain and growth to the wealth of this country in placing our products on the foreign markets, cheaper, quicker, and better than our competitor; and as to the other, the feeding of our own home people, it is a factor in the cost of living of the man who earns a daily wage to take home on Saturday night and hand over to his wife for the necessities of his family. So there is no class of the public that is free from this universal tax of railroad rates. We have come to a time when the question of the physical valuation of railroad properties is an absolute pressing necessity. We have come to a time when the conditions are ripe for such a physical valuation. The speculative age of railroad building is probably at an end in this country. A generation or a generation and a half ago all the great West was eagerly bidding for railroads. Land grants, aid bonds,

public subscription of stock, anything on earth was offered to get a railroad out there in a country that could not produce the business that justified a railroad when it was first built. Now all of those railroads have been built. They were cheaply built; many of them built entirely out of land grants or aid bonds, and yet stocks and bonds were put upon the market based upon such properties. In 1893 came a period which was a clearing house of all these western railroads. Almost without exception they went through a period of receivership and all scaled down their indebtedness and all wiped out public stocks and bonds and all control the public had over the management, and they all consolidated great systems. Then they began to rebuild out of the earnings and capitalization of that property an entirely new and adequate system of transportation throughout the West. But now the period of railroad speculation is almost at an end and a period of railroad operation has come when the roads are putting in heavier rails, straighter roadbeds, broader ties, better bridges, double tracking in most cases, running bigger trains, heavier engines, and fewer men to the train crew.

So they have more opportunity now to operate upon a purely operative basis than they ever did during the speculative age. Railroads were built to sell originally, like the jackanapes razors which are mentioned in the old poem. Now they are built to operate, like any other business property on the market. The great question we have had to confront is what is a fair rate between the shipper and the railroad. In this question the railroad has universally had the advantage of the shipper, for the railroad would not disclose the value of the property upon which it operated. It never undertook to disclose that fact. Much has been said about the difficulty of getting at the value of railroads. Unquestionably there is a practical difficulty in getting at the value of anything. Even 10 feet of ground necessary to open a public alley will cause a great deal of controversy. Value is a question of opinion, but the difficulty in getting at the value is not insurmountable, and great as it may be it is necessary to be met and met just as early as possible.

I believe, with the gentleman who last spoke, that we should confine this investigation to the physical valuation of the railroads. I do not believe we ought to value a railroad as a going concern, for the minute that you do that you add something to it besides the physical valuation of the property itself for taxation or sale purposes. Now, what do you add to it in valuing it as a going concern? You must add one of two things, either good will or franchise. Which of those belongs to the railroad—the good will or the franchise? The franchise does not. It is not the franchise of the railroad, but of the public. Did not the railroad seek the franchise on the ground that it would invest its capital in a business productive to the public and that the public might have the right of control by reason of the franchise that was given to the railroad? The railroad does not own the franchise, and I have never believed in the capitalization of the franchise of public utilities. There never has been a more vicious principle in this country than the capitalization of the value of a franchise, for the franchise is the free gift of the country upon consideration by which the railroad invests its property.

Mr. HOBSON. Does not the gentleman recognize the same principle as in the capitalization of monopolies?

Mr. BORLAND. Unquestionably it is the same principle as capitalization of monopolies. We give the railroad a right to do a certain business a private individual can not do, and then they undertake to capitalize that right, which is practically a monopoly, because no person can invest a similar amount of money without the proper franchise and compete under the same terms.

Mr. OLMSTED. Will the gentleman yield to me?

Mr. BORLAND. I will.

Mr. OLMSTED. The gentleman is discussing the matter from an intelligent standpoint, and it has occurred to me to ask him a question which has troubled me a great deal, namely, What would be the physical valuation of a railroad that had no freight or passengers to carry?

Mr. BORLAND. I will answer that question.

Mr. OLMSTED. And then I follow that by asking what would be its physical valuation if it had no franchise to carry freight or passengers? And, after all, does the physical valuation of a railroad have anything to do with what would be a proper rate of transportation over it?

Mr. BORLAND. The physical valuation of a railroad that had no freight or passengers to carry would be only, of course, the value of the rails when they were torn up and the value of the land when it was turned back for some other purpose. Of course, there would be no question about the physical valuation of a railroad with no freight or passengers to carry.

Mr. OLMSTED. Ordinarily that would be a mere right of way, which, when the rails were torn up, would go back to the original owner.

Mr. BORLAND. And the terminal facilities in the city. The physical valuation of a railroad which had no freight or passengers to carry would not be a hard thing to determine. As to the second question, I would say the physical valuation of a railroad with no franchise would not be conceivable.

Mr. OLMSTED. Which would be permitted in any State if built on private ground.

Mr. BORLAND. But a railroad without a franchise could not be a carrier. The difficulty which the gentleman from Pennsylvania [Mr. OLMSTED] has not touched upon in his question, but which I thought he might touch upon, is the physical valuation of a railroad which is operated at a loss. There is some difficulty connected with that proposition. Some branch-line railroads operated in connection or under the control of trunk lines are operated at a loss, but whether that is due to the management of the company or the conditions of the community is a matter of dispute. Ordinarily it is due to the policy of the company which owns the road.

Mr. OLMSTED. I can name several independent railroads that are operated at a loss, that never have paid a dividend, and probably never will, and yet they are railroads which cost several millions of dollars.

Mr. BORLAND. That is true. It sometimes happens, frequently happens, that money is improvidently invested in railroad enterprises that do not pay a dividend and never will pay a dividend. But it has been universally true also that all money invested in railroad enterprises was unprofitable at the first investment and only grew into profit as the community grew and the business of that road increased.

Mr. OLMSTED. I do not wish to take up the gentleman's time, but I have only another instance to present. It is a matter of history that one of the steam railroads from here to Baltimore cost a great deal more to construct and to establish than the other one, because the first road interfered with the second one in getting a franchise into Baltimore and the second one had to take an expensive route. You will see it every time you go over to Baltimore. It has to go through long and costly tunnels. Now, does the fact that one road cost possibly twice as much as the other increase its physical value, or would that physical valuation have any bearing at all on the ascertainment of what would be a proper rate for the transportation of freight or passengers from here to Baltimore?

Mr. BORLAND. That is a very important question, and I may say to the gentleman that instances of that may be multiplied all over the country, where one railroad has cost more to build, competing with another one, than the original line by reason of the cost of terminals, or the scarcity of terminals, or the difficulty of entering into a city, or whatever the reason may be.

Mr. OLMSTED. One road secures a right of way through a canyon or narrow defile and another company, to build a competitive line, may have to tunnel through a mountain.

Mr. BORLAND. Unquestionably.

Mr. OLMSTED. How, then, are you going to determine the physical valuation of the railroads under such circumstances?

Mr. BORLAND. This bill takes care of that by providing for the ascertainment of the original cost of the property for railroad purposes. Whether that would result in a uniform standard of physical valuation for all railroads that were competitive on the question of rates is another question that has not yet been reached by this bill. This bill, as I understand it, is to get at the original cost of the railroad and the present value of it, and ascertain how much of that present value is due to added improvements. If that is done in the case of each railroad, then whether or not it will serve as a basis for the fixing of rates is a matter for the court and the commission to decide as the question arises.

Mr. OLMSTED. Would we not get at it more effectively and readily by a bill regulating the issuance of stocks and bonds, so that there could be no fictitious increase of either?

Mr. BORLAND. No; I do not think there can be any possibility of regulating the issuance of stocks and bonds except on the basis of the known physical valuation of the property.

Mr. OLMSTED. Well, we have it in New York. They have an excellent public utilities commission there. No increase of stock or bonds can be made except by its permission, and other States have similar commissions.

Mr. BORLAND. It is possible to provide limits and safeguards to the issuance of stocks and bonds, but I do not think there could be any real and effective limitation on the issuance of stocks and bonds short of a physical valuation of the property upon which the stocks and bonds are issued. Now,

it certainly is an evil in the transportation business that bonded indebtedness and fixed charges to pay interest on bonded indebtedness are figured into the rate making. If I guarantee a mortgage for a man who has mortgaged his house for \$5,000 when it is worth only \$4,000, and he has sold to your client the mortgage for \$5,000, he can not sell it for any greater sum or rent it for more than it is worth any more readily than he could have done before I gave him the guaranty.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BORLAND. I would like to have five minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. LENROOT. Mr. Chairman, I would like to ask the gentleman from Missouri a question.

The CHAIRMAN. Does the gentleman yield?

Mr. BORLAND. Certainly.

Mr. LENROOT. As the bill now stands, would it not compel the commission to decide the very question that has been raised by the gentleman from Pennsylvania [Mr. OLMSTED], as to two roads doing the same line of business, one costing very much more than the other, whereas if it were limited to the valuation of the physical property that question would remain to be decided in each particular case?

Mr. BORLAND. It might in this respect, that the bill provides that the commission shall report the present value of the property for railroad purposes, which might raise the cheaper and earlier railroad to the value of the competitive railroad that was afterwards put in.

But those are simply questions of information and enlightenment for this House which I regard as absolutely essential that we should have. We can not have too much of this information. The use we make of it afterwards will be such as occasion may require, but I think the bill itself is right in theory. We ought to know the cost of the physical property in the first instance. We ought to know the cost of the added improvements, and we ought to have the commission's estimate of the present value for railroad purposes. We ought to have at least those three items.

Mr. LENROOT. If I am correct in assuming that the bill is a mandate to find out the ultimate value, then is it not beyond the power of the commission itself to fix rates other than on that basis afterwards?

Mr. BORLAND. It probably would be. Now, I wanted to say this—that I believe the time has come when a physical valuation of railroads can be made on a fairer basis than ever before in the history of the railroads of this country, fairer to the railroads themselves and fairer to the shippers. I believe that railroading has gotten down to a legitimate basis. I believe that 90 per cent of the railroads of this country are entirely out of the realm of speculation and are being operated as closely and cheaply as any other large business can be operated.

Mr. HARDY. Mr. Chairman, I have not studied this bill thoroughly. I wish to ask if there is anything in it which requires that when this value is ascertained that shall be the standard upon which rates shall be fixed.

Mr. BORLAND. No; there is no requirement of that kind.

Mr. SIMS. The physical value would only be prima facie evidence.

Mr. BORLAND. It would only be prima facie evidence on which the commission could act.

Mr. HARDY. As I understand, it would just be one element to be taken into consideration in passing on rates.

Mr. BORLAND. It would be one element.

But I wanted to say this further, that we have now had about 25 years of railroad legislation, and I do not hesitate to say that all of it has redounded to the profit of the railroads themselves more than to the profit of the shipping public. The railroads have put an end to discriminations between shippers by wiping out rebates to favored shippers. There was a time, a few years ago, when no large dealer ever expected to ship a carload of stuff on the published tariff. He went to the soliciting agent of the railroad company or the soliciting agents chased him around town to get him to ship his carload of watermelons over their road at a special rate. Every railroad had a commercial agency, consisting of a number of young men of pleasing appearance, who went about town soliciting every pound of freight shipped in that community, to get it carried over that line at a special secret rate. Now the railroads have abolished all that, and they are getting full rates. Nobody is getting any rebate. Who is getting the benefit of that? Ultimately and directly the railroads themselves. The railroads used to give a pass to every respectable man in the community. There was hardly an exception. The man who did not ride on

a pass felt himself to be beneath the social standing of other persons in that community. Now every man pays his fare. Even some of the members of the lordly State legislatures pay their railroad fares.

The CHAIRMAN. The time of the gentleman from Missouri has again expired.

Mr. SIMS. I yield to the gentleman from Missouri five minutes more.

Mr. BORLAND. The railroads used to take all the baggage you wanted to send, even theatrical and traveling men's baggage, and ship it all over the country on a passenger ticket. Now you can not even take a collar box without paying excess baggage. I have never made the trip from Kansas City to Washington without paying from \$4 to \$9 excess baggage.

Mr. CAMPBELL. The gentleman carries too many clothes.

Mr. HAMILTON of Michigan. The gentleman has too many collars.

Mr. BORLAND. I do like a clean collar, but beyond that I do not plead guilty to being a dude. The railroads are getting more money for their business to-day than ever before in the history of transportation, and the regulation in which we have been indulging has not been reflected in cheaper rates to the consumer or to the producer or to the shipper in any single, solitary instance.

Now, the railroads claim that they are paying more for material and more for labor. I have no doubt that in many cases they are paying more for material, but my judgment is they are paying less in the aggregate for labor. We find that they have raised the labor cost 15 to 18 per cent on the average, but I think they have raised their rates much more than that. They have cut down the number of men employed on the railroads very materially. The consolidation of terminals, the consolidation of switching facilities, the running of heavier trains, the cutting out of a flagman here and a shopman there, the cutting out of little repair shops have reduced the labor roll very materially, and I doubt very much whether any portion of the increase of the rates of the railroad are justified by an increased pay roll, although there may be an increase in the rates of individual employees.

But, Mr. Chairman, the time has come now when some of this railroad regulation should be reflected in cheaper and more uniform rates for the shipping public, and I hope that that will be the outcome of this bill.

Mr. BUCHANAN. Will the gentleman yield?

Mr. BORLAND. I will.

Mr. BUCHANAN. Is it not a fact that the labor cost on a tonnage basis over the railroads is very much less than what it was?

Mr. BORLAND. It is very much less than what it was, and that is the only true test of the labor cost, and it is smaller now than it has ever been in the history of the railroads and is getting smaller every day.

The railroads have no reason to complain of the physical valuation of their property as a basis for making rates. If this Minnesota case is confirmed, there will be practically no power left in a State to regulate railroad rates. In that Minnesota case the court said that the making of an intrastate rate so directly affected the interstate rate that the intrastate rate could not be reduced without affecting the transcontinental rate. This is true. Any man who has studied railroading knows that the change of a rate from a point to a point in Minnesota will affect every rate between Chicago and Puget Sound. There is no doubt about it, and so there is but one agency through which the regulation of rates can effectively be made and but one basis upon which they can make that rate, and that is cutting out the value of the franchises, the value of the good will which the shipper has created, and give them a fair and just return on the property they have invested. [Applause.]

Mr. SIMS. I now yield 10 minutes to the gentleman from Alabama [Mr. Hobson].

Mr. HOBSON. Mr. Chairman, this bill is in the interest of truth and honesty in offering a way to establish the facts in the various controversies arising between the public carriers and the public. The bill is in the interest of promoting an orderly evolution of our social system. The transportation system of a nation is closely analogous to the circulatory system of a living being. It is first in evolution in passing from a lower order to a higher order, and upon the development of the circulatory system depends in large measure the development of the organism. The Interstate Commerce Commission is closely analogous to the vasa motor center of a human being. The world is passing from a cold-blooded creature to a warm-blooded creature, and nations are evolving centers which can systematically regulate transportation for the whole nation as the vasa motor center regulates circulation for the whole body.

Now, our Interstate Commerce Commission itself may be likened to the vasa motor center, but the evolution of the Interstate Commerce Commission is still in its early stages.

This bill removes the obstacle in the path of its next stage of development. The references made here in the remarks of various gentlemen who have preceded me will convince anyone that the time is fully ripe for this whole question to be systematized. We are a warm-blooded creature now, and the circulation is the very life of our development. We can not proceed in an orderly system of development unless we can have transportation properly systematized and regulated.

To illustrate, take the conditions now found in my State of Alabama. One system of railroads in our State maintains that the 2½-cent passenger rate fixed by statute is confiscatory, while the other railroads accept that rate and have not been going into bankruptcy on account of it.

But this particular system has had the matter referred to the Federal judge of the district, and that judge has decided that the rate is confiscatory; and, Mr. Chairman, the search for evidence on the part of the State to present its case was met by insuperable barriers and obstacles; so that it was decided substantially, as all such cases must be decided, from one statement—the statement of one side—ex parte evidence. This bill if enacted would enable us to get recourse and relief.

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

Mr. HOBSON. Certainly.

Mr. CULLOP. What was the passenger rate on the railroads before you passed your statute in Alabama?

Mr. HOBSON. It was variable. It was usually 3 cents on the larger railroads.

Mr. CULLOP. Is it not true that the railroads which have accepted the 2½ cents a mile statute rate are carrying more passengers and making more money out of the passenger traffic than ever before?

Mr. HOBSON. It certainly is a fact that whenever a passenger can travel by one of those other roads he always chooses it, and whenever a shipper can ship by one of those roads he always ships by it; but there are many localities where there is no choice. The railroads charging the rate in violation of the statute have been issuing coupons, in which they agree to return the difference in the rates if they are not sustained in the higher court. Nobody can keep those coupons, and the railroads know it, and they will not allow those coupons to be bought and sold, so as to insure their being lost. In some cases they make you sign your own name and announce that only the original purchaser will be reimbursed. This is the case in Oklahoma. They pretend that they will abide by the decision of the superior court, but they make the conditions such that when the time comes it will be a physical impossibility for the refund to be collected, showing a clear intent to hold the increase, whether lawful or unlawful.

Mr. CULLOP. I will ask the gentleman if the courts have not made this proposition of confiscatory rates do overtime in the last few years?

Mr. HOBSON. Unquestionably. Where reduced rates have been fixed by law and accepted, I find no evidence of the railroads going out of business or of any great decline in profits. I cite these as instances of the obstacles still remaining in the path of proper regulation. I travel a good deal between States. I find now many railroads, most of the roads passing through the gentleman's State [Mr. CULLOP] and the other States of the Middle West, charge more because of the simple act of crossing the State line; so that in effect the rate in both States violates the State law. In other words, they charge a rate that, separated in two parts, is illegal in both States.

Mr. CULLOP. I will say to the gentleman from Alabama that there is now pending before the Committee on Interstate and Foreign Commerce a bill introduced by myself to correct that practice on the part of the railroads.

Mr. HOBSON. I will say to the gentleman that I am surprised that the great self-governing people of the Central West, who have passed the 2-cent rate bills in their States and have found that they are fair and just, have submitted all these years to the common carriers between the States charging illegal rates under the cloak of the Interstate Commerce Commission.

Mr. CULLOP. It is not an illegal rate, I will say to the gentleman.

Mr. HOBSON. Only because it is interstate. The rates charged within the States have not been declared unreasonable, nor in practice have they proved unreasonable.

Mr. CULLOP. Yes; the Interstate Commerce Commission is opposing the proposed remedy on that subject, I will say to the gentleman. I want, furthermore, to say that in my State we have a 2-cent fare bill, passed some years ago, and the railroads have been carrying more passengers and have been making more

money out of the passenger business since that was passed than they ever did before, when they charged a 3-cent rate.

Mr. HOBSON. Showing that there was no warrant whatsoever, in fact, for them to charge a larger rate in passing from Indiana to Illinois. Each of those States has a 2-cent rate, and yet if you pass from one State to the other you are charged 2½ cents.

Mr. FOSTER. Three.

Mr. HOBSON. Some of them charge three, but most of them, I think, charge two and a half, though many times they do charge three. I have been traveling recently, and the question arises in my mind, Why are we confronted by such a situation? Is there no recourse for the people of those States? Is the Interstate Commerce Commission to be an intrenchment for recalcitrant roads to defy the just laws of the States? As long as the physical valuation of the roads is not made the Interstate Commerce Commission is thwarted in its best intentions to relieve this condition, and State authorities are thwarted in their legal processes for relief. Is this to continue forever? Of course the railroads go to the Interstate Commerce Commission and actually put up what looks like a reasonable argument that the lower rate between those States would be confiscatory. I can not understand any other reason why the Interstate Commerce Commission should submit to it. At this point I wish to bring out another point where the railroads are unreasonable. We have declared that the Pullman Co. is a public carrier, and yet if you buy mileage to Pittsburgh on one of the roads from here to Pittsburgh, having a mileage book from Pittsburgh west, say on the C. P. A., and have both mileages in your pocket, the Pullman Co. will not sell you a berth to Chicago or a point beyond Pittsburgh; it will not sell you a berth across the point where you change your mileage books. Going west you pass through Pittsburgh usually about 2 o'clock in the morning and do not want to get out of your berth to go down to get mileage exchanged for a ticket. They will not let the conductor or porter get it done, and you either have to buy two berths, one to Pittsburgh and one from Pittsburgh on, or you just have to pay the full fare of 2½-cent through rate from the starting point instead of the 2-cent rate. Those two public carriers are cooperating to practically interfere with the reasonableness of rates both on the Pullman and in transportation. I made complaint to a railroad and they announced the authority of the Interstate Commerce Commission for their unreasonable practice. I simply state this not to make a case out here, but with large experience in traveling throughout the country I find great irregularities, and I believe that this bill will be a most effective means of finally getting a basis upon which our transportation can be systematized, which will be for the best interests of the public carriers as well as for the traveling and shipping public. [Applause.]

Mr. SIMS. Will the gentleman from Minnesota use some of his time?

Mr. STEVENS of Minnesota. Mr. Chairman, how much time has the gentleman from Tennessee used?

The CHAIRMAN. One hour and twenty-six minutes.

Mr. STEVENS of Minnesota. How much time have I used?

The CHAIRMAN. Forty minutes.

Mr. STEVENS of Minnesota. I yield 10 minutes to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. Mr. Chairman, the power to make a rate involves the power to levy a tax. The people all over the United States are always solicitous that taxes are not levied too high, and if we should be able to get the correct values of railroad properties and those values were made one of the elements in rate making we would have a more intelligent conception than we have now of whether we were having a just and reasonable tax for railroad transportation. The taxes levied by railroads in the United States every year for the transportation of freight and passengers amounts now to about \$3,000,000,000, so that the railroad-transportation revenues in the United States are nearly three times as much as the revenues derived from taxation by the Treasury of the United States. The people all over the country are looking forward to the time when everybody will understand whether a rate is reasonable or unreasonable. Up to the present time there has been no sufficient information given to the public to enable the public to understand whether the rates are right or wrong. Everybody believes they are wrong in most cases. The railroad companies' representatives throughout the United States are constantly arguing for power to levy higher rates on the theory that the wages of the men employed by the railroad companies are much higher now than they used to be and the volume of work done by each man employed is much less, and that the total aggregate cost per ton of freight carried by the railroads of the country is greater than it ever was before, and that the dividends paid on the capitalization of

the roads are much less than they ever were before. The question arises whether railroad rates should be based upon the amount of money to be earned to be applied to the payment of dividends or whether the rate should be made upon the basis of the actual value of the property of the railroads, regardless of whether the property is considered in a going concern or not. My own judgment is that where a railroad claims to be running at a loss and its capitalization is more than twice what it ought to be the question of gain or loss in such case ought not to be taken into account. If the railroad rates are fixed on the basis of valuation provided by the first section of this bill, it looks to me that in some cases they will be fixed at much higher rates than they ought to be fixed at, because this bill provides that the commission shall ascertain the value of the property for railroad purposes or for rate-making purposes, and then in the case of the railroad referred to by my friend from Pennsylvania [Mr. OLMSTED], where it was required to construct expensive tunnels to get into Baltimore, if the rate were made on the basis of cost to that road in order that it might be able to earn dividends the earning power of the railroad running in competition with it would be twice as much as it ought to be.

I believe that in many cases the values of railroad properties will be found to be greater than the actual capitalization of the railroad. But, on the other hand, I believe that in many other cases the values of the railroad properties will be found to be materially less. At any rate, whether it is higher or lower, the public is entitled to the information which this bill will enable the commission to obtain, and I am very glad that the time has come when Congress feels that the legislation demanded for so long a time by the people ought to be enacted into law.

I am fully committed to the policy of the bill, and have a bill for the same purpose pending before the committee reporting this bill, the Committee on Interstate and Foreign Commerce. But while I may give my vote for the principle at stake, my views as to what ought to be done in the form of legislation do not fully conform to that of the committee and members of the Interstate Commerce Commission on this subject. Indeed, our views will be found widely divergent.

I have advocated the appraisal or valuation of railroad properties in every Congress of which I have been a Member. In the last Congress I introduced, and the House adopted, an amendment to the Mann bill providing for a valuation. The amendment was stricken out in the Senate and not restored in conference. Immediately thereafter I introduced the bill to which I have already referred and addressed the House at some length upon its subject matter and provisions.

Before taking up the provisions of the bill which has been reported I shall address myself to the history of Government regulation of rates, and the situation surrounding a valuation essential to be thoroughly understood before there can be any effective regulation.

This bill provides that the Interstate Commerce Commission "shall investigate and ascertain the value of the property of every common carrier subject to the provisions of this act and used by it for the convenience of the public." It then directs how and through what instrumentalities the duty shall be performed. I will now, for a text, state a definite proposition, namely, that this imposes, or seeks to impose, upon the commission an impossible and a useless task.

Ignoring for all present purposes telegraph, water, and pipe lines, and express companies, all common carriers subject to the act, there are over a thousand railroad corporations in the country hardly one of which is not in some respect or to some extent engaged in interstate commerce. I would be surprised if shown a single little road anywhere that did not connect in some way either with a longer line or a water carrier whose business extended directly or indirectly across a State line. And to the extent at least of the business done by virtue of such connection the corporations owning these short lines, though wholly within particular States, are subject to the interstate-commerce act.

