upon an appropriation bill, and that never would have been supported by the Senate of the United States if they had been offered alone as separate measures.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. GORE. I move that the Senate request a conference with the House of Representatives on the bill and amendments, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. GORE, Mr. CHAMBERLAIN, and Mr. WARREN conferees on the part of the Senate.

NAVAL APPROPRIATION BILL.

Mr. THORNTON. Mr. President, I desire to give notice at this time that on Monday, at the conclusion of the debate for that day on House bill 14385, the unfinished business, I shall ask the Senate to take up for consideration House bill 14034, the naval appropriation bill.

Mr. KERN. I move that the Senate adjourn.

The motion was agreed to; and (at 6 o'clock and 5 minutes p. m.) the Senate adjourned until Monday, May 25, 1914, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

SATURDAY, *May 23, 1914.*

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

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

O Thou, who are everywhere present, unseen, yet an overwhelming spiritual force, to uphold, sustain, and guide Thy children in their efforts to do the right, take away from us all unworthy desires and ignoble thoughts, that we may receive the full benefit of Thy holy influence and do the work Thou hast given us to do with all diligence and perseverance. In the spirit of the Lord, Jesus Christ. Amen.

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

THE LATE REPRESENTATIVE SULLIVAN.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent for the present consideration of the following order.

The SPEAKER. The gentleman from New York asks unanimous consent for the present consideration of a resolution which the Clerk will report.

The Clerk read as follows:

Ordered, That Sunday, the 21st day of June, at 12 o'clock noon, be set apart for addresses on the life, character, and public services of the Hon. TIMOTHY D. SULLIVAN, late a Representative from the State of New York.

The SPEAKER. Is there objection to the present consideration of the resolution?

There was no objection.

The resolution was agreed to.

ANTITRUST LEGISLATION.

The SPEAKER. The unfinished business is H. R. 15657. The House will resolve itself automatically into the Committee of the Whole House on the state of the Union, with the gentleman from Tennessee [Mr. HULL] in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes, and other bills embraced in the special order of the House.

Mr. WEBB. Mr. Chairman, I yield 15 minutes to the gentleman from Pennsylvania [Mr. BAILEY].

Mr. BAILEY. Mr. Chairman, the pending bill is one to which I intend to give my support. I am not going to undertake to discuss the trust question from the legal standpoint. I think the pending bill is a lawyer's bill, a lawyer's conception of the trust problem and methods of handling it. I am not a lawyer and have no technical knowledge whatever of the law. I have made some little study of this question from the economic standpoint, and in the brief time allotted to me I propose to discuss the trust question on a fundamental basis, on the basis of political economy. And I want to begin by saying that it was no mere jingle of words in which Oliver Goldsmith declared that—

> Ill fares the land, to hastening ills a prey,
> Where wealth accumulates and men decay.

The people of the United States during the last quarter of a century have witnessed a concentration of wealth and power so enormous as to be appalling, and this concentration still goes on with hardly a sign of abatement. The growth of the trust, so called, has been the phenomenon of the time. It has marked an industrial change more startling by far than any that has ever before been recorded in the history of the world, more startling, indeed, than that involved in the harnessing of steam and electricity. It has noted the rapid passing of the individual and the appearance upon the stage of a vast impersonal force which reduces the social unit from positions of independent initiative to a mere part in a huge machine. It is no longer easy for pluck and brains and energy to win in a struggle which involves relatively new and strange conditions. Pluck and brains and energy are still factors of success, but they no longer play the part they once enacted in the upbuilding of independence and the scoring of individual triumphs. They have become merchantable quantities, like common labor; they are bought in the open market by the highest bidder, and the highest bidder is that industrial creation of privilege which upsets the law of competition and by the forces of monopoly controls the field of production.

It is not my purpose here to detail the frightful process of concentration. To do so would be to burden my remarks with stupendous figures and to confuse the mind with facts that almost pass belief. Let me, rather, invite a consideration of the situation in its moral phase, casting aside all questions of expediency and of circumstance and looking only at the matter from the standpoint of right reason. Concentration in itself is not a bad thing. It is bad only when it involves something besides mere concentration. A thousand men working together can do more than a thousand times as much as one man working alone. It is only when men work together in large numbers that the enormous advantages of a division of labor are possible. And in like manner the concentration of capital is in the direction of economy. It is possible enormously to increase the efficiency of capital by massing it, as in a mighty steamship or a huge factory or a great mill. It must be borne in mind that money is not capital. Capital is wealth used in the production of more wealth; and money is not wealth, it is merely the representative of wealth, a tool employed for the facilitation of exchange. And it does not matter in the least what sort of money it may be so long as it passes current. The small open boat used in carrying goods is capital, but the small open boat is a less efficient means of transportation than a great steamship; and it is an advantage to the world when a hundred owners of small open boats get together and build a mighty leviathan of the deep into which thousands of tons of freight may be packed and safely carried across the multitudinous seas with an expenditure of labor far less relatively than was required in the hazardous ventures of the sloop and the schooner. The harm is therefore not in this massing of capital in noble ships and great factories and huge mills. It must be looked for elsewhere. And we shall find it, perhaps, in the special privileges with which certain aggregations of capital have surrounded and buttressed themselves. These special privileges appear in many forms, but they all possess a common character; they involve the use of a private taxing power, and whether they wield this in the shape of a tariff which enables them to avoid competition and sell their products at an arbitrary figure, as in the case of the Steel Trust, or whether they wield it in the shape of royalties exacted for the use of natural opportunities, as in the case of the Hard Coal Trust, which until lately was also shielded to an extent by tariff laws, the effect is the same.

They are enabled to command service without rendering service; they fix prices at what traffic will bear; their extortion is limited only by the ability of the people to sustain it. There may be pretenses of cheapening commodities, as in the case of oil; but commodities controlled by monopoly are cheapened in price only by their debasement in quality. Coal oil is cheaper per gallon, it is true; but it is also true that it is lower in standard; its illuminating power has been decreased. And the same is true throughout the whole list of trust articles. If prices have been nominally lowered, they have been relatively increased by the act of adulteration or debasement. The trust always takes everything it can get.

NO CORNERING OF THE NORTH WIND.

It should be observed that trusts do not attempt to corner the north wind. They seek to get control of things that are limited in quantity, and so every really effective trust in the long run must be one that in some form is a landlord. Take the Paper Trust. This trust for years was protected from foreign competition by a tariff on manufactured paper and by a tariff on wood pulp, which is the raw material of paper. But the Paper Trust would soon have gone to the wall had it been solely dependent upon the tariff. The tariff certainly aided it in victimizing the publishers; it enabled the trust for a time to increase prices by 33⅓ per cent. Yet if the tariff had been

its only bulwark, its career would have been as short lived and as disastrous as that of the famous Oatmeal Trust. It will be remembered that when the Oatmeal Trust put up the price of its commodity a hundred or possibly a thousand mills in all parts of the country awoke to the fact that they could grind oats as easily as wheat and corn, and just at the moment the trust was flushing with its success the independent manufacturers flooded the market with their product and the trust went to the wall. Its disaster taught other trust managers a lesson which they were not slow to learn, and now every trust which can hope to be more than temporarily effective as a taxing power is in control of something more than tools and machinery. Thus the Paper Trust set out to gain control of the sources of supply; it acquired practically all the spruce timber in the United States, and, in addition, it secured control of all the water power available to the timber supply. It was thus able to dominate the market until the tariff barrier against foreign paper was torn down by a Democratic Congress. Independent mills could get neither the wood nor the water, and they were thus utterly unable to enter into an effective competition. Yet had they then been permitted, as they are now permitted, to import spruce logs from Canada, where spruce abounds, they could have given the trust most serious trouble.

WHERE THE STRENGTH LIES.

The Steel Trust finds its strength in the ownership of ore beds. The same is true of the Copper Trust. The Hard Coal Trust is obviously a child of landlordism, fed and nursed until the passage of the Underwood bill by a tariff on soft coal. The Lead Trust, the Beef Trust, the Standard Oil Trust, the Sugar Trust, and, above all, the Railroad Trust, in the final analysis, are all founded upon the monopoly of certain limited natural opportunities. It is true that some trusts which own no natural opportunities flourish and would continue to flourish were the tariff repealed which protects them in greater or less degree even under the new schedules from foreign competition. But it will be found that in every such case the trust in question is a collateral or dependent of some trust which does control certain natural opportunities. The Beef Trust is largely the offshoot of the railways; it flourished on the discriminating freight rates which it was long able, and which it may still be able, to command; and this trust was not only able by its relations with the railways to extort tribute from the consumers of meat, but was also able in many cases to depress the prices of stock upon the hoof.

The strength of a monopoly is in its taxing power. Never in the service it may render. Always in that which it may withhold. Thus it happens that a monopoly which to-day can levy but a trifling tax upon the public is to-morrow able to impose a crushing burden of tribute. Take the gas monopoly of Chicago, for an example. There was a time years ago, at the time the monopoly was first granted, when the cost of service figured in the rates charged. Later, the charge was fixed entirely by what the consumer would bear. Prof. Bemis was able to show beyond any possibility of dispute that the tribute exacted from the consumer in the good old days of unrestrained and unregulated monopoly was at least 50 per cent of the price charged. In other words, the consumer paid 50 cents for gas, including a fair profit on the investment, and 50 cents for tribute.

Can good citizenship tolerate the exercise of such private taxing powers? Is it not bound to protect itself and the public against all exactions save service for service? It is easy to say that monopoly gives service for service, but it is hard to prove. Monopoly may and often does exact royal tribute from industry without rendering any service at all in return. Examples of this might be multiplied, but one case from Michigan, cited by the commissioner of labor of that State in one of his reports, will suffice.

STORY OF THE COLBY MINE.

The illustration relates to the Colby mine, and the history of this mine is interesting and instructive. It will stand as an admirable type of a thousand other cases which enforce the point which I desire to make. This Colby mine cost the owners $1.25 an acre. They never spent a cent upon it for improvements, but they leased the privilege of taking out the ore on a royalty of 40 cents a ton to the Colbys, who in turn leased it to Morse & Co. for 52½ cents per ton royalty. Morse & Co. contracted with a Capt. Selwood to take the ore out and deliver it on the cars for the sum of 87½ cents per ton. Capt. Selwood in his turn got a capitalist who owned a steam shovel to dig the ore and put it on the cars—all that he had contracted with Morse & Co. to do—for the sum of 12½ cents per ton. This was in the year 1885; and the ore, which was as easily dug as gravel from a gravel pit, brought loaded on the cars $2.80 a ton. Out of this $2.80 a ton the share of the mine owner was 40 cents a ton; Colby's, 12½ cents; Capt. Selwood's share, after paying 12½ cents, as above mentioned, for the work of production, was 75 cents; and the remainder, or $1.40 per ton, was at once the share and profit of Morse & Co. In the year in question there was mined 84,312 tons. At $2.80 a ton delivered on the cars ready for transportation it brought the sum of $236,073.60. Let me recapitulate:

84,312 tons, at $2.80 per ton	$236,073.60
Owners' royalty, at 40 cents per ton	33,724.80
Colby's profit, at 12½ cents per ton	10,539.00
Morse & Co.'s profit, at $1.40 per ton	118,036.80
Selwood's profit, at 75 cents a ton	63,234.00
Capitalist's share for capital and labor in production	10,539.00
Total	236,073.60

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

Mr. BAILEY. I yield to the gentleman from Nebraska.

Mr. BARTON. Will the gentleman state where that mine was located?

Mr. BAILEY. In Michigan. I copy this from the report of the labor commissioner of Michigan.

Up to the close of the period covered by the report from which I have quoted the total output of this mine was 1,116,418 tons. Since then the output has probably been increased, but the figures are not available. Nor do they matter for the purposes of this argument. What I wish to observe is that this mine has given something more than a comfortable living to each of four beneficiaries who performed absolutely no service in exchange for it.

Mr. GORDON. Will the gentleman yield?

Mr. BAILEY. I should like to yield.

Mr. GORDON. I want to ask the gentleman what is the product of that mine?

Mr. BAILEY. Iron ore. The only person who did any work was the capitalist, and his share, for the capital and labor employed in mining and placing the ore on the cars, was less than 5 per cent of the total value of the product. In other words, monopoly claimed and got 95 per cent of the product and capital and labor divided between them 5 per cent. The difference represents the value of a private taxing power. It represents what privilege demands from the toiler for access to natural opportunities. It represents the difference between natural wages and the wages fixed by legal restrictions.

Now, I wish to inquire how we, as Democrats, can sustain so glaring a perversion of natural law? Under just conditions, ought not the product go to the producers? What possible title in morals can the men who get 95 per cent of the product of the Colby mine show to that product? They have performed no labor; they have rendered no service; they have expended no capital; they have done nothing whatever but stand between labor and capital and the natural opportunity. Did they make the iron ore? Did they create the demand for its use in the production of steel? Certainly not. They simply forestalled the opportunity and waited the time when labor and capital were so pressed by necessity that they would yield 95 per cent of their joint product for the bare privilege of access to the ore bed.

If this is true of ore mining, if monopoly taxes labor and capital 95 per cent for permission to produce, can we doubt that the same is true in coal mining, in silver mining, in lead mining, in lumbering, in quarrying, in all the various fields which have become subject to the forestaller? And if monopoly has learned the trick of levying a private tax upon capital and labor, compelling them to yield an enormous tribute for which no conceivable return is offered, can it be supposed that industry in general, that capital and labor in other lines, in manufacturing, in building, in commercial pursuits, in printing and merchandising and personal service, are exempt from exaction? If labor and capital in ore mining must pay 95 per cent of their product for bare opportunity, what do you suppose steel workers pay, what do you suppose clerks and small tradesmen pay, what do you think bricklayers and carpenters and blacksmiths and painters pay, what must teachers and musicians and preachers pay? Or to put it in another way, if labor and capital could freely engage in ore mining and retain their entire product undiminished by a private tax, how long would labor consent to work for the wages it is now glad to accept? For it should be remembered that this Colby mine is no isolated instance. It is typical. It illustrates the whole system of monopoly production under which we are working; and it is inconceivable that ore miners alone would consent to yield 95 per cent of their product as tribute while coal miners and lumbermen and steel workers were required to yield relatively less.

HOW WAGES ARE DETERMINED.

The truth is that on the average throughout all industry wages are determined, not by the product, as they should be, but

by what monopoly leaves after it has taken its tribute. This any man may see who has eyes to see. And when you have been told, as we are often told, that wages of labor have advanced, the statement is made in clear defiance not only of the fact but of right reason, as one may readily perceive if one will but stop to consider that in the last analysis wages are governed by what may be obtained by the application of labor to the best free land in use. That the best free land in use must be very poor indeed is shown in the fact that in agriculture from a third to half the crop is willingly paid by tenants for the use of appropriated land; and since labor in the primary industry secures but half its product, less taxes, can you for a moment believe that labor in the secondary or more elaborate industries is relatively more fortunate? The reverse is probably if not demonstrably true, as must appear when we consider that in agriculture alone comparative freedom of opportunity is left. Farming is still free or largely free from trust control, yet even in farming the independent farm owner is fast disappearing, the tenant farmer is taking his place; and even the tenant farmer is giving away surely, if slowly, to the farm laborer.

It were supreme folly to attempt to destroy the trust, in so far as it marks a mere tendency to concentration. As was said before, there is no necessary harm in concentration. The evil grows out of concentration plus monopoly. And it has been asserted that no monopoly can long exist without some special grant of privilege. There are patent monopolies, but these can exist only for a limited period, and can therefore play no very serious part in the great economic drama. The tariff will enable its beneficiaries to rob the people up to the point where internal competition is invited, and this in turn invites combination. But suppose that every concern in the whole country engaged in the production of a certain commodity were to enter into a combination which would throttle competition and enable the producers of this commodity to sell up to the full tariff limit, what would hinder others from setting up in the same business? The combination would speedily break of its own weight unless it were the possessor of some valuable natural monopoly.

WHY RESTRICTION FAILS.

We have been dealing and we are proposing still further to deal with trusts by restrictive measures. These measures in the past have been abortive. Is there any reason to believe that new measures of restriction will afford better results? The proposition to license trusts is too grotesque to be seriously considered, but if we were to license trusts, as we do saloons, the trusts would go into politics then for sure, just as the saloons have done. The Sherman antitrust law has been as unavailing as it was probably intended to be by the able statesmen who sought to fool and did fool the people with it. And if a thousand other laws of restrictive character were piled upon the statute books the result would not be different. The trusts would continue business just the same.

This is no partisan question. It concerns every American. We can afford to divide on questions of policy, but we can not afford to divide on a question which involves the very essence of republicanism. Lincoln loved the plain people and often referred to them. He never ceased to trust them, and they never betrayed his trust. He said you could fool all of the people some of the time and some of the people all of the time, but you could not fool all the people all of the time. Apparently this wise yet homely saying is discredited by some of the leadership of to-day. It seems to be the governing thought that you can fool all the people all the time. But surely no one can be fooled by the pretense that our own rights are not in danger when the rights of others are abridged and denied. Nor can anyone of ordinary perception be fooled by the assumption that if the Government shall take care of the rich the rich will take care of the poor. Yet this assumption has been gravely made, and it has been too freely accepted, as the enormous monopolies which menace the land but too powerfully testify.

WHAT LINCOLN SAID.

Lincoln 50 years ago observed and denounced "the effort to place capital on an equal footing with labor in the structure of government." "It is assumed," he said, "that labor is available only in connection with capital, that nobody labors unless somebody else, owning capital, somehow by the use of it, induces him to labor." With an insight keener than that of any other statesman of his time, he saw the grotesque error of this assumption. He declared that there was no such relation between capital and labor. "Labor is prior to and independent of capital," he said in his first annual message to Congress. "Capital is only the fruit of labor and could never exist if labor had not first existed; labor is the superior of capital and deserves much the higher consideration." But he did not deny that capital had its rights, nor did he deny that there was and probably always would be a relation between capital and labor producing mutual benefits. He saw ahead of his time. He foresaw the growth of what some are pleased to call capitalism, but what he knew and we know as monopoly, but he did not make the sad mistake of imagining a war between capital and labor. He knew that these two partners in producing wealth could not quarrel—for how can a workman quarrel with his tools; how can the tools quarrel with the workman who uses them? But he understood that the man who could own another man could own and did own that other man's labor. And he saw that this was the fundamental economic fact—the real cause of that irrepressible conflict whose expression was found in rebellion and the open or covert attacks upon the people's right to govern themselves. He declared that no man was good enough to govern himself and another man. Freedom was his watchword, and he turns aside in a grave state paper, dealing with the perplexities of war and the mighty problems which rebellion thrust upon him, to felicitate the country on the fact that there was not of necessity any such thing as the free hired laborers being fixed to that condition of life.

Many independent men everywhere—

He observed—

a few years back in their lives were hired laborers. The prudent, penniless beginner in the world labors for wages a while, saves a surplus with which to buy tools or land for himself, then labors on his own account another while, and at length hires another new beginner to help him. This is the just and generous and prosperous system which opens the way to all, gives hope to all, and consequent energy and progress and improvement of condition to all. No men living are more worthy to be trusted than those who toil up from poverty; none less inclined to take or touch ought which they have not honestly earned. Let them beware of surrendering a political power which they already possess and which, if surrendered, will surely be used to close the door of advancement against such as they and to fix new disabilities and burdens upon them until all of liberty shall be lost.

These words were written over 50 years ago. What has become of that just and generous and prosperous system which then opened the way to all, gave hope to all, and consequent energy and progress and improvement of condition to all? Can it now be truly said that labor is not fixed to that condition of life? Lincoln said that labor was not so fixed in his day. Can you say as much in 1914? The prudent, penniless beginner of his time labored for wages a while, then he began working for himself, and then he became an employer. Has the beginner in my State of Pennsylvania any such spur to energy? Largely speaking, is there any hope for him ever to cease working for wages? Can he ever seriously aspire to rise much higher than to a petty foremanship? Is there one chance in a hundred thousand that he may become himself an employer?

THE GIANTS OF PRIVILEGE.

What has wrought this change? Chattel slavery has gone; invention has enormously increased the efficiency of human labor. It ought therefore to be easier for labor to win its way from penniless beginnings through the intermediate steps to a competency. But is it so? Does not the struggle grow harder and harder and the prospect less and less hopeful? And if the burden of industrial conditions even in that comparatively hopeful time rested upon the great soul of Lincoln, urging him to warn his countrymen against placing capital above labor, how much more it must devolve upon us to wave the danger signals. For capital has indeed been placed before labor. Legislation under 50 years of Republican rule has looked after the dollar and left the man to look after himself. Giants have been built up on privilege, and to-day we are facing those possibilities which Lincoln dreaded, when powers that the people have surrendered are being used to close the door of advancement and to fix new burdens and disabilities upon them. It is now but a matter of keeping on in the way we have been going until all liberty shall be lost, as he feared we should lose it.

Let us consider for a moment what privilege really means. There is nothing in itself in wearing a crown. Anyone could plait himself a crown of straw or of thorns if he pleased, and he might wear it without offense. He might even build a triple one of gold and have it set full of diamonds and precious stones, yet would it be but a bauble, a toy, the vanity of a fool, were that all. It is when there is something behind the crown, some power, some authority, some privilege, which it typifies. Thus a king with a hundred crowns and without a kingdom were as deviceless and as puny a monarch as that one who in a padded cell plaits his crown of straw and wields a broken reed for a scepter over the fantastic hosts trooping through his disordered mind. But let there be power, let privilege be vested, let authority be grasped and its exercise conceded, then, whether the man so clothed shall wear a crown and wield a scepter or not, whether he shall call himself a king or merely a "captain of industry," the effect upon those who must come when he says

come, must go when he says go, must render tribute when he demands it, must bow to his authority and acknowledge his privilege when he asserts them, is the same. And while we have no crowns in America and no titles of nobility, we still have a privileged class whose power over the lives and destinies of the rest is as absolute and as imperious as ever that imposed by czar or prince. Your Andrew Carnegie is a "triumphant Democrat," yet no monarch who ever bestrode a throne held sway more dominantly or wielded his imperial functions with a harder hand. For the essence of kingship is the taxing power. The Stuarts realized that in their bitter fight with the Parliament; and monarchy became a figurehead when that power was resumed by the people.

THE ROOT OF THE MATTER.

Then, surely here is the root of this matter. If we have principalities and powers in this free Government; if there be barons and dukes and princes; if there be underlords and overlords; if there be those that take who have the power and those that keep who can, what is the plain solution of the problem? Is it not to unhorse privilege by destroying its taxing powers? Let the kings and potentates continue if they please to wear their crowns; let them flaunt their robes of state and their insignia of royalty if that shall tickle their vanity; but let the people whom they have been taxing refuse to vote further supplies. Let the people keep what belongs to them, and let the kings and princes keep what is theirs. But what is it that belongs to the people? Is it not the product of their labor and all the product?

If the kings and the princes have produced anything, then surely that is theirs. The people will not claim it. The people claim only what their labor has produced. And when our American royalty presents its demands for tribute, let the answer be refusal And let this refusal be made effective, not by idle protests and by vain restrictive concessions, for every restriction is but a concession, but by the repeal of all laws which vest the taxing power in private hands. There is no other way. The trust which has no taxing power is a good trust. Every one which possesses the taxing power is a bad one. And this is the distinguishing mark. Look into the nature of the trust. If it has the power of levying a tax, then it is bad and irredeemably bad. If it is not endowed by law with this special privilege or some form of it, then it is harmless if not beneficent.

THE WAR AGAINST ALL PRIVILEGE.

The war, then, is not against the trust per se; it is against privilege in general. The trust of which we complain is but an incident of privilege. Destroy the latter and the former falls as a limb falls when the tree is cut down. And since we have seen that the root of privilege is in the monopoly of natural opportunities, the first and the continuing assault should be directed to its extirpation. Attack the outposts and cut off the allies; reduce the outworks and destroy the guerrillas; yes; but press on toward the citadel. Until that has fallen, the robbers which have levied tribute upon labor, that have demanded service without returning it, that have compelled the people to make bricks without straw, will still be in command; they will still lay upon labor tasks and burdens; and its fighting and its sacrifices will have been in vain.

Repeal all tariffs.

Take over all natural monopolies.

Untax labor and the products of labor, and for all other taxes substitute a single tax on the value of land, irrespective of improvements.

And thus, and thus only, shall we destroy privilege and all its brood. [Applause.]

Mr. CARLIN. Mr. Chairman, I desire to make the point of no quorum.

The CHAIRMAN. The Chair will count. Evidently there is no quorum present. The Clerk will call the roll.

The Clerk proceeded to call the roll, when the following Members failed to answer to their names:

Aiken	Chandler	Faison	Gudger
Ainey	Clark, Fla.	Falconer	Hamill
Ansberry	Clayton	Farr	Hamilton, N. Y.
Barchfeld	Connelly, Kans.	Ferris	Hamlin
Barthoidt	Connolly, Iowa	Finley	Hardwick
Bell, Ga.	Copley	Flood, Va.	Hart
Borchers	Covington	Fordney	Heflin
Bowdle	Cramton	Foster	Hill
Brown, N. Y.	Crisp	Francis	Hobson
Browning	Curry	Gallivan	Hoxworth
Bruckner	Dale	Gard	Hughes, W. Va.
Brumbaugh	Difenderfer	Gardner	Humphreys, Miss.
Burke, Pa.	Dooling	George	Jones
Butler	Driscoll	Glass	Kahn
Calder	Drukker	Godwin, N. C.	Kindel
Callaway	Dunn	Goldfogle	Kinkaid, Nebr.
Cantor	Edmonds	Gorman	Kirkpatrick
Cantrill	Elder	Graham, Pa.	Kitchin
Carew	Estopinal	Griest	Konop
Korbly	Maher	Riordan	Stanley
Kreider	Manahan	Roberts, Mass.	Stedman
Lafferty	Martin	Roberts, Nev.	Steenerson
La Follette	Merritt	Rogers	Stephens, Miss.
Langham	Metz	Rothermel	Stephens, Tex.
Langley	Mondell	Rupley	Stringer
Lee, Ga.	Montague	Sabath	Taggart
Lee, Pa.	Moore	Scully	Talbott, Md.
L'Engle	Morin	Seldomridge	Taylor, Ala.
Lenroot	Moss, Ind.	Sells	Taylor, N. Y.
Lever	Mott	Shackleford	Tuttle
Levy	Murdock	Sharp	Underhill
Lewis, Pa.	O'Brien	Sherley	Underwood
Lieb	O'Hair	Sherwood	Vare
Lindbergh	O'Leary	Shreve	Wallin
Lindquist	Paige, Mass.	Sinnott	Walters
Linthicum	Peters, Me.	Slayden	Whitacre
Loft	Peters, Mass.	Slemp	Wilson, N. Y.
Logue	Phelan	Small	Winslow
McClellan	Porter	Smith, Idaho	Woods
McKellar	Post	Smith, Md.	
McLaughlin	Ragsdale	Smith, Tex.	
Maban	Reed	Sparkman	

The committee rose; and Mr. GARNER having taken the chair as Speaker pro tempore, Mr. HULL, 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. 15657, and finding itself without a quorum, the roll was called under the rule, and 269 Members had answered to their names, and he reported a list of the absentees.

A quorum being present, the committee resumed its session.

Mr. WEBB. Mr. Chairman, I yield to the gentleman from Arkansas [Mr. FLOYD], a member of the committee, so much time as he cares to consume.

Mr. FLOYD of Arkansas. Mr. Chairman, I desire to discuss some of the more important provisions of this trust legislation. In doing so I desire to go more into detail than has been done by those who have preced d me c ncerning certain provisions of the bill and the reasons therefor.

Before going into a discussion of the merits of the different propositions embodied in this proposed legislation I want to call attention briefly to some of the criticisms made against the bill. My colleague on the committee, Mr. VOLSTEAD, the senior member of the Judiciary Committee on the minority side, who filed a minority report, intimated last night in his speech, if he did not say it, that this bill had in some way been framed in secret. I desire to say that no bill that was ever brought into this House has been more openly considered, both by the committee and by the country at large and by everyone who desired to consider it, than has this bill. It is true that the Judiciary Committee assigned the work of framing the bill to a subcommittee composed of the chairman [Mr. CLAYTON], the gentleman from Virginia [Mr. CARLIN], and myself. We worked for hours, for days, and for weeks formulating the provisions of this measure when no one esle was present, but whenever we formulated a proposition we brought it into the spotlight, laid it not only before the members of the committee but before the country. This legislation was in response to the message of the President delivered January 20, 1914.

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

Mr. FLOYD of Arkansas. Certainly.

Mr. MANN. Will the gentleman give us the names again of the subcommittee?

Mr. FLOYD of Arkansas. Chairman CLAYTON, the gentleman from Virginia [Mr. CARLIN], and myself.

Mr. MANN. There was no minority member on that subcommittee?

Mr FLOYD of Arkansas. No; there was not. When the tentative bills were first prepared they were printed and notice was issued through the press to the country, inviting criticism, and people interested in the legislation came from all parts of the country and all sections of the country and criticized various provisions in the bills and suggested amendments. We had public hearings for weeks. I want to say that many of these criticisms proved valuable to the committee; many suggestions made were finally incorporated in the bill as it was finally submitted to the House.

But there is another class of critics to whom I want to pay my respects—the men that criticize the provisions of the bill who do not know what it contains. We get them from all sources and from all over the country. I have here a criticism of this kind; it came from my own State. It is from the Blytheville Courier, a newspaper published at Blytheville, Ark. It is a marked copy. It reads as follows:

A VICIOUS LAW.

Congressman CLAYTON has introduced in Congress an antitrust amendment to the law now operating which is vicious and should be defeated. It provides exemption for every known kind of organization not organized for profit except the retail associations. Under this law all corporations such as the retail corporations in Blytheville would be put out of business.

The measure was introduced April 14, and is brand-new. All retail associations or corporations should get busy with their Congressmen and Senators and have the bill killed. It is a case of act quickly, as the law is cleverly framed, and unless close attention is paid it might become a law.

And yet, as I will show you later, the provisions relating to the subjects he is discussing are, in the judgment of the committee, in favor of the smaller business men of the country, and are attempts to check the growth, power, and rapacity and the unfair methods of the great trusts and combinations.

Now, the editor of the Blytheville Courier is the editor of a small newspaper in Arkansas. I want now to read an editorial from another source, from the New York World of May 20, 1914:

[Editorial from the New York World of May 20, 1914.]

INOPPORTUNE.

The administration trust bills are not going to have any bed of roses to repose on during their consideration by Congress. Unscrupulous big business, against which they are aimed, is openly hostile to them. Scrupulous business, big and small, in whose behalf they are projected, is certainly not clamoring for them. And now labor is getting a large and heavy club ready for them.

Attacked by the special interests of capital and labor which they are deemed to antagonize, suspected by the honest business which they seek to befriend, there is left to these bills nothing but to petition the support of the general public which represents no special interest, good or bad, but solely the general welfare. And this general public has so far ignored them.

Why? Because, however inherently just these bills may be, they have committed the offense of being inopportune.

Those are the comments of the New York World, and it seems to me that the writer misconceives the purposes of the bill and misconceives the temper of the American people just as completely in other directions as did the editor of the Blytheville Courier. As a member of the Judiciary Committee of this House, I desire to take up and explain the provisions of this bill. No special interest is behind them but the general public, and the World seems to be impressed with the idea and to be of the opinion that there is nobody here to represent the general public. That is the function of the American Congress, and fortunate indeed will it be for the American people when the American Congress, in acting upon all measures of legislation, will stand not for any special interest but for the interest of the general public. [Applause.] I have an abiding confidence that this Congress, in the consideration of this great measure, will so act.

Mr. AVIS. Will the gentleman yield?

Mr. FLOYD of Arkansas. Yes; for a question.

Mr. AVIS. In preparing section 3——

Mr. FLOYD of Arkansas. I decline to yield for that question now. I am making some preliminary remarks on the bill, but when I enter into a discussion of the several sections I will take pleasure in yielding to the gentleman.

While the Democratic Party in its platform for years has declared in favor of trust legislation, and other party platforms have declared in favor of trust legislation, while the Democratic President delivered to the Congress on January 20 last that able and patriotic message which sent a ring of joy into the hearts of the small business men all over this country, we bring this measure here, not as a party measure, not as a measure that the Democratic Party alone stands behind. It is not the result of any caucus action, and the questions involved in it, I will say frankly, are not party questions in a strict sense. This trust question is entirely different from the tariff question. There is a straight alignment between Democrats and Republicans, and there has been for years on the tariff question, but this trust evil is an evil recognized in Republican States as well as in Democratic States, and I think I will be able to show you that in so far as State legislatures are concerned, many Republican States have been more active in trying to curb these evils than some of our Democratic States. I make this statement in order that you may understand the attitude of this committee, the attitude of the President, and the attitude of the Democratic Party now in power. This bill is brought in under a rule, it is true, which limits general debate, but which is wide open when it comes to amendment and the time for debating those amendments; and in bringing this bill before you and before the House the members of the Judiciary Committee, who are intrusted with the grave responsibility of framing the legislation, must defend every line and every paragraph of it before the criticism and judgment of the Members of this House.

Mr. Chairman, this is a great question. The World says in its editorial that it is brought in at an inopportune time; but, so far as the Democratic Party is concerned, it has not written a platform since 1896 wherein it has not pledged to the American people if intrusted with power in national affairs to reform the evil of trusts; and now for the first time in power it ill becomes anyone to say that because the present Executive and the majority of the party in power have already finished two great tasks, the passage of the tariff law and the passage of the currency law, that their efforts are inopportune when they are endeavoring in good faith to live up to their pledges and promises to the American people and enact trust legislation. The criticism is unjust, even though to enact that legislation may be somewhat of a hardship on the individual Members of this Congress; but we are here to represent the public interests, and the public interests of this country demand legislation to further check and curb gigantic monopoly, corrupt monopoly—to use the language of the World, unscrupulous big business—in this country.

The first section of the bill deals simply with definitions, technical definitions for the purpose of convenient reference in the bill, and I do not care to take any further time about that provision.

I now desire to take up and discuss somewhat in detail section 2, one of the vital sections of the bill. It strikes at a great evil, strikes at a practice that has been exercised by great and powerful corporations in this country to drive out and destroy competitors. I refer to price discrimination. The States commenced years ago to deal with that important feature of this legislation, and I hold in my hand a compilation of the anti-trust laws of the various States that have passed laws, similar and identical in substance, somewhat varying in phraseology, to prevent the very wrong and injustice and unfair discrimination within the States which we now seek to protect the American people from in interstate commerce in section 2 of this bill.

I want to read you the list of the names of the States that have passed those laws, but of course I will not take the time to read any of these State laws. I want to get in the RECORD the names of the States that have adopted laws to prevent unfair discrimination, based upon the same principle that is embodied in this provision of the bill. They are Arkansas, California, Idaho, Iowa, Kansas, Louisiana, Massachusetts, Michigan, Missouri, Mississippi, Montana, Nebraska, New Jersey, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Utah, Wisconsin, Wyoming—21 in number. We have been told by the critics of this provision of the bill that there is no necessity for it, that the States have adopted such laws, and that that is sufficient; but we have had before our committee testimony showing that both Wisconsin and Michigan have that kind of a statute on their books now, and that one of these great corporations engaged in selling its products in interstate commerce lowered the price of gasoline 1 cent lower in Michigan than in Wisconsin, in order to drive out all competitors from the State of Michigan. Should not the American Congress protect the States and the people of the States from any such unfair method of business?

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

Mr. FLOYD of Arkansas. Yes.

Mr. NELSON. Mr. Chairman, I dislike to interrupt the gentleman and will not indulge in it, but in preparing this list of States and in asserting that they have similar statutes the gentleman does not mean to infer that these statutes are like this provision in the bill, does he? For instance, in Wisconsin they are related to competition and restraint of trade, but the gentleman's provision has gone entirely out of that field. Is not that true?

Mr. FLOYD of Arkansas. I said for a similar purpose.

Mr. NELSON. But not identical in language?

Mr. FLOYD of Arkansas. Oh, no. I did not say that they were identical in language. The State statutes are more drastic than this provision. It is easier to convict a man under the State statutes than it will be under this bill if it becomes a law. We have thrown around this law certain technical requirements that are not present in most of the State statutes, in respect to conviction, and that is the criticism that our friend and our colleague on the committee, the gentleman from Wisconsin [Mr. NELSON], who has just interrupted me, makes of the bill—it is not drastic enough. The point I make is that we undertake in this provision to assert a principle and provide a law to prevent the unfair discrimination in sales in interstate commerce, and that that principle has been adopted in 21 States of the Union, and adopted because of the practice and unfair methods of these great and powerful corporations which are driving out competitors and destroying independent companies all over the country to such an extent that the people of those States in their sovereignity as States have asserted their authority, as far as it is within their power to assert it, and those are the people who represent no special interests, but who are represented by you and the membership of this House, and who are demanding legislation on the part of Congress.

Mr. MORGAN of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. FLOYD of Arkansas. Yes.

Mr. MORGAN of Oklahoma. This section provides, as the gentleman knows, that this discrimination in price, in order to be unlawful, must be done with the intent or purpose to destroy or wrongfully injure a competitior. Is it not a fact that of all of these State statutes in the Union there is only one, the State of Louisiana, where that phrase is used, that in all of the other States this discrimination in price to be unlawful must be made to establish a monopoly, or to substantially lessen competition, or something of that kind, while there is only one——

Mr. FLOYD of Arkansas. No; I do not admit that, and I hope the gentleman will argue that proposition in his own time. I can not admit that. I am insisting upon this, not that this is a literal copy of the statutes of the States, or any of them, but that great abuses have grown up in this country by great and powerful corporations underselling in local communities in order to destroy competitors, to drive out competition, and to acquire monopolies; and if the gentleman will read the decisions of the courts in the great cases that have been already decided, like the American Tobacco Co. case and notably the Standard Oil case, he will find that this practice of discrimination is one of their favorite methods of suppressing competition and of building up these huge monopolies. The Standard Oil Co., incorporated in New Jersey, was given the right in its charter to operate not only in this country but throughout the world.

Mr. COOPER. Will the gentleman permit a question?

Mr. FLOYD of Arkansas. Certainly.

Mr. COOPER. It is the same question I asked the gentleman from North Carolina [Mr. WEBB] yesterday and I would like to have the gentleman from Arkansas answer it. I make it without any desire to criticize, but simply for the purpose of obtaining information.

Mr. FLOYD of Arkansas. What is the question?

Mr. COOPER. In section 2, in the proviso beginning in line 7, page 21, there is an express authorization of discrimination, as I understand it——

Mr. FLOYD of Arkansas. I do not so understand it.

Mr. COOPER. I will ask the gentleman to read it with me, beginning with line 7 of the proviso——

Mr. FLOYD of Arkansas. I do not have to read it.

Mr. COOPER. Let me finish, please, my question, as it will take but a moment. This proviso says:

Provided, That nothing herein contained shall prevent discrimination in price between purchasers of commodities on account of differences in the grade, quality—

Now, here is the important thing—

or quantity of the commodity sold, or that makes only due allowance for difference in the cost of transportation.

Now, my question is this: Two dealers in a town buy from the same wholesaler. One retailer is a large concern, and the other is a poor man with a small store. The large concern buys several carloads of a product. It gets the product for less than its small competitor, who buys only a half carload, and the large retailer pays less rates for transportation on the railroad than his small competitor pays who buys in less-than-carload lots. So the large retail concern, buying of the wholesaler and getting not only goods but transportation also at a less price than its smaller competitor, is permitted under this proviso an opportunity to practice unrestricted cutthroat competition and ruin the smaller dealer.

Mr. FLOYD of Arkansas. Now, I desire to answer the gentleman from Wisconsin frankly and fairly. That proviso authorizes nothing. Any man under the laws that exist to-day can do any of those things. It is a common business practice, practiced everywhere, and it has been practiced everywhere for ages. We simply leave the law as it is in that respect.

Mr. COOPER. If the gentleman will permit another interruption, I remind him that this proviso does not prohibit discrimination. It expressly authorizes it.

Mr. FLOYD of Arkansas. I desire to answer the gentleman's first question before I get to a second one. We leave the law as it is as to the things mentioned in the proviso. We are drafting a criminal statute, which some gentlemen who have discussed its provisions heretofore in this debate and many outside of this Chamber have regarded as exceedingly drastic. We make it a high crime under the law to discriminate in price by methods and evil practices described, but we have not attempted in this provision or anywhere in this bill to make it a crime for a man to carry on any legitimate and customary practice that the business world has recognized and followed for centuries, other than those methods and practices herein specifically condemned. The things mentioned in the provisos are authorized by existing law, and we do not forbid them. We did not intend to forbid them, and we do not believe they ought to be forbidden. The statutes of most States to which I have alluded make the same exceptions, and, if I am not badly mistaken, they occur in the statutes of the State of Wisconsin, from which the gentleman comes.

Mr. NELSON. Not as to the quantity, but on a different basis entirely.

Mr. COOPER. Will the gentleman permit another interruption?

Mr. FLOYD of Arkansas. I do not desire to devote too much time to this particular section, as there are many sections in the bill.

Mr. COOPER. The question I asked goes to the vitals of this whole question. We can not in this connection discuss anything more important.

Mr. FLOYD of Arkansas. What is the question? I agree to that.

Mr. COOPER. The gentleman says they did not intend to prohibit anything that the business world has authorized——

Mr. FLOYD of Arkansas. No; I did not say that; the gentleman misunderstood me. We did not intend to prohibit business methods which are mentioned in that exception, but we do prohibit other practices further on in this bill which we consider evils that the business world has recognized and practiced extensively, but, we believe, to the detriment of every small dealer in this country and to the detriment of the entire country.

Mr. COOPER. Then, will the gentleman answer this question? Does not this proviso expressly permit——

Mr. FLOYD of Arkansas. We leave the law as it is.

Mr. COOPER. But expressly permit a discrimination as between purchasers in large quantities who get their goods at a less price and transportation at a less price—a discrimination which will enable them in their discretion to crowd out the smaller man, as they do now.

Mr. FLOYD of Arkansas. I do not want the gentleman to put words in my mouth. It does no such thing. The provision is in plain language and seeks to prevent dealers from lowering the price of commodities in different sections and communities by unfair discrimination with the intent and purpose to destroy, ruin, or injure the business of a competitor. That is a recognized evil extensively practiced by great and powerful concerns to drive out competition and destroy competitors, which results to the serious detriment of the general public, and has been demonstrated to be a most effective means in acquiring a monopoly.

It does that and nothing more, and is not intended to do anything more. If there are other evil methods and practices that ought to be condemned and corrected, we leave it to the distinguished gentleman from Wisconsin [Mr. COOPER] and his colleague on the committee [Mr. NELSON], who has filed a minority report, to bring forward appropriate amendments here and debate them before this House, and we have left the bill open to amendment under the rule, so that anyone can tack on any amendment to it that can secure the necessary votes to sustain such amendment.

Mr. GRAHAM of Illinois. Will the gentleman yield?

Mr. FLOYD of Arkansas. Just for a moment. I have already taken too much time on this section.

Mr. GRAHAM of Illinois. In regard to the question of the gentleman from Wisconsin [Mr. COOPER], he intimated or stated in the question that this dealt with the question of transportation in such a way as to make transportation cheaper when large quantities were transported than when smaller quantities were transported. Is there any such provision as that?

Mr. FLOYD of Arkansas. He is in error about that. If the quantity of goods should be larger, and if the railroad company should make a reduction there might be some remission of cost of freight there. But that is a matter concerning which we leave the law as it is. We have not undertaken to disturb that condition. We have left that to be determined by the Interstate Commerce Commission, and have not undertaken to deal with the particular question.

Now, gentlemen, we have been confronted with many questions, and——

Mr. KELLEY of Michigan. May I ask just a question before the gentleman leaves that?

Mr. FLOYD of Arkansas. Certainly.

Mr. KELLEY of Michigan. Now, as I understand you, if it can be proven that there is intent to destroy or injure a competitor, the person charged with the offense could not fall back on this proviso and say that he was saved because he was permitted to make a different price for different amounts of goods?

Mr. FLOYD of Arkansas. That would be a question for the jury. If you could prove the intent, and that he was discriminating for this specific purpose, he would be guilty.

Mr. KELLEY of Michigan. Although the proviso says——

Mr. FLOYD of Arkansas. If he were doing it merely in conformity with the purposes of the proviso, and not for the purpose of wrongfully injuring or destroying a competitor, he could not be guilty.

Mr. KELLEY of Michigan. There would be no presumption of the mere intent in the fact that he has shipped to one person at cheaper rates than to another? That leaves it wide open for discrimination.

Mr. FLOYD of Arkansas. We require the Government, in order to sustain conviction, to prove a specific case of wrongful intent and wrongful purpose. If by any circumstance the accused party can show that the lowering of the price was not unlawful discrimination, was not done for the specific purpose and with the wrongful intent of destroying or injuring a competitor, he would not be guilty under the provision of this section.

Mr. SUMNERS. Will the gentleman from Arkansas yield?

Mr. FLOYD of Arkansas. I yield to the gentleman from Texas.

Mr. SUMNERS. In drafting this bill, have not you merely recognized the fact that it costs less money for articles when sold in large quantities than when sold in small quantities, and in that sense it costs the man who is making the sale more money to sell in small quantities, and that he may receive a larger profit in the aggregate than by selling it in small quantities? Is not that the same principle recognized in fixing railroad rates? For instance, a man in shipping a carload of nails, the man who gets a carload gets a cheaper rate than the man who gets only one keg?

Mr. FLOYD of Arkansas. Mr. Chairman, I am attempting to make an outline of this bill under general debate. We will have unlimited debate under the five-minute rule, and I would consider it a courtesy if I might be permitted to proceed to give my views of several of the important provisions of this bill; and at the end of the time I will be glad to answer any questions, if I have any time left. If not, we will have the freest debate under the five-minute rule, and I can do so then. I do not mean by that to ask Members not to ask any questions, but I hope when it comes to discussing controverted matters and controverted points that you will leave those matters for consideration to a later period in the consideration of the bill.

Mr. FESS. As many of us are students trying to get at the truth of the matter, we would like to ask the questions from the man who has made a study of it, purely for information.

Mr. FLOYD of Arkansas. I shall be glad to answer such questions if I can.

Mr. FESS. I am beclouded yet on this point. I recognize it is an economic principle to allow a smaller price for large quantities. That is recognized the world over. But the question with me is whether you are curing the thing you want to cure by putting it on the basis of proving intent.

Mr. FLOYD of Arkansas. We are curing what is a recognized evil. You will bear in mind this is supplementary legislation to the Sherman antitrust law. You will bear in mind it is made an offense punishable by fine of not exceeding $5,000 and imprisonment not exceeding a year, or both. And your committee, following out the suggestions of the President in his message, intended not to disturb that which was not evil, not to disturb business any more than was necessary, in order to correct certain great evils and notorious practices that exist in this country to the detriment of the general public.

Mr. BATHRICK. Will the gentleman yield on that score?

Mr. FLOYD of Arkansas. Yes.

Mr. BATHRICK. The Sherman antitrust law would not prevent discriminations in communities within the State, would it?

Mr. FLOYD of Arkansas. This provision, if enacted into law, will prevent discriminations in sales in interstate commerce.

Mr. BATHRICK. But not in communities wholly within the State?

Mr. FLOYD of Arkansas. No; not to discriminations wholly within the State.

Mr. BATHRICK. It will not?

Mr. FLOYD of Arkansas. Not at all.

Mr. HAMILTON of Michigan. I simply wish to ask the gentleman one question, and I will not interrupt him again. After all, does not this section perpetuate in law the scriptural proposition that—

For he that hath, to him shall be given: and he that hath not, from him shall be taken away even that which he hath.

It is just the same proposition we have been operating under for several years?

Mr. FLOYD of Arkansas. Not at all.

Mr. HAMILTON of Michigan. I would like to have the gentleman dwell on that.

Mr. FLOYD of Arkansas. I will answer that question most emphatically in the negative. This is to carry into transactions in interstate commerce prohibition of certain practices that have caused the utter ruin and destruction of hundreds and thousands of prosperous small business men by great and powerful corporations through unfair practices. The States have been more active than the Federal Government, but the fact is that in these 21 States that have adopted these laws most of them were enacted in 1911, 1912, and 1913. You have heard of a division in the great Republican Party between the insurgents—now called Progressives—and the Republicans, have you not? Let me tell you the origin of it. It is due to a difference in regard to this character of legislation. The Progressive Republican stands for regulation and curbing of these trusts, and our old friends, the "standpatters," stood pat until all the popularity they ever had slipped away, and until in the last election they carried only two States. Their failure to enact legislation to curb and destroy monopolies and trusts was largely responsible for the division in their ranks which resulted in their defeat.

Mr. McKENZIE. Will the gentleman yield for a short question?

Mr. FLOYD of Arkansas. I would ask the gentleman to let me go on. There are 23 sections in this bill, and I can not devote all my time to one section. However, I will yield to the gentleman.

Mr. McKENZIE. I will be very brief. Do I understand you to say that a corporation, for instance, in Illinois, engaged in selling goods all over the United States, would be subject to the provisions of this law for any violation of it, except in the State of Illinois?

Mr. FLOYD of Arkansas. No.

Mr. McKENZIE. I thought so.

Mr. FLOYD of Arkansas. Everywhere in the State of Illinois, if it is engaged in interstate commerce; but if it is not engaged in interstate commerce, then it would not be under the inhibitions of this statute.

Now, that brings me to the question of power, and I especially desire to consider this question in connection with the next section of the bill. I want to read from the Northern Securities case, 193 United States Reports, page 335:

By the express words of the Constitution Congress has power to "regulate commerce with foreign nations and among the several States, and with the Indian tribes." In view of the numerous decisions of this court there ought not at this day to be any doubt as to the general scope of such power. In some circumstances regulation may properly take the form and have the effect of prohibition. In re Rahrer, 140 U. S., 545; Lottery case, 188 U. S., 321, 355, and authorities there cited. Again and again this court has reaffirmed the doctrine announced in the great judgment rendered by Chief Justice Marshall for the court in Gibbons v. Ogden (9 Wheat., 1, 196, 197) that the power of Congress to regulate commerce among the States and with foreign nations is the power "to prescribe the rule by which commerce is to be governed"; that such power "is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution"; that "if, as has always been understood, the sovereignty of Congress, though limited to specified objects, is plenary as to these objects, the power over commerce with foreign nations and among the several States, is vested in Congress as absolutely as it would be in a single government having in its constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States"; that a sound construction of the Constitution allows to Congress a large discretion, "with respect to the means by which the powers it confers are to be carried into execution, which enable that body to perform the high duties assigned to it, in the manner most beneficial to the people"; and that if the end to be accomplished is within the scope of the Constitution "all means which are appropriate, which are plainly adapted to that end, and which are not prohibited are constitutional."

Again, in the case of the Northern Securities Co. *v.* United States (193 U. S., 237 and 238), the court says:

Those who were stockholders of the Great Northern and Northern Pacific and became stockholders in the holding company are now interested in preventing all competition between the two lines, and as owners of stock or of certificates of stock in the holding company they will see to it that no competition is tolerated. They will take care that no persons are chosen directors of the holding company who will permit competitions between the constituent companies. The result of the combination is that all the earnings of the constituent companies make a common fund in the hands of the Northern Securities Co. to be distributed, not upon the basis of the earnings of the respective constituent companies, each acting exclusively in its own interest, but upon the basis of the certificates of stock issued to the holding company. No scheme or device could more certainly come within the words of the act—"combination in the form of a trust or otherwise * * * in restraint of commerce among the several States or with foreign nations"—or could more effectively and certainly suppress free competition between the constituent companies. This combination is, within the meaning of the act, a "trust," but if not, it is a combination in restraint of interstate and international commerce, and that is enough to bring it under the condemnation of the act. The mere existence of such a combination and the power acquired by the holding company as its trustee constitute a menace to and a restraint upon that freedom of commerce which Congress intended to recognize and protect and which the public is entitled to have protected. If

such combination be not destroyed, all the advantages that would naturally come to the public under the operation of the general laws of competition, as between the Great Northern and Northern Pacific Railways Cos., will be lost and the entire commerce of the immense territory in the northern part of the United States between the Great Lakes and the Pacific at Puget Sound will be at the mercy of a single holding corporation, organized in a State distant from the people of that territory.

The court in the case of Addyston Pipe & Steel Co. *v.* United States (175 U. S., pp. 228, 229) says:

In Gibbons *v.* Ogden (9 Wheat., 1) the power was declared to be complete in itself and to acknowledge no limitations other than are prescribed by the Constitution.

Under this grant of power to Congress that body, in our judgment, may enact such legislation as shall declare void and prohibit the performance of any contract between individuals or corporations where the natural and direct effect of such a contract will be, when carried out, to directly, and not as a mere incident to other and innocent purposes, regulate to any substantial extent interstate commerce—and when we speak of interstate, we also include in our meaning foreign commerce. We do not assent to the correctness of the proposition that the constitutional guaranty of liberty to the individual to enter into private contracts limits the power of Congress and prevents it from legislating upon the subject of contracts of the class mentioned.

The power to regulate interstate commerce is, as stated by Chief Justice Marshall, full and complete in Congress, and there is no limitation in the grant of the power which excludes private contracts of the nature in question from the jurisdiction of that body. Nor is any such limitation contained in that other clause of the Constitution which provides that no person shall be deprived of life, liberty, or property without due process of law. It has been held that the word "liberty," as used in the Constitution, was not to be confined to the mere liberty of person, but included, among others, a right to enter into certain classes of contracts for the purpose of enabling the citizen to carry on his business. Allgeyer *v.* Louisiana (165 U. S., 578); United States *v.* Joint Traffic Association (171 U. S., 505, 572). But it has never been, and in our opinion ought not to be, held that the word included the right of an individual to enter into private contracts upon all subjects, no matter what their nature and wholly irrespective, among other things, of the fact that they would, if performed, result in the regulation of interstate commerce and in the violation of an act of Congress upon that subject. The provision in the Constitution does not, as we believe, exclude Congress from legislating with regard to contracts of the above nature while in the exercise of its constitutional right to regulate commerce among the States. On the contrary, we think the provision regarding the liberty of the citizen is, to some extent, limited by the commerce clause of the Constitution, and that the power of Congress to regulate interstate commerce comprises the right to enact a law prohibiting the citizen from entering into these private contracts which directly and substantially, and not merely indirectly, remotely, incidentally, and collaterally, regulate to a greater or less degree commerce among the States.

We can not so enlarge the scope of the language of the Constitution regarding the liberty of the citizen as to hold that it includes or that it was intended to include a right to make a contract which, in fact, restrained and regulated interstate commerce, notwithstanding Congress, proceeding under the constitutional provision giving to it the power to regulate.

Again, in same case, pages 230, 231, the court says:

In the Debs case (158 U. S., 564) it was said by Mr. Justice Brewer, speaking for the court: "It is curious to note the fact that in a large proportion of the cases in respect to interstate commerce brought to this court the question presented was of the validity of State legislation in its bearing upon interstate commerce, and the uniform course of decision has been to declare that it is not within the competency of a State to legislate in such a manner as to obstruct interstate commerce. If a State, with its recognized power of sovereignty, is impotent to obstruct interstate commerce, can it be that any mere voluntary association of individuals within the limits of that State has a power which the State itself does not possess?"

What sound reason can be given why Congress should have the power to interfere in the case of the State, and yet have none in the case of the individual? Commerce is the important subject of consideration, and anything which directly obstructs and thus regulates that commerce which is carried on among the States, whether it is State legislation or private contracts between individuals or corporations, should be subject to the power of Congress in the regulation of that commerce.

The power of Congress over this subject seems to us much more important and necessary than the liberty of the citizen to enter into contracts of the nature above mentioned, free from the control of Congress, because the direct results of such contracts might be the regulation of commerce among the States, possibly quite as effectually as if a State had passed a statute of like tenor as the contract.

The liberty of contract in such case would be nothing more than the liberty of doing that which would result in the regulation, to some extent, of a subject which from its general and great importance has been granted to Congress as the proper representative of the Nation at large. Regulation, to any substantial extent, of such a subject by any other power than that of Congress, after Congress has itself acted thereon, even though such regulation is effected by means of private contracts between individuals or corporations, is illegal, and we are unaware of any reason why it is not as objectionable when attempted by individuals as by the State itself. In both cases it is an attempt to regulate a subject which for the purpose of regulation has been with some exceptions, such as are stated in Mobile County *v.* Kimball (102 U. S., 691, 697), Morgan *v.* Louisiana (118 U. S., 455, 465), Bowman *v.* Chicago & N. W. Railway (125 U. S., 465), Western Union Telegraph Co. *v.* James (162 U. S., 650, 655) exclusively granted to Congress; and it is essential to the proper execution of that power that Congress should have jurisdiction as much in the one case as in the other.