It is safe to say that not one line of railway wholly within a State is distinct, independent, and free from the control of some more important carrier with respect to rates on traffic going beyond or coming from beyond the State boundary. In fixing the proportion of a joint or through rate which each shall receive or retain, the value of the investment in or the entire value of the shorter line, if ever an element at all, is one of the simplest propositions imaginable. But not one time in a hundred that such a rate might come before the commission would the value of the properties of one of these lesser and subordinate carriers become an essential fact. If it ever did become necessary in any particular case, that could then be done by

the commission for that particular case without difficulty and without any provision for it in this bill. In fact, however, a controlling interest in the stocks of the intrastate and of many short interstate lines is held by great railway systems, which are comparatively few in number.

I now advance another proposition. It is neither expedient, just, nor economical to ascertain the values of all the railroad properties devoted to interstate commerce, and it will best subserve public as well as private interests if the investigation and valuation be by entire organized railway systems and limited to the important and dominating even among these. With all the light obtainable from every source, with a force of engineers, experts, and other helpers equal in number to the Standing Army of the United States at work all the time gathering and tabulating data, even if when assembled any finite mind could grasp it all, the question of what is a reasonable rate or a just and reasonable schedule of rates would still remain a matter of opinion and judgment. Compromise and the arbitrary striking of averages are an incident of all rate fixing. It is as impossible now to fix rates which in the future will pay all outlays and leave a definite sum for dividends as it would be to fix next year's prices for eggs or potatoes, and for almost identically the same reasons. All those railway economists, whether holding professorships in colleges or seats in Congress or on the Interstate Commerce Commission, who expect to make or to see made of rate fixing an exact science or even susceptible of becoming subject to any definite rules or standards are doomed to disappointment. Nevertheless it is possible to fall into habits of thought and accept principles and standards which being conformed to in practice destroy public justice and deeply wrong the freight-paying public.

I am about to discuss and expose some of the mischievous dicta of commissioners and others, but lest I forget it I will, with the permission of the House, here insert without reading my amendment in the form of a substitute bill:

SECTION 1. Section 11 of the act to regulate commerce approved February 4, 1887, is hereby amended to read as follows:

"Sec. 11. That a commission is hereby created and established to be known as the Interstate Commerce Commission, which shall be composed of 1 chief commissioner and 14 commissioners to be appointed by the President, by and with the advice of the Senate: *Provided*, That any commissioners holding offices as such at the taking effect of this act shall continue in office until the expiration of their respective terms, and for all the purposes of this act such incumbents shall participate in the organization of the commission hereby created with the same rights as if appointed and confirmed by the Senate, as is herein provided for new appointees. Said commission shall be constituted by the appointment of a chief commissioner to hold office for the term of four years and to receive a salary of \$11,000 annually, and 7 additional commissioners to hold office four years and receive salaries of \$10,000 each annually; and their successors in office shall have the same tenures of office and receive the same salaries, except when appointed to fill a vacancy caused by death, resignation, removal, or other cause, in which case the appointee shall only hold office until the expiration of the term for which his predecessor was appointed. The commissioners now in office shall hold office until the expiration of their respective terms, except in cases of death, resignation, or removal, in which case their successors shall hold office only until the expiration of the terms of their respective predecessors: *Provided, however*, That no appointment shall hereafter be made, whether to fill a vacancy or otherwise, for a longer period than four years. Any commissioner may be impeached or removed by the Senate for inefficiency, neglect of duty, or official malfeasance, upon articles of impeachment preferred and prosecuted as in other cases. Counting the chief commissioner to be appointed as herein provided as 1, not more than 4 of such new appointees shall be members of the same political party, and no appointment shall be made at any time which shall give to any party a membership in said commission of more than 8. No person owning stocks or bonds, or who is in any way peculiarly interested therein, shall be eligible for appointment to the office of chief commissioner or commissioner; nor shall the chief commissioner or any commissioner engage in any other than official business or employment. No vacancy or number of vacancies less than of a majority shall impair the right of the remaining commissioners to exercise the powers of the commission. It shall be the duty of the chief commissioner to preside at all meetings of the entire commission (hereinafter designated as meetings in bank), to divide and distribute the work of the commission among the departments herein provided for, to supervise and direct the business and affairs of the commission generally, including the employment and discharge of employees. Within 30 days after the taking effect of this act said additional appointments shall be made by the President, and within 10 days thereafter the chief commissioner, in addition to his other duties, shall constitute five departments of said commission, each of which shall have all the powers of the whole commission, and its decisions shall be entered of record as the decision, order, or ruling, as the case may be, of the commission, subject to the right of any party to any proceeding to a rehearing upon satisfactory cause shown by verified petition to the commission in bank. Not less than three commissioners shall participate in any decision in a department: *Provided*, That where the chief commissioner joins in a decision as one of the requisite number the hearing or examination in a department may be had by two commissioners."

Sec. 2. That section 13 of said act to regulate commerce approved February 4, 1887, is hereby amended by adding thereto and at the end of said section 13 the following:

"The Interstate Commerce Commission shall have, and is hereby, given power and authority to revise and reconstruct schedules of rates, fares, and charges previously established and put in force by carriers in interstate commerce, or such as shall be hereafter established and put in force by the commission, and to formulate and put in force by the commission, and to formulate and put in force entire new schedules

of rates, fares, and charges in lieu of those previously formulated and put in force by the carriers themselves or by the commission, either when an increase of rates, fares, or charge is proposed or attempted by any carrier or by several carriers acting conjointly or contemporaneously, or at any time, upon the motion or initiative of the commission, or upon a procedure instituted by any party authorized and empowered by this act to present a complaint against a carrier concerning a rate, fare, charge, or practice. And whenever the commission shall deem it necessary or shall find it convenient, in order to prevent discrimination in rates between commodities, kinds or descriptions of traffic, persons, or localities, or to equitably equalize rates, or properly and fairly formulate and put in force new schedules, it may increase as well as reduce a rate or rates, fare or fares, charge or charges, and may rearrange and newly create classifications, as well as transfer commodities from one class to another, or may transfer a commodity from a special class, where a special rate is charged, to an ordinary established class, or from the latter to the former.

"At any hearing or examination, whether in departments or in banc, rules of evidence shall, as far as is possible, be observed and applied as in the courts of the United States; and in determining the reasonable and just rates of service by corporations subject to the jurisdiction of the commission the test of reasonableness and justness shall be in conformity to the requirements declared and so established by the Supreme Court of the United States in *Covington & Lexington Turnpike Co. v. Sanford* (164 U. S. 578).

"And in order that said commission may have constantly before it for emergencies, available to all interested parties, the means for satisfying an important test of just and reasonable rates for the transportation by rail of persons and property it is hereby made the duty of the said commission, and it is hereby required, to proceed forthwith to the appraisal and valuation of the properties of at least 10 of the leading and dominating railroad systems engaged in whole or in part in the carriage of passengers and freight in interstate and foreign commerce, or in interstate commerce, the commission to make the valuation according to its best judgment, with a view to most effectually accomplish said object. The word 'system' as here used means any lawful business organization of lines of transportation, whether all rail or partly rail and partly water route, under one management and control, whatever the form, whether by lease, stock ownership, or otherwise, where the management, operation, or rates of a subsidiary railroad company or connecting company engaged in transportation by rail or water is rightfully controlled by another. The valuation in any such case shall be only of the property used in transportation. In making such valuation the commission shall reject any value or claim of value for franchises or good will, but shall include all accessions of value derivable from improvement of the vicinage, whether such value resulted from the construction of railroads to the place or places of location or otherwise. In the case of terminals and stations the land and improvements thereon shall be separately ascertained. The presence in the town or city of the particular railway and the additional value given to land by its presence and by general transportation facilities shall be considered and such value given to the land as if it were available for residential or business uses. The original cost of structures after a deduction for depreciation shall constitute their valuation. Rights of way, as land, shall be valued according to the use to which they might be devoted if not occupied for railroad purposes, and such proportional value may be given to narrow strips of land so occupied as if they were parts of bodies of land large enough for convenient use in the prevailing industry of the vicinage.

"In addition to the foregoing the commission may adopt and adhere to other convenient rules not in conflict with law for such appraisalment or valuation. And for the purposes of such appraisalment or valuation the commission is hereby authorized to employ engineers and other assistants upon such terms as to it shall appear just and reasonable, and to provide all such other facilities, agents, or instrumentalities and incur such expenditures therefor as may be necessary, and to pay for services and the cost of such facilities and such expenses out of any funds at its disposal or which may be appropriated by law specially for the purpose."

Sec. 3. Section 24 of the said act to regulate commerce (as amended) and all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its passage.

Before discussing its provisions I will combat and endeavor to overthrow some of the errors and fallacious views before alluded to.

First, I fear that we do not sufficiently and at all times appreciate the importance of transportation. It is the one thing under human control that is essential to every human being in the world under modern conditions and not living in the most primitive and simple condition. Those uncivilized nations not dependent upon some form of transportation are so few in number or so obscure as not to be factors in present-day affairs. It is not only a universal necessity but one of common public interest. That may be one reason why so few outside the comparatively small class profitably engaged in conducting transportation devote special and persistent study to it. Few give more than a transient thought to the atmosphere so essential to life or to the water supply for domestic use until it is vitiated or its supply is reduced to the danger point. So with respect to transportation, especially that by rail. Not only have we heretofore and do we now leave the management, the character of the service, and the rates to the care and keeping of the private corporations engaged in it, but we have allowed them almost exclusively to educate the people and their official representatives as to the rules and economic principles to govern herein.

We are living in a haze or glare of illumination, but without much steady, instructive light. There was, at a former period, a proper conception of the true relation of organized society to public-service agencies, but new ideas and strange doctrines—doctrines which are totally destructive of public justice and private right—have been sprung and industriously inculcated

during the last two decades. They have found lodgment not only in the minds of the representatives of shippers' associations, boards of trade, and other commercial bodies, but of judges, Interstate Commerce Commissioners, Senators, and Representatives. The most dangerous and far-reaching of these is the economic view that, at any rate and aside from all other considerations, the corporation conducting business as a common carrier is entitled as of right to a fair return, usually asserted to be equal to the prevailing rate of interest, upon the value of the property devoted to the public service. Sometimes the expression varies, and it is said that the carrier is entitled to some such measure of return as the prevailing rate of interest on its investment. But the whole question of what is or what should be the proper basis or measure of rates is encumbered and befogged with inconsistencies and conflicting theories, the result of which is seen in the adoption by the committee and report of the pending bill, which provides for an investigation and report by the commission upon numerous incongruous and, as I insist, nonessential matters.

Transportation has been a matter of common as well as of vital interest from the dawn of civilization. Carters, charioteers, draymen, and cabmen for hire were, by ancient law as well as by the common law of England, subject to regulation as distinct classes, and strict rules and principles of law were applied to them for the protection of the public. So when I say that the earlier decisions of our courts in cases involving corporations employed as carriers and in other public services, before interests in transportation became so vastly valuable and inextricably interwoven with all commercial and industrial activities, and prior to the organizations for the propagation of error and confusion, are entitled to the greatest respect. The heresy that it is the duty of government to safeguard the earnings of any particular class of business men up to the point of realizing a reasonable, or, indeed, any, profit upon their ventures is a most vicious form of paternalism which finds no sanction or encouragement in the decisions of the courts or otherwise until within the last few years, during which serious attempts were made to regulate the rates for service by carriers in interstate commerce.

I shall not encumber my remarks with citations to the extent of making it resemble a lawyer's brief, but will call attention to such decisions as are necessary to prove my point. In 1896 the case of Covington & Lexington Turnpike Road Co. v. Sandford (164 U. S., 578), involving rates or tolls to be charged over a turnpike, was decided. We see, upon a moment's reflection, that the question there was exactly the same as that raised in any case involving a railroad rate. In that case successive acts of the Legislature of Kentucky had greatly reduced the tolls until in 1896 the company sought to prevent the final reduction by suit in court on the ground that the rate fixed by it was confiscatory, but in the proofs it failed to show that the rate did not yield some small profit or even if it did not that insolvency would not be attributable to competition and loss of business rather than to the reduction of rates.

Here are some of the principles stated by the Supreme Court of the United States, after stating the facts and quoting literally from the complaint:

It is proper to say that if the answer had not alleged, in substance, that the tolls prescribed by the act of 1890 were wholly inadequate for keeping the road in proper repair and for earning dividends, we could not say that the act was unconstitutional merely because the company (as was alleged and as the demurrer admitted) could not earn more than 4 per cent on its capital stock. It can not be said that a corporation is entitled, as of right, and without reference to the interests of the public, to realize a given per cent upon its capital stock. When the question arises whether the legislature has exceeded its constitutional power in prescribing rates to be charged by a corporation controlling a public highway, stockholders are not the only persons whose rights or interests are to be considered. The rights of the public are not to be ignored. It is alleged here that the rates prescribed are unreasonable and unjust to the company and its stockholders. But that involves an inquiry as to what is reasonable and just for the public. If the establishing of new lines of transportation should cause a diminution in the number of those who need to use a turnpike road and, consequently, a diminution in the tolls collected, that is not, in itself, a sufficient reason why the corporation operating the road should be allowed to maintain rates that would be unjust to those who must or do use its property. The public can not properly be subjected to unreasonable rates in order simply that stockholders may earn dividends. The legislature has the authority, in every case, where its power has not been restrained by contract, to proceed upon the ground that the public may not rightfully be required to submit to unreasonable exactions for the use of a public highway established and maintained under legislative authority. If a corporation can not maintain such a highway and earn dividends for stockholders, it is a misfortune for it and them which the Constitution does not require to be remedied by imposing unjust burdens upon the public.

The court here plainly said in effect that the matter of first importance was the interest of the public in having reasonable rates, and that that should outweigh all other considerations so long as any profit whatsoever was in sight for the company and its stockholders. The court refused to hold an act of the legis-

lature fixing rates to be confiscatory until a point of reduction of rates was reached at which business could only be done at a loss. The court did not deem it necessary to set forth the reasoning underlying this rule in that case, but did state them in a subsequent case, *Cotting v. Kansas City Stock-yards Co.* (183 U. S., 79), as follows:

If in such a case an individual is willing to undertake the work of the State, may it not be urged that he in a measure subjects himself to the same rules of action, and that if the body which expresses the judgment of the State believes that the particular services should be rendered without profit he is not at liberty to complain? While we have said again and again that one volunteering to do such services can not be compelled to expose his property to confiscation, that he can not be compelled to submit its use to such rates as do not pay the expenses of the work, and therefore create a constantly increasing debt which ultimately works its appropriation, still is there not force in the suggestion that as the State may do the work without profit, if he voluntarily undertakes to act for the State he must submit to a like determination as to the paramount interests of the public? * * * The authority of the legislature to interfere by a regulation of rates is not an authority to destroy the principles of these decisions, but simply to enforce them. Its prescription of rates is prima facie evidence of their reasonableness. In other words, it is a legislative declaration that such charges are reasonable compensation for the services rendered, but it does not follow therefrom that the legislature has power to reduce any reasonable charges because by reason of the volume of business done by the party he is making more profit than others in the same or other business. The question is always not what does he make as the aggregate of his profits, but what is the value of the services which he renders to the one seeking and receiving such services.

The latter was not a railroad case, but like principles apply to it. The gist of these decisions is that it is for Congress or the Interstate Commerce Commission in its place or stead to fix the rates, which the courts should presume to be just and reasonable until the carriers affected thereby show them to be confiscatory; that it is not sufficient merely to show that the rates are low or even unreasonably low, which being a matter of opinion is not susceptible of exact proof; that a public-service corporation assumes duties pertaining to government, such duties as the Government might, except for the interposition of the individual or corporation, itself perform for the people to be served; and finally that so long as the governmental authority fixing the rate stops short of a deprivation of all profit, or of any whatever, the party affected can not complain, since he may at any time abandon the service and allow it to be resumed by the Government. So the proper question in all such cases is, not whether the rate is reasonable in point of profit-yielding power, but reasonable from the standpoint of the man who pays it; and this consideration ought to control the case, notwithstanding that the rate may be low, or even unreasonably low, until the actual confiscatory point is reached.

But the Covington Turnpike case was the last of a long line of decisions beginning with *Munn v. Illinois*. The railroad economists had, by 1897, when *Smyth v. Ames* (169 U. S., 466) was decided, succeeded in creating a hesitating state of judicial mind and a reluctance to carry forward into cases involving railroad rates the principles which they had previously established and adhered to. The decision in the last-mentioned case was, we might say, rather hazy. It was what in chemistry would be called a blend, rather than a compound. The sound views in prior cases were ingenuously mixed with the self-serving views of the railroad lawyers and economists. In one part of the opinion it was said that the sole criterion was the value of the property devoted to the public use, while in another several other matters were mentioned to be properly considered, and, among them, the market value of stocks and bonds. It was said (p. 546):

We hold, however, that the basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public. And in order to ascertain that value, the original cost of construction, the amount expended in permanent improvements, the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statute, and the sum required to meet operating expenses are all matters for consideration, and are to be given such weight as may be just and right in each case. We do not say that there may not be other matters to be regarded in estimating the value of the property. What the company is entitled to ask is a fair return upon the value of that which it employs for the public convenience. On the other hand, what the public is entitled to demand is that no more be exacted from it for the use of a public highway than the services rendered by it are reasonably worth.

There may be those blessed with sufficient mental skill or subtlety to state how all the matters here mentioned can be brought together, with other matters intimated but not specified, as a basis of fixing a rate. But I must confess myself unequal to the task. If the value of the property is to receive principal consideration, as the court asserts, then what consideration should or can the market value of stocks and bonds receive?

We need not dwell upon one or two decisions of the Supreme Court and several by the Interstate Commerce Commission and the Federal courts intermediary between those above referred

to and that in *Wilcox v. Consolidated Gas Co.* (212 U. S., 19). The latter case evidences progressive strides in false and vicious economic education. Now, the Consolidated Gas case presented exactly the same issue as that presented in any railroad rate case. The body of gas consumers answer to the whole body of transportation consumers on the lines of a railway system anywhere, and the relation of the gas company to the public is in all essentials similar to that of the railroad company. While the action of the court was not conclusive of the ultimate rights of the parties, yet the views of the court, expressed in the course of its opinion, are significant of its changed economic attitude since the decisions in the turnpike and stockyards cases.

There must—

Says the court—

be a fair return upon the reasonable value of the property at the time it is being used for the public.

The word "must," inserted by the court in lieu of the words "may, on condition that the rates to consumers are just and reasonable," contained in earlier opinions, marks the great change wrought by the schools for the propagation of economic error maintained in this country. They are maintained out of the vast profits realized on exploitation of the public through exorbitant rates. But the court declared that the franchises of the company, which it was admitted did not cost it a penny and represented merely the voluntary abdication by the State of New York of a particle of its sovereignty, should also be valued as part of the aggregate upon which the consumers should be compelled to pay rates. The court said:

It can not be disputed that franchises of this nature are property and can not be taken or used by others without compensation.

We do not fully comprehend the significance of this declaration, principle, or dogma of rate fixing unless we reflect that the Consolidated Gas Co. is an absolute monopoly, with the usual history of such monopolies of which flagrant dealings with municipal authorities and scandalous stock inflations were prominent incidents, and that the so-called franchises simply stand for monopolistic power acquired through practices which I would not care to properly designate unless willing, which I am not, to take up your time to insert the proofs. But that gas company, like all such, and like all railroad companies, possesses real taxing powers within and throughout the territory in which it operates. The folly and injustice of placing a valuation upon the monopolistic sovereign power after valuing all tangible assets is readily seen. But that is a right or privilege that municipal monopolies and railroad companies now insist upon, and what, I regret to say, the courts and Interstate Commerce Commission now concede.

That the assets of the Consolidated Gas Co. represented little, if any, original investment but what Thomas Lawson would call "made" dollars, is shown by another part of the opinion, where it said:

The evidence shows that from their creation down to the consolidation in 1884, these companies had been free from legislative regulation upon the amount of the rates to be charged for gas. They had been most prosperous and had divided very large earnings in the shape of dividends to their stockholders, dividends which are characterized by the Senate committee appointed in 1885 to investigate the facts surrounding the consolidation as enormous. The report of that committee shows that several of the companies had averaged, from their creation, dividends over 16 per cent, and six companies in the year 1884 paid a dividend upon capital which had been increased by earnings, as in the case of the Manhattan and the New York, of 18 per cent, and, had it been upon the money actually paid in, it would have been nearly 25 per cent.

It is these views and similar views of the courts and their echo and repetition by interstate commerce commissioners which have led me to offer the substitute amendments already inserted in the record. The true theory is that the Government shall regulate and control rates. But the views which I have quoted and intend to quote would make the Government the guarantor and underwriter of profits, and the vice of such views is but slightly alleviated, if at all, by the use of the qualifying word "fair." The Government has no better authority from the people or from the laws of the land to insure fair profits to a particular class of business men than to insure to them the receipt of an unfair or exorbitant profit. The one rule makes of public-service corporations the servants of the public, which was the original and is the proper conception of them. The other rule makes of them the unbridled masters of the people. The proper view is that the citizens of the Republic are freeholders in their relation to common carriers and that the latter are their agents. The perverted view adopted by judges and commissioners makes every ratepayer a taxpayer to each and all of so many little sovereignties or municipalities within their own domain and hewers of wood and drawers of water under sublords ruling them in the name and right of private corpora-

tions clothed with sovereign powers of taxation and exploitation. In the report of the commission for 1908 on the question of what constitutes the reasonable rate we find this language:

When, however, all has been said along these lines that may properly be said it nevertheless remains as a fundamental proposition that the actual investment in an enterprise needed for giving the public adequate transportation facilities is entitled to and should have a reasonable return, and no more than a reasonable return, in the form of a constant profit; and a reasonable schedule of rates is one that will produce such a result.

So, here we see the words "constant profit" used; so, here the commission declares its policy to be to fix its eyes constantly and exclusively upon railroad interests until they are secure in receipt of a "constant profit." And the same in some form is to be found in each subsequent annual report. The statement is on its face plausible and well calculated to deceive one who is simple-minded or indiscriminating in thought and expression.

The true rule is that if the public be well served at fair and reasonable rates, or rates fixed under really competition conditions, then there should be no reduction of rates so long as they produce only a reasonable return on the property. This rule of rate making compels the rate-fixing authority to begin at the shipper's side of the question and to only take up the carrier's side if that becomes necessary; that is to say, when it is alleged that fair and reasonable rates for the shipper are confiscatory of the carrier's property. It is no valid objection to rates which are only fair and reasonable from the shipper's standpoint that they are unreasonably low from the carrier's standpoint, because even unreasonably low rates may yield some profit, however small, and be therefore nonconfiscatory. What the courts and commissioners have done in recent years was to start the consideration of each question from the carrier's side; to start with this heresy that at all events, aside from all other considerations and regardless of the effect upon the fortunes of shippers, the carrier was entitled not merely to protection against a confiscatory rate, but to a return, usually placed at or a little above the rate of interest on mortgage loans. To give such a rule universal application is to guarantee not only the solvency but the financial success of the most recklessly, dishonestly, and wastefully managed roads in the country, or those which but for the Government sanction thus given to exploitation of the public would have to go into liquidation and reorganize on a sound and honest basis. An exemplification of the practical application of this modern theory is seen in the Spokane rate case, where the commissioners decided that rates which satisfied the financial needs of the Northern Pacific and gave the holders of its enormously inflated stocks the dividends which they demanded were just and reasonable, though the same rates in the case of its competitor, the Great Northern, yielded nearly twice the same dividend rate in addition to enabling it to pile up a large surplus for extensions and outside investments.

It was in view of the earlier decisions of the courts that the words "fairly remunerative" in the provision requiring the commission to ascertain and enforce reasonable rates were stricken out of the Hepburn bill in the Senate in 1906, as the record of debates shows. But, contrary to congressional intent, as thus expressed, these words were, by the commission, in the Spokane case and in other cases, interpolated by construction as part of the statute, and the real purpose of the law nullified. Another proposition, well established by former decisions, has been completely ignored or overlooked by the commission, as well as the courts, in recent years; that is, that no loss, whatever its form or extent, is protected by the rule against confiscatory rates unless resulting directly from the action of a legislative or official body, though such loss might be so great as to end in insolvency. If in fixing reasonable rates on one road another in competition with it finds its rates so reduced that it can not do business except at a loss, that should be attributed to the operation of competition and only indirectly, if at all, to the action of the commission.

The decision of the commission in such a case would be unassailable and invulnerable as against any constitutional objection. The disastrous and far-reaching effects of the non-observance of this principle can scarcely be exaggerated. The counter proposition that the weaker, worse managed, more injudiciously located or constructed facility, or the one whose mechanical form has been antiquated and superseded must nevertheless be secured and safeguarded against loss and the possibility of destruction from competition has found favor in the official minds of the commissioner. Outside the commission there is no help and but little sympathy for one who has been struck down by the wheels of progress; but with carriers in interstate commerce, under the interstate-commerce act as paternally administered by the commission, it is very different. The

whole situation is best shown and illustrated by a discussion of the history of some of the trunk lines, and a statement of the relations between the carriers between the Atlantic seaboard and Chicago and other cities of the Central West. I deem it unnecessary, however, to encumber the record with the details of that history which must be already well known to many Representatives.