It is indeed urged that to include private contracts of this description within the grant of this power to Congress is to take from the States their own power over the subject, and to interfere with the liberty of the individual in a manner and to an extent never contemplated by the framers of the Constitution and not fairly justified by any language used in that instrument. If Congress has not the power to legislate upon the subject of contracts of the kind mentioned, because the constitutional provision as to the liberty of the citizen limits, to that extent, its power to regulate interstate commerce, then it would seem to follow that the several States have that power, although such contracts relate to interstate commerce, and, more or less, regulate it. If neither Congress nor the State legislatures have such power, then we are brought to the somewhat extraordinary position that there is no authority, State or National, which can legislate upon the subject of or prohibit such contracts. This can not be the case.

The court, in same case, pages 233 to 235, further discussing the case, has this to say:

The remark in Railroad Co. *v.* Richmond, 19 Wall, 584, that it was never intended that the power of Congress should be exercised so as to interfere with private contracts not designed at the time they were made to create impediments to interstate commerce, when read in connection with the facts stated in the reports, is entirely sound. * * *

There is no intimation in this remark that Congress has no power to legislate regarding those contracts which do directly regulate and restrain interstate commerce. The inference is quite the reverse, and it is plain that the case assumes if private contracts when entered into do directly interfere with and regulate interstate commerce, Congress had power to condemn them. If the necessary, direct, and immediate effect of the contract be to violate an act of Congress and also to restrain and regulate interstate commerce, it is manifestly immaterial whether the design to so regulate was or was not in existence when the contract was entered into. In such case the design does not constitute the material thing. The fact of a direct and substantial regulation is the important part of the contract, and that regulation existing, it is unimportant that it was not designed.

Where the contract affects interstate commerce only incidentally and not directly, the fact that it was not designed or intended to affect such commerce is simply an additional reason for holding the contract valid and not touched by the act of Congress. Otherwise the design prompting the execution of a contract pertaining to and directly affecting, and more or less regulating, interstate commerce is of no importance. We conclude that the plain language of the grant to Congress of power to regulate commerce among the several States includes power to legislate upon the subject of those contracts in respect to interstate or foreign commerce which directly affect and regulate that commerce, and we can find no reasonable ground for asserting that the constitutional provision as to the liberty of the individual limits the extent of that power as claimed by the appellants. We therefore think the appellants have failed in their contention upon this branch of subject.

The constitutionality of State statutes preventing these unfair discriminations has been upheld by the Supreme Court. Our contention is that the power of Congress, in the domain of interstate commerce, is as absolute as the power of the State over its intrastate commerce.

Now, I desire to take up next, in connection with this proposition, section 4 before I take up section 3, because it is more nearly related to this particular subject. Section 4 is the most misunderstood section of this bill, apparently. I hear every day of someone writing from somewhere to Members of Congress complaining that section 4 prohibits exclusive selling agencies. It not only does not do so, but it does not deal with that subject. It does not touch it. A man can establish an agency under the provisions of this bill and make any kind of a contract with his agents, on any terms upon which his agents shall sell his goods, that he sees proper to make. He is not affected by the provisions of this section.

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

Mr. FLOYD of Arkansas. Yes.

Mr. WILLIS. In the gentleman's opinion, how would this section affect the small producer who is not able to maintain independent agencies as the large combinations are? I ask that question because the objection has been brought to my attention by small manufacturers.

Mr. FLOYD of Arkansas. Yes; and it has also been brought to our attention. The object of this section is to break up the power of giant monopoly and to liberate and free every small dealer in this land and put him in a position of independence in which he can do business in competition with any other business man in this country. This exclusive or tying contract is one of the most effective instrumentalities of monopoly that was ever devised or has ever existed. It can not be justified in morals, and the whole effect of it is monopolistic. I know we have had many arguments to the contrary, many suggestions that we should leave out this provision in order to protect the small man, and we have had many men high up in business to contend for that. But, gentlemen, it is a fallacy, and I think I can demonstrate to you that it is a fallacy. This provision is to the effect that it shall be unlawful for any person to sell in interstate commerce—to sell or lease in interstate commerce—goods, wares, or merchandise on the condition or understanding that the party purchasing or leasing shall not deal in the commodities of another who is a competitor.

Now, take the first person who makes that exclusive contract. So far as the merchant is concerned that he makes it with, he handles only the commodity of the contracting party. If it is in a city of 50,000 inhabitants or 300,000 inhabitants, there is only one place in that city where you can get that commodity, and you can not get at that store any competing article because, under the terms of this contract, he has agreed not to sell any competitive article. Now, I believe in giving every man the utmost liberty of contract concerning his own property. Hence we refuse to tie the hands of the man who is simply acting

as an agent. But when a manufacturer has sold his goods and has received the money, the full price therefor, what right has he in morals, what right ought he to have in law, to make it a condition of that contract that that particular merchant shall not deal in the commodities of another producer and competitor?

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

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

Mr. FLOYD of Arkansas. Yes.

Mr. TOWNSEND. The gentleman is making a speech in which we are all interested. Inadvertently he allows his voice to fall to a colloquial tone.

Mr. FLOYD of Arkansas. I thank you. I will try to avoid that.

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

Mr. FLOYD of Arkansas. Yes.

Mr. FOWLER. I am much interested in your able discussion, but I have a concrete example in my home town, wherein a wholesale merchant sold only to one retail merchant and would not sell to any other merchant in that town. Does this bill deal with that feature?

Mr. FLOYD of Arkansas. Absolutely; and section 4 is intended to prohibit that very thing, if it is made a condition of the contract that he will not deal in the commodities of a competitor.

Mr. FOWLER. Excuse me. The gentleman did not catch my point. I guess I did not make myself clear. For instance, the Douglas Shoe Co. manufactures a very good shoe. It sells to one firm only in each town where its goods are sold and refuses to allow any other man to handle them. I want to know if this bill covers that question.

Mr. FLOYD of Arkansas. If he refuses on the condition that a man who purchases the shoes will not deal in the goods of a competitor, this reaches him. But if he does not put any such condition in the contract, it does not reach him.

Mr. FOWLER. Suppose other merchants in the town wanted to handle the shoes. Would the Douglas Shoe Co. be justified in refusing to supply these merchants?

Mr. FLOYD of Arkansas. You will have to ask the Douglas Shoe Co. about that.

Mr. FOWLER. I am only referring to the Douglas Shoe Co. as an example. I am not picking it out.

Mr. FLOYD of Arkansas. They make what is called an exclusive or tying contract. That is, a manufacturer goes to a merchant in a town and agrees with him that if he will handle his goods exclusively and enter into a contract that he will not handle the goods of any other competitor in his line of business he will sell him the goods at a lower price and will give him a rebate at the end of a certain time or take back the remnant of the goods if he fails to sell them, exacting of the purchaser full payment for the goods, and then refusing to allow him to sell in that store the commodities of any competitor.

Now, the evil of this practice to the merchant is that it ties his hands. He can not supply his customers. He has one commodity, and perhaps his customers do not like that commodity, but would like something in the same line. Take breakfast food, for instance. He may make an exclusive contract with the local merchant to handle Corn Flakes on condition that he will not handle any other breakfast food. If a customer does not like Corn Flakes, he will have to do without other breakfast food or go to some other store. The result is that the retail merchants complain that the mail-order houses are destroying them by competition, and that the big department stores are doing likewise. It is true. Why? Because big business has tied the hands of the little merchant with exclusive contracts, and he can not supply his customers. Hence he loses his customers and fails.

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

Mr. FLOYD of Arkansas. Yes.

Mr. HARDY. It seems to me the question of the gentleman from Illinois [Mr. FOWLER] propounds the reverse of the situation covered in section 4. In section 4, as I understand, the bill provides that no seller of an article shall prohibit the buyer from buying a competitive article; but there is another evil that grows up, that sometimes the large manufacturer sells to one individual and refuses to sell to any other. Now, section 3 seems to cover that condition as to mine products.

Mr. FLOYD of Arkansas. It does, but only as to mine products.

Mr. HARDY. And requires the seller of mine products to sell to anybody who wants to buy.

Mr. FLOYD of Arkansas. It does as to mine products only.

Mr. HARDY. Why not extend that provision to other products?

Mr. FLOYD of Arkansas. When I get to discussing section 3 I will be glad to answer that. I am discussing section 4 in connection with this proposition.

Mr. GREEN of Iowa. Will the gentleman yield?

Mr. FLOYD of Arkansas. Yes.

Mr. GREEN of Iowa. Why does not the gentleman answer the gentleman from Illinois, when he asks whether a man may be permitted to sell to only one person, that in section 2, at the close of it, you have expressly authorized a party to select his own customer, excepting only coal dealers?

Mr. FLOYD of Arkansas. I told the gentleman that unless he makes this exclusive contract there is nothing to prevent a manufacturer dealing exclusively with one person or one person dealing exclusively with one manufacturer.

Mr. GREEN of Iowa. In fact, you expressly authorize it.

Mr. FLOYD of Arkansas. We have not prohibited it, and it is lawful now. I will not let the gentlemen who criticize this bill put me in any such attitude as that. There are in this country a vast number of recognized business practices and customs, and when we pick out one which we deem an evil practice the gentleman can not put me nor my committee in a false attitude by saying that we are authorizing what has existed from time immemorial. We are simply not prohibiting it. We are leaving it as it is.

Mr. BARKLEY. Will the gentleman yield there for just a question?

Mr. FLOYD of Arkansas. I yield to the gentleman from Kentucky.

Mr. BARKLEY. Taking these two sections together, am I correct in interpreting the two together to mean this, that the Douglas Shoe Co., for instance, could select one shoe merchant in a given city and sell the Douglas shoe exclusively to that one merchant, provided their contract did not provide that that shoe merchant could not purchase shoes from the Robinson-Brown Shoe Co. or the Hamilton Shoe Co., or any other shoe company that might desire to sell him goods?

Mr. FLYOD of Arkansas. That is correct. If the gentleman will permit me to discuss this question without further interruption I shall be gratified, as I have some other matter here which I would like to discuss before I conclude. I think I can answer all these questions and give you the whole situation much more clearly if you will let me finish my remarks and ask your questions afterwards.

Mr. BARKLEY. That is perfectly agreeable to me.

Mr. FLOYD of Arkansas. Then I shall be glad to answer questions. Under the testimony introduced at the hearings it was shown that this tying or exclusive contract is one of the greatest means of monopoly, and it is a growing one. We have been told that it is forbidden by the Sherman law already, but in one of the decisions of the circuit court of appeals Judge Sanborn holds that it is not forbidden; and then we are told that you can not invade the right of contract; that it is an evil, but you can not prohibit it. But the Supreme Court of the United States has answered that question, and holds, in the Northern Securities case and also in the Addyston Pipe & Steel Co. case, already cited, that in exercising the power over interstate commerce we can forbid certain contracts, and that in doing so we are not interfering with or depriving either party to such contract of his constitutional rights as a citizen.

Mr. GREEN of Iowa. Will the gentleman please give the title of the case in which Judge Sanborn has held as the gentleman has stated?

Mr. FLOYD of Arkansas. I shall be pleased to do so. In the case of Whitwell against Continental Tobacco Co. et al. Judge Sanborn held that the restriction of their own trade by defendants to those purchasers who declined to deal in the goods of their competitors is not a violation of the Sherman Antitrust Act. This case is reported in volume 125, Federal Reporter, page 454.

Mr. MORGAN of Oklahoma. Mr. Chairman——

Mr. FLOYD of Arkansas. I hope the gentleman will not interrupt me at this time. I decline to yield at this point.

The CHAIRMAN. The gentleman from Arkansas declines to yield.

Mr. FLOYD of Arkansas. I desire to show to the House some of the workings of this system. The shoe industry of this country is one of the greatest industries in America, and yet it is in evidence before our committee, and not controverted, that 98 or 99 per cent of all the shoe machinery used o uppers in the United States is not sold by the Shoe Machinery Company, but owned by it and leased to the shoe manufacturers in the United States on exclusive contracts, on condition that if the shoe manufacturer uses any piece of machinery

of like kind, manufactured by any other concern in the United States, then, under the terms of the lease, the Shoe Machinery Company is given the right to take out of the factory every piece of their machinery, the effect of which would be to bankrupt the manufacturer and close his factory.

I am glad that last evening the gentleman from Massachusetts [Mr MITCHELL], a Representative in this House from the State of Massachusetts, and a member of the Judiciary Committee, and who formerly served in the legislature of that State, spoke in support of this provision. What would be the liberty of the citizen if our business was all run upon that principle? No man would own his own shop. Go into some large shoe manufacturing establishment in St. Louis or Cincinnati. The machinery used there is leased from a trust and is not owned by the manufacturer. Although his business amounts to millions of dollars, yet the hands of the manufacturer are tied by an unsconscionable contract that if he patronizes a competitor by buying any piece of machinery used for a like purpose they will withdraw all of their leased machinery from his factory. Who can stand for such a contract as that? Congress has the power to make it unlawful. Let us do it.

Now, let us take another illustration which is most complete and interesting.

Mr. FESS. Before you leave this, may I ask a question?

Mr. FLOYD of Arkansas. Yes.

Mr. FESS. I wonder if this law does forbid the things we are trying to reach? Is there any danger that a concern like the Douglas shoe factory will establish its distributing points all over the country and not pass title to the shoes? Is there anything in that?

Mr. FLOYD of Arkansas. No; not a thing in the world, in my opinion. I have been through the shops and recognize the evil of this system. I walked through the shops in St. Louis and had the machines pointed out to me by a friend of mine, who stated that he was paying the worth of the machines as a royalty, but that he could not say a word, he could not buy a competitive article, he could not replace them with cheaper machinery because the company supplying them had some machines that were absolutely essential, and if he did they would take all the machines out under the terms of their contract and destroy his business and bankrupt him as they and other concerns who engage in this practice or system have destroyed hundreds and thousands of business men all over the country.

I call attention especially to the testimony of Mr. Rogers, an attorney who appeared before us in regard to the motion-picture business. I am not going to take your time to read you all that Mr. Rogers said, but I wish to call your attention to the testimony which begins on page 470 of the hearings. I quote, in part, as follows:

STATEMENT OF GUSTAVUS A. ROGERS, ESQ., OF NEW YORK, N. Y.

Mr. ROGERS. My reason for appearing before your committee is that I thought if I should recite to you some of the difficulties that my firm encountered as counsel for a concern in New York City which had been previously interfered with by the trust, so called, which is now being prosecuted under the Sherman Antitrust Act by the United States Government in an equity suit, in the eastern district of Pennsylvania, that the experience that my client had might give you a practical idea of some of the existing difficulties, and indicating strongly the necessity for adopting the provisions recommended or presented in the bills of Judge CLAYTON, supplemented, possibly, by several suggestions that I will make to you.

The suit that I refer to is the suit of the United States Government against the Motion Picture Patents Co. and other defendants, generally the defendants in the suit are known as the Motion Picture Trust.

I think that the presentation of the situation and a recital of the circumstances under which that combination was effected, and its operations, will probably be as illustrative as anything else I could say to you of what is required in the way of an antimonopoly act. I think it is as illuminating as any case that will be called to your attention throughout your deliberations. I think I say that advisedly, because in this instance you not only have the presence of a combination of firms and corporations engaged in dealing in an important commodity, but you have the question presented of a combination of competing or correlated or interrelated or dependent patents into one holding company. You have a combination of manufacturers who, at the time of the creation of this combination, manufactured possibly 95 per cent of the entire commodity, and you have an organization created by this combination, by the manufacturers, as a selling agency for the combined output of all these manufacturers, and you have present a situation which shows that this combination, within a period of a few months after its organization, drove out of business, by means to which I shall call your attention presently, every one of the customers who had dealt with the manufacturers with the exception of my client, and how he was able to stay in business I shall show you in a few moments. They not only drove these customers out of business, but turned over to this sole selling agency company all the business in that particular industry.

I do not want to burden you with this matter, except as it is important to demonstrate how quickly a combination can do something that is utterly impossible for an individual ever to accomplish in a lifetime.

Up to the spring of 1908 the industry was absolutely open and without restriction. The motion-picture films were made and manufactured and sold as unpatented articles. The dealer in the film—perhaps I ought to interpose here and speak for a moment about the film itself. The film itself which is commercially used is a celluloid film strip, consisting of a reel of approximately 1,000 feet in length. These different positives are printed from the negative taken with the camera; they are duplicate prints, in analogy representing positive photographs made from the negatives.

These reels of films were sold in the market. Anybody who wanted to purchase them would go to the manufacturer, make his bargain with him, and buy his film and do as he pleased with it. He might sell it or lease it for exhibition purposes. He could export it and do as he wanted with it. The projecting machine by which this film was projected on the screen was, prior to the spring of 1908, sold as an unpatented article, and there were thousands of them sold—several thousands, in any event.

In the spring of 1908 the Edison Co. at that time had already been defeated in the courts on a patent which was known as the Edison film patent, and under which Edison claimed that he was the inventor of motion pictures and consequently entitled under his patent to dominate the entire art. He had been defeated in that claim by the United States Circuit Court of Appeals for the Southern District of New York, and there was no mistake about the decision of that court. It declared his claim absolutely invalid in that respect.

I was reciting the conditions as they existed in December, 1908, when the combination was first formed. These men were given the alternative of either taking the license agreement as it was drawn or going out of business entirely, because they could not get a supply of films anywhere else.

After some protest and considerable reluctance they finally concluded that they had no alternative except to sign the agreements, and the agreements were signed.

But, instead of permitting the business to be done by the entire 150 companies, that number was arbitrarily reduced to 100.

Mr. NELSON. There were 100 rental companies?

Mr. ROGERS. One hundred rental companies. Having gotten the field in that shape, the manufacturers then, within a very short time thereafter, about a year later, organized their own company, known as the General Film Co., and the avowed purpose of that company was to go into the rental business, and it was incorporated as a paper corporation, and the first thing that company did was to begin a campaign, immediately after its creation, to drive out of business every one of these hundred companies then in existence, and they succeeded, because in November, 1911, every one of these rental companies had been driven out of business with the exception of my client, and my client to-day is the only one—my client is known as the Greater New York Film Record Co.—it is the only company in the United States, and when you say the United States you mean practically in the entire world, as I shall demonstrate—that gets the output of any of these 10 manufacturers, excepting their own selling company, the General Film Co.

From this brief and short extract from the testimony it will be observed that at the beginning of this trouble a few years ago there were 10 or 12 manufacturers engaged in making motion-picture films. There were 150 concerns selling throughout the United States. The films were not patented; they were merely a transformation and improvement on the old magic lantern of our boyhood days. Mr. Edison invented some kind of a device in regard to the films that enabled him to secure a patent at the United States Patent Office. That patent was held invalid. They got all the manufacturers together and formed a license company, known as the Licensed Manufacturers. All the manufacturers consolidated, and then they notified the 150 concerns that were purchasing and distributing the films throughout the country to gather together at a meeting. At this meeting they were notified that they must purchase all their supplies thereafter from this film company; that they must reduce the number of exchanges to 100. They protested, but the manufacturers were all in the combine. They had to agree to the arrangement because it was the only source of the films, so they had to yield, and 50 out of the 150 voluntarily went out of business. They ran for about one year under that arrangement. This new film company furnished or leased the entire films used by the 100 companies. Then they made a remarkable contract. They furnished the films on a contract of lease that required them to be returned at the end of seven months, but provided that in lieu of the return of the film they had issued to them under the lease they might return any old film on hand. Of course, if a dealer turned in an old film which he owned, he lost that, and after a time he was required to turn in the film that he had leased. At the end of the year the 100 distributors had nothing in their control except the leased films, having voluntarily surrendered the old films which they owned. When the film company got them in that condition they formed what they called the General Film Co., an exclusive leasing company, one consolidated company that distributed all the films manufactured by the Motion Picture Patents Co.

Mr. NELSON. Will the gentleman yield?

Mr. FLOYD of Arkansas. For a question.

Mr. NELSON. Under this law could not they have refused any but this one customer?

Mr. FLOYD of Arkansas. No; I think not. I do not like to be interrupted in the midst of my narrative.

Mr. NELSON. I simply wanted to ask the gentleman if they had not the right to select their customers.

Mr. FLOYD of Arkansas. That is not pertinent to what I am discussing. Now, at the end of the year they notified those that they were friendly with that they had better sell out, and they notified the others that on and after a certain date no more films would be furnished them under the terms of their con-

tract. Thus arbitrarily they put out of business every concern save and except one, the one represented by Mr. Rogers.

One of these men had a theater in New York, costing him $75,000, and was doing a profitable business. He was notified that on and after a certain day his contract would be canceled. He went to the State courts. Now, bear in mind that the purchasing company was willing to pay the current uniform price. They refused to lease. He went into the State courts in 1907 or 1908 and secured an injunction against the film company. The case was finally carried to the court of appeals, which decided that the State court was without authority in the case. He then induced Attorney General Wickersham to bring a suit under the antitrust law, and the Attorney General induced the parties to make an agreement to furnish that one concern with films during the pendency of the lawsuit, and the suit is still pending.

That is the system and that is the way that it destroys competition. That is the way it builds up a monopoly. I ask you to read the story, for I have given only a brief outline of it.

Mr. J. M. C. SMITH. Will the gentleman yield?

Mr. FLOYD of Arkansas. Yes; for a brief question.

Mr. J. M. C. SMITH. If a person has a patented shoe-manufacturing machine, does not he have the right now to attach such conditions to the use of the machine, and has not the Supreme Court so held? Has it not held that they can make conditions as to the purchase of material necessary to use the machine? Does this law prevent them from making or leasing a patented machine with those conditions?

Mr. FLOYD of Arkansas. That is on a different proposition, if I understand it.

Mr. J. M. C. SMITH. Does this bill cover it?

Mr. FLOYD of Arkansas. No; we did not undertake to deal with the question of resale prices. This bill would prevent a tying or exclusive contract of every kind. This is intended to prevent contracts on condition that the purchaser or lessee will not deal in goods or wares of a competitor in the same line of business. I think this would prohibit a contract—if a machine was sold or leased—that attachments would have to come from that concern.

Mr. J. M. C. SMITH. Whether patented or not?

Mr. FLOYD of Arkansas. Whether patented or not. The patent law gives a man the right to the exclusive sale of a commodity in the first instance, and it is in the power of Congress to regulate the sale of patented articles when they pass out of the hands of the original owner into commerce, the same as of unpatented articles. There is no distinction, although the representatives of monopoly claim there is a difference, and appeared before our committee and endeavored to induce us to pass a law that would annul the decision of the Supreme Court in the O'Donnell case and other like cases, wherein the court has held that a patentee has no right or control of the property after he had sold it, and that contracts to that effect are in violation of the Sherman Antitrust Act.

Mr. J. M. C. SMITH. After he has sold it, but in case he leased it he still has the right to fix the condition by which it shall be used.

Mr. FLOYD of Arkansas. Not if this becomes a law.

Mr. J. M. C. SMITH. I thank the gentleman. That is what I wanted to find out.

Mr. FLOYD of Arkansas. It is to prevent that very thing. The circuit court of appeals in this case holds that that is not in contravention of the Sherman law now, and that is very high authority, and we propose to write it in the statute and make it an unlawful contract. The Supreme Court, in the Northern Securities case, and in the case of Addyston Pipe & Steel Co. against United States, and in other cases, has held that wherever Congress in its wisdom sees fit to prohibit contracts that are deemed in restraint of trade in interstate commerce, it is within the power of Congress to do so.

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

Mr. FLOYD of Arkansas. Yes.

Mr. BRYAN. The gentleman referred to the unpatented film a moment ago, and called attention to the fact that the owner of an opera house in New York City was denied the use of this film, and that thereby his business was about to be taken away, and that the Attorney General under the present Sherman law succeeded in causing the film company to furnish films to this man until a certain suit was determined.

Mr. FLOYD of Arkansas. During the pendency of the suit.

Mr. BRYAN. Is it not a fact that if this law had been on the statute books the Attorney General's hands would have been tied by this provision in section 2:

And provided further, That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers, except as provided in section 3 of this act.

And section 3 refers only to mines. Would not this law entirely validate the act of the company in refusing the gentleman in New York?

Mr. FLOYD of Arkansas. No; that law has no application to the case. If this law had been on the statute books, it would not have been in the power of the film company to destroy the business of 150 flourishing concerns.

Mr. BRYAN. Could not the film company, under the proviso I have just read, say to any man in New York City, "You can not buy my films"?

Mr. FLOYD of Arkansas. Absolutely they can say that now, and we do not propose to prevent any manufacturing firm from saying that, except as to mines, and I will explain that later. But we do propose to say by this provision that men, by making unconscionable contracts, by making contracts affecting competitors, which they have no right in morals to make, and ought not to have in law, shall not longer build up a monopoly in this country by such nefarious practices and methods and destroy other worthy business men who are striving to build up their respective industries. As the President said in his admirable message on trusts and monopolies, we are not the enemies of business in proposing this legislation, but we are the friends of every honest man engaged in business. We do not propose by this legislation to destroy or injure business, but we are endeavoring as conscientious men, engaged in a great cause, to untie the hands of business men in this country that have been shackled for years by the greed of monopoly. [Applause.]

Mr. BRYAN. Mr. Chairman, I realize that, but the gentleman does not claim by his argument that this bill would help his man in New York?

Mr. FLOYD of Arkansas. I will be frank and say that I do not clearly understand the gentleman's point.

Mr. BRYAN. The gentleman in his argument does not mean to claim that this act would help this man in New York, referred to by him, who was in the unfortunate position of owning an opera house, and needing films, because this provision I have read says that the seller of the films shall have the right to select his own customer. Under the present law the gentleman has stated that the Attorney General was able to give relief, but I say, or at least it seems the way I read it, this law would tie the hands of the Attorney General, and he could not give relief, because the film company would say, "Your law says that I have the right to select my customer, and, Mr. New Yorker I do not select you." Under that what could the man in New York or the Attorney General do?

Mr. FLOYD of Arkansas. But if the film company had not by unfair and unjust and dishonest means and by this practice destroyed the business of 150 other film companies, that man would have had 150 exchanges to have purchased his films from, and could have been independent of the General Film Co. which refused to furnish films to him.

Mr. KELLEY of Michigan. The passage of this bill then presupposes the destruction of the film company, or the dissolution of it?

Mr. FLOYD of Arkansas. It presupposes the dissolution of monopoly, and to give the independents an opportunity to do business in this country upon fair and equal terms. That is the purpose of this provision.

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

Mr. FLOYD of Arkansas. Yes.

Mr. FESS. I understand that in the moving-picture business now 95 per cent of the films are distributed by three companies. They have exhibitors throughout the country, and they buy from whatever manufacturer they desire. The business, however, has largely gotten into the hands of the distributors. Will the gentleman's bill touch that situation at all?

Mr. FLOYD of Arkansas. Absolutely; it is intended to prevent that, and to prevent those exclusive monopolies that are built up by this system. If you destroy the power of monopoly any man can do business independently.

Mr. FESS. If they make their own exhibitions, I mean. The men who distribute the films and have control of them may have their own exhibition houses in every city. The gentleman is not touching that, is he?

Mr. FLOYD of Arkansas. The Sherman law will destroy them if those facts are established, and there is a suit pending. They will be dissolved by the Sherman law. This is to prevent that company or any other company by any such wrongful means putting out of business men who are engaged in legitimate enterprise, depriving them of their property by these unconscionable and damnable contracts that the people of the United States and the Congress of the United States ought to condemn everlastingly in this free country of ours. And it ought not to be a question of party. It ought not to make any difference whether a man is a Democrat, a Republican, or a Progres-

sive when it comes to dealing with those powers of wealth and greed and monopoly that have wrecked hundreds of empires in the past. Men ought to rise to the high ground of patriotism and with courage do their duty. [Applause.]

Mr. FESS. The gentleman did not take it from my question that I asked him what I did in a partisan way. I simply wanted the facts.

Mr. NELSON. Then, why did not the gentleman permit some Republican to be upon the subcommittee? [Applause on the Republican side.]

Mr. FLOYD of Arkansas I did not have the make-up of the subcommittee or the full committee. I am an humble member of the committee and perform as best I can whatever duties that are assigned to me.

Mr. NELSON. But the gentleman is a fair and honest member of the committee and can——

Mr. FLOYD of Arkansas. This suggestion—a little party quibble injected into the consideration of a great question—ought to be beneath the dignity of my able and distinguished friend from Wisconsin.

Mr. NELSON. Mr. Chairman, if I may interrupt the gentleman just at this point——

Mr. FLOYD of Arkansas. Not for that purpose. I say to the gentleman I am not responsible for the make-up of the committee and I can not explain that question. I state frankly the gentleman is not a member of the subcommittee. I state frankly that the chairman, Mr. CARLIN, and myself were the only members of the subcommittee. Why, I can not answer, because I do not know and never sought the position assigned to me as a member of the subcommittee. I have tried to do my duty in this as in every other position assigned to me by those in charge of great matters, both on the committee and in the House, and I am here upon this measure as much a representative of what I conceive to be for the best interests of the Progressives and Republicans as I am for what I conceive to be to the best interests of the Democracy; and I want every man in this House to understand my personal attitude. [Applause.] So much for No. 4. Now, just briefly I want to revert to section 3 simply to say that section 3 was inserted because we believed that in handling products of mines the owner or operator ought not be permitted to exercise that control or to secure a monopoly which might result in serious detriment to the general public. It is a concession in the interest of the public, so that we believe that the mine operator who handles coal should not be permitted to withhold his coal at his pleasure from customers.

The God of nature stored these great resources in the earth and we believe those who make the laws ought to deal with them in a different way from things like patented commodities or manufactured articles that are the work and product of men's hands. And this is in the interest of the manufacturers, too, because the evidence shows that many giant monopolies have been built up by owning both the manufacturing concerns and the mines and favoring the concern in which they were interested to the detriment and the ruin of the independent manufacturers who are struggling along for existence in the same kind of industry.

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

Mr. FLOYD of Arkansas. I will yield for just one question.

Mr. AVIS. I want to say to the gentleman that I am not impugning the gentleman's motives in any way in regard to this matter——

Mr. FLOYD of Arkansas. The only thing that is worrying me is that my time is limited, and I think I can make a more consecutive argument by dealing with the several questions as I desire to deal with them if I may be permitted to go along without interruption.

Mr. AVIS. I only wanted to ask the gentleman with reference to section 3, and, as I said, I do not impugn to the gentleman any bad motives. I know the gentleman's motives are of the very best, and that the other members of the committee are actuated by the same motives, and the criticism embraced in the question I desire to propound, if at all, is a criticism of their judgment and not of their motives. Now, I come from a coal-producing section and knowing something of the coal business and knowing that there are 6,000 independent bituminous coal operators in that country, I want to ask the gentleman if the committee or any member thereof can point to one single abuse committed by any one of the bituminous coal operators of this country, or can the committee say to this House that they heard from any one of the 6,000 operators engaged in this industry before drawing this section?

Mr. FLOYD of Arkansas. I can not go into details to answer that question further than to say that the provision was inserted in this bill and generally met with the approval of men from all parts of the country who commented upon it.

Mr. AVIS. Does the gentleman know, or was the evidence before the committee, that instead of there being an underproduction of bituminous coal in this country there is an overproduction, and that the bituminous coal of this country is being sold and delivered, including freight, in New England at prices less than at the pit mouth at Cardiff, Wales?

Mr. FLOYD of Arkansas. I will state very frankly I do not recall whether any operators engaged in the mining of bituminous coal in West Virginia appeared before our committee or not, and I can not answer that question; but let me suggest to the gentleman, if he has facts that will tend to show this provision is wrong, let him secure time and present them. The bill is open to amendment. We have done the best we could with it, and we have brought it back to the House, and we submit it to you. We open wide the opportunity for amendment, and if it is wrong, and it can be demonstrated that it is wrong, we will not resist an amendment.

Mr. AVIS. If the gentleman will permit another short question, I will not trouble the gentleman any more——

Mr. FLOYD of Arkansas. I thought I answered the gentleman's question as to that particular locality.

Mr. AVIS. I thought perhaps the committee had in mind some abuse, and I want to ask the gentleman if his committee knew of a single abuse on the part of the bituminous operators of this country which they had in mind in the preparation of this section?

Mr. FLOYD of Arkansas. The gentleman asks about bituminous coal?

Mr. AVIS. Yes; more particularly.

Mr. FLOYD of Arkansas. I will tell the gentleman what I said at the outset. I can not answer details of that sort; but we did have abundant evidence before our committee that those who control the production and mining of coal do so to the detriment of the public.

Now I desire to pass to section 5. Section 5 is simply a reenactment of the provisions of section 7 of the Sherman law, so as to make it applicable to the provisions of this bill. Section 6 provides—and I desire to discuss this section briefly—that where the United States institutes a suit and proceeds to final decree against an unlawful combination under the terms of section 4 of the Sherman Act that the final judgment or decree may be used as evidence in a suit by a private litigant against such corporation.

Mr. HAMILTON of Michigan. Will the gentleman allow me to ask him one question, for information?

Mr. FLOYD of Arkansas. Yes; one question.

Mr. HAMILTON of Michigan. Does this section 3, referring to mines, cover oil and gas?

Mr. FLOYD of Arkansas. We so understand it.

Mr. HAMILTON of Michigan. Are there decisions——

Mr. FLOYD of Arkansas. Yes; and if the gentleman desires to insert such an amendment he will have opportunity to do so. We understand that it does.

Mr. HAMILTON of Michigan. I assumed that the gentleman's committee had gone into that with very great care.

Mr. FLOYD of Arkansas. Now, I have made inquiries and I have heard very little objection to this provision, and will be glad if you would hear our position on that. Many combinations have been dissolved under the Sherman law by the decree of the United States courts. The proceedings were lengthened out for years, and at the end of the suits they were adjudged by the courts to be unlawful combinations, and yet parties who had been injured by the unlawful acts of those corporations were without redress. This proposes to suspend the statute of limitations during the continuation of such suits, and at the end of the suit, if the Government obtains a decree, or a decree is obtained, provides that that may be used in evidence in behalf of the private suitor in a suit for damages, under section 7 of the Sherman law and under the corresponding section of this bill.

Mr. SCOTT. Will the gentleman yield?

Mr. FLOYD of Arkansas. Briefly, for a question.

Mr. SCOTT. I will be very brief. I notice that this section provides that in case of an adjudication in an antitrust suit to be brought by the United States, involving the Sherman law, that the judgment in the United States case shall be conclusive evidence either for or against the defendant in any subsequent suit brought under the antitrust law by individuals:

Mr. FLOYD of Arkansas. Against that particular corporation covering the period of that suit.

Mr. SCOTT. Yes. Now, what I want the gentleman to explain is this: Assuming that under section 5 here a corporation has been guilty of a violation of the antitrust law, entered into a great conspiracy, and has damaged me, we will say, in the sum of $10,000 or $20,000, and I bring suit against this corpo-

ration. After issue is joined I find I am confronted with this plea, that 60 days before, in a suit to which I had not been a party, a district judge sitting in equity had decided and rendered a decree to the effect that this corporation had not been guilty of a conspiracy.

Mr. FLOYD of Arkansas. I hope the gentleman will not take my time, but will ask the question.

Mr. SCOTT. This section says that that judgment or decree shall be conclusive evidence against me. Is that the gentleman's understanding?

Mr. FLOYD of Arkansas. Conclusive evidence in your favor if the judgment is against the corporation, but if the corporation has won its suit, conclusive evidence against you; yes, sir.

Mr. SCOTT. Then what becomes of my constitutional right, both of a trial by jury and of due process of law?

Mr. FLOYD of Arkansas. I do not think that interferes with your constitutional right. It simply relates to the decree and its admissibility as evidence. You can bring your suit. You can try it on the evidence adduced and before a jury. It affects nothing but the evidence in that suit and the law in that suit.

Mr. SCOTT. No. The fact is conclusive against me by that decree.

Mr. FLOYD of Arkansas. The fact in that suit.

Mr. SCOTT. Which was the conspiracy that was the cause of action.

Mr. FLOYD of Arkansas. It might be the state of facts proven had no relation to your cause of action.

Mr. SCOTT. But I am assuming this particular conspiracy is the one I am declaring upon.

Mr. FLOYD of Arkansas. Suppose the gentleman will pass that for the present. Take it up under the five-minute rule. I will be glad to debate it with him then. But I am trying to give you an outline of this bill for your information, and we have brought in a rule giving the greatest opportunity for debate under the five-minute rule. I hope the gentleman will permit me to proceed. That section simply provides—and it is based upon the broad ground of public policy—and these suits are brought in behalf of the whole people of the United States—that when a decree is obtained against an unlawful combination that the decree may be used in private suits brought against the defendant corporation. And I desire to state for the benefit of the Members of the House that very little objection has been urged to that provision before our committee. Some of the best constitutional lawyers that have been before that committee have never questioned for one moment its constitutionality.

Now, I must hurry along, and I desire to take up briefly section 7, which is the next section, in connection with sections from 15 to 23. These are the labor sections of this bill, and I want to detail to you briefly what is accomplished by them. Now, I will be glad to have your attention, gentlemen, because I desire to discuss quite fully these labor sections of the bill.

There is a general impression among some, it seems, that section 7 is the labor section of the bill. That is only one of the labor sections of the bill. The sections from 15 to 23 relate exclusively to labor questions, and I desire to explain them, and then take up section 7 in conclusion and show you just what the labor provisions of this bill do, and explain the meaning and effect of section 7 and also its importance and scope.

During the Sixty-second Congress two bills relating to labor—what is known as the Clayton anti-injunction bill and what is known as the Clayton contempt bill—were passed in the House. Both passed the House, and I will give you the vote on each of the bills. Minority reports were filed against them by distinguished members of the committee, who were able lawyers, but when the injunction bill was voted on in the House only 31 votes were cast against it in the whole House, including Republicans, Progressives, and Democrats. When the bill giving right to trial by jury in contempt cases was voted on in the same Congress only 18 votes were cast against it in the whole House. We have placed those two bills, which passed the House, as stated, and which afterwards were indorsed at the Baltimore convention by the Democratic Party, bodily in this bill, with only slight amendment to section 15, to make it conform to equity rule 73 of the Supreme Court of the United States, since adopted by that court. What do we give labor in these several provisions? I will tell you what labor gets in the sections from 15 to 23.

United States courts are prohibited from issuing injunctions against persons on account of their ceasing to perform any work or labor—one of the things for which Federal courts in the past have issued injunctions in labor disputes.

Second. From issuing injunctions to prevent laborers from recommending, advising, or persuading others by peaceful means so to do.

Third. To enjoin laboring men from attending at or near a house or place where any person resides or works, or carries on business, or happens to be, for the purpose of peacefully obtaining or communicating information, or peacefully persuading any person to work or to abstain from work.

That is a thing for which laboring men from time to time have been enjoined by different Federal courts.

Fourth. Or from ceasing to patronize or to employ any party to such dispute.

This is another thing for which laboring men have been repeatedly enjoined, and which we regard as an abuse of the injunction writ.

Fifth. Or from recommending, advising, or persuading others by peaceful means so to do.

Another thing for which laboring men have been enjoined.

Sixth. Or from paying or giving to or withholding from any person engaged in such dispute any strike benefits or other moneys or things of value.

A monstrous thing to think of, but, according to the testimony of William B. Wilson, now Secretary of Labor, who testified before our committee at the last Congress that he, as secretary of one of these organizations, was enjoined during a strike from paying those sick benefits by the Federal courts. This prohibits for the future such outrageous injunctions being issued against any laboring man or labor associations.

Seventh. Or from peacefully assembling at any place in a lawful manner and for lawful purposes.

That is a thing that ought never to have been denied to any citizen in America—a guaranteed constitutional right—but a thing which the Federal courts, by the use of the injunctive process, have repeatedly enjoined laboring men from doing.

Eighth. Or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto.

In other words, this puts laboring men upon the same equality under the law with every other citizen, and requires the same cause of action; requires an injunction in a case growing out of a labor dispute to be issued upon the same evidence as in any other case where a labor dispute is not involved. The injunction provisions of this bill give to labor a bill of rights on eight different propositions, in which, by the abusive practices of injunctions in the past, they have been harassed in numerous cases and often imprisoned.

Not only that, but it requires notice and forbids blanket injunctions. The provisions in the second bill give to laboring men the right of trial by jury in cases of indirect contempt, where the acts complained of would constitute criminal offenses under the law. And right here I want to call your attention to one significant thing. In the decision rendered by the Supreme Court in the Gompers case a few days ago you will find a strong intimation given by the justice delivering the opinion that the trial of these cases by jury is more satisfactory than by courts.

Now, those are the labor provisions. We bring them to you. They have been indorsed by this House. They have been specifically indorsed by our party. They have been adhered to and observed by many of the courts. But there is one additional provision which I will take up now, because it is new. It was not in the Clayton bill at the last Congress, and, so far as I know, it has never been in any other bill pending before this Congress. I refer to section 7 of the bill. I will explain to you briefly how that provision got into this bill.

The Democratic platform at Baltimore declared specifically in favor of the injunction bill passed in the Sixty-second Congress; declared for the right of trial by jury in contempt cases; and declared in favor of legislation that would differentiate and distinguish labor and farmers' organizations from other organizations, saying, to use the language of the platform, that they should not be deemed or considered unlawful combinations in restraint of trade under the Sherman law. But it did not declare for any specific exemption from the Sherman law. Bear that in mind.

Now, on December 6, 1913, I believe it was, Mr. Gompers, the head of the American Federation of Labor, appeared before the Committee on the Judiciary of the House and made a plea for additional legislation in behalf of labor organizations. He read the Democratic platform; he read the Progressive platform; he alluded to the Republican platform, saying that its declarations for labor were nil. Then he made a speech, and I desire to quote from it and read it into the RECORD, because I think it is worthy of going into the RECORD. It is whispered now, since some people have become dissatisfied with this provision, that

there is nothing in his contention. I think there is. I quote from Mr. Gompers:

Gentlemen, under the interpretation placed upon the Sherman antitrust law by the courts, it is within the province and within the power of any administration at any time to begin proceedings to dissolve any organization of labor in the United States and to take charge of and receive whatever funds any worker or organization may have wanted to contribute or felt that it is his duty to contribute to the organization.

Mr. WEBB. Are there any suits pending in the courts now looking to this end, Mr. Gompers?

Mr. GOMPERS. There are no suits now pending; but an organization of workingmen, the window-glass workers, was dissolved by order of the court under the provisions of the Sherman antitrust law, charged with conspiracy as an illegal combination in restraint of trade. And while *that* organization was dissolved by action of the court, yet it created no furor, for this reason: I have no desire to reflect upon the men who are in charge of that organization as its officers and representatives, but it was, in my judgment, supine cowardness for them not to resist an attempt of the dissolution of their associated effort as a voluntary organization of men to protect the only thing they possessed—the power to labor.

Mr. WEBB. Have you any case where a labor organization has been dissolved simply because they themselves united in asking or fixing a certain wage and went no further in uniting with the manufacturers?

Mr. GOMPERS. I can not tell you, sir, about that. But that is the very essence of the life of the organization. What I want to convey is this, that of these 30,000 or more local associations of workingmen, what we call local unions of workingmen and workingwomen, probably more than two-thirds have agreements with employers. As a matter of fact, I think that every observer and every humanitarian who knows greeted with the greatest satisfaction the creation of the protocol in the sweated industries of New York City and vicinity which abolished sweatshops and long hours of labor, and the burdensome, miserable toil prevailing, and established the combination of employers and of workmen and workwomen by which certain standards are to be enforced, and no employer can become a member of the manufacturers' association in that trade unless he is willing to undersign an agreement by which the conditions prevailing in the protocol will be inaugurated by him. Yet, under the provisions of the Sherman antitrust law that association of manufacturers has been sued, I think, for something like $250,000, because it is a conspiracy in restraint of trade.

What I mean to say is this: I am perfectly satisfied in my own mind that the Attorney General of this administration, the Attorney General of the United States under the present administration, is not going to dissolve or make any attempt to dissolve the organizations of the working people of this country. I firmly believe that if there should be any of them, any individual or an aggregation of individuals, guilty of any crime, that the present administration would proceed against them just as readily, and perhaps more so, as any other; I am speaking of the procedure against the organizations themselves and the dissolution of them. But who can tell whether this administration is going to continue very long, or whether the same policy is going to be pursued; that is, the policy of permitting these associations to exist without interference or attempts to isolate them? Who can tell? What may come; what may not the future hold in store for us working people who are engaged in an effort for the protection of men and women who toil to make life better worth living? We do not want to exist as a matter of sufferance, subject to the whims or to the chances or to the vindictiveness of any administration or of an administration officer. Our existence is justified not only by our history, but our existence is legally the best concept of what constitutes law. It is an outrage; it is an outrage of not only the conscience; it is not only an outrage upon justice, it is an outrage upon our language to attempt to place in the same category a combination of men engaged in the speculation and the control of the products of labor and the products of the soil on the one hand and the associations of men and women who own nothing but themselves and undertake to control nothing but themselves and their power to work.

Mr. FLOYD. I want to see if I understand your position. If I understand your position under the existing status of the law as determined by the Federal courts, if the Attorney General should proceed to dissolve any of your labor organizations they could be dissolved. Is that your proposition?

Mr. GOMPERS. Yes, sir.

Mr. FLOYD. And that your existence, therefore, depends upon the sufferance of the administration which happens to be in power for the time being.

Mr. GOMPERS. Yes, sir.

Mr. FLOYD. What you desire is for us to give you a legal status under the law?

Mr. GOMPERS. Yes, sir.

Mr. FLOYD. So you can carry on this cooperative work on behalf of the laborers of the country and of the different organizations without being under the ban of the existing law?

Mr. GOMPERS. Yes, sir.

Mr. HAMILTON of Michigan. Mr. Chairman, may I ask the gentleman a question just there?

Mr. FLOYD of Arkansas. Yes.

Mr. HAMILTON of Michigan. Just at the beginning of Mr. Gompers's testimony did I understand he stated that there was an organization of employers in New York City who issued a protocol in relation to the employment of labor? I did not quite catch the meaning there.

Mr. FLOYD of Arkansas. No. That association was not dissolved, but a reference was made to the association of glass-workers that was dissolved.

Mr. HAMILTON of Michigan. The other was not?

Mr. FLOYD of Arkansas. No, sir. Mr. Gompers was speaking of the excellent work of the other organization, which was not dissolved.

Mr. HAMILTON of Michigan. He claimed that it could be dissolved?

Mr. FLOYD of Arkansas. Yes; he claimed that it could be dissolved. And anyone who has read carefully the decisions of the Supreme Court in the Standard Oil case and in the American Tobacco case and other leading cases decided by the Supreme Court, as a lawyer, must realize that Mr. Gompers's contention is correct.

If you find a court with the facts to sustain a conspiracy in restraint of trade and the courage to do it in a proper case, it is within the power of the court to enter a decree of dissolution. You can see what such a decree would do for labor organizations. When the Standard Oil Co. was dissolved there were millions of property which the equity court, under the rules of procedure, exercising its equity jurisdiction, was required to protect and conserve, and this property formed a nucleus around which a new organization was formed to take over the property and continue to operate, and the same with respect to the American Tobacco Co. But for what were those great combinations dissolved? For being combinations and conspiracies in restraint of trade. The inanimate thing known as "a combination" can do nothing. It acts through agencies, through living human agencies, that make the unlawful contracts, do the unlawful acts, perform the things that they are doing in violation of law; and if an industrial corporation and its agents have so violated the Sherman law, they can be dissolved. And who can gainsay the proposition that if individual members of labor organizations should do unlawful things and enter into unlawful contracts and enter into conspiracies in restraint of trade, the same power that dissolved the Standard Oil Co. and the same power that dissolved the American Tobacco Trust can dissolve the labor organizations, with this more disastrous effect—there being no nucleus of property around which to gather the fragments of the association, they would go to the four winds and be out of existence. And yet I am sorry to say that I have been told that there are those who contend that the committee has done nothing for labor by incorporating this provision in the bill. We are giving labor associations a legal existence and declaring their operations legal by this provision. We are taking them out from the ban of the present law to the extent that in future they can not be dissolved as unlawful combinations. Their existence is made lawful and they are given a legal status.

In other words, recognizing and believing as a committee that the plea made by Samuel Gompers, the head of the great American Federation of Labor, was a just plea, well founded, in the light of past decisions, and that those great organizations of workingmen ought not to be considered and classed as unlawful combinations per se and ought not to be subjected to the same rule applied to industrial corporations or to be dissolved by court decree, we have incorporated section 7 in this bill, declaring legal labor and other organizations named therein.

Mr. Chairman, how much time have I consumed?

The CHAIRMAN. The gentleman has consumed 1 hour and 59 minutes.

Mr. FLOYD of Arkansas. Gentlemen, I am sorry that my limited time has not permitted me to go into a discussion of other important features of this bill, but under the five-minute rule we will have ample opportunity to do so.

I should like to take up the question of interlocking directorates and the provision relating to holding companies. I should like to take up other provisions of the bill; but in the time allotted me I have only touched upon some of the more vital features of this great piece of legislation proposed in the interest of the American people generally, the labor provisions, constituting, as they do, a great bill of rights for labor, sections 2 and 4 furnishing a bill of rights and equity to every independent small dealer in this country. In conclusion, let me say we submit this bill as the result of an earnest effort on the part of the Judiciary Committee to carry out the will of the House in framing a bill which we trust will meet with the approval of the House, and we hope the approval of the country.

I thank you for your patient attention. [Applause.]

Mr. NELSON. Mr. Chairman, the ranking Member on the Republican side is absent and has asked me to take charge of the time during his absence. I will yield to myself 30 minutes.

The CHAIRMAN. The gentleman from Wisconsin is recognized for 30 minutes.

Mr. NELSON. Mr. Chairman, with other minority Members, I shall support the first part of the present so-called antitrust program, the creation of an interstate trade commission. I do so with pleasure, because in its preparation the minority was granted recognition. It is a definite legislative measure, and, on the whole, this commission, with additional powers, may prove a beneficial agency for the final solution of the trust evil.

It is with a deep sense of disappointment that, for the same reasons reversed, I can not give my support to the bill now before us. It comes from the committee of which I have the honor of being a member. I have the highest personal esteem for the gentlemen of the subcommittee who framed the bill.

These gentlemen, but for a powerful restraining hand, have the ability and, I believe, the patriotic desire to construct a far better law; and I had hoped that we all could prepare and support a measure that would reflect credit upon the committee and redound greatly to the welfare of the country.

Mr. SLOAN. Will the gentleman yield?

Mr. NELSON. Yes.

Mr. SLOAN. What restraining hand does the gentleman refer to? Is not this House free to do what it sees fit, and may not its Members exercise their own privileges and prerogatives?

Mr. NELSON. The gentleman has evidently not been reading the newspapers.

Mr. SLOAN. I recognize in the gentleman a greater authority, and I appeal to him.

Mr. NELSON. The gentleman must know from the discussion to-day that a subcommittee was appointed, consisting of three very able Democrats. No Republican was given any recognition on that subcommittee; and if we may rely on the newspapers they were constantly in consultation with the President on all the details of the bill, and they are carrying out his instructions.

Much as I wish to act with my colleagues on the committee, I must truthfully state my views of this bill. It was conceived in the spirit of partisanship and molded in every detail by the motive of political expediency. It is not constructive legislation upon broad principles but by arbitrary selection, nor by positive and certain enactments but by vague and undefined exceptions, and does not bravely grapple with the giant evil of monopoly itself, but turns to its manifestations and unrelated side issues. Finally, it is doubtful whether the harm that will result from this bill will not outweigh the small amount of good some of its provisions might accomplish.

It will be a matter of extreme regret, I feel certain, to every American citizen, irrespective of politics, who takes a large and patriotic view of this whole subject that the party intrusted with power has failed so completely to measure up to the great opportunity and the sacred duty of the hour. Instead of devoting itself to the sincere solution of the problem of our day and generation, it has weakly yielded to the spirit of political expediency and truckling compromise, by way of inaction if not reaction. Before the last election the party pointed to the pathway of duty. It bravely asserted that "a private monopoly is indefensible and intolerable," and this was its platform pledge:

> We favor the vigorous enforcement of the criminal as well as the civil law against trusts and trust officials, and demand the enactment of such additional legislation as may be necessary to make it impossible for a private monopoly to exist in the United States.

There was a ring of genuine truth in that proclamation, and there was patriotism in that pledge, and it appealed to the American people. Private monopoly is intolerable, and competition must be restored as the working basis of our national life. Competition offers, in my opinion, the best environment for the advancement and the welfare of mankind in the individual initiative, the individual independence, and the individual responsibility.

We should now have the courage and foresight of statesmanship. We may yet be master of our country's future; but if we trifle, halt, or compromise too long competition, now greatly endangered, may never be restored, and then what—socialism?

No nation is so great that it can safely overlook the law of consequence. None are so blind as they who will not see. There are those who look upon socialism as a menacing evil, but what are the signs of the times? Is there no significance in the rapid progress that socialism is making both in the United States and abroad? Socialists sit in the cabinets of Italy, France, and Norway, and they are the strongest political party in Germany. In the United States Socialist gains have kept pace with the increase in the number and power of the trusts. For President of the United States in 1912, 1,000,000 American citizens voted for a radical Socialist. We can not safely ignore the principle of cause and effect. As surely and rapidly as the properties of all the people pass into the hands of a few trust magnates, public sentiment, rapidly forming, when once fully aroused, will multiply the socialistic vote as a protest against monopoly privilege. And the day when the people must choose between public ownership of trusts for the benefit of all and the private ownership of the trusts for the privilege of the few, will witness the final triumph of socialism in this country. Therefore we should act in our days of grace, while we are yet masters of our national destiny; but will this compromise measure before us now, this mere marking time, remove the cause, the special monopoly privilege of levying tribute manifested in the high cost of living, and thus prevent the much-dreaded social change in the conditions of our national life?

REGULATED MONOPOLY.

Some well-meaning theorists imagine they see a place of escape, a permanent middle ground, in a state of regulated monopoly. But they are merely deceiving themselves. They say that the trusts are more efficient and can produce more cheaply. They urge that the dangers of oppression may be removed by regulation and that the principle of concentration in industry under regulated monopoly will result in benefit to all the people. But these fond hopes and fancies are fallacious.

TRUSTS NOT EFFICIENT.

The trusts have not been efficient. The source of their success has been the unfair tactics employed against the independents and the monopoly privileges they have enjoyed. No trusts show cheaper cost of production than do the smaller independent plants. The explanation lies near at hand. When a concern grows so large that the men at the head can not possibly be familiar with every angle of the business, gross inefficiency results. The element of personal management so essential to business success disappears. In the interest, therefore, merely of cheaper production, it is desirable that the trusts should be destroyed.

PRICE FIXING.

Nor is regulation of monopolized industry practicable. In the pathway toward regulated monopoly there are many immovable rocks. The foremost is price fixing. With the specter of the cost of living before us we can not permit monopolies to charge prices at will. But in fixing prices the Government must do justice to all interests alike. It must take into consideration the values of these great properties, the rights of the owners, the needs of the consumers, the returns to the farmer for his raw materials, the wages of the laborer in the mills, and many other important matters. The problem is, as may be seen at a glance, a stupendous impossibility.

Fixing prices calls for commissions. How many—1 or 800? Able men who have given this point special study say that there would have to be a separate commission, at least, for each line of business. What a mire of bureaucratic government we would run into! Think of the arbitrary power of such commissions!

CORRUPTION.

Then, too, there are other accompanying evils. Big business to protect profits will go into politics; a small increase in prices will mean millions of extra profits; and in consequence we would always have present the grave danger of political and official corruption.

BUSINESS STAGNATION.

Regulated monopoly is likely to mean not only bad government but business stagnation. When commissions allow monopolies regular fixed profits, whether they be 6 per cent or 10 per cent, the keen incentive for making improvements in the processes of manufacture will disappear. Efficient or not, they will earn the same regular dividends.

PUBLIC OWNERSHIP.

The final consideration in regulating monopoly is that it will inevitably lead to socialism. Under regulation, if prices are high, candidates and parties will bid for votes on the plea of reducing the cost of living. Regulation may then lead to confiscation, and socialism is at hand. On the other hand, if prices are not reduced, there will be the increasing demand for public ownership. To compromise with monopoly is to end in socialism.

THE TEST OF LEGISLATION.

Difficult as the problem of restoring competition may seem, it presents no such insurmountable obstacles as lie in the pathway of regulated monopoly. As a Nation, with the Sherman law unrepealed, we are committed to competition. This bill, or any trust bill, must be measured by the standard of its efficiency to restore competition. There can be no satisfactory compromise. Monopoly in every form must be made impossible. Any measure which falls short of this is but a makeshift and not a thoroughgoing solution of this great evil.

THE CHANGE IN PROGRAM.

The President of the United States, a profound student of history, before his election saw plainly the duty of the hour, and I even now believe that he really desired to assail this evil with all the power of his great office, but after the tariff bill had been passed it became evident that the cost of living had not come down and that business was rapidly approaching a standstill. There were signs of panic in the air, and if not in the country there was a real panic among Democrats in Congress. There was a lively fear of a possible overturning of the

political equilibrium. Thinking that readjustment of our currency system would restore public confidence, the party in power rushed through Congress its money bill, and still there was business paralysis.