But in the case of what are known as the trunk lines, there is presented a striking and important illustration of results flowing from the adoption by the commission of the "constant-profit" theory of rate making. The rates of the Pennsylvania and New York Central, whose lines reach all the important business centers of the West, have been fixed exclusively by the railroad managements themselves, with no limitations whatever except with reference to what the traffic would bear. Their rates have never been examined or investigated by the commission as to their reasonableness or unreasonableness. It appears to have been considered entirely proper that the public should pay these companies considerably more for a given passenger service than is paid for the same service to the Baltimore & Ohio, the Erie, and certain other trunk lines. Now, it is undeniably true, a fact admitted by the railway managers at the rate-advance hearings in 1910, that a hard and fast agreement exists between all the trunk lines, and that they maintain a central association, or bureau, in New York City. Their combination would, however, be powerless to maintain unreasonable rates without the recognition given by the commission to the "constant-profit" theory. But with that recognition and adherence to their established practices, the associated trunk lines are able to exactly reverse the natural order and substitute self-interest for the interest and welfare of the public. If the economic law of competition were allowed to operate in trunk line territory the lowest rates between the East and West would be those over the most natural and direct and the best equipped routes—that is to say, over the New York Central and Pennsylvania. They have eliminated all difficult grades and curves, duplicated trackage, acquired terminal facilities, and provided themselves with superior motive power and rolling stock until they can move a given tonnage over a long distance at less than one-half what the same would cost over other and inferior roads.

By acting secretly in concert and by constant readjustment and classifications of rates, thus working them up from one level to another, they have escaped entirely the regulative powers of the commission and become a law unto themselves. The commission could not now, under existing law, even if so inclined, examine and pass upon the rate question in its application to the whole trunk-line situation and establish in trunk-line territory a system of rates. Indeed, Congress has heretofore, unwisely I think, withheld from the commission any such power. Without it it is idle to talk about any general rule for ascertaining the reasonable rate, and the rule of a constant profit for the carriers, in addition to being destructive of all other interests, is a pure invention to serve the selfish purposes of the railroads.

The difficulty of fixing reasonable rates for a single railroad lies in the great differences between conditions affecting railroads which under normal conditions would be in competition. In this same trunk-line territory are lines of varying financial strength and condition with reference to the cost of operation and volume and profitableness of traffic. For instance, there is in trunk-line territory the Pennsylvania and the Erie. The financial condition of the Pennsylvania is such that it can refund its bonds at 3 and 3½ per cent, and its stocks, though inflated and consisting largely of duplications through absorption of subsidiary lines, is far above par, and the company could continue its 6 per cent dividend rate with even lower rates than it now charges and still accumulate large annual surpluses. The Erie, according to testimony given by its vice president in the rate-advance cases, has the most pressing financial needs, paying no dividends on its common stock and being under an immediate necessity of raising \$13,000,000 for general improvements. He also stated that \$35,000,000 was required to put it in effective condition of construction and equipment. Now, the rates which are necessary to keep so weak an enterprise as that in a competitive position as against the stronger trunk lines must necessarily render the same rates on the business of the latter exorbitant. To reduce their rates on through traffic without a reduction also of the Erie's rates, or to increase the Erie's rates without also increasing theirs, would do the Erie no good, because the immediate effect would be to divert to them most or all of the Erie's through business. So, in order to make a practical application of the theory of a constant profit to all carriers and keep water-logged enter-

prises afloat, the public must pay annual bounties amounting in the aggregate to hundreds of millions of dollars over and above what the shippers consider just and reasonable rates.

The uniformity and stability of rates required by the business interests of the country can never be secured through the commission so long as its functions and powers are limited as at present by the interstate-commerce act. It must have power to revise and readjust entire schedules, and not only entire schedules of particular roads, but of whole systems and by large areas, thereby producing uniformity, justice, and reasonableness on all lines; for instance, on all the lines in trunk-line territory, on all lines in central, western, and southwestern territory, simultaneously, and from time to time, as often as is necessary to maintain justice, reasonableness, and equal treatment of shippers. The commission must be authorized to harmonize inconsistent rates, to equalize discriminating rates, and to reduce high rates wherever found. These powers it can not exercise without the enlarged powers which would be conferred by the adoption of my amendments. The only uniformity provided for in the interstate-commerce act is uniformity in the treatment by each railroad of its own patrons. The second section of the interstate-commerce act prohibits a common carrier from charging one person more than another for the same service, but it does not prohibit a carrier from charging one person more or less than another railroad charges the same person or another for an equal service.

The third section of the interstate-commerce act forbids a carrier giving any undue preference or advantage to any person or locality, or kind of traffic, over another. But this only applies to the action of a railroad toward the people or places served by it. It does not protect them from monopolistic and exorbitant rates when no competition is at hand, and so, too, with reference to the long-and-short haul provision in the fourth section.

To enable the commission to fully perform its duties, it should have power, as contemplated by my amendments, to increase, as well as to reduce, a rate. Without this additional power it can not effectively harmonize and equalize rates or deal with entire schedules.

Two principal reasons have been heretofore urged against conferring the power upon the commission to formulate or revise schedules. The first was presented by the railroads. They claimed the right to initiate all rates themselves. They urged that to confer so broad a power upon a governmental agency was to take from them the only power which rendered their properties of any value. The second objection was constitutional, though probably originating in the same fertile brains of counsel for the railroads. It was argued that if the commission could adopt and put in force rates by wholesale for one company, it could do so for all at once, which was not merely applying a statute to facts, but the exercise of outright legislative functions. The constitutional objection was not clearly, if at all, distinguishable from that based upon policy. Without turning aside to debate the issue, I venture to pronounce both objections untenable. The Supreme Court in the Southern Pacific Lumber rate case, decided last year, limited the construction of the powers of the commission under the present law as I have just stated.

We are disadvantaged by our environment in the very midst of events constantly transpiring all around us in the world of railroad construction, finance, and operation. Transportation of persons and property are interwoven with our every-day affairs and our very existence, so that we have failed to see the trend and drift of the matter, or to discern the final solution of the problems presented to us. The figures representing the present financial status of the railroads mystify us by their magnitudes. We can only understand their significance by comparisons.

The present capitalization upon which we are paying interest and dividends by way of rates and fares is, according to the latest report of the Interstate Commerce Commission, eighteen billions of dollars. In so far as this vast sum represents actual investment, it is for the most part investment made by the people who use—and who have no choice in the matter—the facilities provided, comparatively few of whom own any of the stocks or bonds. Yet the holders of these are constantly referred to as investors whose investments must be safeguarded against any diminution of returns which have gone on increasing proportionately as their property has been added to by accretions from collections which their patrons had no option but to pay.

My theory, and that upon which my substitute is based, is that existing rates on the strong and dominating lines in each group of railways are kept too high in order that their weaker competitors may enjoy, as of right, this constant profit; that this ignores the right and interest in the subject of the public; that the commission should be constrained by law to take up

the rates on each of these stronger lines as a schedule or body of rates and reduce them to the point of reasonableness and justice to the shippers, ignoring the claims of the stockholders until in the course of the reduction the confiscatory point is reached. The rates of the weaker lines are now regulated by their stronger competitors, the rates of the latter not being regulated at all. If the commissioners be given power to take up the schedules of the strong roads upon their own initiative and without having to wait for complaints, and to regulate them, by which I mean reduce their rates, the rates of the weaker lines will be thus indirectly and automatically regulated, without attention and labor on the part of the commission. That is what I have in mind in confining the physical valuation to selected systems and dealing with all the lines and subsidiaries constituting such systems in their entirety. My purpose is to have regulation assume a direct, practical, and effective form, to be more economical, and not to continue as a mere farcical but costly pretense, as it has been thus far.

There is nothing, either in the law or in what is popularly known as equity, as applied to matters of public concern, to warrant the commission in giving consideration to the alleged financial necessities of any corporation. A railroad corporation is not a public institution, nor public in any other sense which would place its affairs under the care of the Government or make it the duty of the commission to provide for its safe deliverance from the inconvenience of scant revenues, or even from insolvency. The railroads are not of public concern in any such sense and their managers do not so consider them, when discussing their legal relation, except when insisting upon being safeguarded by the Government through high rates against the results of each other's competition. No matter how important any single railroad company may be to a particular city or section, not one of them is of common interest to all the people of the Nation. The transportation business of the whole country, which practically resolves itself into what may be designated as "the railroad business," is of general, or, rather, of universal interest; and it is that business rather than any particular railroad corporation which Congress has been empowered by the Constitution to regulate. This is the view thus far taken by Congress; and the proposition that the financial welfare or the financial affairs of any particular railroad ought to be considered by the commission as the subject matter or part of the subject matter of any rate case or question before them, or otherwise than as a limitation to be pleaded in a proper case by the particular carrier involved, was never within the purview of any legislation thus far enacted, but was a pure invention by commissioners unwilling to perform their full official duties.

The services and the rates are the only matters pertaining to common carriers with which the public have to deal or with which they come in contact. They have nothing to do with internal management, nor should their interest in just and reasonable rates be confounded or complicated with those of stock and bond holders. The commission would have plenty to do if they looked carefully after the rates and service.

The provision of the committee bill injecting the subject of stock and bond issues into the scheme of valuation is one, which in my judgment, is fraught with mischief. It imposes upon the commission a useless, if not in fact an impossible task. But the strongest argument against it is that it carries with it an assumption that the Government is under some sort of obligation to the carriers with respect to their internal finances and private relations to the holders of stocks and bonds. An inquiry, such as is provided for in the bill, as to the minute history of every issue of railroad stocks and bonds is one from which a commission composed of many members and provided with unlimited revenues might well wish to be excused. It appears to me as impossible as it is useless; and if the expenditures by the commission during recent fiscal years when it was engaged in only its routine duties may be accepted as an indication of the cost of the work directed by the bill to be done, we would do well to give that phase of the subject our most serious consideration. The estimates of cost given by the commissioners are mere guesses and not very shrewd guesses at that. It will take several years to obtain the data, and at the end of that time it will be fit only for the junk heap. So many changes will have occurred that the data would afford no satisfactory light on any question properly before the commission, even if it could ever be placed in manageable form. None of the commissioners nor any member of the committee was able at the hearings or is able now to suggest any definite use for the outcome of all this labor and expense. I do not deny the power of Congress to obtain all the information specified in the bill and to spend all the money necessary to obtain it. But I look upon the theory of rate making underlying it as peculiarly

and stupendously vicious. I favor a fair valuation of the properties of not more than 10 great dominating railway systems, not with a view to making the values found a basis of rates, but in order that when the commission undertakes to establish a rate or a schedule of rates in any particular instance, it may have at hand a minimum standard below which it can not go. That is not any standard prescribed by Congress, but that already fixed in the Constitution. The rule given by Congress to the commission that all rates shall be just and reasonable is the equivalent to no rule at all and leaves with the commission unlimited arbitrary power anywhere and everywhere above the confiscatory point. With the transfer of this great discretionary power I find no fault. It is the best that Congress could do under all the circumstances.

But I am interested in having the power justly and wisely executed in the public interest. And inasmuch as I know that the commission has been controlled in the exercise of power by theories which were subversive of public interests and of great practical and unfair advantage to special interests, I have provided in the substitute bill for a complete reorganization of the commission. The substitute contains a comprehensive new grant of powers to the commission, as heretofore explained, and the people are entitled to have these broad and far-reaching powers exercised by men who are untrammelled by their records and unfettered by their preconceptions of duty under the law. It is provided that the terms of office of the present incumbents shall end upon the appointment of their respective successors, but the present incumbents are not disqualified for reappointment. The membership of the commission is increased from 7 to 15, a provision which is obviously proper and necessary if these important and comprehensive new powers and duties are conferred. But I do not care to go into the details of procedure.

The revision of a vast schedule of rates for one of our great systems, affecting directly the salability and market price of thousands of articles of commerce, consulting and conserving the material interests of all the people of large sections of the country, are of equal importance with a revision of one, and if the power conferred upon Congress herein is not to remain a dead letter, or its exercise not to be purely farcical and perfunctory, this great power must be lodged somewhere. The policy of vesting it in a commission is too firmly established to be reversed; and the time has come when the work of regulation must be begun in earnest. The matter can not longer be trifled with on any shallow pretext or false theory whatever. It is a work having the practical effects of legislation, though the unquestionably constitutional form will be administrative.

There are those, and their number is not small nor are they without influence, who will object to the giving of such large discretionary powers to a commission. But to continue the methods pursued thus far is to make a mere pretense of regulating the rates and service of the railroads. Congress, after illegalizing all except just and reasonable rates, has left the determination of the question of what rates are just and reasonable entirely to the commission with the due process of law clause of the Constitution, forbidding confiscation, as an irreducible minimum, with all the traffic will bear as the maximum limit. The policy and practice of the present commissioners has, as a general rule, allowed the railroads to reach, practice, and maintain the maximum. As to what constitutes a just and reasonable rate is, and under any plan of regulation through a commission that can be devised must ever remain, largely a matter of opinion, and yet it should be understood by the present commission and by any commission that may be appointed hereafter that the freight-paying public will consider any rate too high which gives the carrier too much of the margin of profit between production and sale, a margin which is represented in the selling price and must be divided between producer, carrier, and one or more intermediaries, and that any schedule or system of rates is too high which produces in any one year a large surplus to pay dividends on watered stock, or to be laid out in the same year in additions and permanent improvements. To merely say that rates on a given kind or class of goods, or on a given commodity, are too low, or that they do not yield enough revenue to suitably compensate for the service performed in their transportation proves nothing. Nor would the fact that the service actually cost more than the rate charged necessarily justify an increase of the rate, since many services of carriers are performed at rates which do not equal the cost. Nor would evidence that any single rate produced less revenue than the outlay to have the service performed be accepted as satisfactory proof that such rate was confiscatory or even uneconomical.

These points have been decided and settled from time to time by the courts and by the commission itself, and by such deci-

sions have conclusively established the necessity for the consideration by the commission of the relation of rates and of the combined effect of entire schedules of rates. The commission has in fact, and necessarily, exercised the power to consider such relation, to make comparison of particular rates in issue with rates not in issue—in short, to consider correlated rates in order to reach anything like intelligent conclusions, notwithstanding that the courts have, as before shown, denied to the commission the exercise of any such ample and essential powers.

The railroad managers and representatives earnestly and even persistently cultivate in the people those hopes and fears which make for corporate enrichment and popular loss. To them and their activities more than to aught else is due that morbid appetite for commercial conquest which has led to a wasteful exploitation of our diminishing natural resources. If a few square miles are found remote from railroad lines, the residents of that area are soon convinced of their complete isolation from the balance of the world and made to believe that the only thing needed to insure them plentiful prosperity and content is the advent of a railroad. And urban populations are in divers ways and through various channels and instrumentalities of false construction convinced that any legislative interference with railroad extension is a dire menace to progress, and that the financial condition of the railroads, reflected in earnings and dividends, is the true barometer of general business, and that a showing therein of a large balance in favor of the railroads constitutes the mainspring of universal as well as individual prosperity. Much that is promulgated on this subject begs the question and ignores not only the presence in the statute books of the interstate-commerce act but also the public duties of the carriers.

With a view to promoting general prosperity the carriers would compel large contributions from the purses of rate payers to those who in the opinion of the railroad economists are best qualified to bring about and maintain it by the circulation of money that such extensions would require. The railroad corporations dominate all other business, in addition to having absolute dominion over their own, and often rob particular sections of the country of the advantages which would naturally belong to them by reason of water transportation or otherwise, and the brazen claim is now made that their demand for high rates should be sustained in order that the shortest through route to general prosperity is by way of increased employment for labor by them, to be paid from large surpluses, only possible if high rates be charged and collected.

There was recently published an article by a leading railway president and publicist containing a eulogistic passage concerning the tendency of present freight adjustments to give to purchasers the choice of supply from various producing regions, inducing and compelling competition to hold down prices and give them uniformity. Thus we see that the railroads, while claiming and receiving exemption from each other's competition and clamoring at the doors of Congress to have legalized their practice of eliminating competition by combination, yet claim and exercise the prerogative of promoting and intensifying it among persons engaged in the production and sale of commodities.

The Interstate Commerce Commission made a report in 1904 showing that the railroads were then realizing dividends on their outstanding stocks of 5½ per cent. They also showed that at least one-half of the stocks did not represent any original investment. So the equitable owners of the railroads were then enjoying at least 11 per cent net profits on investments. Since that report was made there have been vast issues of stocks, estimated by competent authorities at \$5,000,000,000. That means upon this new doctrine of "a constant profit" a vast inflation of the mortgages held by the railroad financiers ostensibly upon the properties, but in reality upon the Nation's commerce and industries. Nevertheless, the average dividend rate has increased until, according to the 1910 report of the commission, it averaged 6.43 per cent, and according to the latest report is nearer 7 per cent. And the railway overlords and those who officially favor them now claim that a guaranty of this, or at any rate some fixed income, should become a settled policy of the Government.

As a further illustration of the view taken by railroad managers the testimony of Vice President Gardiner, of the Chicago & North Western, in his testimony taken at Chicago by the Interstate Commerce Commission, in 1910, is interesting. His opinion coincides with that of the commissioners thus far expressed, that the railroads should collect rates high enough to safeguard them against embarrassment and enable them to accumulate surpluses in anticipation of all possible contingencies and periods of general depression, without reference to the

nature or cause of its effect upon other interests. Speaking of the size of this surplus, he said:

It should be large enough, however, as an insurance against the loss of crops for two or three years, or a calamity, or something of that sort. It would take a wise man to say even how much surplus the North Western should have. The directors would be the only body I know of who could say that finally.

I would like to know what Vice President Gardiner and others would say to a proposition coming from the merchants, farmers, and shippers generally of the Northwest that the balance of the people of the country should be compelled to pay them for what they have to sell prices sufficiently above the competitive market price to enable them to carry their indebtedness, pay wages to their employees, profits equivalent to the dividends paid by the railroads, and still enough more for large bank balances to meet all reverses and misfortunes, including those resulting from bad management. And the company for which Mr. Gardiner spoke has carried out his theory in practice. In the past 10 years not only has it paid out of its surplus \$56,000,000 as dividends on \$85,000,000 of capital stock, but accumulated an unappropriated surplus of \$30,000,000, constituting in the aggregate a net return to its stockholders of more than 10 per cent per annum.

In view of the fact that consideration of the pending bills and of my substitute in comparison therewith renders proper, or rather necessary, an examination of the whole subject of railroad finance, I will call attention to the railroad returns for 1910, the latest available which are complete as shown by the report of the commission. It will be remembered that in that year there was a concerted and preconcerted increase of rates, which was checked by timely action on the part of Congress authorizing the commission to suspend the increases and placing on the carriers the burden of proof to show necessity for the increases. The figures for that year are a study by themselves and an object lesson of the limitless greed and rapacity of railroad managers when left without legal check or control. The total net operating revenues—that is, the profits of operation—were \$938,121,000, or an increase over 1909 of \$110,306,000. One significant fact about the figures is that the gross revenues or collections for 1910 were \$335,934,000 more than for the preceding year. For 1909 they were \$2,443,312,000, and for 1910 \$2,799,246,000. At the same rate of increase they will soon reach and pass, if indeed they have not already reached and passed, the three-billion mark, while if the increase in net revenues is maintained, these will soon reach and exceed the billion mark. Another significant fact is that the increase of net, despite all that was then said about increased cost of operation, almost exactly kept pace with the gross increase, being 13½ per cent. It was a substantial increase not only of aggregates and per unit of service but per mile of railroad.

Here are the figures:

	Total average mileage.	Operating revenue per mile.	Operating expense per mile.	Net income per mile.
1909.....	233,002	\$10,486	\$6,983	\$3,553
1910.....	236,690	11,742	7,778	3,964

The ordinary business man may, out of the profits of one year's business, buy an adjoining lot and enlarge his store or otherwise invest money to make it more convenient and attractive. He does not thereby acquire any claim, based on right, to increase the price of his goods, even if not prevented by competitive conditions. He enlarges his plant by investing more money. If he has the capital, so much the better. If he has it not, it may be expedient to borrow it in order to meet the demands of a growing business. In the latter case he must pay interest. In either case he must take the risk and determine at his peril whether the enlargement or addition will result in profit or loss. He never attempts to add the cost of enlargement or the interest on the indebtedness so increased to the price of what he has to sell, but looks to an increased volume of sales at the usual and normal profit. But the railroads object to any such view being taken of their business. Not content to await the growth of business and the rise of normal demand for the utilization of their improved facilities of transportation to restore their cash or meet their obligations, they are constantly insisting upon increases in the price for the service which they furnish and increased profits. Nor is there anything in the bill reported by the committee to prevent or check this tendency and practice of the railroads, but its inevitable effect will be to sanction, aid, and perpetuate it.

There is an important phase of railroad finance which has thus far received very little public attention, but which becomes important in any thorough consideration of the issue presented by the committee bill. Notwithstanding that the railroad corporations have worked up their net revenues from operation to the billion dollar mark, they are in receipt of additional large incomes from investments in what is really a banking or money-lending business. This refers to the large holdings of some of the principal companies in the stocks and bonds of other companies. According to the latest report of the commission on the subject the aggregate of all issues of stocks and bonds is eighteen billions of dollars, of which about four and a half billions are duplications. Most of these duplications consist of "trusteed" stocks, upon which interest-bearing bonds have been issued, constituting two distinct capitalizations, the one concealed beneath the other, upon both of which profits, to wit, dividends on the stocks and interest on the bonds are received by the holding company. But as I went into this phase of the subject at some length on a former occasion I will not now dwell upon it.

The indifference of large shippers with reference to increases of rates by changes of classification is remarkable. This remark is especially applicable to the big eastern shipper. His goods are sold "free on board," and he has no interest in the movement and but little in the rates. He leaves the classification exclusively to the railroads as a matter of no personal concern, and without even noting the changes through which the carriers gradually and almost imperceptibly work up the rates until they are actually unjust and unreasonable, without anybody being able to prove it otherwise than by comparing them with the rates made years ago, the burden being shifted to the West and South. But though we may be unable to trace out and describe the minute steps and processes by which rates have been increased, or the dates and methods, except in particular instances of litigation before the commission, yet we are able to demonstrate from general statistics that there has been a general increase in the cost of transportation. The aggregates of increased earnings and profits are no doubt due in part to increased volume of business, but that falls short of accounting for all of it. If all or nearly all of it were assignable to that cause it would involve the assumption that there had been an abnormal increase in railroad traffic during the last decade, an increase out of due proportion to that shown in the preceding decade, and we know that there was no such disproportion. Nor can it be, except in some small part, attributed to the increased capacity and effectiveness of railroad mechanism, because locomotives and cars had almost reached their maximum capacity and roadbeds had already been placed in good condition 10 years ago. Whether attributable, however, to increased rates or not, this increased and constantly increasing profitableness of railroad operation has its origin in the rates paid by shippers, rates which should be reduced, especially in view of the fact that net earnings have reached a glaring disproportion to the average returns to persons engaged in other occupations.

We all know that this question, presently and prospectively, is one of greatest concern. The question of transportation finance is scarcely less important nationally than that of government finance. The establishment by legislation of an incorrect principle or policy for dealing with the railroads may be as fatal to general prosperity as would be a vital change in our form of government. It is much to be deplored that we can not fully understand the effects of a new economic power until it has grown to gigantic proportions, and even then by long and painful experience. With respect to the railroad-system policy and practices we are now far into, but not near the end of, the educational and experimental stage. We are now in that stage of mental unpreparedness where we are liable to make huge mistakes, to be much regretted afterwards. To pass the committee bill in its present form will in my opinion be such a mistake. We have already endured many of the evils of our almost fatal optimism on this subject. We could not believe that the predicted and threatened abuses of power that we recklessly surrendered to the railroads would occur until after they had occurred in an aggravated form. We feared at first that they would displace labor and in various ways disturb our peace, but we could not foresee that they would turn the advantages we gave them to the complete domination of all other kind of business.

I would not care to go into an analysis of the meaning of railroad finance during the past 35 years. But it should not be overlooked that more than half of the \$8,000,000,000 going into railroad property as the basis for the huge capitalization consisted in profits on profits. That is to say, large surpluses collected from rate payers were used in betterments, extensions, and other improvements and then more money was obtained

from money lenders on these as additional security. Bonds were issued to them and a further drain on the pockets of rate payers thus instituted to keep down the interest as fixed charges. So the people were taxed in the first instance to pay for the improvements, and the same people are now being taxed to pay interest on investments in what might be equitably considered the proceeds from, or profits upon, their own investments. Legally, of course, all these new constructions belong to the railroads, in addition to being a basis for the interest charges, and also operated to earn dividends for the stockholders. But I can not detain you to explain all the intricacies of railroad finance. When, however, we begin to discuss fixed charges and dividends we should fully understand what we are discussing. If any man could exchange eighteen billion quarter dollars, hand them over to the Federal Government, and the Government should hand over in return its perpetual obligations to pay eighteen billion 100-cent dollars, bearing interest at 7 per cent, that would be a fair illustration of what is contemplated in the constant-profit scheme of rate regulation. The man who received and held these obligations would bankrupt the Nation in 50 years. And that is what the railroads will do, if we do not right about face in our views of duty to the people in this matter. We must not permit ourselves to be won over or misled as to the meaning of this self-serving doctrine which seems to have found acceptance by the Interstate Commerce Commission. The rate of interest here specified, waiving the point that part of the investment was of surplus and not original, is really 14 per cent, or nearly five times the rate at which the Government can refund its bonds. What would be thought of us if we authorized and the executive department sanctioned and carried out such a funding scheme with some powerful syndicate enjoying a monopoly of favor just as the railroads enjoy their power in the absence of legal control?