It was evident to a close observer of current events that the party in power would not have the courage to grapple with the trust problem in dead earnest, but what was it to do? It had to steer between Scylla and Charybdis, betrayal of public confidence in deserting its trust program or so disturbing the big business interests that a panic might be precipitated in all its dreadful reality. Then it was that political expediency caused a sudden change in party program.

A PREDICTION.

Six months ago in magazine articles I pointed out just what would take place, and the expected has come to pass. Among other things this was said:

In this situation the easiest road is that of compromise—to pass some halfway measures and then try to make the people believe that the country has been relieved from the thraldom of the trusts. There is much talk of going slow. It is proposed to pass a few bills, such as making the penalties of the Sherman law personal and abolishing interlocking directorates, so as to make a showing of reform, but not seriously disturb Wall Street. It behooves the people to watch closely coming events. This is a time when words count for less than results.

At the same time the hope and sincere wish was expressed that the President would play the part of David and slay the Goliath of private monopoly.

ASSURING BIG BUSINESS.

But the President, yielding to the pressure of political expediency, in his trust address to Congress sounded the keynote of compromise when he told big business in honeyed words that "the antagonism between business and Government is over," that in its place "an atmosphere of accommodation and mutual understanding" has been ushered in. Vice President Marshall said, "What we need is much agitation and little legislation." Senator HOKE SMITH said, "Readjustments can be made peaceably and litigation will not be required." And Chairman CLAYTON assured big business interests that "nothing radical" would be done.

THE SUBCOMMITTEE.

To make certain of this, as chairman of the Committee on the Judiciary he appointed two Democratic members to act with himself as a subcommittee in the preparation of a trust program. This partisan subcommittee, in frequent consultation with the President, prepared three tentative bills. It was quite evident that Chairman CLAYTON'S promise was made good. These bills did not alarm the trusts; they did disturb small business men.

SUGGESTIONS OFFERED.

Extensive hearings were granted upon these tentative bills. Representatives of small business associations appeared to protest against the arbitrary manner in which their methods of doing business were interfered with. Thoughtful students of the trust problem—men like Louis D. Brandeis, Samuel Untermeyer, Albert H. Walker, and others—showed clearly that these bills would not be effective in restoring competition. Numerous excellent suggestions were offered to make them really effective means for destroying private monopoly.

PARTISANSHIP.

When hearings were concluded this partisan subcommittee presented a consolidated bill. It did not avail itself of the many helpful suggestions that had been made, dropped out the teeth in the definitions bill, and added some new provisions dealing with holding companies, farmer and labor organizations, and the use of injunctions in labor disputes. No Republican had any part whatever in the preparation of the bill. The partisan subcommittee worked behind closed doors. Not a change was made without its consent. The full committee reported the bill to the House by a strictly partisan majority. So evident, in fact, was the partisanship that no member of the minority cared to take any part in the final vote. From beginning to end, it may be said with perfect accuracy, this bill was conceived in a spirit of partisanship and molded in every detail by the motive of political expediency. [Applause on the Republican side.]

COMPROMISE.

The compromise character of this measure is apparent in every provision. It is a tight-rope performance with the fears of Wall Street balanced against the demands of the people. Hence its vagueness, its exceptions, and its side issues. Its various sections resemble certain signs which as you read them from the front say one thing, but when you read them from the side or the rear say something wholly different.

In the minority views I presented as a member of the Committee on the Judiciary a detailed analysis of this bill was made; here I shall point out only generally how it carries water on both shoulders in the effort to please plutocracy and at the same time placate the public.

TEETH IN SHERMAN LAW.

The first part deals with two unfair methods of competition—discrimination in price and the making of exclusive contracts. They are the remnant of the first attempt of the learned doctors on the subcommittee to equip the Sherman law with a full set of teeth, so as to repair the supposed ravages of the Supreme Court's rule of reason in the Oil and Tobacco cases. In the course of the hearings, however, the crude workmanship of the subcommittee was made so apparent that when the consolidated bill reappeared from the secret workroom of these conservative "trust busters" there were only two teeth left. These were not to be inserted in the Sherman Act, but were to constitute, so to speak, independent fangs, with which to threaten and to harass little business.

DISCRIMINATION.

The section dealing with price discrimination presents an interesting exhibit of the skill of these trust-law draftsmen in so writing the provision that it shall appear fair on its face to the public at large and yet shall not materially disturb the well-known practices of big business. To the public it apparently prohibits all discrimination between different individuals and communities, but upon examination we find various loopholes carefully provided for the benefit of the big fellows. Thus discrimination is not prohibited in bids and offers for sale.

Discrimination may be made in the time and manner of delivery of goods, in more lenient terms of credit, or in any other terms of sale except those of price. Even discrimination in price is permitted, unless it can be shown to have been made with the intent of wrongfully injuring or destroying the business of a competitor. The selling of goods cheaper at home than abroad is expressly authorized. Then there is the proviso that discrimination may be made on account of the "grade, quality, or quantity" of the commodity sold. Does anybody believe that a trust can be successfully prosecuted when it is allowed to discriminate on account of the quantity sold? Finally, the trusts are permitted to select their own customers. This means that they may altogether refuse to deal with anybody they wish to crush. No form of discrimination could be worse, but by this bill it is expressly legalized.

EXCLUSIVE CONTRACTS.

The section dealing with exclusive contracts has the same vice of uncertainty. It apparently prohibits exclusive contracts, but if they are made with nominal agents or bailees the trusts may readily evade the law. This bill says sellers shall not make exclusive contracts, but it also says that sellers may select their own customers. Interpreted in the most favorable light possible, the effect of this section will be to prohibit open and aboveboard contracts, but leaves open the means of accomplishing the same result through an undeclared and unexpressed understanding between the parties.

Mr. HARDY. Will the gentleman yield?

Mr. NELSON. Yes.

Mr. HARDY. I want to see if I understand the gentleman. Does the gentleman mean by the remark he made a moment ago that if you give the Douglas Shoe Co. the right to sell its goods to only one person in a town you might thereby just as well give them the right to require that person to agree not to buy from anybody else except the Douglas Shoe Co.?

Mr. NELSON. Indeed, when I have the right to say to you that you can not be my customer, I can in my own mind prescribe the conditions under which I will refuse to make you my customer.

Mr. HARDY. In other words, if you agree that you will sell to me alone, it will be equivalent to my agreeing that I will buy from you alone.

Mr. NELSON. Yes; but the manufacturer must not make an outright contract with you. A man does not need to be hit on the head with a crowbar in order to grasp an idea or a suggestion.

Mr. HARDY. I do not think you need to make any further contract than that you will sell only to me, in order to induce me to buy only from you.

Mr. ADAIR. I want to ask the gentleman, does he believe that this law should go far enough to compel the Douglas Shoe Co.—as reference has been made to that company—to sell to everyone who would buy of that company in the same town? Do you not believe the company should have the right to make some particular firm or store its customer and give that customer the exclusive right to sell the Douglas product in that particular town?

Mr. NELSON. Answering the gentleman, I would say that I would be just to all. I would not discriminate. But we have here the gentleman saying to the mine owners, "You must sell

to all," and we have them saying to other than mine owners, "You may select your customer." I would make the rule either one way or the other. I would be fair, and not arbitrary.

Mr. BEALL of Texas. How would the gentleman state the rule about that?

Mr. NELSON. If I had to state the rule about that I would be fair to all, and I think we are coming to that, when big business concerns have no right to say they will not sell to any customer who offers to pay cash.

Mr. ADAIR. You would be in favor, then, of a provision in this bill which would make it impossible for the manufacturer of any particular article to refuse to sell that product to anyone who wanted to buy it.

Mr. NELSON. If he offered cash for the commodity, I see no reason why the manufacturer should be permitted to refuse.

Mr. ADAIR. And on the same terms, and so forth.

Mr. NELSON. Now, on that question I want to say this, that having had no opportunity to participate in the preparation of this bill, so far as action of the subcommittee is concerned, and at any time only the merest pretense of opportunity, which amounted to listening to the hearings and seeing gentlemen on the other side offer some amendments to their bill, the Republicans and minority members have had nothing to do with it. Therefore we have not formulated a program, and we are not responsible for the program. If the gentleman wants to know what I would do, I would have taken, as the Committee on Interstate Commerce did, representatives of all parties, and then sought to legislate, along the lines of principle, for equal treatment for all, and not pick out the mine owner as the man who must sell to anybody, and then leave all the rest to have the right to select their own customers.

Mr. HARDY. Along that line, will the gentleman tell me whether there is any real difference in the situation of a mine owner, producing ore from the earth, and any other maker or producer as to any rights that the one should have and the other should not have to select his customers? In other words, why should section 3 apply to mine owners only?

Mr. NELSON. You heard what the eloquent and conscientious gentleman from Arkansas [Mr. FLOYD] said, and I wish to give him full credit, for he is an industrious, painstaking, and conscientious member of the Committee on the Judiciary. Yet I heard no such evidence before the committee that would cause me to say why they should select arbitrarily the mine owner. I see no reason at all for the discrimination.

Mr. ADAIR. I am interested in what the gentleman is saying and was trying to get information.

Mr. NELSON. I am very glad to give it to the gentleman if I have it.

Mr. ADAIR. Take an illustration. Here is a man who manufactures a certain kind of refrigerator that is his own idea of what is best. He goes through the country into the various cities and towns and establishes agencies for its sale with one merchant in a town, and that merchant probably spends more than his profits in one or two years in advertising that kind of a refrigerator, hoping to build up a business in that particular kind of a refrigerator that will make him some money in the future. Now, does not the gentleman think that a manufacturer should have the right to select his customer in the various towns to sell this particular kind of a refrigerator to, and does not the gentleman believe under such circumstances that it would be wrong to compel him to sell to any man in the town who sought to buy?

Mr. NELSON. The gentleman has asked me a controverted question as to which is the more for the public good, the right of the manufacturer to arbitrarily select his exclusive customer or to give the power to refuse to sell to a customer which tends toward monopoly. My own judgment is that in legislating on this question we ought first to destroy the monopoly before we go below and interfere with the everyday business practices. I would leave that open for the future.

Mr. ADAIR. It is a business practice?

Mr. NELSON. It is a business practice, and in many cases it works to the interest of the public to introduce a special article, but, of course, it may also be abused. That is a controverted question.

Mr. HARDY. Will the gentleman yield?

Mr. NELSON. Certainly.

Mr. HARDY. That is what this bill has done; it has left it open, has it not?

Mr. NELSON. I think not by leaving it in the power of the manufacturer to select the customer.

Mr. HARDY. You leave it as it is now.

Mr. BRYAN. Will the gentleman yield?

Mr. NELSON. Yes.

Mr. BRYAN. Under the present broad terms of the Sherman antitrust law persons engaged in selling goods, wares, merchandise in commerce are forbidden from selecting their own customers if such forbidding becomes a restriction in restraint of trade. Under this law persons engaged in selling goods, wares, and merchandise in commerce are absolutely protected in selecting their customers whether the agreement be in restraint of trade or not.

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

Mr. NELSON. Mr. Chairman, I yield myself 10 minutes more.

MACHINERY.

The machinery provided by the bill for the enforcement of the antitrust law does really nothing to make certain that dissolutions of trusts shall be real and not merely nominal. A repetition is still possible of the sham dissolutions of the Oil and Tobacco Trusts, which boosted trust stocks enormously but did nothing to bring down prices. As in the Tobacco case, the independents and interested States are still denied the opportunity to intervene to protect their rights. Little is done to make the antitrust laws self-enforcing. There is no way to compel an unwilling Attorney General to act. The Sherman law, despite its excellent provisions, has failed to prevent the rapid increase of trusts, because Attorneys General, for reasons of political expediency, have not enforced it in all its effectiveness. This bill does the least possible to improve its machinery so as to make it self-enforcing and readily available for the adequate protection of the public welfare.

ESTOPPEL.

The committee points with much pride to the provision of this bill to make it easier for independents to recover damages for losses sustained through the unlawful actions of the trusts; but when this bill is read, it will be noted that not only may the decrees in Government suits be pleaded against trusts, but also in their favor. Although the independents have never had their day in court, they are absolutely bound by any feeble compromise the Attorney General may make. And can we be certain that no compromises will be made in the future? Only recently a compromise was arranged by the Attorney General with the American Telegraph & Telephone Co., under which it retained an almost complete monopoly of the telephone lines of the country. Other dissolutions by consent are reported to be in progress. Do these compromises and this bill, which allows trusts to plead these decrees in their favor, safeguard the rights of the independents? In thus dividing the loaf between them, which gets the bigger end—the independents or the trusts?

PENALTIES.

No part of this bill has been so much extolled by its authors as the section that pretends to make guilt personal. The people are told that, instead of fining corporations, hereafter the trust magnates will be put in jail. But trust magnates have no cause for alarm. This bill plainly says, in effect, that they shall be subject to fine and imprisonment only when they can be conclusively shown to have personally done any of the acts forbidden by the antitrust laws. This is now the law. Trust magnates heretofore have so rarely gone to jail, because Attorneys General, for reasons of political expediency, have not asked for prison penalties, or because judges have suspended sentence. Why is it that under this administration the Mellen indictment has been allowed to run along for 18 months, and is anybody ever to be brought to trial? This bill still permits judges to suspend sentence. The prison penalties of the Sherman law are left as they were, and the maximum fine is still $5,000. Think of a $5,000 fine for the average American trust.

HOLDING COMPANIES.

This bill is represented to us as hereafter prohibiting holding companies; but big business knows that it expressly does not apply to holding companies already organized. Moreover, this bill makes the test of a holding company's illegality not whether it has potential power to lessen competition, in substance held to be the law in the Northern Securities case, but instead it introduces a new element, and a dangerous one, whether the holding company actually uses that power with the effect of substantially lessening competition. Upon this test the Northern Securities case would probably have gone against the Government, and it will hereafter be exceedingly difficult to prove that a holding company is illegal.

We are told also that a great reform is accomplished by the prohibition of interlocking directorates. But this part of the bill has no great terrors for Wall Street. It is merely an annoyance. Instead of dealing with the real evil, the interlocking control of competing corporations, which grows out of common stock ownership, it deals only with one manifestation of

this evil, the acting of the same men as directors of two or more corporations. The common stock ownership is allowed to continue. The interlocking control may still be exercised through dummy directors, voting trusts, or in any other manner than that of interlocking directorates. The trusts have not taken alarm at this bill, because they know that, though interlocking directors are prohibited, competition will not be restored while common stock ownership is undisturbed. To the legitimate, independent business men of the country, however, this section represents a needless and unjustifiable interference with business ability and freedom.

FOR LABORER AND FARMER.

This bill also contains a provision which is represented to the farmers and workingmen as righting a great wrong. It is pretended that the organizations of the toilers of the land formed to better their conditions of life are no longer to be treated as if they were trusts; but, again, upon closer examination of the bill we find the truth. The partisan subcommittee, in fact, rejected the demand of organized labor that its activities shall be exempted from the antitrust laws. Farmer organizations are legalized only when they do not have capital stock and are not conducted for profit. This makes impossible cooperative buying or selling by farmer organizations. Public-spirited men appeared before our committee to plead that nothing should be done to check the movement of cooperation among the farmers; but the partisan subcommittee, acting, no doubt, after consultation with the President, would not consider any proposition exempting from the antitrust laws farmer organizations that have capital stock or are conducted for profit. Congress sent a commission to Europe to study methods of encouraging cooperation among the farmers. The Department of Agriculture is constantly urging the farmers to cooperate; but this trust bill, claimed to be framed in the interest of the farmers, refuses to legalize such cooperative efforts to better their market conditions.

The farmers are waking up to it. Here is a telegram that I received from a farmers' organization in my State an hour ago:

MADISON, WIS., *May 22, 1914.*

Hon. JOHN M. NELSON,
House of Representatives, Washington, D. C.:

Our society, 12,000 strong, is counting on you at this time to champion the cause of agriculture in Wisconsin, which has already suffered from tariff legislation, by leading in enacting laws favorable to cooperation. Be sure to provide in impending antitrust legislation for free and unhampered cooperation in assembling, grading, standardizing, packing, storing, and marketing farm products. Agriculture must be permitted to do its business cooperatively; and business can not be done without capital. Would not a general provision permitting all cooperative business activities where all profits above operating expenses are returned to the patrons, producers, and consumers solve the problem? Anyway, it must be solved to save our greatest and most important industry in effecting economies in distributing and to protect consumers from unlimited exploitation.

CHAS. A. LYMAN,
M. WES. TUBBS,
D. O. MAHONEY,
Legislative Committee Wisconsin State Union American Society for Equity.

Time will not permit me to discuss more fully the provisions of this compromise measure. Sufficient has been said to bring out its real character.

THE SMALL BUSINESS MAN.

Mr. Chairman, what will be the effect of the enactment of this legislation upon the life and happiness of the American people? Will the small business man, the merchant, and the independent manufacturer receive this act with joy? There are no such indications. The small merchant, with his back against the wall, fighting for his very existence, came to the committee and through his representatives plead for relief against the crushing power of concentrated capital in the form of chain stores and department stores and big monopolies. What have you given him in this bill? Absolutely nothing. The independent manufacturer asked for larger business freedom. He may have mistaken his remedy, but what relief do you afford him in this measure? You arbitrarily place upon his business new restrictions that are vague, indefinite, and full of tempting loopholes. You burden, harass, and annoy needlessly independent, honest business. Surely the small business man, the merchant, and the manufacturer will not bless you for your efforts.

ORGANIZED LABOR.

Organized labor, representing millions of our countrymen who live by the toil of their hands in the sweat of their brows, have asked you to relieve them of being classified with capital. Their labor is part of their life, inseparable from them; and they have told you truly that it was not the intent of the framers of the Sherman law to classify their organizations with monopolies. It was organized labor that helped to put the administration into power. It asked for bread, but you gave it a bone. You pretend to exempt the workingmen from the law, but they know that your language is empty and meaningless, and that they are still subject to all its pains and penalties. Already their murmur of protest is being heard, but the President, so the press reports, will not allow you to give them relief.

THE FARMER.

The great army of farmers—will they thank you for this legislation? Not at all. They do not love you overly much now. You turned them over in your tariff bill to the tender mercies of competition with foreign countries. Through their representatives and organizations they joined labor in asking that the products of their toil be not classified with capital. Organizations of farmers are not trusts, no more than unions of laborers, and the Sherman law was not intended to apply to them. Farmers have acted separately and individually heretofore, and in consequence the return for their toil has been a pittance. Our progressive farmers everywhere are beginning to understand the value of acting together. Evidence was presented to the committee that East and West, North and South the farmers are cooperating to buy in larger quantities and to secure better prices through collective bargaining, but this bill puts this movement of the farmers under the ban of the law.

THE CONSUMER.

The consumers, your special protégés of the past, what of them? How they love you for reducing the high cost of living! You said it was due to the tariff; but has the cost of living come down? It was not the tariff, and you know it now. It was monopoly privilege; the power of the trusts to levy unjust tribute. Now, though you have the power, you weakly compromise. Will the consumers praise this measure? No; like lukewarm water they will spew it out of their mouths with disgust.

WALL STREET.

This bill is satisfactory only to Wall Street. You may have placated organized plutocracy temporarily. Big business appears to be satisfied, because you have done nothing. But you know that this bill will not stand the test of time. Many of you realize this, but you dare not run counter to the wishes of your master in the White House. You fear that the people will misunderstand your attitude if you go against the President. Do you not realize that his power is due to the confidence of the people in the sincerity of his promise to destroy private monopoly? When the people learn that it is the truth—what the Wall Street bankers are saying—that "the President is the most conservative force in Washington," the party responsible for this craven compromise will reap the whirlwind. You were intrusted with the fullest power. You had an unequaled opportunity; but when the time came you lacked the courage for a thoroughgoing solution of the great monopoly problem. You have disturbed everything; you have settled nothing. As one who with others began the fight against monopoly privilege and special interests and for the rule of the people and the rights of all more than 20 years ago and has followed the fight up to this moment, I say to you your action will not meet with public approval. The people will come to understand your unpardonable temporizing policy. Men who will not compromise for the sake of political expediency will take your place of power. The great fight between the mass of the American people, seeking to restore competition, and the privileged class, still retaining monopoly control, will go on, and it will end only when it is indeed made "impossible for private monopoly to exist in the United States." [Applause.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. RAINEY having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the House to bills of the following titles:

S. 4168. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 4352. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; and

S. 4552. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

ANTITRUST LEGISLATION.

The committee resumed its session.

Mr. KELLY of Pennsylvania. Mr. Chairman, I yield 35 minutes to the gentleman from Ohio [Mr. SHERWOOD].

Mr. SHERWOOD. Mr. Chairman, the bill to supplement existing laws against unlawful monopolies reported by the distinguished chairman of the Judiciary Committee, Mr. CLAYTON, of Alabama, should command the support of every Member of the House. It is the mature product of the master minds of that great committee. It has received very careful consideration after a full hearing of all interests involved in our complex industrial system. It has both paternal and patriotic features. It is paternal in the guaranty of the civil rights of the great army of industrial workers, and the right to organize for mutual betterment and moral health. It is patriotic, because it involves the spirit of justice and a reverence for our Constitution and laws among the men and women who do the world's work. The impression has gone to the country that the proposed amendment to section 7, suggested by the representatives of organized labor, is too radical. This amendment is in harmony with the purpose explicitly stated when the so-called Sherman antitrust bill was under consideration, almost a quarter of a century ago.

The history of that very important legislation is needed to illuminate and instruct all persons and parties and organizations, because that record proves conclusively that it was the intention of the framers and proponents of this law to exclude organized labor from its provisions. This was well understood by the framers of the national Democratic platform adopted in Baltimore July 3, 1912. Here is the well-considered plank of the national platform touching this vital matter:

> The expanding organization of industry makes it essential that there should be no abridgement of the right of the wage earners and producers to organize for the protection of wages and the improvement of labor conditions, to the end that such labor organizations and their members shall not be regarded as illegal and combinations in restraint of trade.

The proposed amendment to section 7 is intended to carry out in letter and spirit the declaration of the Baltimore platform. Speaking as an individual, I desire to state that when this bill is under consideration during the five-minute rule an amendment will be offered which will probably allow section 7 in the bill to stand intact, with an improving sentence to make that section more lucid.

The claim is set up now by the opponents of this amendment that it is class legislation. This amendment is proposed as a protecting shield to about 30,000,000 of human beings in the United States who do the work of our ninety-five millions. If this is class legislation, how about the one hundred and forty millions appropriated this year for the Navy? How many of the 30,000,000 of wageworkers who are taxed on everything they wear and consume get any benefit out of this one hundred and forty millions? None worth mentioning, except the skilled workers in the navy yards. How many of the 30,000,000 of workers will get any benefit out of the two and a half millions of profit to the Armor Trust in the two-battleship program of 1914? How many skilled laborers will get any benefit out of the twenty-five millions voted for good roads? Is there anywhere concealed in this twenty-five millions of nebulous beneficence any benefit to any discouraged laborer out of a job? On the other hand, will he not find Jordan a harder road to travel?

How does this proposed amendment compare as class legislation with the $400,000 we recently voted out of the Federal Treasury for experiments in the eradication of cattle ticks? Have we reached a point in the evolution of our progressive civilization when the elimination of cattle ticks is more vital than the civil rights of the citizen?

We appropriated $200,000 this session of Congress to enable the Secretary of Agriculture, who is not a farmer, to give his views to the farmers on the marketing of farm products. And when this item was passed in a jiffy there was not an orator on this floor who would make an exclamation point that it was class legislation.

We appropriated this session $331,080 for the scientific investigation of insects and bugs and the Mediterranean fruit fly, and it went through the House in less than 10 minutes, with no question that insect legislation is class legislation. Yet, when the men and women who produce all the material wealth of the country ask for the protection of their civil rights, and do not ask for a dollar from the Federal Treasury, the claim is made that it is class legislation.

How does this proposed amendment compare as class legislation with the $500,000 voted slap-dab out of the Treasury for the eradication of hog cholera? Is it possible that we have statesmen on this floor who believe that the health of hogs is more precious than the health and betterment of the men and women whose labor and welfare are the dependable factor in the prosperity of the country?

Everywhere around the world where the benign doctrines of the Christian church find a lodgment in human hearts men and women believe that God created man for higher aims and a better destiny than the stupid and unthinking hog, whose head is always on a level with his belly. God made man erect, with head and heart above his belly, and the men of work, in brain and muscle, whose achievements and genius have made all there is of material value in this much vaunted and glorified Republic should have as much consideration in this historic Chamber as insects and hogs. [Applause.]

The preliminary history of this law is very valuable and illuminating. It proves that in the very conservative times of a quarter of a century ago, when the recognized leader of the conservatives in the Senate—John Sherman, of Ohio—was promoting this antitrust legislation, it was not even hinted, so far as I can learn, that the exemption of labor organizations from the provisions of the law was class legislation. Hence a review of this law is vital to this debate.

SHERMAN ANTITRUST LAW, 1890.

On February 28, 1890, Fifty-first Congress, Senator Sherman, of Ohio, introduced his antitrust bill in the Senate. It was referred to the Committee on Finance. On March 22, 1890, the Committee on Finance introduced a substitute for the Sherman bill. On March 25, 1890, Senator Morgan, of Alabama, moved to commit the bill to the Judiciary Committee; it failed to carry on a vote of 16 ayes to 28 nays. On March 25, 1890, Senator Sherman offered a proviso to be added at the end of the first section of the bill, as follows:

> *Provided*, That this act shall not be construed to apply to any arrangements, agreements, or combinations between the laborers, made with a view of lessening the number of hours of labor or the increasing of their wages; nor to any arrangements, agreements, or combinations among persons engaged in horticulture or agriculture, made with a view of enhancing the price of agricultural or horticultural products.

The amendment was agreed to in the Senate without any opposing votes.

On March 26, 1890, Senator Stewart, of Nevada, made the following comprehensive statement:

> The original bill has been very much improved, and one of the great objections has been removed from it by the amendment offered by Senator Sherman (for Senator George), which relieves the class of persons who would have been first prosecuted under the original bill without the amendment.

Senator Stewart then added:

> The bill ought now in some respects to be satisfactory to every person who is opposed to the oppression of labor and desires to see it properly rewarded.

Labor was first prosecuted under the Sherman law, and that law has since been applied more generally to labor than against the monopolies it was intended originally to restrain.

I have in my hand a list of 101 cases where Federal judges have issued injunctions against labor organizations. This table has been carefully prepared, and I will print the same in connection with my remarks, showing the title and number of each case.

Mr. ADAIR. Were they all under the Sherman antitrust law?

Mr. SHERWOOD. All after the adoption of the Sherman antitrust law.

The amendment to the act above referred to was made while the Senate was sitting in Committee of the Whole. On March 27, 1890, discussion of the bill was resumed upon the proviso exempting farmers' organizations and trade-unions from the act. The debate that day on that subject is worth more than passing attention. Senators Hoar, Edmunds, George, Sherman, and many others participated. Finally Senator Walthall, of Mississippi, moved to refer the bill and the amendment to the Committee on the Judiciary with instructions to report to the Senate within 20 days. The motion carried by a vote of 31 ayes to 28 nays.

On April 2, 1890, the bill was reported to the Senate by the Committee on the Judiciary, but the Sherman-George amendment, which had been agreed to in Committee of the Whole on March 25, was not included in the bill. Nevertheless Senators in charge of the measure assured representatives of farmers' organizations and the trade-unions that under no possible construction would the judiciary include such organizations under the provisions of the act.

On April 8, 1890, the antitrust bill passed the Senate, as reported by the Committee on the Judiciary, by a vote of 52 ayes to 1 nay. It passed the House on June 21, 1890, and was approved July 2, 1890.

THE LITTLEFIELD ANTITRUST BILL.

On April 7, 1900, in the Fifty-sixth Congress, Representative Littlefield, of Maine, introduced bill H. R. 10539 for the purpose of amending the Sherman Antitrust Act, approved July 2, 1890. On June 2, 1900, while the bill was under discussion in the

House of Representatives, the following exception by Representative Terry, of Arkansas, was added to the bill by a vote of 260 ayes, 8 noes, 76 not voting:

Nothing in this act shall be so construed as to apply to trade-unions or other labor organizations organized for the purpose of regulating wages, hours of labor, or other conditions under which labor is to be performed.

The bill was then passed with this amendment added by a vote of 274 ayes, 1 no, 70 not voting. The bill was sent to the Senate, but no action was taken by the Senate.

AMENDMENT TO SUNDRY CIVIL BILL.

On June 2, 1910, in the Sixty-first Congress, while the sundry civil appropriation bill was before the House of Representatives in Committee of the Whole, Representative Hughes, of New Jersey, offered the following amendment to the section making appropriations for the enforcement of the antitrust law:

Provided further, That no part of this money shall be spent in the prosecution of any organization or individual for entering into any combination or agreement having in view the increasing of wages, shortening of hours, or bettering the condition of labor, or for any act done in the furtherance thereof not in itself unlawful.

The amendment carried by a vote of 82 ayes to 52 noes.

On June 9 1910, the Senate, by a vote of 74 ayes, 16 noes, decided to strike the Hughes amendment from the sundry civil bill.

On June 21, 1910, the conferees of the House were directed, on motion of Mr. Hughes, "that the House do further insist on its disagreement, and that the House conferees be instructed to refuse to agree with the Senate." It carried by a vote of 154 ayes to 105 noes, 12 answering "present," and 119 not voting.

On June 23, 1910, Chairman Tawney, of the conferees, moved "to recede and concur," which meant that the House agree with the Senate and strike the Hughes exemption proviso from the bill. A very animated debate followed, but the motion by Representative Tawney carried by a vote of 138 ayes to 130 nays, 16 answering "present," and 105 not voting. This vote was one of the most important ever taken in the House of Representatives. This action estranged organized labor from the Republican Party, then in control of the House of Representatives.

It is not pertinent to this debate to bring the record down to date. It is sufficient to know that the question has been before Congress for over 24 years, and is still unsettled, and that it is vital to settle it now and to settle it right.

This is supposed to be a Government of law, and a Government guaranteeing the civil rights of the humblest of its citizens. Some magazine writer, a student of sociology, recently wrote:

We have escaped from a despotic government by a king. We have realized, after many centuries, that a king is only a man. Are we going to permit the growing up a despotic government by the judges? Are they not only men?

It may be added that the despotism of a king, or one man, is of the same odious force and flavor as the despotism of a judge or a bench of judges.

The recent decision of the Supreme Court of the United States in dismissing the long-protracted case against Samuel Gompers and his associates of the American Federation of Labor has been cited on the claim that additional protective labor legislation is now unnecessary. But the Supreme Court did not decide any question vital to labor. As stated by a labor journal:

This blessed week the celebrated case was taken by the ear, as it were, and gently led to a side door of the Supreme Court and let out into the street—and on a technicality. Not much was settled save that three very good men were not martyrized, for that dear old statute of limitations was invoked as a means of ridding the Supreme and other courts of a back-action situation, which was easy to dispose of with credit to the defendants, but which was full of embarrassments to the courts after the fellow Wright—now in limbo on impeachment charges—had put it up to the courts to sustain his Dogberry decision, or reverse the decision and make the courts ridiculous.

The Journal of Labor of May 15, 1914, published in Atlanta, Ga., gives in a few words all that this Supreme Court decision means. I quote from an editorial:

The United States Supreme Court has without question dodged the great fundamental issues of whether (1) there shall be free speech in this country; (2) whether there shall be a free press in this country; (3) whether or not judges of the courts may usurp the functions of the legislative body and make law in their chambers by usurping power not authorized by statute and enjoining or restraining working people from the full exercise of their normal, personal, and inherent rights, thereby abusing and misusing the otherwise beneficent injunction writ.

As stated in the above paragraph, the Supreme Court has decided no fundamental question vital to labor.

The encroachments of the Federal judiciary, masquerading as the oracles of immutable law, upon time-honored rights guaranteed by organic law, is responsible for a large part of the popular agitation and unrest among the workers. In milder form these outrageous edicts of some of our Federal judges, notoriously Justice Wright, are patterned after the infamous Jeffreys, who voiced the aggressions of the Stuarts which led to the uprising of the Roundheads under Oliver Cromwell.

Call it evolution or revolution or what you will, a better and broader estimate of civil rights and duties has taken possession of the American people. It is the evolution of intelligence, based upon the assumption that they who toil and till should share in the harvest; that the workers in mines and mills, in steel and wool and cotton, should have a living wage and the right to organize, as all business and professional men and all religious and civic societies organize, in order to better their condition. All good men and good women are interested in improving the condition of the wageworkers. It is injustice and oppression that creates anarchy and fosters revolution. This is an ethical as well as an economic question. And now, in the presence of the anarchy and bloodshed in Colorado, in northern Michigan, and West Virginia, is the time to make a calm and diligent inquiry into the causes which provoked these deplorable conflicts. What do the records of the Federal courts disclose in injunction cases since the enactment of the Sherman antitrust law? I have here the record of 101 cases in which injunctions on labor cases have been granted. In the case of the Danbury Hatters the contention lasted for 10 years, commencing September 15, 1903, and ending January 24, 1913, resulting in a judgment with court costs against the hatters of $232,240.

Let me cite another notorious case that has excited more criticism and aroused more antagonism among the industrial classes than any case in the entire history of the Federal jurisprudence of the United States. On December 23, 1908, Samuel Gompers, president of the American Federation of Labor; Frank Morrison, secretary; and John Mitchell, president of the Mine Workers' Union, were sentenced to imprisonment by Justice Wright, of the Supreme Court of the District of Columbia, for contempt of court, upon the charge that they violated the terms of an injunction granted on petition of the Buck's Stove & Range Co., of St. Louis. As this case involves such rank injustice, I propose a brief review of some of the salient judicial atrocities. In pronouncing sentence upon these labor leaders Justice Wright exhibited such a malignant spirit and used such violent language and showed such alarming symptoms of pathognomonic hysteria that even as cautious and conservative a journal as the New York Evening Post referred to him editorially as exhibiting "an excess of heat and indulging in turbid rhetoric." [Laughter.]

This ill-tempered judicial harangue occupied 2 hours and 20 minutes, and only ceased when the judge had exhausted his vocabulary of invective. Then he emitted the following: "It is the judgment of the court that you, Frank Morrison, be imprisoned in the jail of the District of Columbia for a term of 6 months; you, John Mitchell, for a term of 9 months; you, Samuel Gompers, for a term of 12 months."

HONORED MEN JUDICIALLY PERSECUTED.

These three conservative officials of the industrial workers of the United States, all law-abiding citizens, left the presence of this cruel judge in silence. For thirty-one times Samuel Gompers has been elected president of the American Federation of Labor, covering a period of 31 years. All this time he has been constantly in the limelight, and during all these years of his wearing work for the weary workers there has never been even a suspicion against his honesty or his fidelity among the workers. He has always stood for law and order. He has opposed strikes and has for the past decade favored peaceful arbitration. He has opposed arraying labor against capital. He has devoted the best part of his robust life to every humane movement for the moral and physical betterment of his fellow workers.

Did Judge Wright give the law and the facts in this case? No; he did neither.

The first amendment to the Constitution reads as follows:

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or the rights of the people peacefully to assemble to petition the Government for redress of grievances.

Mr. QUIN. Will the gentleman yield?

Mr. SHERWOOD. How much time have I got, Mr. Chairman?

The CHAIRMAN. The gentleman has 10 minutes remaining.

Mr. SHERWOOD. I will yield to the gentleman from Mississippi.

Mr. QUIN. Does not the gentleman think, to keep down judicial tyranny, we ought to stop the life tenure for judges—to elect them instead of appointing them for life?

Mr. SHERWOOD. I do not believe that in a Republic there should be any official, high or low, appointed for life. [Applause.]

THE JUDGE AND THE CONSTITUTION.

In commenting on this section Justice Wright said:

So, with respect to the inhibition against abridging the freedom of speech and of the press, the Constitution nowhere confers a right to speak, to print, or to publish; it guarantees only that, in so far as the Federal Government is concerned, its Congress shall not abridge it, and leaves the subject to the regulation of the several States, where it belongs.

In other words, this judge holds that a sacred right, guaranteed by the Constitution, that the supreme lawmaking power of the United States has no right to even abridge or modify, can be annulled by an inferior Federal judge. He asserts that the guaranteed rights of a citizen, that the supreme lawmaking power has no right to even abridge, "is subject to the regulation of the several States, where it belongs," and, further, this limber-minded judicial pettifogger says "the Constitution nowhere confers a right to speak, to print, or to publish." It strikes me that any mature citizen with as much gray matter in his cerebrum as a gray goose will understand that when the Constitution inhibits the abridgment of free speech that, by clear implication, it confers a right to speak, to print, or to publish. Justice Wright held in this case that a judge may do by injunction what Congress is prohibited from doing by legislation. Can there be any doctrine more dangerous to individual rights and personal liberty than this? It is an infamous doctrine, and a Federal judge holding such views is unfit to hold any judicial office.

SOME VALUABLE OPINIONS.

I am glad I am not alone in sounding a danger signal on the many and glaring usurpations of our Federal judges. These numerous and drastic injunctions against the workers have aroused much popular indignation and called forth severe criticisms from lawyers, jurists, and students of sociology. I quote a few specimens. In October of 1907 Justice Moody, late of the Supreme Court of the United States, said:

I believe in recent years the courts of the United States, as well as the courts of our own Commonwealth (Massachusetts), have gone to the very verge of danger in applying the process of the writ of injunction in disputes between labor and capital.

Hon. Thomas M. Cooley, president of the American Bar Association, said:

Courts with their injunctions, if they heed the fundamental law of the land, can no more hold men to involuntary servitude for even a single hour than can overseers with a whip.

Judge M. F. Tuley, of the appellate court of Illinois, used these words:

Such use of injunction by the courts is judicial tyranny, which endangers not only the right of trial by jury, but all the rights and liberties of the citizens.

Gov. Sadler, of Nevada, said:

The tendency at present is to have the courts enforce law by injunction methods, which are subversive of good government and the liberties of the people.

Prof. F. J. Stimson, of Harvard University, one of the greatest legal authorities, in his new work on Federal and State Constitutions, after citing many authorities, says:

These are sufficient to establish the general principle that the injunction process and contempt in chancery procedure, as well as chancery jurisdiction itself, is looked on with a logical jealousy in Anglo-Saxon countries as being in derogation of the common law, taking away the jurisdiction of the common-law courts and depriving the accused of his trial by jury.

Judge John Gibbons, of the circuit court of Illinois, declared that—

In their efforts to regulate or restrain strikes by injunction they (the courts) are sowing dragons' teeth and blazing the path of revolution.

Why is it that far more consideration is given in England to the rights of the wageworkers than in the United States? Let me quote from a recent law of the British Parliament:

Be it enacted by the King's Most Excellent Majesty and with the consent of the Lords, spiritual and temporal, and the Commons in Parliament assembled, by the authority of the same: It shall be lawful for one or more persons, acting on their own behalf or in behalf of a trades union, in contemplation of a trade dispute, to attend peacefully and in a reasonable manner at or near a house or place where a person works or carries on business if he attend for the purpose of persuading any person to work or to abstain from working.

This in the land of King George, the hereditary successor of George III.

How do the descendants of the patriotic sires of the American Revolution like the comparison between the English "trades-dispute law" and the injunction record of our Federal courts, denying even the liberty of free speech to the American worker?

Shall the workers of the United States be compelled to turn for light and hope from democracy under an elective President across the Atlantic to the Government of a hereditary King?

Neither in England nor Germany nor France could the arrest and punishment of labor leaders of the type and conservative conduct of Samuel Gompers and his associates ever have been tolerated. Samuel Gompers is the ablest, most experienced, and most conservative labor leader around the world. Less radical than any of the labor group in the English Parliament or the German Reichstag or the Chamber of Deputies in France, he has for nearly half a century opposed strikes and boycotts and has given his best and most arduous efforts to prevent both and to reconcile the conflicts between capital and labor in order to promote the prosperity of both.

Labor demands and has the right to demand that laws be enacted making a fundamental difference between labor power and property. Labor power is not property, because it can not be separated from the laborer. It is personal. It lives only in the life of the worker and ends with his death. It can not be transferred like property. The Century Dictionary defines "labor" as follows:

Physical or mental effort, particularly for some useful or desired end. Exertion of power for some end other than recreation or sport.

Property is the product of labor applied to some substance of intrinsic value when perfected by labor. It is transferable, can be inherited, and does not die when the person who owns it or produced it dies.

What organized labor is now seeking is the assistance of Congresses and courts to restore the English common-law definition of property and restricting the jurisdiction of all courts of equity to its legitimate limitations, as it was universally recognized at the time of the adoption of the Constitution.

What recourse have any people, even under a Constitution guaranteeing civil rights to all alike, when they find themselves in the clutches of judges, appointed for life, who are deaf to popular appeals for justice, and whose official edicts, however cruel and unjust, can not even be modified by Congress, the supreme lawmaking power? [Applause.]

I submit as an appendix to my remarks the following—101—decisions of Federal courts on labor cases where injunctions have been issued, conspiracy charged, and alleging that the antitrust law was violated—all copied from the records of the Federal courts:

Allis-Chalmers Co. *v.* Reliable Lodge (111 Fed. Rep., 264; U. S. Labor Bul. 38, p. 183).
Allis-Chalmers Co. *v.* Iron Molders' Union No. 125 et al. (150 Fed. Rep., 155; U. S. Labor Bul. 70, p. 734; 166 Fed. Rep., 45; U. S. Labor Bul. 83, p. 157).
Aluminum Casting Co. *v.* Local 84 of International Molders' Union of North America et al. (197 Fed. Rep., 221).
American Steel & Wire Co. *v.* Wire, etc. (90 Fed. Rep., 608).
Armstrong Cork Co. *v.* Anheuser Busch Brewing Co. (1914).
Arthur *v.* Oakes (63 Fed. Rep., 301).
Atchison, Topeka & Santa Fe R. R. Co. *v.* Gee, Cir. Ct. Southern District Iowa (139 Fed. Rep., 582; 140 Fed. Rep., 153).
Bender *v.* Local Union 118, Bakers' Organization (34 Wash. Law Repr., 574; U. S. Labor Bul. 67, p. 894).
Barnes, A. R., & Co. *v.* Berry (156 Fed. Rep., 72; U. S. Labor Bul. 74, p. 259; 157 Fed. Rep., 833).
Beck et al. *v.* Railway Trainmen's Protective.
Besette *v.* Conkey & Co. (194 U. S., 324; 24 Sup. Ct. Repr., 665).
Blindell et al. *v.* Hogan et al. (54 Fed. Rep., 40).
Boutwell et al. *v.* Marr et al. (42 Atl. Repr., 607).
Bowels *v.* Indiana Railway Co. (62 N. E. Rep., 94).
Boyer et al. *v.* Western Union Telegraph Co., C. C. E. D., Missouri (124 Fed. Rep., 246).
Buck Stove & Range Co. *v.* American Federation of Labor (35 Wash. Law Rep., 797; U. S. Labor Bul. 74, p. 246).
Buck Stove & Range Co. *v.* American Federation of Labor (36 Wash. Law Rep., 822; U. S. Labor Bul. 90, p. 124, and No. 86, p. 355).
Buck Stove & Range Co. *v.* American Federation of Labor—Court of Appeals of District of Columbia (37 Wash. Law Rep., 154; U. S. Labor Bul. 33, p. 169; 31 Sup. Ct. Rep., 492; U. S. Labor Bul. 95, p. 323; 40 Wash. Law Rep., 412; U. S. Labor Bul. 112, p. 155).
Brewing & Malting Co. *v.* Hansen (Seattle) (144 Fed. Rep., 1011; U. S. Labor Bul. 68).
Barnes, A. R., & Co. *v.* Chicago Typographical Union (83 N. E. Repr., 932; U. S. Labor Bul. 76, p. 1016).
Barnes, A. R., & Co. *v.* Berry (157 Fed. Rep., p. 883; U. S. Labor Bul. 76, p. 1019).
Boyer et al. *v.* Western Union Telegraph Co. (124 Fed. Rep., 246; U. S. Labor Bul. 50, p. 202).
Callan *v.* Wilson (127 U. S., 540–555).
Carter et al. *v.* Fortney et al. (170 Fed. Rep., 463; also 172 Fed. Rep., 722).
Central District & Printing Tel. Co. *v.* Kent (156 Fed. Rep., 173; U. S. Labor Bul. 74, p. 256).
Coeur d'Alene Con. Min. Co. *v.* Miners' Union of Wardner, Idaho (51 Fed. Rep., 260–267).
Commonwealth *v.* Hunt (4 Metcalf's Rep., 111).
Conkey (W. B.) Co. *v.* Russell et al. (111 Fed. Rep., 417).
Construction Co. *v.* Cameron et al. (80 N. S. Rep., 478).
Contempt—nature of proceedings, appeals, Gompers et al. *v.* Buck Stove & Range Co., Court of Appeals of the District of Columbia (37 Wash. Law. Rep., p. 708; U. S. Labor Bul. 86, p. 355).
Campbell et al. *v.* Johnson (167 Fed. Rep., p. 102; U. S. Labor Bul. 82, p. 682).
Carter et al. *v.* Fortney et al. (170 Fed. Rep., p. 463; U. S. Labor Bul. 86, p. 370).
Casey *v.* Typographical Union (45 Fed. Rep., 135).
Delaware, Lackawanna & Western Railroad Co. *v.* Switchmen's Union of North America (158 Fed. Rept., 541–690; U. S. Labor Bul. 77, p. 389).
Donovan et al. *v.* Penn Co. (26 Sup. Ct. Rept., 91; U. S. Labor Bul. 63).
Debs, In re Petitioner (158 U. S., 564).

Doolittle and United States (23 Fed. Rep., 544–547).
Doolittle and United States v. Kane, supra, re Higgins (27 Fed. Rep., 443).
Farmers' Loan & Trust Co. v. The Northern Pacific Railroad Co., C. C. E. D. Wisconsin (60 Fed. Rept., 803).
Frank et al. v. Herold et al. (52 Atl. Rep., 152).
Fordahl v. Hayde (82 Pac. Rep., 1079).
Garrigan v. United States (163 Fed. Rep., 16; U. S. Labor Bul. 79, p. 961).
George Jonas Glass Co. v. Glass Blowers' Association (54 Atl. Rep. 567; 79 Atl. Rep., p. 262; U. S. Labor Bul. 95).
Glass Co. v. Glass Bottle Blowers (66 Atl. Rep. 593; U. S. Labor Bul. 72, p. 629; 79 Atl. Rept., 262; U. S. Labor Bul. 95, p. 312).
Goldfield Consolidated Mines Co. v. Goldfield Miners' Union 220 et al. (159 Fed. Rep., 500; U. S. Labor Bul. 73, p. 586).
Gray v. Trades Council (97 N. W. Rep., 663).
Guaranty Trust Co. v. Haggarty (116 Fed. Rep., 510; U. S. Labor Bul. 43, p. 1291).
Hammond Lumber Co. v. Sailors' Union of the Pacific (149 Fed. Rep., 577).
Hitchman Coal & Co. v. Mitchell (172 Fed. Rep., 963; U. S. Labor Bul. 87, p. 686).
Hopkins v. Oxley Stave Co. (83 Fed. Rep., 152; 83 Fed. Rep., 912).
Huttig, etc., Co., Fuette et al. (163 Fed. Rep., 363).
Illinois Central Railroad v. International Association of Machinists (190 Fed. Rep., 910; U. S. Labor Bul. 98, p. 495).
In re Debs, petitioner (158 U. S., 564).
In re Doolittle and United States (23 Fed. Rep., 544–547).
In re Doolittle and United States v. Kane, supra, re Higgins (27 Fed. Rep., 443).
In re Lennon (166 U. S., 548).
Irving v. Joint District Council, United Brotherhood of Carpenters, etc., United States Circuit Court of Southern District of New York (180 Fed. Rep., p. 896; U. S. Labor Bul. 92, p. 289).
Iron Molders' Union No. 125, of Milwaukee, v. Allis Chalmers Co. (166 Fed. Rep., 45; U. S. Labor Bul. 83, p. 157).
In re Reese (107 Fed. Rep., 942).
Jensen v. Cooke (81 Pac. Rep., 1069).
Jersey City Printing Co. v. Cassidy et al. (53 Atl. Rep., 230).
Jonas, George, Glass Co. v. Glass Blowers' Association of United States and Canada et al, court of chancery of New Jersey (54 Atl. Rep., p. 567; U. S. Labor Bul. 48, p. 1124).
Knudsen et al. v. Benn et al. (123 Fed. Rep., 636; U. S. Labor Bul. 50, p. 205).
Kargis Furniture Co. v. Local Union No. 131 (75 N. E. Rep., 877).
Keegan-Pope Motor Car Co. v. Keegan (150 Fed. Rep., 148; U. S. Labor Bul. 70, p. 757).
Kemmerer v. Haggerty (139 Fed. Rep., 693).
Kolley et al. v. Robinson et al. (187 Fed. Rep., 415).
Lawlor v. Loewe et al. (187 Fed. Rep., p. 522; U. S. Labor Bul. 96, p. 780; 148 Fed. Rep., 924; U. S. Labor Bul. 70).
Loewe v. Lawlor (28 Sup. Ct. Repr., 301; 130 Fed. Rep., 833; 142 Fed. Rep., 216; 148 Fed. Rep., 924; U. S. Labor Bul. 70, p. 710, and 75, p. 622).
Loewe et al. v. California Federation of Labor (139 Fed. Rep., 71, and 189 Fed. Rep., 7[illegible]).
Loewe v. Lawlor (208 U. S., 274).
Lennon, In re (166 U. S., 548).
Lindsay & Co. v. Montana Federation of Labor et al. (96 Pac. Repr., p. 127; U. S. Labor Bul., 78).
Mackall v. Ratchford et al., C. C. D. W. Va. (82 Fed. Rep., 41).
March v. Bricklayers, etc. (53 Atl. Rep., 291).
Mobile & Ohio Railroad v. E. E. Clark et al. (May, 1903).
Montana Federation of Labor et al. v. Lindsay & Co. (96 Pac. Repr., p. 127; U. S. Labor Bul., 78).
National Telephone Co. of West Virginia v. Kent (156 Fed. Rep., 173; U. S. Labor Bul. 74, p. 256).
National Fireproofing Co. v. Mason Builders' Association (169 Fed. Rep., 259; U. S. Labor Bul. 84, p. 427).
Newport Iron & Brass Foundry v. Moulders' Union (1904).
O'Neil v. Behanna (37 Atl. Rep., 843).
Otis Steel Co. (Ltd.) v. Local Union No. 318, Cleveland, Ohio (110 Fed. Rep., 698; U. S. Labor Bul. 40, p. 638).
Oxley Stave Co. v. Coopers' International Union of North America (73 Fed. Rep., 695).
Pickett v. Walsh (78 N. E. Rep., 753).
Pope Motor Car Co. v. Keegan (150 Fed. Rep., 148; U. S. Labor Bul. 70, p. 757).
Pope Motor Car Co. v. J. H. Stitart or Stelert (June 9, 1906).
Rocky Mountain Bell Telephone Co. v. Montana Federation of Labor (156 Fed. Rep., 809; U. S. Labor Bul. 78, p. 804).
Reese, In re (107 Fed. Rep., 942).
Reinecke Coal Mining Co. v. Wood et al. (112 Fed. Rep., 477; U. S. Labor Bul. 41, p. 856).
Southern Railway Co. v. Machinists' Local, No. 14, et al. (111 Fed. Rep., 49; U. S. Labor Bul. 39, p. 496).
Shine v. Fox Bros. Manufacturing Co. (156 Fed. Rep., 357; U. S. Labor Bul. 74, p. 244).
Southern California Railway v. Rutherford et al., C. C. S. D. California (62 Fed. Rep., 796).
State v. Stockford (38 Atl. Rep., 769).
State v. Coyle, Oklahoma (130 Pac. Rep., 316).
Southern Railway Co. v. Machinists' Local (111 Fed. Rep., 49).
Thomas v. Cincinnati, New Orleans & Texas Pacific Railway Co., C. C. S. D. Ohio, N. D. (62 Fed. Rep., 669).
Thomas v. Cincinnati, New Orleans & Texas Pacific Railway Co., In re Phelan, C. C. S. D. Ohio, W. D. (62 Fed. Rep., 803).
Toledo, Ann Arbor Railroad v. Arthur and Railroad Companies (54 Fed. Rep., 730).
Toledo, Ann Arbor Railroad Co. and Northern Michigan Railway Co. v. Pennsylvania Railroad Co. (54 Fed. Rep., 738–746).
Union Pacific Railway Co. v. Ruef, United States Circuit Court for District of Nebraska (120 Fed. Rep., 102; U. S. Labor Bul. 47, p. 267).
Underhill v. Murphy, Typographical Journal of August 15, 1901 (174 —).
Union Pacific Railway Co. v. Ruef (120 Fed. Rep., 102).
United States v. Agler (62 Fed. Rep., 82).
United States v. Cassidy (67 Fed. Rep., 698).
United States v. Debs et al. (64 Fed. Rep., 724).
United States v. Elliott (62 Fed. Rep., 801; 64 Fed. Rep., 27).
United States ex rel. Guaranty Trust Co. of New York v. Haggarty et al., C. C. N. D. W. Va. (116 Fed. Rep., 510).
United States v. Shipp, the Farmers' case (27 Sup. Ct. Repr., 165; 203 U. S., 563).
United States v. Kane (23 Fed. Rep., 748).
United States v. Patterson (53 Fed. Rep., 605–641).
United States v. Sweeney (95 Fed. Rep., 434).
United States v. Weber et al. (114 Fed. Rep., 950).
United States v. Workingmen's Amalgamated Council of New Orleans et al. (54 Fed. Rep., 994).
Vegalahn v. Guntner (167 Mass., 92).
Western Union Telegraph Co. v. Boyer et al. (124 Fed. Rep., 246; U. S. Labor Bul. 50, p. 202).
Wabash Railroad Co. v. Hannahan et al. (121 Fed. Rep., 563; U. S. Labor Bul. 49, p. 1374).
Weber et al. (114 Fed. Rep., 590; U. S. Labor Bul. 43, p. 1295).
Waterhouse et al. v. Comer (55 Fed. Rep., 149).

Mr. VOLSTEAD. Mr. Chairman, I yield 20 minutes to the gentleman from Missouri [Mr. DYER].

Mr. DYER. Mr. Chairman and gentlemen of the committee, it has been my desire and purpose to discuss this bill in detail. The Committee on the Judiciary, of which I am a member, has given a great deal of time, taken much testimony, and worked with much diligence in its preparation. There are some items in this bill that are worthy of commendation; but taking the bill as a whole and all sections covering it I am quite sure that it would be unwise to enact it into law. With the conditions as they exist in the business world as a result of legislation heretofore enacted, my judgment is that the consideration of this subject ought to be left to the next session of Congress, or, better yet, to a future Congress, before it is finally considered. At this time we ought to give every opportunity to business to revive, if possible, and to get on its feet—adjusting itself, if it can, to the legislation that this Congress and the last Congress enacted into law.

For the reasons stated, Mr. Chairman, I can not support this bill. I would like to do so because of the high regard I have for the members of the majority of the Judiciary Committee that reported this bill. The distinguished chairman who leaves us, the gentleman from Alabama, Mr. CLAYTON, has rendered to that committee distinguished service, and he has left it with the love and esteem of every member of it. Now, we have succeeding him one of our ablest and most splendid Members, the gentleman from North Carolina [Mr. WEBB]. With Judge CLAYTON and Chairman WEBB, the two members of the committee that have worked most assiduously, and perhaps had more to do with the actual writing of this bill, have been that splendid lawyer and statesman, the gentleman from Arkansas, Judge FLOYD, and the no less able and distinguished gentleman from Virginia, Mr. CARLIN. But regardless of my high regard for these colleagues of mine on this great committee, and of their sincerity of purpose, there is much in it that ought to be left out. I would like for an opportunity to discuss it in detail, but, as I said, I can not do so at this time because of being compelled to leave Washington this evening on account of sickness. I commend to the House the diligence of the Judiciary Committee, and especially of the subcommittee of the majority which wrote this bill. I can not commend the result of their work, this so-called antitrust bill, and my advice to the House is to defeat the bill for the best interests of the Nation.

Mr. Chairman, as a member of the Judiciary Committee, I gave long and diligent consideration and study to the antitrust laws upon the statute books, with due regard as to what the needs might be as to amending same at this time. My views are expressed in the minority views, part 2, of the Report 627, which in part says:

> The antitrust laws on the statute books at this time have been carefully considered by the Supreme Court and judicially interpreted through a period of 24 years, and if properly enforced are believed by us to strip corporations and trusts of any power to injure or oppress.
>
> No possible good can come from constant interference with business. It is our belief that business should have a rest from further legislation and be given an opportunity to adjust itself to the environment created by the existing antitrust laws as the same have been interpreted and are now being administered.
>
> The proposed legislation contains many new phrases and sets up new standards, all of which would require a period of years of interpretation by the courts before their full meaning can be definitely known by the business world.
>
> It is very undesirable to bring about such a period of uncertainty and doubt to worry and harass the business of the country.