The impossibility of dealing with rate increases and inequalities in detail, or with any such purpose as that of reducing or equalizing them or more equitably distributing them among the 8,000 and more commodities and between the many thousands of shipping points, without conferring additional powers upon the commission must be so clear as to require no elucidation. The equalization, adjustment, and distribution of the increases and changes of rates is being constantly referred to as a science by itself, and one of great difficulty. All writers on the railroad question emphasize the delicacy of the existing rate adjustment and strive to show why the change of a single rate between any two important points necessitates thousands of changes so as to prevent widespread market disturbances, notwithstanding that the carriers have never hesitated to make many rate changes arbitrarily and by sweeping decrees of councils of traffic managers without reference to any rule or scientific basis or knowledge of or regard for the effect of such changes upon producing, shipping, and trading interests. How can the commission ever reach the ends of justice in all these matters without the possession of the broadest and most searching powers?

The fact had better be given recognition now than later, that any effective Government regulation of railroads partakes of the imperialistic, but should never be allowed to become paternalistic. The right to regulate grows out of the interstate-commerce clause of the Constitution and the close connection between interstate carriers and interstate commerce itself, and the regulation itself is the exercise of a power which is to some extent arbitrary. But this attitude toward the carriers should never be held to impose upon the Government an obligation to safeguard the interests of that particular class of persons and corporations engaged in transportation any more than if they were engaged in any other line of business—any more than where the law of the land is enforced against the private citizen. All business is subject and subjected to legal restrictions, regulations, and penal provisions. And in addition to the many laws which encompass the ordinary business man, he is always in contact with the law of competition, from which the railroads find ways to exempt themselves. Any Government going into the insurance business and guaranteeing constant profits in all lines of business would be proclaimed a failure and disappointment, and by none more promptly than by the prudent and conservative business men, the manufacturers, merchants, miners, and farmers of the country.

Much has been said about a claim of great and prosperous lines to enjoy, in form of greater profits, the rewards of superior engineering foresight and managerial ability. It is said that such a great institution should be conceded an organization value in the establishment of rates. Those who make that claim will regard as presumptuous any attempt to answer this plausible claim, appealing as it does to our natural inclination to applaud those who have achieved success in any pursuit or

line of activity. But that the claim is superficial and utterly destitute of merit is not so difficult to demonstrate as it seems to be upon first impression. In the first place it entirely ignores the distinction between private and public service. It must be borne in mind that recognition for this claim is presented at the bar of the legislative body of the Nation and consideration is asked for it as a feature of the pending bill. It is therefore to be treated as a claim preferred for recognition at the hands of the general public, and as such I will examine and discuss it.

In the first place, it entirely ignores the distinction between private and public service. Men devote superior talent and industry to the public on the same terms and subject to the same sovereign powers as they devote talent and industry of mediocre and inferior quality, or as one devotes more and another less of capital. In the second place it is impossible to find any deserving recipient of any reward that it might, upon this new theory be proper to bestow. No man living, nor the descendants of any that have died, are entitled to compensation in any form for projecting, for instance, the New York Central as it was projected. In addition to the fact that the original promoters and builders quickly pocketed great fortunes by manipulating the stocks and bonds, and not by superior public service, is the fact that they enjoyed the favor and aid of State and municipal authorities without which their enterprise and foresight would have availed them nothing. In the third place, speaking now with reference to the present active managers, there is no basis for any claim of superior management. But assuming that the management is excellent, it is a safe assumption that all in a supervisory capacity are in the enjoyment of adequate salaries. Then we have the corporation itself, the nonsentimental figment of the imagination which need not be considered aside from its stockholders. And as to the latter, the question of why their dividends should be rendered constant and secure by action taken by the Government has not been answered and will remain unanswered. Finally, as for the claim of the New York Central and other such companies based on superior management, it does not appear that a well constructed, highly improved, and thoroughly equipped railroad is any more difficult to manage, or even as difficult, as one of a different kind. Of all mechanical appliances that used in the transportation of persons and property from place to place is the simplest, involving a comparatively low degree of mechanical skill.

Of course, a railroad system is complicated in its entirety, as would be a great department store, but the task assigned to each man is simple. Again, transportation considered apart from its instrumentalities is too important a function to come under the absolute unsupervised control of any person or persons, either in an individual or privately organized capacity. It is to modern life what chemical forces, gravitation, and motion are to the earth. It is the one thing that makes production worth while and exchange possible, as the recurrence of the seasons causes vegetation to grow and the fruits of the field to multiply. Therefore these great conquests of the wilderness, these great advances of civilization, for which so much credit is claimed for individuals and corporations, were the mere applications of forces which belong to the whole people. Those in control temporarily of these powerful instrumentalities are the mere accidents of a day. Their achievements were not attributable so much to their superior business sagacity as to popular tolerance, credulity, and optimism.

The railroads are now claiming that rates should be maintained or increased so as to produce surpluses beyond a fair return on existing capitalizations in order to sustain the credit of the railroads. In other words, they expect Congress, the President, the Interstate Commerce Commission, and everybody having anything to do with regulation to depart from all fundamental principles governing railroad rates and set up a new rule, a rule which, while leaving the control of stock and bond issues, as well as the financial and operating control, exclusively in private hands, would impose the duty first upon Congress and then upon the commission, and ultimately upon the people to insure a market price for stocks and bonds such as will facilitate the borrowing of money and steady the market for stocks and bonds. To all familiar with the subject, to all who have in mind the public interest, the proposition is absurd and preposterous on its face. It would impose a task which, even if supportable on any just principle, would be impossible to perform, even though all the constitutional powers of the Government were fully exerted.

The doctrine of an assured constant profit to unwisely projected or badly managed roads was touched upon at the hearing in the rate-advance cases in 1910, but the discussion was quickly dropped and did not receive any further serious consideration.

One of the vice presidents of the Chicago & North Western answering a query of one of the commissioners, said:

I admit that what might be justice to some lesser line would extravagantly increase us, if you please, but I have not the wisdom to say how that thing shall be disposed of.

The people's representatives in Congress and other legislative bodies had been then for a long time insisting upon a reduction of rates and had freely expressed themselves to the effect that substantial reductions should be made. And there are ample reasons for saying that few railroad officials entered upon that scheme of wholesale advances with the expectation that the commission would dare establish the advanced rates as just and reasonable. The purpose of the railroads in taking the action taken by them was, no doubt, to make a demand such as the people are now making for a decrease of rates—a demand which was then and is still being urged—appear preposterous and unreasonable. I, for one, shall be surprised and disappointed if the millions of rate payers in the country allow their just demand for a reduction to be thwarted by such tactics. Of course the heads of some of the weaker roads, those which pretend to be having a hard struggle at best, think that any general reduction of rates would be very harsh and unjust to them, notwithstanding that the maintenance of present rates would unduly enrich the stronger companies, and of course the latter are ever ready to grasp whatever may come within their reach. So that the question finally resolves itself into one of sacrificing general interests to temporarily sustaining and keeping afloat these weak but ambitious enterprises which might otherwise have to liquidate and reorganize on a narrower financial basis.

The rate issue thus shifts and the contest comes on between the people and greatest of all the railroad systems. We are constantly invited to consider, not what is good business policy for the public, but to be profoundly impressed with the promotion of the financial prosperity of private corporations having extensive control of general business interests.

Of course—

Said Mr. McCrea, president of the Pennsylvania, at the rate increase investigation on October 12, 1910—

it would be possible to get money by raising the interest on bonds to a substantially higher level.

But he did not think such a course would be good finance. His alternative was to increase the price of what his company has to sell. To do that is not a difficult task for monopolies of its class, in the absence of objections by the commission. But men in other business, contemplating new acquisitions for enlargement of plant or extension of operations, must obtain the needed funds as best they can and at the prevailing rates of interest. Moreover, they must find the security for their financial accommodations. But these transportation monopolies, now that the trick of concealing surpluses expended under various heads, practiced by them hitherto, is exposed and generally understood, are urging the need for further railroad extensions and facilities, and backing up their demand for high rates with an implied threat that if they be not allowed a free hand in continued and more drastic exploitation of the Nation's freight payers the extensions and facilities will not be provided and that the quality of service which they give their patrons will depreciate. What they really have in reserve is the acquisition of more and more of the weaker lines, further consolidations, and more impregnable monopolies. Any pretense that they intend to stand still is the baldest assumption, and any fear that they may or can create a commercial or financial collapse is groundless. The statement that there has been any advance in the cost of borrowed money except when borrowed by commercial and industrial interests is incredible in view of the fact that nearly all the bonded indebtedness of the New York Central, funded only a few years ago, bears interest at only 3½ per cent and that of the Pennsylvania at even a lower rate. What the railroad presidents say on the subject is, to take a charitable view of it, mere speculation. They make no pretense of ever having even an unpleasant experience in testing the money market. In fact, the financial conditions of all the controlling railroads are such that no test of their ability to borrow money at the lowest rates of interest has been necessary.

In resisting measures looking to effective regulation of their rates and services the railroads are inviting something even more drastic and far-reaching. The high-handed attempt made two years ago to arbitrarily and generally increase their rates aroused the country to a high pitch of indignation and moved Congress to place what proved for that occasion an insuperable obstacle in the way in the form of the burden-of-proof provision. The action thus taken by Congress, the general and widespread discussion which ensued, and the final action adverse to the railroads taken by the commission served to focus public atten-

tion upon railroad management and finance as never before. The whole period was educational. The people will claim the full measure of justice at our hands and in the end will find ways to obtain it. The country is rapidly filling up, population is greater and more homogeneous, and the proportion of articles for use and consumption not produced on the spot but requiring to be transported is increasing year by year. In other words, and in railroad parlance, the traffic is becoming denser, and all these are pointing to the necessity for lower rates. That necessity will not regard with favor any law not having for its primary object the common interest.

I will now call attention to certain phraseology of the Adamson, or committee, bill. I pass by for the present the fact that the investigation which the commission is to undertake covers so many important subjects and so many conditions which are constantly changing that it can never be concluded. The bill limits the commission to no standard or rule of procedure and confers the widest range of authority. Among other matters, it is authorized to—

ascertain and report in such detail as it may deem necessary as to each piece of property owned or used by said common carrier, the original cost for railway purposes, the cost and value to the present owner, and what increase in value is due to cost of improvements. Such investigation and report shall also show separately that property actually used in transportation and that held for other purposes, and shall contain a statement of the elements forming the basis of the estimate of value.

What I have quoted is but a fraction of all that the bill authorizes the commission to do at public expense, much the larger proportion of it being, in my judgment, not only entirely futile and worthless if done but impossible of being done at all. In the midst of many authorizations is the ascertainment of the value of each piece of property to the present owner and in each instance the elements forming the basis of the estimate of value. One of the meanings which I extract from all the verbiage used is that a valuation shall be placed upon railroad property as such. To value the right of way of the Pennsylvania through the gaps and narrow valleys of the Alleghenies and of the New York Central along the Hudson or of their terminal facilities in New York City for railroad purposes is to place valuations upon properties which are essentially and unqualifiedly monopolistic. The task would be vain even if possible. It would be like attempting to value the taxing and governing powers of a State or city. The bill contains not even an intimation of what the commission shall do with its valuation and report when completed; and I now call attention to the fact that the commission would be, according to its own oft-repeated declarations, at a loss as to the use to make of it.

Without quoting from the hearings before the committee, I call attention to the fact that the commissioners appearing and making statements were even more vague and noncommittal as to any uses that might be made of their valuation, notwithstanding their willingness to undertake the labor, with its incidental expenditure of millions of dollars.

I will now state what I consider a very important practical objection to making the investment a standard. Some railroads were started with very small original investments of private capital. For instance, the Union Pacific and Central Pacific, now a continuous line from Council Bluffs to San Francisco, were started with enormous land grants and Government guaranties, out of which the roads were built and equipped, leaving to the stockholders the stocks and to the corporations extensive areas of land which cost them nothing. The Union Pacific was subsequently bankrupted to construct the Oregon Short Line and other unprofitable branches, and the Central Pacific was brought to the verge of insolvency by a diversion of business to the Southern Pacific. After that the revenues of the Union Pacific and Central Pacific became very large. Enormous sums were taken from earnings and invested in betterments, additions, and branch lines, still leaving a great annual surplus for dividends. Now, take the Sante Fe, a competing line: It represents a very large percentage of original investment, but a great deal less money has been used in its construction per average mile than in the cases of the Union Pacific and Central Pacific, notwithstanding that it is just as efficient and necessary. Now, suppose you take investment as a standard, without distinguishing between original investment and investment out of income. First you would authorize the Union Pacific and Central Pacific lines to fix much higher rates from Missouri River points to the Pacific than those fixed by the Sante Fe. To say nothing of its primary injustice, that would at once divert the great bulk of traffic to the Sante Fe and defeat the very purpose of giving the Union Pacific and Central Pacific lines the higher rate.

But many roads other than the Union Pacific have been built up almost entirely out of earnings. For instance, the original invest-

ment in the Erie was much less than in the Pennsylvania, and yet the ultimate cost of the Erie was double per average mile that of either the Pennsylvania or the New York Central, owing to engineering difficulties. The inherent injustice of allowing rates to pay income on reinvestments of earnings is shown by Commissioner Lane's report in the recent rate-increase cases and illustrated by the result, if the theory were applied to the Burlington. (See p. 28 et seq. of Commissioner Lane's report in rate-advance cases.)

I also find very serious objections to making a separate valuation of each corporate property a rigid basis of rates. There would result nonpermissible inequalities. But that objection would be to a great extent obviated by making valuations in the aggregate of whole systems, as is provided for in my substitute. I suppose if you value the thousands of miles of the Pennsylvania system and the thousands of miles of the New York Central system you will not find a material difference per average mile. The deduction for obsolescence and depreciation will constitute an enormous subtraction from cost in many instances. The Pennsylvania will under my plan have its New York City and West Philadelphia improvements valued, but much of their total will be subtracted from cost of Jersey City and Broad Street terminals. But in each of the exceptional values it is to be spread over thousands of miles. And you may remember it is my plan to directly regulate these dominating lines and thus indirectly regulate the secondary or dependent lines.

I find some foundation for the objection recently advanced that a valuation would in some instances equal or exceed the capitalization. But you will note that I have anticipated that objection. With reference to equipment and trackage I make cost of reproduction, less a deduction for obsolescence, the standard or measure of value, in addition to averaging the mileage. I think we have no reason to fear that an excessive valuation would result if to this were added the land values of rights of way, terminal, and station grounds (actually used), plus actual cost (less depreciation) of improvements.

There remains to be noticed the objection that much, and in some instances nearly all, of the value was contributed out of earnings and were in fact contributed by rate payers. But, except in aggravated cases, which I think might be dealt with by the commission under power given it in the substitute to establish additional rules, I do not think it either just or expedient at this late date to rigidly distinguish between the values created by original investment and those added from current revenues. Nearly all the capital now employed in farming, manufacturing, and in trade represents surpluses resulting from farming, manufacturing, and trade. Besides, the difficulty, or rather impossibility, of segregating investment from reinvestment in these lines I could see no justice in it, if proposed with a view to giving them different treatment in legislation. I am aware that effective regulation requires a departure from the prevailing habit of thought, and that railroad properties must be recognized and treated more and more as governmental instrumentalities and less as subjects for private investment and profit. But if we try to begin upon too low a level we may not be able to begin at all. We have been discussing the subject of making a valuation or appraisal for years. Some one should come forward with a concrete plan. If the plan I propose in this substitute is not the best, let us hear from others and adopt the best. As for myself, I assure you that I am open-minded on the question.

I had thought of asking for the views of the Interstate Commerce Commissioners and others before introducing a substitute, but I know I would find them timid and unprepared. The quickest way to stimulate thought, elicit expression, and get it is to introduce a bill containing a practical, progressive plan, and get the question before the House.

This plan is not too moderate or conservative. It will not satisfy the railroads. They will strenuously object to the exclusion of so-called franchises or good will. Most of them will begin lobbying against it, and keep it up to the end.

It hardly seems necessary on this occasion to further call attention to amendments which should be made to the interstate-commerce act to make it effective. The whole mass of existing legislation, although much of it was well directed and intended, has proven ineffective to prevent an enormous increase of aggregate cost of transportation, dangerous massing and concentration of wealth with attendant general distress, and enormous and startling inflation of corporate securities, the dividend and interest charges on which constitute an ever-increasing burden and drain from all business and all industry.

If I am not much mistaken, there has been thus far no real bona fide regulation of interstate commerce. There is a total lack of mandatory rules of procedure for the commission, and

so much is left to discretion that the commissioners can, without a violation of law, exercise at once and over the whole subject powers which are as extensive as and, in some respects, more extensive than those exercised by either of the three departments of the Government or by all combined.

The present law amounts to just this: The carriers shall deal fairly by the public, and when a question of fairness or unfairness is raised the commission shall sit as an arbitration board with full powers in the premises. The reports in the rate-increase cases fully supports this view. I understand from these reports that the value of property devoted to the public use, even if any satisfactory proof of it had been made, would have constituted only one of many important elements in the case. And I infer from the language of both Lane and Prouty, commissioners, that if the railroads had made strong showings as to revenue requirements many of the proposed increases would have been allowed. Be that as it may, it is a fact, one which should arouse serious concern, that the railroads are now engaged in the preparation of a valuation of their properties to be used in making up a case upon which the commission can not reasonably prevent further increases in their rates. So the issue before the commission between the carriers and the public has been within two years converted from one raised by shippers demanding a reduction of rates to one now raised by the railroads for an increase. Though widespread protest, amounting almost to a popular uprising, stand in the way of a wholesale increase, practically the same end may now be reached gradually, covertly, and in detail, and without attracting public attention.

Transportation rates, both for freight and passengers, are too high in this country, and if I had the power I would materially reduce them. Measures of public justice are often harsh. And if rates were properly reduced on the great dominating railways, that would without any further legislative act whatever force several important and many unimportant railroad companies into receiverships and reorganizations. And yet, sooner or later, Congress must assert its constitutional powers.

Why do newspapers, lawmakers, and Interstate Commerce Commissioners discuss this as they would a humanitarian question? The corporations are artificial, nonsentient. The officers and agents are presumably interested only to the extent of their salaries, which are not to be affected by any reduction proposed by anyone. The stockholders are but a small percentage of the entire population, having no better right to obstruct measures in the public interest than have the smallest beneficiaries of exorbitant taxation.

While the commission now has unlimited discretion in determining the reasonable rate and in allowing a just and reasonable or in disallowing an increased rate, it has no power to increase a rate. Lacking this, it can not take up a schedule of rates in which inequalities and discriminations exist and adjust and equalize them. If, to illustrate, the commission could increase the rates of sugar and coal going West, that would permit of a material reduction on many other commodities without or with only moderate diminution of revenues. This would also diminish the power of the sugar trust and coal trust to injure western interests. The commission should be given the power to revise and readjust whole schedules. In other words, it should be given real rate-making power. Along with this increase should come a numerical increase in the membership of the commission and its division into departments.

And in view of the fact that the railroads have been vastly aided and benefited by the existence and work of the commission, the fee system ought to be established requiring them, in each instance of a decision adverse to the carrier, to pay all the costs and expenses of the contest. I have not seen fit to provide for that in the substitute because I did not care to insert a mere matter of detail upon which there might arise wide differences of opinion and extensive discussion, but I would heartily accept an amendment to that effect. Undoubtedly Congress should give attention to the great and increasing expenses of the commission, and the institution of the fee system would much more than offset the increased cost to result from enlarging the membership of the commission.

Notwithstanding the extreme length of my discourse, I have not said all that I would like to have said nor have I explained all the features of the substitute which I ask you and each of you to carefully examine. The subject is one the importance of which is second to none with which we have to deal. Indeed, the problem of railroad transportation, especially the monopoly and cost phases of it, is of such magnitude as to cast a shadow over the land; but I trust we shall prove equal to meeting it courageously and dealing with it intelligently and justly.

Mr. HOBSON. Mr. Chairman, I ask unanimous consent to extend my remarks in the Record.

The CHAIRMAN. The gentleman from Alabama [Mr. HOBSON] asks unanimous consent to extend his remarks in the Record. Is there objection?

There was no objection.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield to the gentleman from Illinois [Mr. MANN] 10 minutes.

Mr. MANN. Mr. Chairman, it will be noted that the bill itself provides that the commission shall investigate and ascertain the value of the property of every common carrier subject to the provisions of this act and used by it for the convenience of the public. It is to ascertain the value of the property. In making investigation the bill further provides that the commission shall ascertain and report in such detail as they may deem necessary as to each piece of property owned or used by the carrier, the original cost for railroad purposes, the cost and value to the present owner, and what increase in value is due to cost of improvements. Then the bill provides that the valuation made by the commission shall be fixed and considered as final. What is that valuation made by the commission? It is the value of the property to the present owner, so far as we can ascertain from the bill; the valuation of the property of the carrier, used by it for the convenience of the public, to the present owner. It is true the bill provides the ascertainment of the original cost for railway purposes and what increase in value is due to the cost of improvements; but the value which is finally to be ascertained is the value of the property to the present owner. All of the rest of the detail provided in the bill is a mere method of making the valuation, which ought to be left out of the bill, because the commission itself ought to be the ones who are the best judges as to the method of proceeding and making a valuation for their information and their benefit when they arrive at a judgment concerning the rates. This valuation, if no protest is filed by the railroad company, becomes final, but if a protest is filed by the railway the commission is obliged to take the protest into consideration.

I am not entirely clear as to what will be the result of ascertaining the present value to the railway companies of the property used for railway purposes. Some years ago a railroad desired to enter the city of Chicago and expended for that purpose, I believe, some \$10,000,000 or \$15,000,000 to have the right of way into the city. That road and another road somewhat similarly situated have no such right of way yet, but some of the original road that came into the city of Chicago. Those original rights of way cost very little. The Illinois Central Railroad, which comes into the city of Chicago along the lake front, with which most of you are familiar, came in over the lake bed, and cost practically nothing at the time. The value of that right of way to the present owner of it amounts to millions upon millions of dollars now. It could not be replaced to the Illinois Central Railroad probably for \$50,000,000.

Under the provisions of this bill the commission is required to ascertain the present value to the railroad company of that roadway, and it is supposed to take that into consideration in fixing the rates of the railroad. Of course there is no other object in ascertaining the value of this property on this basis except as it may affect the fixing of railroad rates. There is not a railroad in the United States probably passing through towns that have grown in size since the road was constructed where the present value of that property to the railroad company for its uses does not far exceed not only the cost to the railroad company but its capitalization, which it goes into and helps make up.

There are people who believe that you can take the value of any one railroad property and thereby determine absolutely the rate. There are seven or eight or nine trunk lines between Chicago and New York, all engaged in carrying in competition freight between those points. Some of those roads run fairly directly between Chicago and New York. Some of them run through Kentucky and Virginia; some through Canada. The roads which have the nearest routes probably cost the least. I do not know. The roads which have the longest routes probably carry the freight the cheapest. The longer routes require a little cheaper freight rate in order to get the freight carried over that line, because few shippers will prefer to send their freight up through Canada and around through the New England States in order to reach New York when they can send it directly east over the Lake Shore or the Pennsylvania Railroad. And yet it is perfectly patent to anyone that after you arrive at the physical valuation, or the present value, or whatever you please, the capitalization of those roads—and they will not be the same—the rate that is to be fixed must be the same, practically speaking. The Pennsylvania Railroad Co. can not make a different freight rate between Chicago and New York from that of the Lake Shore and the New York Central Railroad Co., and the Canadian railroad company can not make a rate much

different, at least, from the roads which run through Kentucky—the Big Four and the Chesapeake & Ohio.

The valuation of the railroads ought to be known. In my judgment the original interstate-commerce law gives to the Interstate Commerce Commission the power to make a physical valuation of the railroads or to acquire any other information which relates to the railroad business. It is possibly true that they have not done so because of a lack of appropriations. It is mainly true, I think, because they thought it was easier to keep on telling Congress how much they needed the power to make the valuation instead of doing that which they already had the power to do. It became the custom of the commission in every one of its annual reports to ask for increased authority from Congress. I presume that custom will continue, no matter what Congress does, although I am in favor, so far as I am concerned—as we have undertaken to carry out the theory of letting the Interstate Commerce Commission practically manage the railroads of the country—of giving them all the information that is possible.

I do not believe the present bill, if enacted into law, will accomplish a great deal of good. It will not fix rates by ascertaining the present value of the property. What we ought to do is to govern and regulate the issuance of stocks and bonds by the railroad companies and prevent the manipulation of stocks and bonds by a few gentlemen for their own benefit with secret information which they obtain. I wish I could have my way, so that every man and woman in the United States who desired to invest a little of savings might know something true in reference to the stocks and bonds which they might desire to buy, and then feel that that investment on their part could not be taken away from them by manipulation, which has been the custom in the past. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield five minutes of my time to the gentleman from Kansas [Mr. CAMPBELL].

The CHAIRMAN. The gentleman from Kansas [Mr. CAMPBELL] is recognized for five minutes.

Mr. CAMPBELL. Mr. Chairman, I shall vote for this bill, although I regard it as incomplete. Merely providing for finding the valuation of railroads accomplishes but a short step in the right direction. The provision in the Mann bill as it passed the House in the Sixty-first Congress on this subject was more complete, and it is unfortunate that that provision went out of the bill in another part of the Capitol, where it was contended that Federal control of the issuance of stocks and bonds of railroads was an interference with the doctrine of State rights. So I assume this bill is the best we can hope for at this time.

Two results should follow the ascertainment of the valuation of railroads: First of all, a regulation of the issuance of their stocks and bonds. The gentleman from Illinois [Mr. MANN] closed as I would begin, if I had the time, with a discussion of one of the most vital subjects connected with this matter—the issuance of stocks and bonds of common carriers. Every investor ought to know, by the valuation of the property, what his stock is worth. He ought to know the amount of stock that has been issued, the amount of bonds that have been issued, and by that be able to place some value upon the property that he has purchased. Then let the manipulators manipulate. Then let the stock gamblers gamble. If the investor who owns the stock does not see fit to throw his property upon the market for sale, it will still represent a value based upon the actual value of the road.

The time is coming when investors will be found in every part of the country who will purchase stocks of the transportation companies of the country, and that sort of investment should be encouraged.

The stock of transportation companies ought to be made a safe investment for every person who has the money to invest.

It ought not to be a speculation or perhaps, more properly, gambling. The matter ought not to be left to the manipulators who sometimes gamble in the price of the stocks of railroad companies. This has been done and no doubt will continue to be done until either the State where the gambling places are operated or the Nation that controls interstate commerce shall find a way to put a stop to that species of stock manipulation and gambling. The day is past when promoters should have the right to fix the amount of either the capital stock or the bonded indebtedness of railroads without limit or check upon them.

The bill therefore ought to be completed by providing for a control of the issuance of stocks and bonds of these companies, based upon the valuation as found by the commission.

Then the second step should follow, that of fixing rates upon the valuation so found. The discussion by Members here this

afternoon has related almost wholly to the question of freight rates, while as a matter of fact the bill does not provide for the fixing of rates at all.

Mr. CULLOP. I would like to ask the gentleman from Kansas a question.

Mr. CAMPBELL. Yes.

Mr. CULLOP. Is it the gentleman's idea that there ought to be a provision in the bill that when the commission ascertains the value of the property all stocks in excess of the ascertained value shall be canceled?

Mr. CAMPBELL. No; increases prohibited in the future.

Mr. CULLOP. But the stock has already been issued. These corporations exist. They are organized in the States, under State laws.

Mr. CAMPBELL. I understand that, but Congress assumes the right here to find the valuation of railroad property. It does not do so to gratify the caprices of the Interstate Commerce Commission, and it should be for the purpose of fixing the amount of stock or bonds that may be issued upon railway property in the future and to fix rates.

Mr. CULLOP. It would give notice by such reports to the public of the excess in amount of stock over the actual value of the property, but it is also for the purpose of ascertaining the facts upon which an equitable rate can be established.

Mr. CAMPBELL. The bill does not so provide, and I want to call attention to that if the gentleman will let me have my time. I listened with a great deal of interest to the remarks of the gentleman from Indiana on this subject. Until this afternoon I had heard it said that the tariff alone was responsible for the high cost of living; but after listening to the gentleman from Indiana I came to the conclusion that, after all, the campaign of last fall was made upon an entirely erroneous hypothesis, and that the cost of living is attributable wholly to the high cost of transportation on the railroads. But this bill does not propose that the value of the railroads shall be used as a measure for fixing rates.

Mr. CULLOP. I beg the gentleman's pardon. That is one of the elements that enters into it.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. STEVENS of Minnesota. I yield two minutes more to the gentleman from Kansas.

Mr. CAMPBELL. My contention is that this bill should provide that the information obtained as to the value of railroads shall be used as a basis for fixing rates. Otherwise, what is the object of ascertaining the value of the property if not for the purpose of fixing the amount of stocks and bonds that shall be issued and the freight and passenger rates that may be charged in the use of the property of the common carriers? Believing that the information the commission is authorized to get by this bill may be put to these uses, I shall vote for the bill.

Mr. STEVENS of Minnesota. Mr. Chairman, I now yield to the gentleman from Wisconsin [Mr. ESCH].

Mr. ESCH. Mr. Chairman, I ask unanimous consent to revise and extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield to the gentleman from Oregon [Mr. LAFFERTY] five minutes.

Mr. LAFFERTY. Mr. Chairman, I desire merely to make a general observation.

In my travels over the country I have not found any man who wants any corporation to give him anything or to sell him anything for less than what it is reasonably worth, and the idea that is now in the minds of the American people, known as the Progressive movement, does not mean anything more than that they desire laws passed by Congress that will provide that they shall not be charged unreasonable rates by public-utility corporations and that they shall not be charged unreasonable prices by industrial corporations that have acquired monopolies in their several lines of business.

The remedy is simple. Whenever you get a majority of men in Congress who desire to serve the public it will not require the brains of a Daniel Webster, of a John C. Calhoun, of a James G. Blaine to formulate laws suitable to meet the present situation in the United States. The only requirement is that we get a majority of men in our legislative bodies, both in the States and in the United States, who desire to do the right thing.

Now, for years there has been an agitation in favor of giving to the Interstate Commerce Commission the power to make physical valuation of the property of the common carriers coming under the interstate-commerce act. I desire to congratulate

the committee for having reported this bill, also the Committee on Rules for having brought in a rule making it a privileged bill, and to congratulate the majority party in control of this House at this time upon its certain passage. You are on the right track, and so long as you stay on the right track you will enjoy the confidence of the American people.

I agree entirely with the minority leader in the comments he made here this afternoon and the comments of several of my colleagues on the Republican side of this House that this bill does not go far enough. It should be made broader; it should specify that the making of this valuation of the common carriers is for the purpose of fixing reasonable rates; and it should specify also that the Interstate Commerce Commission may regulate the issuance of stocks and bonds in the matter of carriers engaged in interstate commerce.

But I wish to be frank enough as a member of the Republican Party to say that our party was in control here for 16 years and did not give to the country as good a bill as this in this connection.

Mr. MADDEN. We passed one in the House, I think, in 1910. I introduced the bill.

Mr. LAFFERTY. My colleague reminds me that a bill of this character was passed in the House. I was not aware of that, and I want to say that the Republican House that passed it is entitled to great credit. However, we are all here now to represent the country regardless of party lines, regardless of any other considerations than those of the public welfare. That is why, Mr. Chairman, I desire to remind my colleagues that as poor as I may be in merit and ability I went back to my district and was reelected by an increased majority on the 5th day of last month. Any Member of this House who comes here and serves the public to the best of his ability, as he holds up his hand and takes a solemn oath that he will do, will be trusted by the people of this country. Of course we may be misrepresented and may not be able to meet the false accusations, but if the man is in reasonably good health and has a good nervous system and gets out and meets the opposition in an open fight he will win out.

The point I desired to make was that the people of the United States do not demand anything radical or unreasonable. We had a little illustration of the conservatism of the people in Oregon at the election on the 5th of last month. A proposition was submitted to pass a graduated income-tax law.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

Mr. STEVENS of Minnesota. Mr. Chairman, I yield five minutes more to the gentleman.

Mr. LAFFERTY. Mr. Chairman, the proposition was submitted to the vote of the people as to whether we would adopt a graduated single tax which provided that any man owning more than \$10,000 worth of real estate should pay a specific, graduated tax of \$2.50 per thousand, and so on up, as the amount of his holdings increased, until it got to \$30 a thousand on \$100,000 and over. Naturally, nine voters out of ten who went into the voting booths on the 5th of last month in Oregon would have benefited upon the surface of things by the passage of such a law. If the voters were actuated by their selfish interests, if they did not look beyond that, they would have passed the graduated single tax. It was urged by the Fels fund commission, and was ably presented in an argument to the voters and in the voters' pamphlet of that State. Yet the people of Oregon went into the polls and defeated that constitutional amendment by a vote of 5 to 2. That is only an illustration going to show that you can trust the people to be conservative and that they will not pass a law until thoroughly satisfied that it will work no injustice to any man.

In conclusion, permit me to say that when each State in this Union has created a State public-service commission having the power to fix the rates of monopolies doing business wholly within the State, and the power to make physical valuations to that end, and when Congress has made the Interstate Commerce Commission a Federal public-service commission for the same purpose, having jurisdiction over interstate monopolies, the question of the control of monopolies will have been settled. And when you reduce the tariff properly—and I am in favor of a reasonable protection for the people of this country—and provide for an asset currency to prevent a few men in Wall Street from cornering our money and bringing on a panic whenever they feel like it, you will enjoy in this country, in the future as in the past, the greatest advancement, both moral and temporal, of any country in the world. [Applause.]

Mr. SIMS. Mr. Chairman, I think that the bill has been so ably and thoroughly and exhaustively discussed in general debate that we may close the general debate at this time and read

the bill for amendment under the five-minute rule. If no one wishes to use further time, I will ask that that be done.

The CHAIRMAN. Without objection, the Clerk will read the bill for amendment under the five-minute rule.

There was no objection, and the Clerk read as follows:

Be it enacted, etc., That section 19 of an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, be amended by adding thereto a new section, to be known as section 19a and to read as follows:

Mr. MANN. Mr. Chairman, I desire to propound a parliamentary inquiry. This bill consists of one section and a number of paragraphs. Is it subject to amendment by paragraphs, or may amendments to any part be offered at the conclusion of the reading of the entire bill?

The CHAIRMAN. The Chair understands that this bill is subject to amendment by sections only.

Mr. MANN. There is but one section in the bill.

The CHAIRMAN. It so appears to the Chair. The Clerk will read.

The Clerk read as follows:

SEC. 19a. That the commission shall investigate and ascertain the value of the property of every common carrier subject to the provisions of this act and used by it for the convenience of the public. For the purpose of such an investigation and ascertainment of value the commission is authorized to employ such engineers, experts, and other assistants as may be necessary, who shall have power to administer oaths, examine witnesses, and take testimony. The value shall be ascertained by means of an inventory which shall list the property of every common carrier subject to the provisions of this act in detail, and shall classify the physical elements of such property in conformity with the classification of expenditures for road and equipment, as prescribed by the Interstate Commerce Commission.

In such investigation said commission shall have authority to ascertain and report, in such detail as it may deem necessary, as to each piece of property owned or used by said common carrier, the original cost for railway purposes, the cost and value to the present owner, and what increase in value is due to cost of improvements. Such investigation and report shall also show separately that property actually used in transportation and that held for other purposes, and shall contain a statement of the elements forming the basis of the estimate of value. They should also show, as the commission may deem necessary, the history of the organization of the present corporation operating such property or of any previous corporation operating such property in such detail as may be deemed necessary, and any increases or decreases of capital stock in any reorganizations, and moneys received by any of such corporations by reason of any issues of stocks, bonds, or other securities, or from the net and gross earnings of such companies, and how the moneys were expended or paid out for the purposes of such payments.

The said investigation and report shall also show the amounts and dates of all bonds outstanding against each public-service corporation and the amount paid therefor, and the names of all stockholders and bondholders with the amount held by each, and also the name of each director on each board of directors; and find and report the facts as to the connection of any bank or bankers, capitalist or association of capitalists, or financial institution or holding company with the ownership, manipulation, management, or control of any stocks and bonds of any such company, and the transactions and connections of any bank or banker, financier, financial institution, or holding company with the reorganization of any such company in recent years.

The commission shall have power to prescribe the method of procedure to be followed in the conduct of the investigation, the form in which the results of the valuation shall be submitted, and the classification of the elements that constitute the ascertained value, and such investigation shall show the value of the property of every common carrier as a whole and the value of its property in each of the several States and Territories and the District of Columbia.

Such investigation shall be commenced within 60 days after the approval of this act and shall be prosecuted with diligence and thoroughness, and the result thereof reported to Congress at the beginning of each regular session thereafter until completed.

Every common carrier subject to the provisions of this act shall furnish to the commission or its agents from time to time and as the commission may require maps, profiles, contracts, reports of engineers, and any other documents, records, and papers, or copies of any or all of the same, in aid of such investigation and determination of the value of the property of said common carrier, and shall grant to all agents of the commission free access to its right of way, its property, and its accounts, records, and memoranda whenever and wherever requested by any such duly authorized agent, and every common carrier is hereby directed and required to cooperate with and aid the commission in the work of the valuation of its property in such further particulars and to such extent as the commission may require and direct, and all rules and regulations made by the commission for the purpose of administering the provisions of this section and section 20 of this act shall have the full force and effect of law.

Upon the completion of the valuation herein provided for the commission shall thereafter in like manner keep itself informed of all extensions and improvements or other changes in the condition and value of the property of all common carriers, and shall ascertain the value thereof, and shall from time to time, as may be required for the proper regulation of such common carriers under the provisions of this act, revise and correct its valuation of property, which shall be reported to Congress at the beginning of each regular session.

To enable the commission to make such changes and corrections in its valuation, every common carrier subject to the provisions of this act shall report currently to the commission, and as the commission may require, all improvements and changes in its property, and file with the commission copies of all contracts for such improvements and changes at the time the same are executed.

Whenever the commission shall have completed the valuation of the property of any common carrier, and before said valuation shall become final, the commission shall give notice by registered letter to the said carrier, stating the valuation placed upon the several classes of property of said carrier, and shall allow the carrier 30 days in which to file

a protest of the same with the commission. If no protest is filed within 30 days, said valuation shall become final.

If notice of protest is filed by any common carrier, the commission shall fix a time for hearing the same, and shall proceed as promptly as may be to hear and consider any matter relative and material thereto which may be presented by such common carrier in support of its protest so filed as aforesaid. If after hearing any protest of such valuation under the provisions of this act the commission shall be of the opinion that its valuation is incorrect, it shall make such changes as may be necessary, and shall issue an order making such corrected valuation final. All final valuations by the commission and the classification thereof shall be published and shall be prima facie evidence relative to the value of the property in all proceedings under this act.

The provisions of this section shall apply to receivers of carriers and operating trustees. In case of failure or refusal on the part of any carrier, receiver, or trustee to comply with all the requirements of this act and in the manner prescribed by the commission such carrier, receiver, or trustee shall forfeit to the United States the sum of \$500 for each such offense and for each and every day of the continuance of such offense, such forfeitures to be recoverable in the same manner as other forfeitures provided for in this act.

That the district courts of the United States shall have jurisdiction, upon the application of the Attorney General of the United States at the request of the commission, alleging a failure to comply with or a violation of any of the provisions of this act by any common carrier, to issue a writ or writs of mandamus commanding such common carrier to comply with the provisions of this act.

Mr. SABATH. Mr. Chairman, I offer the following amendment: On page 6, line 19, substitute the word "section" in place of the word "act," after the word "this."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 6, line 19, strike out the word "act" and insert in lieu thereof the word "section."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was agreed to.

Mr. SABATH. Mr. Chairman, also amend, on page 7, line 5, by substituting the word "section" for the word "act."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 7, line 5, strike out the word "act" and insert in lieu thereof the word "section."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SABATH. Also, amend by striking out the word "act" and inserting in lieu thereof the word "section," on line 7, page 7.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 7, line 7, strike out the word "act" and insert in lieu thereof the word "section."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STEVENS of Minnesota. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 5, line 10, by adding after the word "property" the following: "showing such revision and correction as a whole and in each of the several States and Territories and the District of Columbia."

Mr. STEVENS of Minnesota. Exactly the same language is used on page 4, lines 3 and 4, so that not only the original report but all subsequent reports shall conform to the State laws as much as may be possible. That will coordinate with the State authorities.

The question was taken, and the amendment was agreed to.

Mr. HARDY. Mr. Chairman, I wish to make a suggestion, with some hesitation, and still I believe it is an improvement. In line 8, page 3, the words "for the purposes of such payment," seem to me to be surplusage or to convey no clear meaning, because there are no payments mentioned above, and "such payments" seems to refer to something foregoing. I think the sentence would be complete just to let it end with the word "out," so that that part of the sentence would read "the net and gross earnings of such companies, and how the moneys were expended or paid out." I would strike out all after the word "out," in line 8.

Mr. MANN. Will the gentleman yield?

Mr. HARDY. Certainly.

Mr. MANN. I think the word "for" ought to be made "and"—"and the purpose of such payments."

Mr. HARDY. Well, with the word "and" it would be all right.

Mr. MANN. It may possibly be a misprint somewhere.

Mr. HARDY. I will offer, then, the amendment to strike out the word "for" and substitute the word "and." However, that would still leave in the words "such payments," when there are no payments referred to before that.

Mr. MANN. It provides for the moneys expended and paid out and the purposes of such payments.

Mr. HARDY. I will make the motion to strike out the word "for" and insert the word "and."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 3, line 8, by striking out the word "for" and inserting in lieu thereof the word "and."

The question was taken, and the amendment was agreed to.

Mr. LENROOT. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

In line 2, page 2, insert, before the word "property," the word "physical"; also, in line 2, page 4, insert, before the word "property," the word "physical."

Mr. LENROOT. Mr. Chairman, I do not know I can add anything more to what I said when I had the floor before with reference to this question, but the more I think of the matter the more important it seems to me that this valuation of the commission should be confined to a physical valuation of the property. Now, it has been said during the afternoon a number of times that this valuation was not necessarily for rate-making purposes at all, but I call the attention of the committee to this fact—that this valuation must be for no other purpose, for the bill itself provides for a valuation when certain procedure has been taken, so it seems to me that it is for no other purpose than the purpose of a basis for making rates. Now, I want particularly to call the attention of the committee to the familiar and leading case of Smyth against Ames. There it is held:

We hold, however, that the basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public.

Just exactly what is proposed to be done by the bill in its present form, the fair value of the property of the carrier. Then the decision goes on to say:

And in order to ascertain that value, the original cost of construction, the amount expended in permanent improvement, the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statutes, and the sum required to meet operating expenses are all matters for consideration and are to be given such weight as may be just and right in each case.

Now, there are several elements that the Supreme Court speaks of in this case that are to be considered in arriving at the value, but there are only three of those elements that relate to the physical valuation of the property.

A great many illustrations have been given this afternoon, or a great many questions asked, as to what shall be done in a given case. For instance, by the gentleman from Pennsylvania [Mr. ORNSTED]. Here is one railroad, the cost of which was twice, perhaps, the cost of another, and the value actually might be twice the value of another, and yet as the bill reads in its present form you are asking the commission, you are compelling the commission, in an ex parte proceeding, to find the value of those two roads, and when they have found the value the commission itself will be governed by the value so found, for it is the value of the property that becomes the basis for rate-making purposes.

Now, I do insist that that question, so far as the ultimate question of value is concerned, should not be left to be decided in this ex parte proceeding. When we have the physical valuation we have one of the indispensable elements that are necessary. The commission should have that, should keep it revised from time to time, but in determining the ultimate question of value of a given property of a common carrier, it seems to me that with this information they should be left free to make that value in a given case when the carrier itself has an opportunity to be heard and presents all the facts before it.

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

Mr. LENROOT. Certainly.

Mr. MANN. Is the gentleman convinced that in making the rates the court ought not, or can not, or will not, take into consideration the value of a franchise?

Mr. LENROOT. Not at all.

Mr. MANN. Well, if you are to obtain the value of a property as an aid to rate making, is it not desirable to obtain both the value of the physical property and also the value of the franchise?

Mr. LENROOT. That might be.

Mr. MANN. Would not that be the case under the provisions of this bill?

Mr. LENROOT. That is the point exactly. They might find the value of a franchise, and find the value of a great many

other intangible things that become settled—that become final—in this ex parte proceeding. But I say that ought not to be done in that kind of proceeding, because those things can be determined in a given case by testimony. It is the physical valuation that takes one or two or three years of time. It is that valuation that the Interstate Commerce Commission has been asking for; it is that valuation that the commission could not get under the 9 or 10 months' suspension of the interstate commerce law.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. LENROOT] has expired.

Mr. MANN. Mr. Chairman, I ask unanimous consent that the gentleman may have five minutes more.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the gentleman from Wisconsin have five minutes more. Is there objection?

There was no objection.

Mr. MANN. Here is the point I wanted to get at: The ascertainment of this information is for the aid of the commission. They may have a case before them involving the freight on lemons, and another on eggs, between two points not far apart, where it is absolutely impossible to acquire the information in reference to the value of the property for the settlement of that case. In ascertaining the information is it not desirable to ascertain the value of all of the property, differentiating, as the gentleman would suggest, the value of a physical property and the value of the other property, which is for the aid of the commission and for the aid of any shipper who has a complaint? Is it not desirable to obtain all the information?

Mr. LENROOT. I think it is, and I would have no objection to that being a separate element to be found by the commission. My point is that I am opposed to the commission making the ultimate finding in this proceeding of the value of the property, which will bind the Government or the commission afterwards.

Mr. MANN. I am not sure that the gentleman is not correct, but the bill provides that the statement of the valuation shall contain a statement of the elements forming the basis and elements of value. Under this bill would not the commission be required to obtain the value of the property and ascertain how much of that is the physical value and how much is the value of the franchise, if any, and the other elements that go into the valuation?

Mr. LENROOT. I think the gentleman from Illinois has helped me to make plain what my idea is. I have no objection in the world to the commission finding all these different elements. What I do object to is the commission combining all of those into a final, ultimate finding at this time of the value of the property as a whole.

Mr. MANN. Of course, I agree with the gentleman—

Mr. MADDEN. In a single item, does the gentleman mean?

Mr. MANN. That that is not the proper method of doing it, although it is probably better than it is now.

Mr. BUCHANAN. Mr. Chairman, does the gentleman yield?

Mr. LENROOT. I would like to call attention to one other thing. Evidently from the title of the bill it was the intention or thought of the committee that the valuation should be confined to a physical valuation, for the title of the bill is, "Providing for physical valuation of the property of common carriers."

Now I yield to the gentleman.

Mr. BUCHANAN. I am somewhat confused about the question of fixing rates on the basis of the valuation of transportation lines, for the reason that sometimes the addition of value is made by an additional expenditure of money that increases the facilities of the transportation line to such an extent that it can reduce the rates and be able to pay a greater dividend than ever on the amount of money invested, as, for instance, by shortening a line or by bridging or by tunneling.

I have in mind one place in Utah where they constructed a line across Salt Lake at great expense. I am informed that it is a great investment. At other places they have added tunnels which add to the expense of the line. In still other places they have constructed elevated roads, as has been done in Chicago. In such cases there has been a great expenditure of money, but, due to the fact that they can transport much faster and with a reduced force of workmen, made possible by the elimination of watchmen, and so on, they have reduced the cost of transportation to such an extent that even though the value of their property is much greater they still can reduce their freight rates.

Mr. LENROOT. Of course, that is often true. The gentleman understands—

Mr. BUCHANAN. Can the rates be fixed justly and equitably to all concerned on the basis of the valuation of the property?

Mr. LENROOT. The gentleman understands, and the committee will understand that, with certain exceptions—very rare—the carrier is always entitled to such a rate as will pay operating expenses and bring a fair return on the value of the property; and that is why the value of the property becomes a very important question.

Mr. STEVENS of Minnesota. Mr. Chairman, will the gentleman allow me?

The CHAIRMAN. Does the gentleman yield?

Mr. LENROOT. Certainly.

Mr. STEVENS of Minnesota. Has the gentleman considered the paragraphs beginning on page 5, perhaps, with the paragraph in the middle of page 6? Those two paragraphs in substance state this, that after the commission shall have completed the valuation, and before the valuation shall have become final, the commission shall give notice to the carrier, stating the valuation placed upon the several classes of property. Now, that would include the physical property and the franchise—

Mr. FOWLER. And it might not—

Mr. STEVENS of Minnesota. And the going value of the property in actual use.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEVENS of Minnesota. Mr. Chairman, I ask unanimous consent that the time of the gentleman from Wisconsin [Mr. LENROOT] be extended five minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. STEVENS of Minnesota. Then the commission shall make a separate valuation of those several classes, covering everything that the gentleman has stated. Then the notice shall be given to the carrier. The carrier then has its hearing before the commission before the value of these several classes has been definitely fixed by the commission. Now, after the commission receives all the evidence that it sees fit from the carrier as to the different classes, it makes an order, as provided on line 11 of page 6; it issues an order making such corrected valuation final, and after that it provides for making such corrections as it sees fit later; and then these final values, including the values of the various classes, shall be made public and become prima facie evidence. Now, do not these two provisions of these two paragraphs accomplish what the gentleman has in mind?