Our industries and business are now in a turmoil and making every possible effort to get along under the existing Democratic tariff laws. Conditions are very bad almost everywhere. The results of the tariff law are apparent to all and can not be successfully denied.

Mr. Chairman, my judgment is that the American people have and will continue to suffer enough during this administration on account of laws it has already enacted. Let the antitrust laws remain as they are for proper enforcement and interpretation and do not let us add further trouble by enacting

this bill. It will do no good and will do much harm to honest and legitimate business, now sorely pressed.

Comparing business conditions for the period from October 1 to April 1 of the present year with a like period of last year, we find that the imports under Democratic tariff were $13,000,000 greater than under the Republican tariff. More work for the foreigners. Less work for Americans. But the cost of living is higher now than when we had America for Americans.

Take another instance—materials used by manufacturers. During the period mentioned we find that under the Democratic tariff we imported $48,000,000 less than we did under Republican tariff. This is due to the fact that the foreign manufacturers are making the finished articles now and sending them to this country, to the disadvantage of our American manufacturers. This makes less work for our people and more for the foreigners. What about the two tariff laws for the same period as revenue producers? We find that during the first six months of that law—from October 1, 1913, to April 1, 1914—the customs receipts were $140,000,000. During the same period last year they were $165,000,000. During the same period the excess of expenditures for this year over receipts was $37,000,000. During the same period last year the excess of receipts over expenditures was $7,500,000. These figures show conclusively that the protective tariff is not only better for the American manufacturers and the American wage earner, but is also a better producer of revenue. In other words, it makes plain to all who want to know the truth that the Democratic idea of the tariff is disastrous to this country. What are the figures as regard foreign-manufactured goods imported into this country? The increase in imports of November, 1913, over that of November, 1912, was $2,000,000. The increase of imports in December, 1913, over December, 1912, was $7,000,000. The increase in January, 1914, over January, 1913, was $4,000,000. The increase in February, 1914, over February, 1913, was $5,000,000. The increase in imports of March, this year, as compared with March of a year ago, amounts to $8,000,000 to the credit of the foreigners. Now, look at the figures for exports of the same month. The exports in March, 1914, were $133,000,000; the exports in March, 1913, were $183,000,000. What does this show? That the goods we sold in foreign markets for the month of March this year decreased $50,000,000, as compared with March of last year. The figures also show that the imports greatly increased for the same month. How can anyone truthfully say that this Democratic tariff law benefits this country in any particular?

Men engaged in the productive enterprises of our own country stand idle while others engaged in similar enterprises in foreign countries are supplying our markets. The farmers find the products of other countries in the market which they have supplied during the entire period of our country's history. It would be impossible to exaggerate the demoralized conditions into which you have thrown our domestic affairs.

Our conditions at home are discouraging and depressing to laboring men and business men in every section of our country. Conditions at home are bad, but you have humiliated and made us ridiculous in the face of the world by your foreign policy—or perhaps I should say by your want of a foreign policy.

You are surrendering our right to control our own affairs in Panama to England and other nations that may claim any rights there. You are giving to Colombia greater rights in the use of the Panama Canal than you assert for the people of our own country, and giving that country $25,000,000 as a gratuity, and, besides, making an abject apology for taking the steps that made the construction of the canal possible. You are simply incompetent to manage the affairs of a Nation as great as ours. Your policies, while attractive in theory, can not be made to work out in practice. There has not been such a deplorable condition in our country since you were in full power 16 years ago. Speed the day when you shall surrender the reins of government to more competent hands, when the sound doctrine of a Republican protective tariff shall again be put upon the statutes, and also when a firm foreign policy shall be again our honored boast.

The deplorable and humiliating conditions in which we now find our country is too bad. It shames our pride in our great United States, the "land of the free and the home of the brave." It also hurts us to see want and suffering in this "land of plenty." Everybody feels it—cities and country. Farmers lose $65,000,000 alone this year from free importation of corn. Free meat, free butter, and so forth, add to his loss. But no one gets these articles any cheaper, do they? Five hundred thousand dollars a day is the loss to textile workers. Disaster faces every business and industry in this country, with the exportation of merchandise falling off $7,434,586 in a single month, and the imports of merchandise increasing for the same month, as compared with that of one year ago for the same month, April, to the amount of $26,446,263. We are sending less of our goods abroad and buying more from foreigners, and we should also remember that the figures here given tell only the beginning of the workings of this Democratic tariff law. Here are some more figures with regard to the goods manufactured abroad and brought here ready for consumption:

Imports of merchandise ready for consumption in March, 1914, showing increase compared with imports in the same month in 1913.

Products.	1914 values.	1913 values.	Increase.	Per cent increase.
Aluminum, manufactures of	$168,000	$60,767	$107,233	176.4
Watches, and parts of	317,329	205,280	112,049	54.5
Cotton cloths	1,402,071	721,902	680,169	94.2
Stockings	417,473	241,455	176,018	72.8
Other knit goods	366,251	44,675	321,576	719.8
Linen yarns	95,248	55,958	39,290	70.1
Fruit and nuts	4,012,244	3,088,108	924,136	29.9
Glassware	768,349	498,674	269,675	54
Cutlery	272,460	146,979	125,481	85.3
Tin plate	185,130	23,298	161,832	694.6
Leather and tanned skins	1,556,342	635,669	920,673	144.8
Gloves	990,977	755,242	235,735	31.2
Paper, and manufactures of	2,529,933	1,783,048	746,885	41.8
Manufactures of silk	3,695,975	2,694,608	1,001,367	37.1
Vegetables	1,423,939	960,857	463,082	48.1
Wool:				
Class 1	5,253,229	2,681,544	2,571,685	95.9
Class 2	616,845	383,638	233,207	60.7
Class 3	2,086,013	1,197,512	888,501	72.6
Woolen cloths	1,396,910	328,974	1,067,936	324
Dress goods	740,928	225,973	514,955	227
Wearing apparel	170,480	165,087	5,393	3.2
All other manufactures of wool	772,544	95,617	676,927	707
Total	29,218,670	16,994,865	12,223,805	71.9

Let me call attention to a few of the increases. For instance, on manufactures of aluminum the increase is 176.4 per cent. The increases on cotton cloths are 94.2 per cent. The increase on other knit goods is 719.8 per cent; on tinplate, 694.6 per cent.

On leather and tanned skins there is an increase of 144.8 per cent; on woolen cloths an increase of 324 per cent; on wearing apparel an increase of only 3.2 per cent; on dress goods an increase of 227 per cent; on all other manufactures of wool an increase of 707 per cent. The total average increase of goods ready for consumption during the month of March, this year, over the month of March, 1913, is 71.9 per cent. Then people wonder why so many of our mills are closed. People are asking why so many of our laboring men are out of employment. These figures tell the story. In the report of the Secretary of the Department of Commerce, just made, he states the value of the finished manufactures imported in six months. According to this report, there was imported in six months under the new tariff, from October 1 to April 1, of finished manufactures $228,000,000, against $215,000,000 in the same period last year, an increase of $13,000,000, which would represent a loss to American labor of more than $2,000,000 a month in wages.

The value of manufacturers' material imported in the first six months of the new Democratic tariff law is $469,000,000, against $517,000,000 last year. In other words, our labor worked with $50,000,000 less raw material during the last six months than last year.

The value of the manufactures exported in the first six months of the new tariff law decreased from $582,000,000 to $541,000,000, a loss in American trade of $41,000,000 in the last six months, or a little less than $8,000,000 a month to American labor.

These startling figures illustrate the unwisdom of recent tariff changes and call loudly for a reassertion of the historic policy of protection to American industry and labor.

Mr. VOLSTEAD. Mr. Chairman, I yield 20 minutes to the gentleman from West Virginia [Mr. AVIS].

Mr. AVIS. Mr. Chairman and gentlemen of the committee, I want to confine my remarks to the probable effect of section 3 of the bill under consideration on one of the greatest industries of this country, namely, the bituminous-coal industry. In discussing this question I wish to say to you gentlemen that I do not approach the discussion from a partisan standpoint, but I approach it with the sincere belief that if section 3 becomes a law it will destroy the small mine owner and the small producer of the United States engaged in the bituminous-coal industry. Section 3 reads as follows:

That it shall be unlawful for the owner or operator of any mine or for any person controlling the product of any mine engaged in selling its product in commerce to refuse arbitrarily to sell such product to a responsible person, firm, or corporation who applies to purchase such product for use, consumption, or resale.

You will note that I have emphasized the words "or resale." The presumable purpose of the Judiciary Committee, as expressed in its report, among other things, is to accomplish the following:

The design is to prevent those who have acquired or may acquire a monopoly or partial monopoly of mines from discriminating against certain manufacturers, railroads, or other persons who need the products of the mines in carrying on their industry.

And in another part of the report is found the following language:

By its enactment into law we make it impossible for mere ownership of mines to enable the owners or those disposing of the products thereof to direct the disposal of such products into monopolistic channels of trade. It will liberate from the power of the trust every small manufacturer who is compelled to go into the open market for his raw material and every person who desires to purchase coal for use or for resale to those who desire to purchase for use or consumption, and will afford to every such manufacturer an opportunity to purchase same for cash wherever offered for sale in commerce. The section expressly forbids the mine owner or person controlling the sale of the product of the mine to arbitrarily refuse to sell such product to any responsible purchaser, and thereby prevents the mine owner or operator from giving the preference to another and rival dealer in the disposal of such product.

Now, I am convinced, gentlemen, from what has been said here upon the floor, not meaning to impugn the motives or good faith of the committee, because I feel sure the committee is trying to do what it thinks is best for the people and the industries of our country, that section 3 was inserted in the bill without full knowledge or consideration of the past or present condition of the bituminous-coal industry.

In the first place, there is no such thing as a monopoly of the bituminous-coal industry of this country. The large number of persons and corporations engaged in mining bituminous coal prevents a monopoly of that industry. The only coal industry that I have ever heard mentioned as being in the class of monopolies is the anthracite-coal industry.

Do you know that, at this time, there are over 3,500 separate and distinct persons and concerns in this country operating over 6,000 bituminous and semibituminous coal mines? Not only is this true, but not much more than 50 per cent of the coal lands of this country are owned by the men who operate the mines thereon. As a matter of fact, the great majority of the small operators and producers, and a large number of the big operators and producers, lease the lands upon which their respective mines are established and pay royalties therefor on their respective productions.

The amount of capital invested in the soft-coal mines of this country in 1909 was $1,062,000,000. The number of miners engaged in this industry is nearly 600,000. The principal bituminous coal-producing States are Pennsylvania, West Virginia, Illinois, Ohio, Indiana, Alabama, Colorado, Kentucky, Iowa, Kansas, Wyoming, Tennessee, Virginia, and Washington. The output of the mines is worth about $450,000,000 per annum. Of this amount, over $300,000,000 is paid out in wages and salaries each year.

No country in the world enjoys such cheap fuel as the United States. At this time we are shipping coal from West Virginia and placing it in the New England market, after paying the freight charges of more than $2.10 per ton, at a less price than it is sold at the pit mouth at Cardiff, Wales. There is an overproduction instead of an underproduction of bituminous coal, and, due to the present bad business conditions existing throughout the country and the great competition in this business, since the 1st of January of this year the coal mines of West Virginia have not run on an average of over two to two and one-half days a week. I am informed that conditions are similar in other States.

Competition is so great and has been so severe for the past five years that Mr. E. W. Parker, of the United States Geological Survey, in an address delivered before the American Mining Congress at Philadelphia last October stated that the profit on coal in the States of West Virginia, Illinois, Indiana, and Ohio for the year 1909 did not net 1 per cent on the capital actually invested in the plants in the four States. Business conditions in this country to-day are certainly much worse than they were in 1909. In the past 10 years railway freights, labor, and supplies used in the mines have advanced more than 50 per cent, taxes have about doubled, and other conditions pertaining to mining, brought about by State legislation, have gone toward increasing the cost of production; whereas the price of bituminous coal to-day is no higher than 8 or 10 years ago. In fact, coal is selling to-day at a lower price than at any time during the past 10 years.

Why, then, should coal be singled out for special legislation, conditions be made impossible, and the business be more demoralized? It would be far better for us to extend a helping hand to those engaged in and dependent upon this industry, so that the coal fields of the country could be conserved and profit enough be made to enable the mine owners to pay better wages to and to throw more safeguards around the men working in the mines.

You must remember that the price of coal at the mines is but a small part of the ultimate cost to the consumer, and experience has taught us that the public has suffered more because of the "middlemen" than from those engaged in mining coal.

Section 3 is vicious, drastic, and sweeping. In my humble opinion its operation will work greater hardships than those it professedly seeks to relieve, will prove detrimental to the mining interests of the country, and will upset and make worse existing conditions, now certainly bad enough.

The small coal producer can not afford to maintain selling agencies throughout the country. He may have a superior quality of coal that he is producing, and, as you gentlemen may know who live in mining sections, there are as many different qualities of bituminous coal and as many uses to which it may be put as there are grades of and uses to which timber or cotton may be put.

Assume that I am a small operator engaged in producing coal in the State of West Virginia.

In passing I might call your attention to the fact that there are nearly 900 coal mines in the State of West Virginia devoted to the production of coal and the making of coke, which give employment to 73,000 coal miners. West Virginia produces about one-sixth of all the bituminous coal produced in this country, and upon the coal industry of that State nearly one-third of its population depends for its livelihood. The great majority of the mines in West Virginia are owned by persons or companies whose capital is not large. This is true of the coal mines generally throughout the United States. A majority of the mines in West Virginia will not average over 400 tons production per day.

Assume further that I have a superior quality of coal that I carefully mine and prepare for the market. I am trying to specialize, and my trade and business have been built up on the quality, preparation, and reputation of my coal. My output is limited. In securing my labor and in making my expenditures I am compelled to look to the future. I have four or five regular customers who have been dealing with me for years and of whose custom I am reasonably assured. Suppose that some competitor, a big corporation, with whose coal my coal is competing in some particular market, desires to injure my trade or the reputation of my coal or to deprive me of my regular customers. If this section becomes a law, I would be compelled to sell to him such portion of my output as he should apply for. I would be required, upon demand, to turn over my production to him, to work me or my coal such injury as he might elect. What is to prevent him, under this section, coming and saying to me, "I want to buy your entire output this year," and thus leave me without coal to supply any of my customers?

Mr. TALCOTT of New York. Do you think that refusal would be an arbitrary refusal to sell to competitors?

Mr. AVIS. I think, in view of section 2 of this bill, it would be. Under the circumstances just detailed, I should certainly enjoy the freedom of contract and have the right to prefer the customers whose trade I have secured by years of work and the expenditure of large sums of money; but it is provided in section 2 of this bill—

That nothing herein contained shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers, except as provided in section 3 of this act.

It is thus expressly provided that a mine owner can not and must not select his own customers.

What is meant by the words "refuse arbitrarily"? The extent of the evil of section 3 depends largely upon the words "refuse arbitrarily" and "responsible person, firm, or corporation." Yesterday, in asking questions of the gentleman from North Carolina [Mr. WEBB] relative to this section, I called his attention to the fact that the word "arbitrarily" had only been defined in one case—a West Virginia case. The court held that "arbitrarily" meant "without any reason therefor." There is also an English decision that holds that the word "arbitrary" means "not supported by fair, solid, and substantial cause, and without reason given."

Any mine owner can give a reason for refusing to sell his product. If any reason is sufficient, then the section will only be useless and unavailing. If the section means that a mine owner must give a sufficient reason for his refusal to sell his product, the language of the section is uncertain, indefinite, and confusing, and the evil effects thereof can be appreciated at a glance, because of the uncertainty of the construction that may be placed thereon by the courts.

Just look at the dangers that a mine owner will be exposed to. Some dealer might make application to him for the purchase of his product. The dealer might be perfectly responsible financially, but at the same time might be unreliable in other ways, or might have some ulterior motive and might intend to treat his coal unfairly. The mine owner might be doubtful as to his purpose and refuse to sell him his product for a reason, that to the mine owner was a good one, but which was not satisfactory to the dealer. What will the dealer do? He might immediately institute a criminal prosecution against the mine owner and expose him to the danger of a year's imprisonment in jail, or a fine of $5,000, or both; and might also bring a civil suit against him for three times the amount of damages the dealer may claim to have sustained.

Mr. FESS. Will the gentleman yield?

Mr. AVIS. Certainly.

Mr. FESS. One of the things that puzzles me in this section is that we all know there is a wide difference between purchasers. One may be just as responsible as the other, but he may be tardy in the payment of his bills. He may allow his paper to go to protest, and one of the quickest ways to bring that kind of a man to time is to refuse to sell him under the present law, but what would you do under this law?

Mr. AVIS. Undoubtedly, that is true. That is one of the difficulties here. The words "refuse arbitrarily" are not only dangerous, but the words that you refer to—"responsible person, firm, or corporation"—are almost as dangerous. Who is a "responsible person, firm, or corporation"? What is meant by "responsible"? "Financially responsible" is not sufficient. A person may be perfectly responsible financially, but he may be my competitor; he may be unprincipled; he may want my coal for some unfair purpose; he may want to control my output; he may want to sell it under an incorrect name or substitute it for other coals or other coals for it. In that sense he is not a "responsible" person.

Mr. BOOHER. Will the gentleman yield?

Mr. AVIS. I will.

Mr. BOOHER. I would like to ask the gentleman if he thinks it would be an arbitrary refusal to sell coal in circumstances such as detailed by the gentleman from Ohio [Mr. FESS] in the question that he just asked you?

Mr. AVIS. Hardly; but——

Mr. BOOHER. Now, here is a man, according to his statement, who is known to be slow in his settlements; he permits his paper to go to protest, and he comes to you to buy your property, but you say to him, "I can not sell to you; you are poor pay; your paper goes to protest." Is that an arbitrary refusal that would haul a man into any court on earth?

Mr. AVIS. I say frankly to the gentleman that in itself I do not believe it would be. But who is to determine as to the responsibility of the person who applies to purchase? What kind of responsibility is meant?

Mr. FESS. Will the gentleman yield there?

Mr. BOOHER. Certainly.

Mr. FESS. Would not he be a responsible dealer, with plenty of ability to pay, and yet would not pay until he was forced to do so?

Mr. BOOHER. That would be one of the strongest reasons why it would not be arbitrary. If he had abundant resources and was abundantly able to pay and would let his paper go to protest, he ought not to be trusted by anybody. A man has to protect himself in business necessarily. I want to understand this section, because I think it is a very important one. Now, in the case you illustrated you mined your coal, you put it out and got it ready for sale, and you had your customers who took all your coal.

Now, you say, "Suppose a dealer comes to me and offers to buy all my coal. Under this section I am bound to sell to him. My refusal would be arbitrary." Do you think that that would be an arbitrary refusal?

Mr. AVIS. I think so, under the provisions of this section and section 2 of the bill. I can not escape that conclusion.

Mr. BOOHER. You have mined your coal for us, and you have said to the other gentleman who came, "My coal is all sold. I promised it to Mr. Smith and Mr. Jones and Mr. Brown." Now, tell me how it could possibly be considered an arbitrary refusal for you to sell your coal to us instead of to the man who came to buy that coal?

Mr. AVIS. I am glad the gentleman asked the question, and if his position is correct—and I assume that his question states his position—then section 3 is absolutely futile and unavailing in view of what the committee has stated that it seeks to accomplish. The committee has stated in reporting upon this section that the very purpose of it is to compel the mine operator to sell to the first responsible person, firm, or corporation who applies to purchase his product and not to discriminate against such person, firm, or corporation for some favorite customer that he may have. If you are aiming at an abuse, that abuse must be the abuse of discrimination. If you are aiming at, as suggested, the big corporations that control the output of certain mines and refuse to sell, say, copper to certain manufacturers, then the section will be unavailing if they are permitted to say, "We will reserve our product for Mr. Smith or Mr. Brown or Mr. Jones," as the case may be.

Mr. BOOHER. Is not the object of the committee here the prevention of monopoly? Or do you say you have to put your whole supply in the hands of some big dealer? Is not that the thing they are trying to avoid here?

Mr. AVIS. I think so; but this section will aid the big dealer, and instead of destroying monopoly—and I am with the gentleman on that score, for I am just as much opposed to a monopoly of the coal business as anybody else is in this House—I believe and prophesy in all sincerity that this section will destroy competition, produce bankruptcy, and in time create monopoly if it is enacted into law, with the knowledge that I have of the coal business.

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

Mr. AVIS. Certainly.

Mr. FESS. I would like to have the opinion of the gentleman as to the latitude of the word "arbitrary." If this particular deal or that particular deal is not arbitrary, who will say whether it is arbitrary or not?

Mr. AVIS. That is what I would like to know. As I said a few moments ago, I believe the evil effects of the section depend largely upon the construction which will be placed upon the words "refuse arbitrarily." It is a dangerous thing to leave the words open without any definition of their meaning. If we take the ordinary and common definition of "arbitrary" and the definition that has been given by the courts, the word means "without any reason"; and if it means without any reason, section 2 of the bill will be useless and will amount to nothing, because every mine owner can give some reason for a refusal.

Mr. FESS. Now will the gentleman yield to me?

Mr. AVIS. Certainly.

Mr. FESS. Is it not true that the one feature of the Sherman antitrust law that has given most trouble is the feature of the "rule of reason"—the question of what is reasonable and what is not? It has been in litigation ever since the time the word was used.

Mr. AVIS. Yes. I think the majority of the Judiciary Committee is trying to overcome some alleged defect of the Sherman antitrust law; but in this instance, instead of overcoming any of the alleged defects of the Sherman antitrust law, it is my opinion and that of the coal producers from whom I have heard—and I have had letters from a large number of them who operate in West Virginia—that section 3 will eliminate or destroy every small coal producer and dealer in this country, and will ultimately build up a monopoly of the coal business.

There are three classes of coal companies. To the first class belong the large companies which have tonnage sufficient to place their product in the different markets which they can reach, and they have sales departments with branch offices located in all of the large distributing centers, and in this way are not forced to employ agents to sell their coal on commission, or brokers who do likewise. Such large companies, therefore, are in a position to accept orders from anybody who may come to them in the respective territory in which they are located.

To the second class belong the companies which sell part of their product to their own representatives in certain markets, and which may give to an agent or broker, who may sell on commission, territory in which they sell a certain number of thousands of tons during the year. The sales which this class of companies may make direct are not restricted in any way, excepting by tonnage to supply orders, or by reason of doubt as to the payment for the coal, but in such territory as they give over to an agent, similar to the territory in the New England States which it given over to agents, it is not within the power of such selling company, under present conditions, to accept orders from anybody else within that particular territory.

To the third class belong the companies whose tonnage is not large, and which are not able to establish offices and put their own salesmen on the road to make sales, which are entirely dependent upon what is known as the agent or broker to contract for their tonnage, which sell the same on commission; and the coal companies which have a few certain customers to whom they directly sell, and it is the third class which will likely

be destroyed by the provisions of section 3 of the bill, for agents or brokers will not make contracts with the mine owners unless they are given certain territory to sell in.

The great majority of those engaged in the mining of coal are men who have come from the ranks, men who secured their knowledge of coal mining by practical experience. A great number of these men have no knowledge of the sales end of the business.

There is a wide difference between the mining end and the sales end of the business. The people at the mines are not in touch with the peculiar and varying market conditions, and in the majority of cases when they have attempted to market their product they have not been successful. These mine owners are almost entirely dependent upon agents, brokers, or dealers, and these agents, brokers, and dealers are responsible for the expansion of the industry.

For instance, the jobber in Chicago, covering the West and Northwest, can sell West Virginia coal in that territory to much better advantage than the producer could. His traveling expenses are less; he is closer to his trade; and the trade itself prefers to buy nearer home. But if the jobber has to send men out all over his territory to work up a trade for any particular coal; if he has to advertise and circularize it, only to find, what would be possible under section 3 of this bill, that the consumer or a rival jobber or the operator himself could take that business away from him, then, indeed, there would be no incentive for him to push any particular grade of coal or to try to expand the market for the coal of any particular State.

The agents and brokers selling on commission, and particularly the small dealers throughout the country, could be driven out of business under this bill. Their customers could apply directly to the mine owners and compel them to sell to them, if responsible, and could thereby eliminate such dealers, agents, and brokers. This would be destructive to the coal dealers of the country who have given years of their lives to the upbuilding and development of their business and have large sums of money invested therein.

The CHAIRMAN (Mr. TAGGART). The time of the gentleman has expired.

Mr. AVIS. May my time be extended? May I have further time?

Mr. VOLSTEAD. How much time does the gentleman desire?

Mr. AVIS. I would like to have about 15 minutes, if I may.

Mr. VOLSTEAD. Very well. I will yield to the gentleman 15 minutes.

The CHAIRMAN. The gentleman from West Virginia is recognized for 15 minutes.

Mr. AVIS. Now, what will this result in? Suppose that I am a small coal operator; that a dealer is representing my coal in a certain territory in which, at great expense of labor and money, he has built up a trade. What, under this section, will prevent the trade he has built up from coming directly to me, and thus deprive him of the fruits of his labor in that territory? In any event, what is to prevent a large competitor from eliminating me as a factor in that particular territory by buying up my entire output, either by himself or through some other person or agent? Those are some of the evils that are to be met if this section becomes the law.

Another thing I want to impress upon you is——

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

Mr. AVIS. Yes.

Mr. HARDY. I suppose the gentleman would concede that if he could present to any court the facts that the purpose of this buyer to whom you refuse to sell was simply to eliminate you, your refusal would not be held to be arbitrary?

Mr. AVIS. Absolutely; but how can I show that? I can not look into the gentleman's breast and know what motives actuate him when he applies to purchase my coal. Again, the section will be unavailing if I am to have the right to question your motives when you offer to buy my coal. And there is no more reason why the coal industry—I am referring to the bituminous-coal industry—should be selected for such special legislation than the timber industry or any other industry. It is true that coal is a natural product, but no more so than timber, no more so than cotton and wheat. I will concede that if the industry were in the hands of a monopoly it would not only be our right but it would be our duty to pass laws to prevent a monopoly of that kind; but when the coal business is in the shape that it is in to-day, when very few, if any, of the men engaged in producing coal have made a dollar during the last year—and I doubt whether more than a very few of them have made anything in the past five years—why make it criminal for the small producer to endeavor to survive? Why force him into bankruptcy because he can not compete with his large competitor, who has selling agencies of his own to dispose of his product? You can readily see that if I am a small operator and my customers are likely to be taken away from me, and I can not prefer them this year over some other applicant, as has been expressly provided by this bill, I will not know what orders I will be assured of next year. If I am deprived of my customers this year by one man who buys my whole product or, say, by a half dozen men who in times of strikes or scarcity of coal are not regular customers, and who buy my entire product, what am I going to do next year for customers? I will have to go out into the market and scramble for new customers and if I am a small operator, with a small margin of capital upon which to work, and can not promptly secure orders, I will have to go to the wall, and there will be no redress for me.

Mr. HARDY. Would you not be in better shape if other business were placed in the same category with you? I take it that if you could present to the court the fact that you were necessarily required to refuse to sell to one customer because you had other customers whom you had agreed to supply, you could not be held to be arbitrarily refusing to sell. But would you not be in a little better shape if section 3 were amended so as to make it apply to all business?

Mr. AVIS. I do not know. I have not thought of that. I know this, that section 2 provides that if I am engaged in interstate coal business I can not select my own customers.

Mr. HARDY. Except upon the theory that your business is already a monopoly.

Mr. AVIS. There is no one who charges a monopoly of the coal business. Living for 25 years, as I have, in a coal region, I have absolutely never heard of a single abuse that this section is stated to be aimed at. And I ask any gentleman within the sound of my voice to recall an instance when a responsible buyer or a responsible dealer could not purchase bituminous coal. The man who mines the coal and takes the risks must have the right, as long as he has no monopoly, to prefer and to discriminate in favor of his own customers, and to arbitrarily, in some instances, refuse to sell his coal to others.

Mr. TAGGART. How can a coal dealer be damaged if he is simply compelled to sell his product at the market price? You say there is an overproduction. Would it not help it out some if some one had a right to take your output and lay down the money for it?