Mr. LENROOT. I think not, because experience has demonstrated that they do not in every case where the question has come up. I know it is true in the case of railroad litigation in Wisconsin, where I was interested as one of the attorneys in that litigation. The cases of valuation comprehended all of these different elements, but in my opinion it is impossible, when you come to fix the valuation, to divide it up into these various elements.

For instance, after taking all these elements then you must add a sum because of its being a going concern, a sum for the cost of building up the business for a series of years. That has been approved by the courts; and yet it will not show in any of these separate elements that are provided for by this schedule; and when the commission comes to make its final valuation, in my judgment, it will be compelled to add things that it can not distribute into the different elements; and the commission should be left free, according to the testimony in each case, when it comes to make its final determination, having these elements in the findings as provided in the bill; but when it comes to determine the question finally, it should be left free to consider all of these questions. In my judgment, it is not left free to do so under the bill as it now stands.

Mr. STEVENS of Minnesota. Does not the method proposed by the gentleman put a much heavier burden on the shipper who desires to contest a rate than the provision that I have just read from the bill? In other words, if in each contest the shipper is compelled to prove the additional facts stated by the gentleman, while in the bill these matters are made matters of record with the commission, does it not put an additional burden on the shipper which in some cases may be very onerous?

Mr. LENROOT. I think not; because in nearly every case these will be matters of judgment for the commission, considering the property of the carrier as a whole and the character of its business. It can not be separated into different elements. They will have all of this information, so far as the different elements are concerned, all that any investigation can produce. It will remain a matter of judgment on the part of the commission, but my idea is that the judgment should be exercised at the time the question is up for rate-making purposes, rather than in an ex parte proceeding.

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

Mr. LENROOT. Yes.

Mr. CRUMPACKER. If the gentleman from Wisconsin will permit me, my understanding of his proposed amendment is that it inserts in line 2, page 2, just before the word "property," the word "physical."

Mr. LENROOT. Yes.

Mr. CRUMPACKER. That does not require, does it, that the physical valuation of property shall be made separate from the valuation of all other classes of railroad property? It simply requires the physical valuation of the property to be made.

Mr. LENROOT. It is limited to the valuation of physical property.

Mr. CRUMPACKER. So that the purpose of the bill is simply to ascertain the value of the physical properties of railroads?

Mr. LENROOT. Of course, these other provisions with reference to stocks and bonds are not affected by this amendment. They remain the same.

Mr. CRUMPACKER. So that the question of the value of franchises and other rights that may vitally affect even the physical value will not be included in the bill at all if the gentleman's amendment is adopted.

Mr. LENROOT. The franchises will not.

Mr. CRUMPACKER. Or any other intangible rights.

Mr. LENROOT. No other intangible rights.

Mr. SIMS. Mr. Chairman, I appreciate the statement made by the gentleman from Wisconsin and the strong argument which he has made, but I hope this amendment will not prevail, because my understanding is that it narrows the scope of the bill, and to that extent limits its usefulness in the work of the commission. If I understand this bill, the object of it is to furnish the commission with information which the commission needs in order to enable it to fix rates. Well, the commission needs all elements of value to be considered the same as courts do, because if the commission can not consider every element of value that the courts will consider in determining whether the order is to be a valid one or not, it seems to me that would be narrowing the scope of the bill, and that the bill will not accomplish all the purposes that it can accomplish by leaving it unamended.

Mr. LENROOT. Will the gentleman yield?

Mr. SIMS. Certainly.

Mr. LENROOT. The bill does not limit the power of the commission in any way. The only purpose of the amendment is to leave the ultimate question of value to be determined by the commission later according to the facts, having all this information before the commission.

Mr. SIMS. As I understand it, there is to be an inventory investigation and valuation. The commission will set down the physical value and any other element of value which the commission ascertains in this investigation which it would regard as its duty in fixing a rate. I can not see that it would add to the expense of making the investigation or cause it to be delayed; and then the facts ascertained as to any other element of value will be no more binding on the commission or on a court passing on it than will the finding of the element of physical value. It is all only prima facie.

Mr. LENROOT. The commission will be bound thereafter by its own valuation unless it afterwards takes the procedure of revising and correcting the valuation. I would leave the commission free to make use of all the information provided in the bill, but come to its own conclusion in regard to the question of the rates.

Mr. SIMS. I understand the commission will not determine the rate by any one element of value, but upon the consideration of all the information that it acquires in this investigation or that it may have otherwise.

Mr. LENROOT. If the commission makes a finding of valuation and thereafter is to be permitted to go back and consider any different elements that have gone to make up the final determination—that is what I object to.

Mr. SIMS. If a question should arise sufficiently long after the valuation upon a charge that the valuation has changed, that the physical value is greater or less, or any other item of value is greater or less, the commission will investigate that statement on application made affecting a rate based on the former valuation. It would not be precluded from making any additional investigation that the new conditions may authorize.

Mr. LENROOT. That is true; but they might and very likely will be mistaken as to some of their calculations as to what elements should be considered in arriving at the value.

Mr. SABATH. Who shall pass upon it but the commission, and they are to have all the light and information that they can get.

Mr. HARDY. Will the gentleman yield?

Mr. SIMS. I will yield to the gentleman from Texas.

Mr. HARDY. I want to suggest that this bill really only provides for a valuation of the physical property; that is the intention of it. I believe that it is possibly liable to considerable misinterpretation. Several gentlemen have spoken about the valuation of the franchise as part of the value, but this bill itself provides the standard by which they shall fix the value, as follows:

SEC. 19a. That the commission shall investigate and ascertain the value of the property of every common carrier subject to the provisions of this act and used by it for the convenience of the public. For the purpose of such an investigation and ascertainment of value the commission is authorized to employ such engineers, experts, and other assistants as may be necessary, who shall have power to administer oaths, examine witnesses, and take testimony. The value shall be ascertained by means of an inventory which shall list the property of every common carrier subject to the provisions of this act in detail, and shall classify the physical elements of such property in conformity with the classification of expenditures for road and equipment, as prescribed by the Interstate Commerce Commission.

Then it further provides that in such investigation the commission shall have authority to ascertain and report in such detail as it may deem necessary as to each piece of property owned or used by said common carrier, the original cost for railway purposes, the cost and value to the present owner, and what increase in value is due to cost of improvements.

The bill really only provides for a physical valuation of items, a detailed list of the property of the company, and it was not intended, as I read the bill, to incorporate the value of the franchise in the report required of the commission. I believe that you will have clarified the situation by putting the word "physical," as suggested by the amendment of the gentleman from Wisconsin. That will make the meaning indisputable.

Mr. SIMS. It has been stated by a gentleman on the committee, who undoubtedly states it authoritatively, that this bill was drawn by the Interstate Commerce Commission itself. As far as I am concerned, I would not know how to draw such a bill, and unless I was satisfied that this amendment would not restrict the object and purpose of the bill—that is, that it would not narrow rather than widen the scope of the bill—I would not want to accept this amendment under the circumstances. Mr. Chairman, I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin.

The question was taken, and the amendment was lost.

Mr. MANN. Mr. Chairman, I move to amend, page 1, line 3, by striking out the words "section 19 of an" and inserting in lieu thereof the word "the."

The Clerk read as follows:

Page 1, line 3, strike out the words "section 19 of an" and insert in lieu thereof the word "the."

Mr. MANN. Mr. Chairman, as the bill reads it provides that section 19 of the act to regulate commerce be amended by adding section 19a thereafter. Of course section 19 of the act is not amended at all. It is entirely a separate proposition from the one involved here. The amendment is in fact an amendment of the act to regulate commerce. As the bill reads now, it is—

That section 19 of an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof be amended—

And so forth.

There are no amendments to section 19 of the interstate-commerce act. Although many other sections have been amended, the original section 19 reads now as it was enacted in 1887. I would suggest that the language of the bill be changed so as to provide that the act to regulate commerce as amended be further amended by adding this new section.

Mr. SIMS. Has the gentleman his amendment in form, so that he can state it correctly? I have no objection to the amendment.

Mr. MANN. I offered just the first part of it, and then intended to move to strike out, in line 5, "and all acts amendatory thereof," and insert in lieu thereof the words "as amended."

Mr. SIMS. So that it would read?

Mr. MANN. And then insert after the word "be," in line 5, the word "further," so that it will read:

That the act entitled "An act to regulate commerce," approved February 4, 1887, as amended, be further amended by adding thereto a new section, to be known as section 19a, and to read as follows.

Mr. SIMS. Mr. Chairman, I have no objection to that.

The CHAIRMAN. The question is on the first amendment offered by the gentleman from Illinois, which the Clerk will report.

The Clerk read as follows:

Page 1, line 3, strike out the words "section 19 of an" and insert in lieu thereof the word "the."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will report the next amendment offered by the gentleman from Illinois.

The Clerk read as follows:

Page 1, line 5, strike out the words "and all acts amendatory thereof" and insert in lieu thereof the words "as amended."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will report the next amendment offered by the gentleman from Illinois.

The Clerk read as follows:

Page 1, line 5, after the word "be," at the end of the line, insert the word "further."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

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

The Clerk read as follows:

Page 2, line 8, after the word "testimony," insert the following:

"Upon three days' notice to the common carrier, which shall be permitted to attend by counsel or otherwise and examine or cross-examine the witnesses and to call and examine other witnesses."

Mr. OLMSTED. Mr. Chairman, just a word upon this amendment. This bill in its present form provides for the ascertainment and determination of the value of the physical property of common carriers by the Interstate Commerce Commission, which is authorized to employ such engineers, experts, and other assistants as may be necessary, who shall have power to administer oaths, examine witnesses, and take testimony; that is, I take it, touching the valuation to be ascertained. We are given to understand that the valuation is for the purpose of assisting the commission in fixing the rates which may be charged by common carriers. It is to be one of the elements at least. The rates which a common carrier may charge, the right to charge a rate, is its most important right. Without that right a railroad would have very little physical or other valuation, and it seems to me that in a matter so important as that the common carrier itself ought to have some notice of the taking of testimony and the right to be present and examine and cross-examine witnesses.

That is the sole purpose and object of my proposed amendment. If the physical valuation of railroads, which is to be determined by the commission in the matter pointed out by this bill, is to be used as the basis for the fixing of rates by the Interstate Commerce Commission, it is no more than fair and equitable, and in harmony with universally recognized principles of enlightened civilization, that the party to be affected shall have notice and an opportunity to be heard. It is true that the bill does provide that after the Interstate Commerce Commission, through its agents, experts, or other assistants shall have concluded the taking of testimony, and the commission, based upon such testimony, shall have adjudicated the matter and fixed the valuation, the carrier may have 30 days within which to file a protest, and that upon the filing of any protest by a common carrier—

The commission shall fix a time for hearing the same and shall proceed as promptly as may be to hear and consider any matter relative and material thereto which may be presented by such common carrier in support of its protest so filed.

The bill, however, makes no provision for the taking of testimony upon such a hearing. If witnesses were desired to be recalled for examination or cross-examination, the common carrier would have to hunt them up, and it would have no power to compel their attendance. The whole proceeding would be, in any event, anomalous and unreasonable. It would be like depriving a defendant of the right to participate in the taking of testimony on the trial of his case and then allowing him the mere right to file a protest after the court shall have entered judgment against him. There is no State in this Union under the laws of which \$10 worth of property could be taken from any man in a proceeding in which he was not permitted to cross-examine the witnesses produced against him or to call witnesses in his own behalf; and surely that ordinary right and privilege ought not to be denied in a matter the determination of which may, and in many instances will,

involve millions of dollars. This is, in any event, a remarkable provision in the bill, that—

for the purpose of such an investigation and ascertainment of value, the commission is authorized to employ such engineers, experts, and other assistants as may be necessary, who shall have power to administer oaths, examine witnesses, and take testimony.

My amendment adds, after the word "testimony," these words:

Upon three days' notice to the common carrier which shall be permitted to attend by counsel or otherwise and examine or cross-examine witnesses and to call and examine other witnesses.

It seems to me that, upon the commonest principles of justice, the amendment ought to prevail.

Now, just a few words upon the bill itself. If it would accomplish what is hinted in the report of the Committee on Interstate and Foreign Commerce, which has presented the bill to this House, and what has been intimated by some of its supporters who have spoken in its behalf, it would be a most monstrous proposition. In the report of the Committee on Interstate and Foreign Commerce accompanying this bill I find this language:

The anomaly has grown up gradually and unconsciously, as it were—grown up in the courts themselves, as well as in the commission—that public carriers are to be allowed to charge an income on what they owe as well as upon what they own. No one else in the world with whom we are acquainted is allowed that privilege.

And then, again, the report complains that:

As a part of the fixed charges to the annual burden of doing business the interest on the bonds is considered and allowance made for them.

What "anomaly" is there in the proposition that a common carrier ought to be permitted to charge rates sufficient to enable it to pay the interest upon its bonds? Let us suppose the case of a railroad costing \$2,000,000. The stockholders themselves put in one million and issue stock for that amount. They borrow another million on a first mortgage and issue bonds for that amount. Why should not the company be permitted to pay the interest upon its bonds? What is wrong about that? Putting aside for the moment all questions of right and wrong, of constitutionality or of unconstitutionality, is there any gentleman upon this floor who can not discern the condition into which not only our common carriers but our whole country would be thrown if common carriers were not permitted to earn and pay their interest, as well as a reasonable return to stockholders? The regulation of common carriers is right and proper, but it is time for the baiting of common carriers to cease. Without stopping to consider the effect upon existing concerns, what would be the effect upon future railroad building? It has been suggested that the day of railroad promotion is past; that the country is already well supplied. That is far from true. There are vast areas of country, particularly in the Southern States, not penetrated by railroads at all. Railroads are needed for their development; but what sane man would invest a dollar in their construction if the sentiments of some of those who have spoken upon this floor should be enacted into law?

Happily, this bill will not bring about any such state of affairs. It provides for the physical valuation of the property of common carriers, and undoubtedly the physical valuation thus ascertained will be considered by the Interstate Commerce Commission in the fixing of rates; but it does not by any means follow that the rates will be fixed so low that the common carriers can not earn the interest upon their indebtedness. Rather than that it would be better that the Interstate Commerce Commission itself should be abolished. It is manifest from what has already taken place that this bill is destined to pass. Personally I do not believe that it will prove of very much value. It will, in the first place, require for its execution the employment of a vast army of engineers, experts, and other assistants, including clerks, stenographers, bookkeepers, and the like; will involve the Government in the expense of taking testimony in practically every part of the United States; and, in addition to making a large hole in the Federal Treasury, will take up the time of officials and employees and prove annoying and expensive to common carriers as well as enormously expensive to the Government itself. When the physical valuations have been thus ascertained, I very much fear that they will not serve any useful purpose in a degree at all commensurate with the expense involved. I agree with Theodore Roosevelt that the physical valuation of railroads is of doubtful value in the determination of proper rates of transportation. It has been urged upon this floor to-day that rates ought to be based upon physical valuation alone; that the value of the franchise should not be taken into consideration at all, because the franchise is derived from the Government or from the State. Well, what would be the physical valuation of a railroad without the franchise to carry freight and passengers? Practically nothing; but little; if anything, more than the value of the rails less the cost

of removing them. Some years ago a railroad through the State of Pennsylvania was contemplated and commenced in competition with the Pennsylvania Railroad. The route was surveyed and a large amount of work done, particularly in the digging of a great number of costly tunnels through the mountains. It is said that more than \$3,000,000 were expended in these tunnels. The project was finally abandoned; no rails were laid. What is the physical valuation of those holes in the ground to-day? And what would be the physical valuation if rails were laid over that route, and the company owning it had no right to carry freight or passengers? What would be the value of that line if there were no freight and passengers to carry? I have already, during this discussion, called attention to the fact that one of the lines between Washington and Baltimore cost a great deal more than the other because the second line was compelled to enter the city by way of a series of lengthy and expensive tunnels.

Is its physical valuation greater because of its greater cost? Would you, because of that greater cost, permit that company to charge a higher rate for freight or passengers than you would permit the other company to charge? And if you did permit it, would not the old company, being restricted to the lower rate, secure all the traffic? Or would you, basing the rate upon the physical valuation alone, require the older company to charge a higher rate so as to enable the second company to compete for business? I know of a railroad something over 200 miles in length constructed at great cost through a mountainous country for the purpose of reaching an article of commerce which for some years afforded it a profitable traffic. That commodity along its line has now been practically exhausted, and the railroad hardly pays the cost of operation. Stockholders are receiving no dividends and the bondholders are not getting the interest upon their bonds. How would you determine the valuation of that road? It would cost several millions of dollars to duplicate it to-day, but there is insufficient traffic upon the line to make it pay. No valuation which could be placed upon the property will have any effect upon the value of the stock and bonds of that corporation. The physical value of that road has little, if any, relation to the question of reasonableness of rates charged upon that line. In my judgment the valuation of the physical property of a common carrier will prove a very poor and in many cases a very misleading factor. The value of a railroad depends almost entirely upon its traffic, the probable continuance thereof, and the rates which the owner is permitted to charge for the transportation of freight and passengers. The opening of coal mines along the line of a railroad would enhance the value of the railroad and of its capital stock. On the other hand, the closing down or the exhaustion of such a mine would depreciate the value. The building of new factories would increase the value of the railroad and its capital stock. The destruction or closing down of factories would reduce its value. An increase of population in the cities or towns along the line would increase its value, while a reduction in population would have the opposite effect. If the common carrier has a reasonable amount of traffic and is permitted to charge, say, 10 cents per ton per mile and can secure that rate, it may do an exceedingly prosperous business and be a very valuable property.

If, then, the Interstate Commerce Commission should restrict its charge to 1 cent per ton per mile the value of that road and of its capital stock would be vastly decreased. The physical value of the property would not be a very important factor. The Committee on Interstate and Foreign Commerce in presenting this bill has rejected and excluded a proposition which, to my mind, would be of far more value and importance than a physical valuation of the property of common carriers. I refer to the proposition to regulate the issuance of stocks and bonds by railroad companies and other common carriers. It has been charged here upon this floor during this discussion over and over again that watered stocks and bonds are to a large degree responsible for high rates of transportation because companies strive or are permitted to pay interest and dividends upon them. If, then, we so legislate as to prevent the watering of stocks and require both stocks and bonds to be issued only for actual value we shall do much to eliminate that evil and to keep transportation rates within proper bounds. An effort will be made to insert such a provision, and it shall certainly have my support.

I regret to see that there is a disposition in some quarters to deal very unfairly with common carriers. There seems to be a disposition to make them not only common carriers, but practically free carriers, without authority to charge sufficient rates to enable them to pay interest upon the money they have to borrow to construct their lines and to keep them in operation. Reference has been made to the present existing and lamentable

car shortage. The railroad companies can not buy cars without money, and they frequently—indeed almost invariably—have to make either temporary or permanent loans for that purpose. But who will lend them money if they are not permitted to pay interest upon their bonds? Another gentleman of exceeding ability argued that rates should be based exclusively upon physical valuation, and expressed doubt if in that valuation there should be included the extension of expensive terminals which within the past few years have been built in Chicago, in New York, and in this city of Washington for the convenience of the public, because, he said, they are not used in the transportation of freight, but only in the transportation or for the convenience of passengers. Another gentleman charged that the high cost of living in this country is due almost entirely to high rates of transportation. He ought either to travel abroad himself or else read the official reports of railroad operation in other countries. He would then learn that rates are very much lower here than elsewhere in the world; that the train service here is very much better; and that in the matter of speed, safety, and luxury of passenger travel, as well as in cheapness, the United States leads the world. [Applause.]

Mr. SIMS. Mr. Chairman, I feel called upon to oppose the amendment. This is an ex parte examination by the commission, one that will take a great deal of time to properly conduct, and to require notice and to permit the carrier to introduce testimony would be virtually a litigation which would continue through an interminable time. I do not charge the carriers, of course, with any intention to delay, but necessarily, if they have to have cross-examinations and the attendance of witnesses that the railroads would furnish, there will certainly be a very great delay in this ex parte proceeding of the commission, which is not conclusive upon the carriers when it is completed.

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

Mr. SIMS. Certainly.

Mr. LENROOT. I would remind the gentleman that the bill itself provides for a full hearing by the carrier after the preliminary valuation is made before it becomes final.

Mr. SIMS. Yes; and not while it is proceeding. I therefore hope the amendment will be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken, and the amendment was rejected.

Mr. LENROOT. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

In line 19, page 2, after the word "owner," insert the words "the cost of reproduction."

Mr. LENROOT. Mr. Chairman, inasmuch as this paragraph undertakes to specify the elements which shall be considered by the commission in arriving at the valuation, it seems very clear to me that the cost of reproduction is one of the indispensable elements, and it should also be specified. A number of the decisions hold that the cost of reproduction is one of the elements that must be considered in arriving at the value. As you all know, perhaps the last leading case is that of the Knoxville Water Co. against Knoxville (212 U. S., 1), in which this opinion is used:

The cost of reproduction is one way of ascertaining the value of a plant like a water company.

And, going back to the case of Smythe against Ames—

The value to be ascertained by considering original cost of construction, amount expended in permanent improvement, amount and market value of stocks and bonds, present as compared with original cost of construction.

Now, that is not provided in this bill, and it seems to me it ought to be there, so long as we are specifying the different elements that shall be considered.

The question was taken, and the amendment was agreed to.

Mr. SIMS. Mr. Chairman, if there are no further amendments I move that the committee rise and report the bill as amended.

Mr. LAFFERTY. Mr. Chairman, I desire to offer an amendment which I send to the Clerk's desk, merely to perfect the language on page 2.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, lines 24 and 25, strike out the following, "They should also show as the commission may deem necessary," and insert in lieu thereof the following, "Such investigation and report shall further show whenever the commission may deem necessary."

Mr. LAFFERTY. Mr. Chairman, the bill on page 2 in this connection is very awkward in its language. For example, it reads like this:

Such investigation and report shall also show separately that property actually used in transportation and held for other purposes,

and shall contain a statement of the elements forming a basis of the estimate of value. They should also show, as the commission may deem necessary.

Now, there occurs the word "should." In all my reading of public statutes the word "should" has never appeared in a connection like this. The law reads that it "shall" do or "shall not" do; not that it "should not" do.

Mr. SIMS. Mr. Chairman, I want to say to the gentleman from Oregon that I do not think his amendment in any way hurts the bill, but may help it, and I have no purpose of opposing it.

The question was taken, and the Chairman announced that the amendment was rejected.

Mr. LAFFERTY. Mr. Chairman, was my amendment rejected?

The CHAIRMAN. It was.

Mr. LAFFERTY. I ask for a division.

Mr. FOWLER. Mr. Chairman, on page 2, line 23, after the word "statement," I desire to amend by inserting—

Mr. LAFFERTY. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. LAFFERTY. Mr. Chairman, during the confusion I did not understand whether the amendment I offered was agreed to or not.

The CHAIRMAN. It was not agreed to.

Mr. LAFFERTY. I demand a division. I understood the gentleman in charge of the bill stated he would agree to it.

The CHAIRMAN. The Chair has stated that it was not agreed to.

Mr. LAFFERTY. Mr. Chairman, I ask for a division. I did not understand the Chair, and if I am permitted I will state that the gentleman in charge of the bill accepted my amendment, and that is why I did not explain it further.

Mr. SIMS. I said I did not object.

Mr. SABATH. The gentleman from Tennessee did not object, but a majority of the Members did.

The CHAIRMAN. The gentleman from Oregon demands a division on his amendment.

The committee divided; and there were—ayes 41, noes 4.

So the amendment was agreed to.

Mr. FOWLER. Mr. Chairman, on page 2, line 23, after the word "statement," I desire to amend by adding the words "and value," so that it shall read:

Such investigation and report shall also show separately that property actually used in transportation and that held for other purposes, and shall contain a statement and value of the elements forming the basis of the estimate of value.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 23, after the word "statement," insert the words "and value."

Mr. FOWLER. Mr. Chairman, the purpose which I have in offering this amendment is that the different elements which are taken into consideration in making up the value of the property may be estimated separately, so that the public may understand of just what the value is made. For instance, a property may consist of physical value, a franchise value, a growing value, and a good-will value. If these four elements are to be considered in making public the value of this property, then I think they ought to be stated separately, so that the public may understand just what values are taken into consideration by the commission in making up the total value. Should the estimate of the various elements entering into the value of railroad property be combined in one sum it might present a good showing for the roads and seem to justify a greater rate than would be just to the public. Franchise value, good-will value, and value occasioned by the growth of business and the increase of population are not elements, in my opinion, which should enter into the sum total upon which to fix rates. These elements of value are created by civilization and industry, and the public ought not to be taxed because of such increase of value. It is like paying interest upon interest and more. For this reason each of the elements of value ought to be estimated separately.

Mr. SABATH. Mr. Chairman, do I understand the gentleman from Illinois [Mr. FOWLER] to amend by adding the word "value"?

Mr. FOWLER. The words "and value," so that it will read:

Shall contain a statement and value of the elements.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. FOWLER].

The question was taken, and the amendment was rejected.

Mr. OLMSTED. Mr. Chairman, I ask unanimous consent to extend in the RECORD the remarks which I made awhile ago.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SIMS. Mr. Chairman, I move that the committee do now rise and report the bill to the House as amended.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. RAINEY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 22593) entitled "A bill to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof by providing for physical valuation of the property of carriers subject thereto and securing information concerning their stocks and bonds and boards of directors," and had directed him to report the bill to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. Is a separate vote demanded on any amendments? If not, the Chair will put them en grosse. [After a pause.] The Chair hears no objection. The question is on agreeing to the amendments.

The question was taken, and the amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was read a third time.

Mr. MANN. Mr. Speaker, I offer a privileged motion, which I send to the Clerk's desk.

The SPEAKER. The gentleman from Illinois offers a privileged motion, which the Clerk will report.

The Clerk read as follows:

Mr. MANN moves to recommit the bill (H. R. 22593) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for physical valuation of property of carriers subject thereto, and securing information concerning their stocks and bonds and boards of directors, to the Committee on Interstate and Foreign Commerce, with directions to that committee to forthwith report the said bill back to the House with the following amendment, to wit:

Insert at the end of the bill the following:

"SEC. 2. That a new section be added to said act to regulate commerce, to be numbered as section 25, as follows:

"SEC. 25. That no railroad corporation which is a common carrier subject to the provisions of this act as amended shall hereafter issue for any purpose connected with or relating to any part of its business governed by the provisions of this act as amended any stock, bonds, notes, or other evidences of indebtedness to an amount exceeding that which may from time to time be reasonably necessary for the purpose for which such issue of stock, bonds, notes, or other evidences of indebtedness may be authorized.

"The amount of said securities to be thus issued, excepting notes maturing not more than two years from the date of their issue, shall be determined by the Interstate Commerce Commission, and any sale of said securities shall be at a price not less than their reasonable value, which, excepting as to notes maturing not more than two years from the date of their issue, shall be ascertained and fixed by the commission. Said commission shall render a decision upon an application for such issue within 30 days after the final hearing thereon. Such decision shall be in writing; shall assign the reasons therefor; shall, if authorizing such issue, specify the respective amounts of stocks, bonds, or notes or other evidences of indebtedness as aforesaid which are authorized to be issued for the respective purposes to which the proceeds thereof are to be applied. A certificate of the decision of said commission shall, before the stock, bonds, or notes or other evidences of indebtedness as aforesaid are issued, be delivered to the corporation. Such corporation shall not apply the proceeds of such stock, bonds, or notes or other evidences of indebtedness as aforesaid to any purpose not specified in such certificate, and no property, services, or other thing than money shall be taken in payment to the corporation of the required price of such stock, certificate of stock, bond, or other evidence of indebtedness except at the fair value of such property, services, or other thing than money, which shall be ascertained by the Interstate Commerce Commission and stated in a certificate issued by it to such corporation, or to any person or persons intending to form such corporation, and recorded with the commission before the issue of said stock, certificate of stock, or evidence of indebtedness: *Provided*, That nothing herein contained shall be construed to prevent a corporation subject to this act from issuing its stock, bonds, or other obligations to refund bonds or other obligations heretofore or hereafter issued and outstanding to an amount reasonably necessary for that purpose, determined as hereinbefore provided.

"No railroad corporation subject to the provisions of this act as amended shall hereafter, for any purpose connected with or relating to any part of its business governed by this act, issue any capital stock convertible into other capital stock of such railroad corporation unless by the terms of the certificate representing the stock so convertible the amount, par value, of capital stock that the holder of such certificate is entitled to receive in exchange therefor shall be equal to or less than the par value of the shares of stock represented by such certificate of convertible stock; but nothing contained in this act shall be deemed to prohibit the issue by any such corporation of its capital stock in exchange for and in accordance with the terms of such convertible stock issued in accordance with the provisions of this paragraph.

"Nothing in this section contained shall be construed to prohibit the mortgage or pledge by any railroad corporation subject to the provisions of this act as amended of any bond or other evidence of indebtedness issued by such railroad corporation as security for or as part security for any note, bond, or other evidence of indebtedness issued by or loan made to such railroad corporation which shall not be issued or made in violation of the provisions of this act: *Provided*, That the terms of said loan and of such notes, bonds, or other evidences of indebtedness, if any, shall provide that none of said pledged bonds or other evidences of indebtedness shall, upon nonpayment of the notes, bonds, or other evidences of indebtedness which they are pledged to secure, or upon

nonperformance of any of the conditions thereof, be sold or become the property of the holders of the notes, bonds, or other evidences of indebtedness so secured, either directly or through a trustee for their benefit, except at or through public sale, notice whereof shall be published at least once a week for not less than three successive weeks prior thereto in at least one daily newspaper of general circulation published in the place where such sale shall take place: *And provided further*, That if such notes, bonds, or other evidences of indebtedness, if any, shall provide that the owners thereof shall have the right to convert the same into the bonds or other evidences of indebtedness so mortgaged or pledged, the Interstate Commerce Commission, previously to the making of such loan, shall have ascertained and stated in a certificate issued by the commission to such corporation or to any person or persons intending to organize such corporation and recorded with the commission or otherwise, as authorized by this act, the reasonable market or selling value of such bonds or other evidences of indebtedness so mortgaged or pledged, and the rate which said reasonable market or selling value bears to the reasonable market or selling value of such secured notes, bonds, or other evidences of indebtedness, and that such secured notes, bonds, or other evidences of indebtedness shall not provide that the owners thereof shall have the right, upon such conversion, to receive in exchange therefor bonds or other evidences of indebtedness so mortgaged or pledged to an amount greater than would be receivable at the rate so found and stated in such certificate of the commission.

"Nothing in this act contained shall be taken to prohibit the issue of any bond or other evidence of indebtedness pursuant to the terms of any instrument heretofore executed, provided the same shall not be sold except in conformity with the provisions of this section.

"Nothing in this act contained shall in any way affect or impair the validity of any mortgage or pledge of any capital stock, certificate of stock, bond, or other evidence of indebtedness now mortgaged or pledged as security for or as part security for any loan heretofore made to any such corporation, or prohibit the sale, upon foreclosure or otherwise, of any such mortgaged or pledged stock, certificate of stock, bonds, or other evidences of indebtedness upon the terms and conditions provided in the instrument, if any, whereunder such securities may have been pledged or in the contract of loan; and nothing in this section contained shall be construed in any way to prohibit or affect the issue of any capital stock or the delivery of any certificate of stock, or the issue of any bond or other evidence of indebtedness in exchange for or to provide for the retirement of any capital stock, certificate of stock, bond, or other evidence of indebtedness now outstanding or provided to be issued, or the pledge of the exchanged or retired stock or securities on such terms and conditions as may be provided in the instruments whereunder any of the stocks, bonds, or other evidences of indebtedness referred to in this paragraph are respectively issued or authorized to be issued."

"Sec. 3. That a new section be added to said act to regulate commerce, to be numbered as section 26, as follows:

"Sec. 26. That in case at any time it shall be proposed by or pursuant to any plan of reorganization of any railroad corporation or corporations incorporated prior to January 1, 1910, the properties whereof shall be in the hands of a receiver or of receivers, or shall be subject to be sold in any suit or suits or other judicial proceedings for foreclosure of any mortgage or deed of trust heretofore executed, or for the dissolution or winding up of such corporation, or to procure the satisfaction of its debts or the application of its property thereto, pending at the time of such proposal, that any corporation utilized or to be utilized for the purposes of such reorganization, which at such time shall be, or, when organized and operating, will be, subject to the provisions of this act as amended (every corporation so utilized or to be utilized being hereinafter referred to by the term "New corporation"), shall issue stock and bonds and other evidences of indebtedness, or any thereof, for any purpose connected with or relating to any part of its business governed by this act as amended, application for any certificate of the Interstate Commerce Commission that may be requisite under the provisions of this section may be made by any person, committee, or representatives of any committee, or by managers having in charge the formulating or carrying out of any such plan of reorganization, and such certificate may be issued to such person, committee, representatives, or managers for the use of the new corporation; and the issue pursuant to such plan of reorganization by any new corporation of stock, whether of a single class or of two or more classes, as may be authorized by law, to an amount in the aggregate not exceeding the fair estimated value of the property of the corporation or corporations so reorganized or to be reorganized, which shall be ascertained by the Interstate Commerce Commission, and which aggregate amount shall be stated in a certificate issued by said commission to such person, committee, representatives, or managers for the use of the new corporation, and in no case shall exceed the aggregate amount of the par value of the stocks of the corporation or corporations reorganized or to be reorganized; and the issue by any new corporation of bonds and other evidences of indebtedness, whether unsecured or secured by mortgage upon said properties or otherwise, to an aggregate amount not exceeding the amount of new money paid to the new corporation pursuant to such plan of reorganization, and the amounts of bonds and other obligations and debts, including receiver's liabilities, which at the time of such sale or sales may have constituted claims or charges, whether legal or equitable, upon or against the corporation or corporations so reorganized, or the properties thereof, and provision for the payment of which or the delivery of securities of the new corporation in exchange for which shall be made in such plan shall not be deemed to be prohibited by anything contained in this act: *Provided*, That the aggregate amount of interest charges agreed to be paid by the new corporation or to which its property will be subject shall not exceed the aggregate amount of the interest charges to which the corporation or corporations so reorganized or their properties shall have been subject: *Provided further*, That the aggregate amount of stocks, bonds, and other evidences of indebtedness issued or assumed by the new corporation shall not exceed the fair estimated value of the property of the corporation or corporations so reorganized, or to be reorganized, as stated in the certificate issued by the Interstate Commerce Commission, plus the amount of new money paid to such new corporation pursuant to the plan of reorganization; and nothing in this act shall be deemed to prohibit the new corporation from assuming any bonds, debts, or other obligations of the corporation or corporations so reorganized in place of which it might, in accordance with the rules prescribed by this section, issue its own stocks, bonds, or other obligations.

"In case two or more railroad corporations subject to the provisions of this act as amended shall be consolidated or merged pursu-

ant to the laws of a State or States applicable thereto and such consolidation or merger shall consist in uniting the organizations, properties, businesses, and stocks of said corporations; and if the Interstate Commerce Commission shall have ascertained and stated in a certificate issued by it to the corporations in respect to which such consolidation or merger is to take place or shall have taken place, or to one of them (or to any person, committee, or representatives of any committee, or to managers having in charge the formulating or carrying out of any plan of reorganization such as is hereinbefore mentioned under which the corporation that is to issue new securities to be distributed under such plan will be a corporation resulting from any consolidation or consolidations, merger or mergers), that the stock to be issued by such consolidated corporation and the bonds and other obligations, if any, to be assumed and issued thereby does not exceed the fair estimated value of the properties of such consolidated corporation, nothing in this act contained shall be deemed to prohibit the issue of such stock and bonds and other obligations, or any of them, or the assumption of all or any of the bonds or other obligations of the corporations so consolidated or merged.

"Nothing in this act contained shall prevent a railroad corporation, subject to the provisions of this act as amended, from acquiring the entire issue of the stock and bonds of another railroad corporation, subject to said act, which is not directly and substantially competitive with that of such first-mentioned corporation, by the issue of its own stock and bonds, provided the aggregate amount of the par values of the stocks and bonds so issued shall not exceed the fair value of the property of the corporation whose stock and bonds are so acquired, which value shall be ascertained by the Interstate Commerce Commission: *Provided*, That the stock and bonds of another railroad corporation so acquired shall not be in any way sold or distributed by the railroad corporation acquiring them, except in accordance with the provisions of section 25 of this act relating to the issuance of stock and bonds, which are hereby made applicable thereto.

"But nothing herein contained shall be construed to authorize or to validate or permit the consolidation or merger in any manner of two or more corporations in violation of any act of Congress, including the act approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraint and monopolies."

Mr. SIMS. Mr. Speaker, I make a point of order against this motion, that it is not germane to the bill.

The SPEAKER. The Chair will hear the gentleman.

Mr. SIMS. The motion is a long legislative proposition as to the issuance of stocks and bonds, while the bill is a bill to provide for the physical valuation of railroads; and while I might be very much in favor of the bill as a separate proposition, although, having heard it read in this way, it is impossible to understand it fully, yet it is not germane to the object and purpose of this bill in any respect.

This bill is to obtain information. Its whole object and purpose is to enable the commission to acquire information and to enable it to apply that information in determining a rate, a reasonable rate. This proposition is in reference to the merging of railroads and in reference to the issuance of stocks and bonds, and is not in any way germane to the object and purpose of this bill.

The SPEAKER. Does the gentleman from Illinois desire to be heard?

Mr. MANN. Mr. Speaker, the present bill is a bill to amend the act to regulate commerce, covering the particular section which it is proposed to insert in the law, and this bill proposes to insert a new section in the interstate-commerce law. This new section affects the physical valuation of railroads, and also the issuance of stocks and bonds. It requires an investigation. The bill provides not only for the valuation of railroad property, but it also provides for an investigation and report of the amounts and dates of all bonds outstanding and the amounts paid for the bonds, and requires a report of the money raised by bonds and invested by the railway corporation. It deals with all phases of the property of a railroad, both as to the property itself and as to the bonds which may be issued by the railroad company. It is simply an insertion of these provisions in the act to regulate commerce. The act to regulate commerce covers the entire scope of control of the railroads.

The amendment which I have offered is in the identical language of provisions which passed this House as a part of the bill amending the interstate-commerce law two years ago. They were then germane to that bill, which was a bill amending the interstate-commerce law, and they are offered here as an amendment to a bill which proposes to amend the interstate-commerce law and which specifically provides in regard to the issuance of bonds and in regard to the value. This provision which I have offered follows up the provisions of this bill by providing that no bonds shall be issued except for money actually received and the money invested in the property of the railroad company.

Mr. UNDERWOOD. Mr. Speaker, will the gentleman from Illinois yield?

Mr. MANN. Certainly.

Mr. UNDERWOOD. I am not familiar with the provisions of the bill that has been offered by the gentleman from Illinois. I desire to get some information. Does the gentleman from Illinois contend that the motion to recommit with instructions that the bill shall be reported back on the motion to recommit is germane to the original bill that was proposed by the gentle-

man from Tennessee [Mr. SIMS], or does he contend that its germaneness lies in the fact that it is germane to the general interstate-commerce act?

Mr. MANN. I contend both. It is not only germane to the provisions of the bill, but it is in order, because the bill itself is an amendment of the interstate-commerce law, and hence a further amendment of that law is in order.

Mr. UNDERWOOD. The gentleman does not contend that an amendment to a law makes a provision germane as to everything that happens to be in the law; that if a bill were in here providing for a duty on cereals—on wheat—that, because it did amend the general tariff act it would make it in order to offer an amendment to put sugar on the free list?

Mr. MANN. I would not make the last contention under the rules adopted by the Democratic majority of the House in this Congress, because you adopted a special rule to prevent that, knowing that if that special rule—which only relates to tariff legislation—had not been adopted, then when you offered a bill to amend the tariff on cereals, a proposition to amend the tariff on sugar would have been in order. To prevent that you put a special provision in your rules, thereby admitting that without that the general rule which I have named was good.

Mr. UNDERWOOD. If the gentleman will allow me, I will say that, as I recall the decisions, many of them held that exactly what was in that special rule was the parliamentary law of this House; but as there was a conflict in the decisions, we cleared up the conflict by expressly putting it in the rule.

Mr. MANN. Oh, the gentleman is begging the question.

Mr. UNDERWOOD. There was a line of decisions, and is now—

Mr. MANN. The line of decisions is very clear in favor of the proposition which I have suggested; and because of that fact the gentleman from Alabama [Mr. UNDERWOOD], or whoever prepared the rules for this House, put in a special rule removing tariff legislation from the principles of the general rule that I have stated.

But, outside of that question, I contend that the amendment which I have offered would have been in order if this had been an original bill. It relates to the entire subject of railroad property and the bonds issued for it. I propose a further amendment in reference to the issuance of these stocks and bonds. I think if these provisions were in order two years ago they are in order now, and they were in order at that time.

The SPEAKER. The Chair will inquire of the gentleman as to the purpose of his motion. Of course, the truth is that when anybody proposes to offer a complicated motion to recommit, he should furnish a copy of his motion to the Chair in advance, so as to give the Chair a chance to have a clear understanding of it.

Mr. MANN. I have not prevented the House from adjourning with the point of order pending before the Speaker. I have never considered that it was necessary to tell the other side of the House in advance what I proposed to do. I notice that they do not do that for me.

The SPEAKER. The Chair, like everybody else, did not comprehend the full import of the motion from listening to the reading of it. The Chair wishes to ask the gentleman from Illinois, Does this motion to recommit go to the matter of investigating these subjects which are referred to in the bill of the gentleman from Tennessee [Mr. SIMS] or not?

Mr. MANN. It goes to the matter of regulating the issuance of stocks and bonds.

The SPEAKER. What is the general subject of the bill of the gentleman from Tennessee? Is it simply investigation?

Mr. MANN. The general subject of the bill of the gentleman from Tennessee is a new proposition to be inserted in the interstate-commerce law.

Mr. FITZGERALD. Mr. Speaker—

The SPEAKER. Does the gentleman from Tennessee [Mr. SIMS] desire to be heard further?

Mr. SIMS. The gentleman from New York has addressed the Chair.

The SPEAKER. The gentleman from New York.

Mr. FITZGERALD. Mr. Speaker, the question at issue has been definitely settled in the past. The rule is clear that to a bill purporting to amend a law in one particular an amendment proposing to amend it in some other respect is not germane.

Such a decision was quoted by Mr. Speaker CANNON on April 1, 1910. Members of the House will recall the situation. The legislative bill was returned from the Senate with an amendment amending the publicity feature of the corporation-tax law which was a part of the Payne-Aldrich tariff law. I sub-

mitted a motion to recommit, with instructions to report the bill with an amendment repealing the entire tariff law.

After very considerable debate Speaker CANNON held that that motion was not in order, and he quoted from Hinds' Precedents, volume 5, page 411, section 5806, as follows:

To a bill amendatory of an existing law as to one specific particular, an amendment relating to the terms of the law rather than to those of the bill was held not to be germane.

That decision arose on a bill to provide for the administration of civil affairs in Porto Rico pending the appointment and qualification of civil officers provided for in the act. An amendment was offered in relation to franchises, and a point of order was made that the bill and Senate amendments proposed to amend an existing statute in one particular and that the question of franchises was not germane to the provisions in the bill before the House; that while they might have been germane to the original law, as the bill purported to amend existing law in but one particular, any amendment submitted must be germane to the bill that was pending.

The bill pending before the House provides for a physical valuation of railroads and outlines a scheme to be followed by the Interstate Commerce Commission in carrying out that work. The amendment proposed by the gentleman from Illinois is not germane to the proposition pending before the House, but relates to an entirely different subject. If the original law were before the House the proposition of the gentleman from Illinois might be germane to some features of that law; the question of germaneness in this instance must be determined in relation to the bill that is now pending.

I understood from the argument of the gentleman from Illinois himself that he did not contend that his amendment was germane to the proposition pending before the House, but contends that it is germane because the proposition pending in the House amends a certain existing statute, and the amendment that he proposes amends or adds to that statute additional provisions to those proposed in the pending bill. The authority to which I have called attention is not the only one to the same effect cited in the precedents, but there are a number of other decisions along similar lines.

For instance, on April 23, 1902, as appears in paragraph 5808, volume 5, of Hinds' Precedents, there were Senate amendments to a bill relating to oleomargarine and other imitation dairy products under consideration in Committee of the Whole House on the state of the Union, when Mr. JAMES R. MANN, of Illinois, offered a further amendment to a law of which a Senate amendment proposed to amend a certain portion. Mr. James A. Tawney, of Minnesota, having made a point of order, the Chairman, Mr. OLMSTED, of Pennsylvania, ruled as follows:

Senate amendment No. 5 reads thus:

"Section 3 of said act is hereby amended by adding thereto the following:

And then follows a certain proviso. The amendment offered by the gentleman from Illinois is to add at the end of that proviso these words: "And provided further, That the artificial coloration provided for in the preceding paragraph shall not include colored butter."

The "preceding paragraph" referred to, as the Chair understands, is section 3 of a former act of Congress which is not now before the Committee of the Whole.

On page 323 of the Manual the Chair finds this language:

"To a bill amending a general law on a specific point an amendment relating to the terms of the law rather than to those of the bill was offered and ruled not to be germane."

That ruling was made by Speaker Reed. The Chair thinks that it covers this case. The amendment of the gentleman from Illinois, while it may be germane to the preceding paragraph of section 3 of the earlier act of Congress to which it refers, is not germane to the proviso which constitutes the Senate amendment, and therefore the Chair sustains the point of order.

In this instance, the amendment proposed by the gentleman from Illinois might be germane to some provision of the law proposed to be amended by the pending bill, but it is not germane to any provision in or to the subject matter of the pending bill, and under the rulings that I have cited the amendment is not in order.

The SPEAKER. The Chair will suggest to the gentleman from New York that he thinks the gentleman from New York misapprehends the claim of the gentleman from Illinois. The Chair understood the gentleman from Illinois, in reply to a question asked by the gentleman from Alabama [Mr. UNDERWOOD], on what ground he claimed that this was germane, to say that it was germane both to the law itself and to this bill. He claims that it is germane to both propositions.

Mr. FITZGERALD. I have no doubt that the gentleman from Illinois asserts for the purpose of argument that his amendment is germane to the present bill.

Mr. MANN. Mr. Speaker, I am not like the gentleman from New York [Mr. FITZGERALD]. I do not assert anything unless I believe it. [Laughter.]

Mr. FITZGERALD. Mr. Speaker, I have no doubt that the gentleman from Illinois may even believe the amendment germane, but neither the assertion nor the belief of the gentleman from Illinois can control the House in its deliberations, because if so, this side of the House might as well abandon its attempt to control its deliberations. The gentleman from Illinois [Mr. MANN] must point out the specific proposition in the bill under consideration to which his amendment is germane. While I have only the substance of the amendment in mind, I listened attentively to the argument of the gentleman from Illinois, but I could not determine any provision of the bill to which it is germane. The substance of the pending bill is to create the machinery for the physical valuation of railroads. The gentleman from Illinois proposes to confer power upon the Interstate Commerce Commission to cancel certain outstanding obligations heretofore existing. That is not necessary nor essential nor does it relate in any way to the pending bill, and while it might relate to and be germane to some provision of existing statutes, under the decision of the gentleman from Pennsylvania [Mr. OLMSTED], which I know commends itself not only to the House, but in which he thoroughly believes, the amendment proposed can not be held to be in order.

Mr. UNDERWOOD. Mr. Speaker, the Chair intimated that he desired to have opportunity to read these bills. I will ask the gentleman from Illinois if he has any objection to ordering the previous question pending this point of order, and allowing the House to adjourn, and the Speaker to take the point of order up when the bill is next up for consideration?

Mr. MANN. I would have no objection; but I do not know whether it would be possible to order the previous question pending the point of order. Why not have an agreement that this matter come up Thursday morning immediately after the reading of the Journal? It will take only a few minutes.

Mr. UNDERWOOD. If the previous question be ordered that would be the case, unless the gentleman wants to have further discussion upon the merits.

Mr. MANN. I am perfectly willing to have an understanding that there will be no debate of the proposition.

Mr. FITZGERALD. I suggest that the previous question be ordered on the bill and amendments.

Mr. MANN. I have no objection to the previous question being ordered on the bill and amendments. The amendments have already been agreed to. I am not so sure that you can order the previous question on my motion with a point of order pending. If that can be done I am perfectly willing.

Mr. UNDERWOOD. The only way it can be done is by unanimous consent.

Mr. SIMS. Then I will ask unanimous consent that that order, suggested by the gentleman from Alabama, be made.

Mr. OLMSTED. Mr. Speaker, a parliamentary inquiry. If the order be made, will it prevent further discussion of the point of order?

The SPEAKER. Not if the Chair desires further information on the subject. The gentleman from Tennessee asks unanimous consent, because of the lateness of the hour and the length of the motion to recommit, that the whole matter go over until Thursday morning.

Mr. UNDERWOOD. And that the previous question be ordered on the bill and amendments to final passage.

The SPEAKER. And the previous question ordered on the bill and amendments.

Mr. MANN. On the motion to recommit. The amendments have been agreed to.

The SPEAKER. Very well, on the bill and motion to recommit. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

MILITIA PAY BILL.

Mr. SLAYDEN. Mr. Speaker, I ask unanimous consent for one week, within which to submit the minority views on the bill, H. R. 8141, known as the militia pay bill.

The SPEAKER. The gentleman from Texas asks for one week within which to submit the minority views on the militia pay bill. Is there objection?

There was no objection.

ADJOURNMENT.

Then on motion of Mr. UNDERWOOD (at 5 o'clock and 58 minutes p. m.), the House adjourned until to-morrow, Wednesday, December 4, 1912, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Clerk of the House of Representatives, submitting a list of reports to be made to Congress by public

officers during the Sixty-second Congress (H. Doc. No. 990); to the Committee on Accounts and ordered to be printed.

2. A letter from the Clerk of the House of Representatives, submitting a statement as to employees, disbursements, balances, stationery, etc., for the fiscal year ended June 30, 1912; to the Committee on Accounts and ordered to be printed.

3. A letter from the Postmaster General, transmitting list of claims of postmasters for reimbursement for losses of money orders and postal funds acted on by the Postmaster General during the fiscal year ended June 30, 1912 (H. Doc. No. 991); to the Committee on Expenditures in the Post Office Department and ordered to be printed.

4. A letter from the chief clerk of the Court of Claims, transmitting to Congress statement of all judgments rendered by said court for the year ended November 30, 1912 (H. Doc. No. 988); to the Committee on Claims and ordered to be printed.

5. A letter from the Secretary of the Treasury, transmitting a statement of contingent expenditures of the Treasury Department for the fiscal year ended June 30, 1912 (H. Doc. No. 1008); to the Committee on Expenditures in the Treasury Department and ordered to be printed.

6. A letter from the Sergeant at Arms of the House of Representatives, transmitting statement showing sums of money drawn and disbursed by him from December 1, 1911, to November 30, 1912 (H. Doc. No. 1007); to the Committee on Accounts and ordered to be printed.

7. A letter from the Secretary of Commerce and Labor, transmitting, with favorable recommendation, draft of a bill authorizing the purchase of certain land for lighthouse purposes at Port Ferro Light Station, P. R. (H. Doc. No. 994); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

8. A letter from the Postmaster General, transmitting a statement showing travel expenses of officers and employees of the department when out of Washington on official business during the year 1912 (H. Doc. No. 1000); to the Committee on Expenditures in the Post Office Department and ordered to be printed.

9. A letter from the Secretary of War, transmitting, with letter from the Acting Chief of Engineers, report on examination and survey of all lands subject to overflow from the Mississippi River between Brunswick, Miss., and Baton Rouge, La., and between Bessie and Memphis, Tenn. (H. Doc. No. 1010); to the Committee on Rivers and Harbors and ordered to be printed.

10. A letter from the Secretary of the Navy, submitting information relating to construction and repair of various vessels of the United States Navy (H. Doc. No. 992); to the Committee on Naval Affairs and ordered to be printed.

11. A letter from the Secretary of Agriculture, transmitting a detailed statement of travel expense incurred by officers and employees of the Department of Agriculture during the fiscal year ending June 30, 1912 (H. Doc. No. 998); to the Committee on Expenditures in the Department of Agriculture and ordered to be printed.

12. A letter from the Secretary of Commerce and Labor, transmitting a detailed statement of disbursements made by the Department of Commerce and Labor from December 1, 1911, to November 30, 1912 (H. Doc. No. 1004); to the Committee on Expenditures in the Department of Commerce and Labor and ordered to be printed.

13. A letter from the Secretary of Agriculture, transmitting detailed statement of expenditures by the Department of Agriculture for the fiscal year ending June 30, 1912 (H. Doc. No. 955); to the Committee on Expenditures in the Department of Agriculture and ordered to be printed.

14. A letter from the Sergeant at Arms of the House of Representatives, transmitting list of property in his charge on December 2, 1912 (H. Doc. No. 989); to the Committee on Accounts and ordered to be printed.

15. A letter from the Librarian of Congress, transmitting statement of travel expense incurred during the fiscal year 1911-12 (H. Doc. No. 1001); to the Committee on the Library and ordered to be printed.

16. A letter from the president of the Board of Commissioners of the District of Columbia, submitting report as to the cost and feasibility of adapting one or more of the vacant buildings upon the site of the Washington Asylum and Jail for use for municipal hospital purposes (H. Doc. No. 995); to the Committee on the District of Columbia and ordered to be printed.

17. A letter from the Acting Secretary of War, transmitting statement showing in detail travel expenses of officers and employees of the War Department during the fiscal year ended

June 30, 1912 (H. Doc. No. 1002); to the Committee on Expenditures in the War Department and ordered to be printed.

18. A letter from the president of the United States Civil Service Commission, transmitting statement of travel expenses of officers and employees of said commission for the fiscal year ended June 30, 1912 (H. Doc. No. 999); to the Committee on Reform in the Civil Service and ordered to be printed.

19. A letter from the Postmaster General, transmitting report of public property, Post Office Department, Washington, on November 1, 1912 (H. Doc. No. 996); to the Committee on Expenditures in the Post Office Department and ordered to be printed.

20. A letter from the Secretary of Agriculture, transmitting statement showing the number of copies of publications of the various bureaus, divisions, and offices of the United States Department of Agriculture turned over to the Public Printer on October 1, 1912, according to the provisions of section 8 of the legislative act approved August 23, 1912 (H. Doc. No. 993); to the Committee on Expenditures in the Department of Agriculture and ordered to be printed.

21. A letter from the Secretary of Agriculture, transmitting a detailed statement of all money paid out by the Bureau of Chemistry for compensation of or payment of expenses to officers or other persons employed by State, county, or municipal governments during the fiscal year 1912 (H. Doc. No. 1006); to the Committee on Expenditures in the Department of Agriculture and ordered to be printed.

22. A letter from the Secretary of the Smithsonian Institution, transmitting a statement of travel on official business for Smithsonian branch during fiscal year ended June 30, 1912 (H. Doc. No. 1003); to the Committee on the Library and ordered to be printed.

23. A letter from the Secretary of War, transmitting letter from the Chief of Engineers, submitting claim for damages to schooner *Annie F. Conton*, caused by collision with a mud scow in tow of the U. S. tug *Philadelphia*, on the Delaware River, November 11, 1911 (H. Doc. No. 997); to the Committee on Appropriations and ordered to be printed.

24. A letter from the Secretary of the Smithsonian Institution, transmitting a detailed statement of expenditures for the fiscal year ending June 30, 1912, under appropriations "International exchange," "American ethnology," "Astrophysical Observatory," "The International Catalogue of Scientific Literature," "National Museum," and the "National Zoological Park" (H. Doc. No. 1005); to the Committee on the Library and ordered to be printed.

CHANGE OF REFERENCE.

Under clause 2 of rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 1151) granting an increase of pension to James M. Freeman; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 13816) granting an increase of pension to Edward M. Yochem; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. FRANCIS: A bill (H. R. 26536) to authorize the donation of certain unused and obsolete guns now at Chickamauga Park, Ga., to the Stanton Monument Association at Steubenville, Ohio; to the Committee on Military Affairs.

By Mr. GRIEST: A bill (H. R. 26537) authorizing the Secretary of War to donate to the city of Lancaster, Pa., two bronze or brass fieldpieces for the use of the General William S. McCaskey Camp, United Spanish War Veterans; to the Committee on Military Affairs.

By Mr. HOUSTON: A bill (H. R. 26538) to provide for the examination and survey of Caney Fork River from its mouth up to the mouth of Holmes Creek, in Dekalb County, Tenn.; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 26539) making an appropriation for clearing out the channel of Caney Fork River from its mouth to the mouth of Holmes Creek, in Dekalb County, Tenn.; to the Committee on Rivers and Harbors.

By Mr. MONDELL: A bill (H. R. 26540) dedicating 25 per cent of the proceeds of public lands to the construction and improvement of public roads; to the Committee on the Public Lands.

By Mr. PADGETT: A bill (H. R. 26541) to regulate and increase the efficiency of the personnel of the United States Navy and Marine Corps; to the Committee on Naval Affairs.

By Mr. MOON of Tennessee: A bill (H. R. 26542) authorizing the purchase of additional land for post-office site at Winchester, Tenn.; to the Committee on Public Buildings and Grounds.

By Mr. WILDER: A bill (H. R. 26543) to provide for the purchase of a site and the erection thereon of a public building at Leominster, Mass.; to the Committee on Public Buildings and Grounds.

By Mr. CURRIER: A bill (H. R. 26544) to provide for the erection of a public building at Berlin, N. H.; to the Committee on Public Buildings and Grounds.

By Mr. CANTRILL: A bill (H. R. 26545) for the enlargement of the Federal building at Winchester, Ky.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 26546) to increase the limit of cost of the Federal building heretofore authorized at Georgetown, Ky.; to the Committee on Public Buildings and Grounds.

By Mr. HUMPHREYS of Mississippi: A bill (H. R. 26547) to increase the limit of cost of the post office and courthouse at Clarksdale, Miss.; to the Committee on Public Buildings and Grounds.

By Mr. WEEKS: A bill (H. R. 26548) for the purchase of a site and the erection thereon of a public building at South Framingham, Mass.; to the Committee on Public Buildings and Grounds.

By Mr. GARNER: A bill (H. R. 26549) to provide for the construction or purchase of motor boat for customs service; to the Committee on Interstate and Foreign Commerce.

By Mr. GRIEST: A bill (H. R. 26550) to provide for the permanent establishment of town and village mail-delivery service at post offices of the second and third classes; to the Committee on the Post Office and Post Roads.

By Mr. DE FOREST: A bill (H. R. 26551) to repeal part of section 2 of public law No. 336, approved August 24, 1912, entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes"; to the Committee on the Post Office and Post Roads.

By Mr. GARRETT: A bill (H. R. 26552) for the erection of a public building at Humboldt, Tenn.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 26553) for the erection of a public building at Martin, Tenn.; to the Committee on Public Buildings and Grounds.

By Mr. MACON: A bill (H. R. 26554) amending section 71 of the act approved March 3, 1911, to codify, revise, and amend the laws relating to the judiciary; to the Committee on the Judiciary.

By Mr. JAMES: A bill (H. R. 26555) to provide for the erection of a public building at Murray, Ky.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 26556) to provide for the erection of a public building at Marion, Ky.; to the Committee on Public Buildings and Grounds.

By Mr. STEVENS of Minnesota: A bill (H. R. 26557) to authorize the Secretary of War to make an agreement with the Municipal Electric Co., a corporation, for the disposal of the hydroelectric power developed by the dam between St. Paul and Minneapolis, Minn.; to the Committee on Rivers and Harbors.

By Mr. COPLEY: A bill (H. R. 26558) for the purchase of a site and the erection of a public building in the city of Batavia, State of Illinois; to the Committee on Public Buildings and Grounds.

By Mr. MCKINNEY: A bill (H. R. 26559) to authorize the construction of a railroad, wagon, and foot-passenger bridge across the Mississippi River near Keokuk, Iowa; to the Committee on Interstate and Foreign Commerce.

By Mr. JACOWAY: A bill (H. R. 26560) to provide for the examination and survey of the Arkansas River banks around what is known as Fourche Island, and just below Little Rock, Ark.; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 26561) to provide for the examination and survey of the Arkansas River banks about 5 miles below Dardanelle, Yell County, Ark., and at or near what was known as the old Gleason & Cravens mercantile establishment; to the Committee on Rivers and Harbors.

By Mr. LEE of Georgia: A bill (H. R. 26562) for the purchase of a site for a post-office building at Rossville, Ga.; to the Committee on Public Buildings and Grounds.

By Mr. BLACKMON: A bill (H. R. 26563) to provide for the erection of a public building at the city of Sylacauga, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. FOWLER: A bill (H. R. 26564) making appropriation for the purchase of a site and the erection of a public building thereon in the city of Metropolis, Ill.; to the Committee on Public Buildings and Grounds.

By Mr. LAFEAN: A bill (H. R. 26565) for the reduction of postage on first-class matter to 1 cent per ounce; to the Committee on the Post Office and Post Roads.

By Mr. PADGETT: A bill (H. R. 26566) to create the grades of admiral and vice admiral in the Navy of the United States; to the Committee on Naval Affairs.

By Mr. LINTHICUM: A bill (H. R. 26661) to increase the appropriation for the purchase of a site and the erection of an immigration station at Baltimore, Md.; to the Committee on Public Buildings and Grounds.

By Mr. SULZER: A bill (H. R. 26662) to amend the eighth section of the Post Office appropriation act approved August 24, 1912; to the Committee on the Post Office and Post Roads.

By Mr. CARLIN: Resolution (H. Res. 723) authorizing the Doorkeeper to expend the sum of \$2,000 for folding speeches; to the Committee on Accounts.

By Mr. GREENE of Massachusetts: Resolution (H. Res. 724) authorizing and directing the Secretary of War to cause a preliminary examination and surveys of Buzzards Bay to provide 25 feet of water up to the dredged channel in the harbor of New Bedford, Mass.; to the Committee on Rivers and Harbors.

Also, resolution (H. Res. 725) authorizing and directing the Secretary of War to cause preliminary examination and surveys to be made of Taunton River, Mass.; to the Committee on Rivers and Harbors.

By Mr. LEVY: Resolution (H. Res. 729) directing the Secretary of the Treasury to use the authority invested in him by law to relieve the continued stringency in the money market by depositing in the national banks throughout the country the sum of \$50,000,000 out of the general fund in the Treasury of the United States; to the Committee on Banking and Currency.

By Mr. DE FOREST: Joint resolution (H. J. Res. 364) proposing an amendment to the Constitution of the United States; to the Committee on Election of President, Vice President, and Representatives in Congress.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK: A bill (H. R. 26567) granting a pension to Avis Coan; to the Committee on Invalid Pensions.

By Mr. AUSTIN: A bill (H. R. 26568) for the relief of George Lane; to the Committee on Military Affairs.

Also, a bill (H. R. 26569) granting a pension to Eliza Early; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26570) granting a pension to John H. Smith; to the Committee on Pensions.

Also, a bill (H. R. 26571) granting a pension to Leatie Wilson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26572) granting an increase of pension to Lucy A. Rose; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26573) granting a pension to Frank Tucker; to the Committee on Pensions.

Also, a bill (H. R. 26574) for the relief of the heirs of Henry Hommel; to the Committee on War Claims.

Also, a bill (H. R. 26575) granting a pension to James C. Tedford; to the Committee on Pensions.

By Mr. BOOHER: A bill (H. R. 26576) granting an increase of pension to John H. Steele; to the Committee on Invalid Pensions.

By Mr. BRADLEY: A bill (H. R. 26577) granting a pension to Margaret F. Searle; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26578) granting an increase of pension to John Lavin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26579) granting an increase of pension to Celestia Sprague; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26580) granting an increase of pension to Rosalia Spohr; to the Committee on Pensions.

Also, a bill (H. R. 26581) granting an increase of pension to Katharine A. Weyant; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26582) granting an increase of pension to Maria Jane Stevens; to the Committee on Invalid Pensions.

By Mr. BROWN: A bill (H. R. 26583) for the relief of the heirs of Henry Harris, deceased; to the Committee on War Claims.

By Mr. BULKLEY: A bill (H. R. 26584) granting a pension to Millie B. Spooner; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: A bill (H. R. 26585) for the relief of the trustees of the Lick Creek Methodist Episcopal

Church South, Stewart County, Tenn.; to the Committee on War Claims.

Also, a bill (H. R. 26586) for the relief of the estate of Thomas J. Hill, deceased; to the Committee on War Claims.

Also, a bill (H. R. 26587) for the relief of Frederick W. Palmore; to the Committee on War Claims.

Also, a bill (H. R. 26588) for the relief of William T. Wright; to the Committee on War Claims.

Also, a bill (H. R. 26589) granting a pension to Gambo C. Villines; to the Committee on Pensions.

Also, a bill (H. R. 26590) granting an increase of pension to Elizabeth M. Harper; to the Committee on Invalid Pensions.

By Mr. CLARK of Missouri: A bill (H. R. 26591) granting an increase of pension to John Marx; to the Committee on Invalid Pensions.

By Mr. DENVER: A bill (H. R. 26592) granting an increase of pension to Asa Jenkins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26593) granting an increase of pension to Jacob Supinger; to the Committee on Invalid Pensions.

By Mr. FAIRCHILD: A bill (H. R. 26594) granting an increase of pension to Erastus L. Merrill; to the Committee on Invalid Pensions.

By Mr. GRIEST: A bill (H. R. 26595) granting a pension to Edward D. Henderson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26596) granting an increase of pension to John C. O'Brien; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26597) granting an increase of pension to Franklin Bryson; to the Committee on Invalid Pensions.

By Mr. HINDS: A bill (H. R. 26598) granting an increase of pension to William M. McArthur; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26599) granting an increase of pension to Lucinda P. Brackett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26600) granting a pension to Charles H. Boyd; to the Committee on Invalid Pensions.

By Mr. JOHNSON of Kentucky: A bill (H. R. 26601) for the relief of the trustees of the Bloomfield Lodge, No. 57, Ancient Free and Accepted Masons, of Bloomfield, Ky.; to the Committee on War Claims.

By Mr. LANGLEY: A bill (H. R. 26602) granting an increase of pension to Elizabeth McIntosh; to the Committee on Invalid Pensions.

By Mr. LINDBERGH: A bill (H. R. 26603) granting an increase of pension to Lottie A. Fox; to the Committee on Invalid Pensions.

By Mr. LLOYD: A bill (H. R. 26604) granting a pension to Emma Steel; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26605) granting a pension to Grant W. Berry; to the Committee on Pensions.

By Mr. MADDEN: A bill (H. R. 26606) for the relief of James H. Rhodes & Co.; to the Committee on Claims.

By Mr. MARTIN of South Dakota: A bill (H. R. 26607) granting a pension to Michael Kelly; to the Committee on Pensions.

Also, a bill (H. R. 26608) granting an increase of pension to James Rafferty; to the Committee on Pensions.

By Mr. MORRISON: A bill (H. R. 26609) granting a pension to Mary B. Berry; to the Committee on Invalid Pensions.

By Mr. NYE: A bill (H. R. 26610) granting an increase of pension to Frank C. Bowen; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26611) granting an increase of pension to Cynthia E. Robinson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26612) granting an increase of pension to Lizzie McKay; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26613) granting a pension to Rosa L. Wells; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26614) granting a pension to Adaline A. Middaugh; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26615) granting a pension to Alice Fenton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26616) to correct the military record of Charles D. Pillar; to the Committee on Military Affairs.

By Mr. O'SHAUNESSY: A bill (H. R. 26617) granting an increase of pension to Johanna Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26618) granting an increase of pension to Bernard Boyle; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26619) granting an increase of pension to Sarah J. Millikin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26620) granting an increase of pension to Catharine Loud; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26621) granting an increase of pension to Maria A. Mathewson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26622) granting an increase of pension to Lucy A. Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26623) granting an increase of pension to Annie Buckley; to the Committee on Invalid Pensions.

By Mr. PAYNE: A bill (H. R. 26624) granting an increase of pension to William V. Walker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26625) granting an increase of pension to James Nolan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26626) granting an increase of pension to John Stickle; to the Committee on Invalid Pensions.

By Mr. PADGETT: A bill (H. R. 26627) granting an increase of pension to Cynthia C. Pickard; to the Committee on Pensions.

By Mr. POST: A bill (H. R. 26628) granting a pension to Frank Chroneberry; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26629) granting an increase of pension to Lycurgus P. Saxton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26630) granting an increase of pension to Martin McNeely; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26631) granting an increase of pension to Vincent Miley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26632) granting an increase of pension to Charles F. Wolverton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26633) granting an increase of pension to Francis M. Whittear; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26634) granting an increase of pension to Robert Moore; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26635) granting an increase of pension to John Hartman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26636) granting an increase of pension to John Gedling; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26637) granting an increase of pension to Samuel Eyman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26638) granting an increase of pension to William D. Grove; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26639) granting an increase of pension to James P. Bodkins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26640) granting an increase of pension to Silas Barton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26641) granting an increase of pension to George W. Butters; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26642) granting an increase of pension to William A. Barnes; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26643) granting an increase of pension to Eli Berreman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26644) to remove the charge of desertion from the military record of William S. Whaley; to the Committee on Military Affairs.

Also, a bill (H. R. 26645) to remove the charge of desertion from the military record of John Vankirk; to the Committee on Military Affairs.

Also, a bill (H. R. 26646) granting an increase of pension to John S. Clark; to the Committee on Invalid Pensions.

By Mr. RAKER: A bill (H. R. 26647) for the relief of Victor E. Shaw, and for other purposes; to the Committee on the Public Lands.

By Mr. REDFIELD: A bill (H. R. 26648) for the relief of David Crowther; to the Committee on Military Affairs.

Also, a bill (H. R. 26649) for the relief of Andrew Gaffney; to the Committee on Military Affairs.

By Mr. SHERWOOD: A bill (H. R. 26650) granting an increase of pension to Catherine Ann Bartelle; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26651) granting an increase of pension to Bavin Copeland; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26652) granting an increase of pension to James O. Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26653) granting a pension to William A. Jacques; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26654) granting an increase of pension to Jacob Peffer; to the Committee on Invalid Pensions.

By Mr. STERLING: A bill (H. R. 26655) granting a pension to Helena F. Stone; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26656) granting an increase of pension to Harmon McChesney; to the Committee on Invalid Pensions.

By Mr. TALBOTT of Maryland: A bill (H. R. 26657) granting a pension to John P. Yingling; to the Committee on Invalid Pensions.

By Mr. VARE: A bill (H. R. 26658) for the relief of Maria N. Kulicke; to the Committee on Claims.

By Mr. YOUNG of Michigan: A bill (H. R. 26659) to correct the military record of James A. Cooper; to the Committee on Military Affairs.

Also, a bill (H. R. 26660) granting a pension to Thomas J. McQuillen, alias Thomas J. Jones; to the Committee on Invalid Pensions.

By Mr. CALDER: A bill (H. R. 26663) granting an increase of pension to Julia Maher; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26664) granting an increase of pension to Ellen Miller; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 26665) for the relief of the estate of Charles Evans, deceased; to the Committee on War Claims.

By Mr. LINDBERGH: A bill (H. R. 26666) granting an increase of pension to George W. Young; to the Committee on Invalid Pensions.

Also, a bill (H. R. 26667) granting a pension to Almira D. Pettingill; to the Committee on Invalid Pensions.

By Mr. PATTON of Pennsylvania: A bill (H. R. 26668) granting an increase of pension to William Jones; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Evidence to accompany special bill for the relief of Avis Coon; to the Committee on Invalid Pensions.

Also, evidence to accompany the special bill (H. R. 1362) for the relief of Eliza Jells; to the Committee on Invalid Pensions.

Also, petition of the Chamber of Commerce of Cleveland, Ohio, favoring passage of House bill 25016, for the Federal incorporation of the Chamber of Commerce of the United States; to the Committee on the Judiciary.

By Mr. BULKLEY: Petition of Army and Navy Post, No. 187, Grand Army of the Republic, Cleveland, Ohio, urging the amendment of pension laws to grant pensions to helpless children of honorably discharged soldiers and sailors of the Civil War; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: Papers to accompany bill for relief of the trustees of the Lick Creek Methodist Episcopal Church South; to the Committee on Claims.

Also, papers to accompany bill for increase of pension to Elizabeth M. Harper; to the Committee on Invalid Pensions.

Also, papers to accompany bill granting increase of pension to Ganbo C. Villmer; to the Committee on Pensions.

Also, papers to accompany bill for relief of William T. Wright; to the Committee on War Claims.

Also, papers to accompany bill for relief of Frederick W. Palmore; to the Committee on War Claims.

By Mr. FORNES: Petition of B. L. Kenyon, favoring passage of bill for Federal protection of migratory birds; to the Committee on Agriculture.

By Mr. FULLER: Petition of Duncan McEwan, Chicago, Ill., favoring the passage of the vocational education bill (S. 3); to the Committee on Education.

Also, petition of C. A. Burrows, favoring the passage of the old-age pension bill (H. R. 13114); to the Committee on Pensions.

Also, petition of the Council of Grain Exchanges, favoring the passage of the Pomerene substitute bill (S. 6810); to the Committee on Interstate and Foreign Commerce.

By Mr. GRIEST: Petition of Emily P. Gilbert, Lancaster, Pa., favoring the passage of the Federal old-age pension bill (H. R. 13114); to the Committee on Pensions.

By Mr. HAYDEN: Petition of the Arizona Mission Conference, Bisbee, Ariz., favoring the passage of the Webb-Sheppard liquor bill; to the Committee on the Judiciary.

By Mr. HINDS: Memorial of Brig. Gen. William M. McArthur; to the Committee on Invalid Pensions.

Also, memorial of Capt. Charles H. Boyd; to the Committee on Invalid Pensions.

By Mr. MOON of Tennessee: Papers to accompany bill to purchase additional land for post-office site at Winchester, Tenn.; to the Committee on Public Buildings and Grounds.

By Mr. PADGETT: Papers to accompany bill for granting increase of pension to Cynthia C. Pickard; to the Committee on Invalid Pensions.

By Mr. SPEER: Evidence to accompany bill (H. R. 26365) granting an increase of pension to Phillip Shirk; to the Committee on Invalid Pensions.

By Mr. WILLIS: Papers to accompany bill (H. R. 26534) granting an increase of pension to James McEvoy; to the Committee on Invalid Pensions.

Also, petition of the Supreme Council, Order United Commercial Travelers of America, in favor of changing the day of the national election; to the Committee on Election of President, Vice President, and Representatives in Congress.