Mr. AVIS. I will answer the gentleman's question by an illustration, if he will pardon me. Suppose the gentleman from Texas [Mr. HARDY] is a large coal operator. Suppose that I am a small mine owner and have a certain number of customers. What is to prevent the gentleman from Texas, whose coal is in competition with my coal, sending his agents to me and buying my coal for this year, and when my customers find that I can not supply them, what do they do? They will go to some operator or dealer who can supply them, and they will probably be lost to me for the future.

Mr. TAGGART. Will the gentleman yield for a further question right there?

Mr. AVIS. Yes.

Mr. TAGGART. Up to date we have said nothing about the price. I presume the gentleman had in mind the market price, as everyone else did. But if you had contracted to deliver your whole output to me, then you have a right to refuse the gentleman from Texas.

Mr. AVIS. The Constitution of the United States, in my opinion, would protect the obligation of such a contract. But I am talking of a case where the contract is not made and where I simply hope that the man who has been my customer for years will continue to give me his trade, and where he has been taken away from me by some person purchasing all of my coal and preventing me from supplying him. Now, will the gentleman permit me to answer him further by asking a question? The gentleman is a lawyer, is he not?

Mr. TAGGART. I have been charged with that.

Mr. AVIS. All right. Now, why should not the gentleman be required to furnish his services to the first responsible bidder? Why should the gentleman be permitted to select whom he will serve or not serve as an attorney any more than a coal operator, unless he has a monopoly of that business?

Mr. TAGGART. My services are not one of the products that nature has furnished, to begin with.

Mr. AVIS. I hope nature had something to do with it. [Laughter.]

Mr. TAGGART. Well, I have observed cases where nature seemed to have fallen short.

Mr. AVIS. That is doubtless true.

Mr. TAGGART. Anyhow, we will not bandy words over that. This section of the bill is intended——

Mr. AVIS. Will the gentleman please confine himself to a question, unless he can give me a little more time.

Mr. TAGGART. I will put it interrogatively. Is not this section intended to correct this particular abuse, to relieve persons who absolutely must have coal, and who have been arbitrarily refused by those who produce the coal?

Mr. AVIS. I think the answer to that question would come better from the gentleman. I know of no such abuse. Does the gentleman know of any such abuse?

Mr. TAGGART. I do not come from a coal region.

Mr. AVIS. But the gentleman comes from a coal-consuming region. Do you know of a single instance, or can any member of this committee point to a single instance where a responsible buyer could not get coal if he wanted it?

Mr. TAGGART. If that is the situation, there will never be a case under this section, if that happy condition continues.

Mr. AVIS. I am afraid the gentleman is not acquainted with the sharp competition that exists in the coal business in this country. And I want to say, in this connection, that a late report issued by the United States Government shows that the average selling price of soft coal at the mines in the United States is $1.15 a ton. On the other hand the same report shows that the Government is operating a mine in one of the Western States—I do not recall whether it is in one of the Dakotas or Nevada—and it is costing the Government $1.65 a ton to get out its coal.

The competition is so sharp and so severe that the mines have not for years been running full time. My remarks are directed to bituminous coal, for I know nothing about the anthracite coal region. I believe I did call attention to the fact that Mr. E. W. Parker, of the United States Geological Survey, stated that in 1909 the coal industries of Indiana, Illinois, Ohio, and West Virginia combined did not make but 1 per cent on the capital invested. I mention these things to show that there is no monopoly of the soft coal industry, and that the mine owners should be given the right to select their customers.

The coal business of the country is entitled to at least a little consideration. Let me call attention to one effect of the present tariff law. Prior to the acquisition of the Hawaiian Islands by the United States those engaged in commerce between Hawaii and the United States had the right to secure the cheapest transportation possible. The result was that they availed themselves of the cheapest transportation, and if a Japanese ship or a British ship or an American ship, or whichever ship offered them the cheapest transportation, they patronized that ship.

We have a law that requires that all commerce between the United States and Hawaii shall be carried in American bottoms. Now, we had a protective duty on coal of 45 cents a ton. That permitted us to ship and sell coal to Hawaii. What has the Democratic majority done? By your taking off all the duty on coal and admitting it free we have absolutely lost the Hawaiian market to our coal, and it is now supplied by Australia in British bottoms.

Mr. WEBB. Will the gentleman yield?

Mr. AVIS. Yes.

Mr. WEBB. The gentleman understands that the law of which he complains was made by the Republican Party, compelling passenger and freight traffic between the ports of the United States to be carried in American coastwise vessels. When we took over Hawaii a public official ruled that the Hawaiian Islands were a part of the coast of the United States, and did the very thing the gentleman complains of.

Mr. AVIS. Neither the Republican Party nor a Republican official ruled that the gentleman's party should take off the countervailing duty on coal so that American coal could not compete with Australian coal. That is what the gentleman's party did, and we can not now put a ton of coal in the Hawaiian market.

Now, I want to read, in connection with my remarks, portions of a letter received by me from a most distinguished gentleman of West Virginia, Mr. Edward W. Knight, who has given years of study to the coal business. I desire to call attention to the fact that he is one of the leading Democrats of that State. I wrote him about section 3, and he replied as follows:

> If it is the purpose of the bill to prohibit all preferences and discrimination by sellers of the products of mines as between customers or persons desiring to become customers, whether consumers or middle men, that purpose is both unfair and dangerous.
>
> Mining and selling of coal is not a business in the nature of public service; if it were, it would and should have, among other things, the right of eminent domain, which has always been denied by the courts, notwithstanding some legislative attempts to relieve hardships by undertaking to give rights of ingress and egress, drainage, etc., over the lands of others. Nor is mining monopolistic in its nature; certainly soft-coal mining is not.
>
> In the absence of a monopolistic character and of protection by a fixed schedule of prices binding sellers and buyers there is neither necessity for nor justice in such regulation of the business as is practiced with respect to carriers, telegraph companies, water companies, etc.
>
> The coal producer, like other merchants, has always discriminated, and I think must always be permitted to discriminate between customers or would-be customers. The best prices are given and should be given to the customer who buys the largest quantity or pays most promptly, or who buys at a time of year when business otherwise might be slack, or who makes a contract for a year or a term of years. Similarly in times of strike or shortage of product from other causes the coal producer usually gives and should be permitted to give preference to his old customers and to customers whose business would be most hurt by shutting down or whose shutting down would cause public inconvenience, such as manufacturing industries requiring continuous operation and water works, lighting and traction companies. It would be most unfair to require a coal producer to sell coal to a person who has never before been his customer, who is brought to him only by an emergency, and who will not be his customer again except under a similar emergency, when he knows or anticipates that the same coal is wanted by a concern that has been his customer for years and which he desires to continue to supply. It would be most unfair also to require a producer of coal to sell his coal to a competitor in order to enable the competitor to take a contract or to supply a contract already taken, which would perhaps prevent the seller from bidding on that particular contract or from taking other contracts for himself. An enterprising dealer might secure a contract and prevent the price being lowered by competition by taking the precaution to insist on buying the output of probable competitors for the contract for one or two months, preventing them from bidding on the contract and leaving them after losing the contract to look elsewhere for the disposing of their output for the remaining 10 or 11 months of the year.
>
> I have known business men of ample financial responsibility, but whose reputations were such that a producer who valued his reputation and that of his coal would not want to have his coal sold by or through them; yet such a dealer under the proposed law might force such sale. A small amount of superior coal in the hands of an unscrupulous man habitually dealing in an inferior coal might seriously injure the reputation of the involuntary seller of the superior coal and aid in defrauding the customers of the unscrupulous dealer—

How many men in this House can tell the difference between one kind of bituminous coal and another? And yet there is all the difference in the world—

> Also such a law might lead to most reckless and harmful dealing in "futures." A man of small responsibility might take contracts with the intention of filling them by virtually condemning the necessary coal if prices during the time of performance should be low and of not filling the contract if prices should be high. It would result in a complete demoralization of market conditions and put a premium upon business immorality. And the law would inevitably be taken advantage of by speculators in times where high prices were anticipated to the disadvantage both of more conservative producers and merchants and of the consumers.
>
> Finally such a law would practically prevent the maintenance of exclusive agencies. There is nothing else that is so vital a factor in the extension of a business to new markets as the establishing of exclusive agencies, whether they be middle men selling on commission or a branch office or agency of a producer or a principal selling agent. In either case the extension of a business in new territory means large expenses in the way of office rent, employment of salesmen, solicitors, clerks, etc., and advertising. It is the custom to protect the person incurring such expense by giving him the exclusive right of handling the product within his territory. And it would be most unfair to permit a coal dealer who is pushing the sale of one coal and who finds a customer who will not purchase his coal, but desires a coal handled through another dealer with an exclusive agency to insist upon a sale being made through him, depriving the exclusive agent of the other coal of the reward of his time, labor, and expense. In this aspect the bill would be paralyzing in its effect upon efforts to extend business and increase competition in any given territory.
>
> If the reasons which I have above indicated as possibly dictating a refusal to make a sale, or a discrimination between customers, and other reasons which might be given if this letter were not already too long, which might appeal to the honest judgment of a fair-minded business man, would justify him in refusing to make a sale, then the bill is not so objectionable. But in such case, it seems to me, that the bill would be a useless one, since the existing antitrust act suffices to punish an attempt at monopoly or the restraint of trade or elevations of prices by corrupt agreement in respect to any article of interstate commerce, and gives any party thereby injured an ample right of action.
>
> I have not considered the constitutionality of the section, which seems to me open to grave doubt, but for the practical reasons given the act seems an unjustifiable attempt to interfere with a private business—a business which has none of the privileges or benefits enjoyed by public-service corporations, and either vicious or useless.

I hope, under the circumstances, that the Members of the House will give this matter serious consideration before they further injure an industry which gives employment in my State alone to 73,000 coal miners and on which nearly one-third of the people of West Virginia depend, and an industry which is fraught with many financial risks to the mine owner and with many personal risks to the men who dig and mine the coal and face untold dangers underground.

When you take into consideration the many perils and dangers which the men who dig and mine the coal daily face, they should be the best-paid laborers in the world; and nothing should be done by Congress which would even tend to injure or cripple the industry in which they are engaged or lessen their opportunity for better wages and living conditions.

I will be glad to furnish the gentlemen in charge of the bill with a great number of letters pointing out some of the evils of this section. The gentlemen from whom I have received such letters had not heard of this section until I called their attention thereto. I did not know that such a section was in the bill until I came across it a few days ago, and I immediately com-

municated with those who produce the coal in my district and asked their opinion thereon. Without exception, every man who has written to me about this section is bitterly opposed to its being made a law.

Mr. PLATT. Will the gentleman yield?

Mr. AVIS. Certainly.

Mr. PLATT. I have received one or two letters that lead me to think that some people have the idea that this section is aimed against the retail coal dealers, so that a customer who was not satisfied with their prices could go directly to the mine and purchase coal.

Mr. AVIS. Yes; this section will not only injure the mine operator, but the dealers as well. The coal dealer who has gone to great expense to acquire a yard and teams and the other necessary paraphernalia, and to work up a trade by personal solicitation and expensive advertising, can be eliminated either by the mine owner or his customers, because if this section becomes a law his customers can purchase directly from the mine owner and the mine owner will be compelled to sell directly to such customers.

For this further reason I think the gentlemen in charge of this bill should not insist upon the passage of this section, and if they are going to insist upon its passage and are going to leave the words "refuse arbitrarily" therein they should at least define them so that the mine owner will not be left to guess what may happen to him if he is prosecuted or sued in the courts for any refusal which he may in self-defense be compelled to make to sell his product upon demand.

And you can see why. As I stated before, if I were a mine owner every person to whom I might refuse to sell my coal, however good the reason might be to me, would have the right not only to institute a criminal prosecution against me, but he would have the right to bring a civil suit for what he claims to be threefold damages. Therefore you can see the dangers and perils to which a man who is engaged in the business of mining coal may be exposed.

Mr. FESS. Will the gentleman permit one more question?

Mr. AVIS. Certainly.

Mr. FESS. I am president of a college. We buy a great deal of coal. We always buy from dealers at home. Suppose I send to you directly for the amount of coal I want. Can you refuse to sell to me, although you do not know what my standing is?

Mr. AVIS. I do not know. That is what I want to know. Upon whom is placed the burden of determining whether the person who applies to purchase coal or other minerals is a responsible person or not? The seller? Is he to determine whether the person is responsible or not? Under this bill I can not determine.

Mr. FESS. I live in western Ohio, and the gentleman lives in West Virginia. I buy West Virginia coal, and I desire to buy it directly from the gentleman. I send you an order for it. What is your responsibility if you refuse to fill the order?

Mr. AVIS. I am subject to a possible $5.000 fine and to a year's imprisonment, or both, and I am subject to threefold damages if any ensue.

Mr. BARTLETT. Does the gentleman think it is the province of Congress, under the power to regulate commerce, to regulate these particular contracts which do not in effect impede commerce or create a monopoly?

Mr. AVIS. I do not.

Mr. BARTLETT. Is it not taking away from the citizen the right to make a contract to sell a product where he makes no effort either to monopolize or impede or interfere with commerce?

Mr. AVIS. I am glad the gentleman asked me that question.

Mr. BARTLETT. In other words, unless a man so uses his own property as to injure others the freedom of contract exists in this by reason of the constitutional guaranties. Now, to say arbitrarily that you can not, when you are not undertaking to have a monopoly and have not a monopoly, when you do not undertake to interfere with commerce but simply to make a contract for the sale of a product, does the gentleman think Congress, under what is known as the commerce clause of the Constitution, can limit and restrict that privilege of the citizens to contract?

Mr. AVIS. I do not think so. I think that the freedom and right of citizens to contract in regard to their property can only be limited or restricted by Congress in some instances. If the contract or contemplated contract is for an unlawful purpose, Congress can lawfully legislate; otherwise I think such legislation is unconstitutional. I have not attempted to discuss the constitutionality of the section. This section does not prevent one competitor from absorbing another competitor, or competitors, but in effect permits and legalizes such absorption. In the Northern Securities case the Supreme Court of the United States held that one competitor could not absorb another competitor, and that if he did he violated the provisions of the Sherman antitrust law.

Mr. BARTLETT. The purpose of that holding company, the Northern Securities Co., was for the purpose of interfering with commerce and destroying competition.

Mr. AVIS. Absolutely; and that is the point that I am making about this section, that it will permit one competitor to absorb another competitor, although the Supreme Court of the United States has held, not only in the Northern Securities case, but in the Standard Oil and Tobacco cases, that such absorption is unlawful.

Mr. BARTLETT. But unless we change the present antitrust law that law as construed by the Supreme Court would prevent that.

Mr. AVIS. But this will conflict with that and then where will we be?

Mr. BARTLETT. At sea.

Mr. AVIS. If this bill becomes a law, we will not know which is to apply to and govern sales to competitors of an entire output, the Sherman antitrust law or this law; and for that reason, and others already given, I believe that the small mine owners of this country, upon whom several hundred thousand of our laboring men depend, and from whom for every ton of coal mined labor receives an average of about 80 cents, will be left in uncertainty and doubt.

Mr. BARTLETT. I was not applying this solely to coal, I desire to say.

Mr. AVIS. My remark was addressed more particularly to coal because I know something about coal and I do not know so much about other minerals.

Mr. TALCOTT of New York. Will the gentleman yield for a question?

Mr. AVIS. Certainly.

Mr. TALCOTT of New York. I understood the gentleman to say that the prohibition of the Constitution against contracts applies to legislation by Congress——

Mr. AVIS. I do not understand the gentleman's question.

Mr. TALCOTT of New York. I understood the gentleman to say a moment ago that he did not think Congress had certain rights in regard to contracts.

Mr. AVIS. In regard to certain contracts.

Mr. TALCOTT of New York. The gentleman does not think the prohibition of the Constitution relates to legislation by Congress, does he?

Mr. AVIS. I do. As citizens we have certain inherent and vested rights, and under the fourteenth amendment of the Constitution, Congress can not deny the right or freedom of contract as to private property, unless such contract is against public policy or for some illegal or unlawful purpose.

Mr. BARTLETT. That is not under the fourteenth amendment, but under another provision of the Constitution.

Mr. AVIS. I said the fourteenth amendment. I am glad the gentleman corrected me. I meant the fifth amendment, which provides that no person shall be deprived of life, liberty, or property without due process of law, nor shall private property be taken for public use without just compensation.

Mr. WEBB. Mr. Chairman, I yield to the gentleman from South Carolina [Mr. BYRNES].

Mr. BYRNES of South Carolina. Mr. Chairman, when the currency bill was considered in the Democratic caucus I endeavored to have adopted an amendment prohibiting the interlocking of directorates in financial institutions. The caucus, in its wisdom, determined to refer this and similar amendments to the Democratic members of the Judiciary Committee with instructions to prepare and report a bill extending this prohibition to corporations engaged in interstate commerce, as well as financial institutions. Thereafter the President of the United States, in his message to Congress, urged the enactment of legislation along these lines, and in accordance with the direction of the caucus and the suggestion of the President, the Judiciary Committee has reported the bill now under consideration. In the time which I shall devote to the discussion of this measure I shall refer only to the provisions of section 9, the enactment of which into law will, in my opinion, do more than any other provision of the bill to destroy the concentration of credit which has hobble-skirted business and will restore competition and liberty of business in this country. This section is divided into three paragraphs. If I correctly understand the first paragraph, it is founded upon the old and well-established principle in equity that a trustee can not deal with himself. It provides that no person engaged as an individual or as an officer or director of a corporation in selling equipment, materials, or supplies to a railroad or other common carrier shall act as a

director or officer of such railroad or common carrier—in other words, that no man can deal with himself under different names. Certainly no one can question the righteousness of such a provision. No man should act as buyer and seller at one and the same time. If an individual acting as an officer of a railroad company is permitted also to act as an officer of a corporation selling supplies and equipments to that railroad, then the corporation in which he has the lesser interest is in danger of suffering at his hands. In the case of a private corporation, it can only result in loss to the stockholders; and in the case of a public-service corporation, it is certain to result in loss to the public in lessening improvements and restricting the service. No honest man wants to occupy this inconsistent relationship, and no dishonest man should be permitted to do it.

The second paragraph provides that in any city of more than 100,000 inhabitants no bank shall have as a director or other officer or employee a person who is a private banker or director or officer or employee of another financial institution located in the same place. It also provides as to financial institutions not located in the same place that no person shall be a director, officer, or employee of two banks either of which has deposits, capital, surplus, and undivided profits aggregating more than $2,500,000. From the provisions of this paragraph mutual savings banks are exempted; and having in mind existing conditions, it also provides that a director, officer, or employee of a bank may be a director, officer, or employee of not more than one other financial institution, where the entire capital stock of one is owned by stockholders in the other.

The prohibition of this paragraph is founded upon the old and well-established principle that where their interests conflict no man can serve two masters. This system of interlocking directorates in financial institutions which has developed during the last 20 years, entirely indefensible as it is, has done more than all else to make possible the menacing concentration of credit in the hands of a few men. The man who controls the credit of the country can, if he desires to do so, control the country and the people who live in it. The control of financial power made possible by this system, together with the directorates held by the same men in the great insurance companies, common carriers, and industrial corporations, has resulted in the placing in the hands of a small group of men the power to say who shall and who shall not secure credit for the development of our great natural resources, and thus to decree the life or the death of business enterprises.

Mr. CLINE. Will the gentleman permit me to ask him a question?

Mr. BYRNES of South Carolina. Certainly.

Mr. CLINE. Do I understand from that section that a man could not be a director in a trust company and in a national bank and State bank?

Mr. BYRNES of South Carolina. The provision specifically exempts a banking corporation the entire stock of which is owned by the stockholders of another bank. My construction of it is that under the provision of this section a trust company operated in connection with a national bank, where the entire stock of the trust company is owned by stockholders of the national bank, would not be affected by this law.

Mr. CLINE. That goes directly to my inquiry.

Mr. BYRNES of South Carolina. It is especially exempted from it.

Because of this condition we have the third paragraph of this section, providing, substantially, that no person shall be a director in two corporations engaged in interstate commerce either of which has capital, surplus, and undivided profits aggregating more than $1,000,000, if such corporations are or have been competitors, so that the elimination of competition by agreement between them would constitute a violation of the antitrust law.

The effect of this last paragraph will be to minimize, if not actually destroy, monopoly and open the door of opportunity to the American of intelligence and energy who has until this time been obstructed and restricted in his endeavors to develop business enterprises against the opposition of monopolies. We are told that the so-called "unscrambling of eggs" which must result from the enforcement of this law will injure the industrial corporations, because there will not be a sufficient number of competent men to properly manage the industries of the country. Upon its face this criticism is not only unfounded but is a reflection upon the intelligence and ability of American business men. For every director who will be forced to resign a directorate in any one of the great corporations of the country there will be found ten men equally as well equipped to direct the affairs of the corporation in the interest of the stockholders; and, having an undivided interest in the particular corporation which he assumes to direct, the stockholders are sure to benefit.

The responsibility of directors will be increased, and the elevation to such a position of responsibility of a man whose activities have been heretofore restricted merely to carrying out the wishes of others must result in an impetus to business.

This contention that the banks will be injured by this legislation is not supported by the testimony of Mr. Reynolds, president of the Continental Commercial Bank of Chicago. When he was before the Pujo committee he stated:

Q. Do you approve of the identity of directors or interlocking directors in potentially competing institutions?
A. No, sir; personally I do not believe that is the best policy. That is the reason I am not a director or stockholder in any corporation that deals with us. There is not a day that I am not invited and do not have the opportunity to do it. It has been my theory of the proper method of banking to adhere to that policy.
Q. You have found that you could succeed in that way, too, have you not, Mr. Reynolds?
A. That is true as to whatever we have done. Some people would say that we have been successful. I am a little modest in that direction.
Q. Have you not the largest deposits in the country?
A. With one exception, at any rate; yes.

The enactment of this legislation, applying only to the larger banks, will result in the voluntary adoption by the smaller banks of the policy prescribed by law for the larger banks.

Mr. COOPER. Will the gentleman yield?

Mr. BYRNES of South Carolina. I will.

Mr. COOPER. Would the section about which the gentleman is speaking prohibit, for example, a railroad company from hiring a construction company, the officers of which are also the railroad company's officers, to construct a line of railroad?

Mr. BYRNES of South Carolina. Of which its officers were members?

Mr. COOPER. Yes.

Mr. BYRNES of South Carolina. Where a director or officer of the company which contracts to sell supplies, material, or equipment to a railroad is an officer or director of such railroad it is a violation of this section.

Mr. COOPER. I have in mind an instance where four or five men sat on one side of a table as officers and directors of a railroad company and made a proposition for the building of a branch line of railroad, and then stepped around to the other side of the table, agreed to the proposition, and contracted with themselves as officers of a construction company.

Mr. BYRNES of South Carolina. I would say to the gentleman that under the provisions of this section that would be a violation of the law.

Mr. COOPER. That branch line of road was a little more than 100 miles long and was built for the Central Pacific Railroad Co. The Patterson Commission, appointed by President Cleveland, found that to build that branch line cost only about $3,200,000, but that the Central Pacific Co.'s officers paid the construction company more than $8,000,000 for the work—a difference and profit of $5,000,000 and more, which really came from the United States Treasury.

Mr. WEBB. This section would absolutely break that up.

Mr. BYRNES of South Carolina. It would make it a violation of the law.

Mr. COOPER. I refer to a contract of the Central Pacific Co. with the Pacific Construction Co.

Mr. BYRNES of South Carolina. This legislation, in my opinion, will also result in the reduction of the number of directors upon a board. As a result of the merger of many small corporations into a few large ones the number of directors have been increased in all of the great corporations. For instance, among the financial institutions, the National City Bank, of New York, has 24 directors and the National Bank of Commerce has 40. The consensus of opinion among financial leaders testifying before the Pujo committee was that the smaller boards would be more effective, and certainly the rearrangement would leave no ground for the objection that as a result of this legislation it would be impossible to find a sufficient number of competent men to act as directors.

The minority members of the Judiciary Committee conclude their report with the suggestion that the Sherman Act now forbids interlocking directorates in its general provision against monopolies in restraint of trade, and, therefore, needs no reenforcement. These gentlemen can not possibly believe that the provisions of the present law could effectively destroy or lessen this concentration, else, in view of the fact that before the Pujo committee this concentration and control was admitted by those really responsible for it, the Department of Justice under the Republican administration would have taken steps to remedy the condition. They criticize the bill as being unscientific because of its arbitrary limitations of the application of the law to the large corporations, and at the same time they bewail the fact

that the enactment of this legislation will endanger the smaller corporations more than the larger ones. I agree that the elimination of competition between corporations doing business in a town of less than 100,000 inhabitants, or between industrial corporations having a capital stock of less than $1,000,000, is as wrong in principle as such conduct on the part of corporations in larger cities with larger capital; but this law is aimed at corporations which have been or are likely to do that which is hereby forbidden, and in the smaller cities and by the smaller corporations it is exceedingly unlikely that there will be formed any effective monopoly eliminating or lessening competition.

There may be isolated cases, but they will be exceptions and not the rule, and legislation must be enacted for the purpose of remedying the rule and not the exception. Again, we must recognize that in complying with the provisions of this section during the two years succeeding the passage of the bill many changes will have to be effected in the business world, and in the accomplishment of this legislation it should be our desire to restrict as far as possible the inconvenience to business. There is now no necessity to inconvenience the small corporation. Should it happen that those who spend their time seeking to evade the law hereafter devise some plan whereby the small corporation shall be effectively used to secure the same concentration of credit and control of business which has been effected by the present system in the larger corporations, then Congress can easily amend this bill so as to include in its provisions all corporations subject to its jurisdiction.

The minority of this committee, in the concluding paragraph of their report, express doubt as to whether the necessity for this legislation is so great as to justify the elimination of men of wide experience as directors. It would not have been surprising had they expressed this opinion two or three years ago, but in view of the testimony before the Pujo committee, not of muckrakers but of the so-called financial leaders themselves, it is difficult to conceive how any man can now doubt the extreme necessity for this legislation. So gradual has been the growth of this system of interlocking directorates, and so accustomed had we become to the control of our institutions being exercised by a few men, that when it was asserted there existed a concentration of credit amounting practically to a monopoly it was branded as demagoguery, and I am frank to say was received by me with little credence. But during my service as a member of the Pujo committee, I learned from the documentary evidence and from the testimony of financial leaders alleged to constitute the group in control of the credit of the country that 180 men hold 385 directorships in 41 banks and trust companies having total resources of $3,832,000,000 and total deposits of $2,834,000,000; 50 directorships in 11 insurance companies having total assets of $2,646,000,000; 155 directorships in 31 railroad systems having a total capitalization of $12,193,000,000 and a total mileage of 163,200; 6 directorships in 2 express companies and 4 directorships in 1 steamship company having a combined capitalization of $245,000,000 and a gross annual income of $97,000,000.

These same men hold 98 directorships in 28 producing and trading corporations having a total capitalization of $3,583,000,000 and total gross annual earnings in excess of $1,145,000,000; 48 directorships in 19 public-utilities corporations having a total capitalization of $2,826,000,000 and total gross annual earnings in excess of $470,000,000. In all, these 180 men hold 746 directorships in 134 corporations, having total resources or capitalization of $25,325,000,000.

We were told how private banking concerns, such as Morgan & Co. and some of the great trust companies acted as the fiscal agents of the railroads, controlling the issue and sale of securities. In the case of the Southern Railway the Morgan interests, under a voting trust, name the trustees, who deal with Morgan & Co., bankers, as fiscal agents for the sale of the securities of that railroad. Thus for all purposes they are able to deal with themselves, and it is small wonder that within the last 20 years no dividends have been paid upon the common stock of this railroad. Indeed, holding in their hands as they have the power to deal with themselves in fixing the price at which the securities shall be sold and the commissions they will receive for such sale, it is a tribute to the self-restraint of these gentlemen that they have allowed so much of the earnings of this railroad to go to the development of its property. At the same time, information as to the manner as to which the railroad issues are handled should be of interest to State legislatures when in their efforts to regulate a railroad they are confronted with the argument that legislation would amount to confiscation because the stock of the railroad has for years paid no dividends.

The sincerity of such pleas should be tested by an investigation of the manner in which its securities are sold. The bankers controlling the railroads control its securities. As directors in the large insurance companies, they can direct the deposits of funds of the insurance companies in banks in which they are interested. With these funds they can purchase the securities of the railroads in which they are interested at prices fixed by them, and then they can turn around and sell the same securities as investments to the insurance companies controlled by them at their own prices.

Now, it is difficult to understand how any man can believe that this state of affairs should be permitted to continue if it be within the power of Congress to abolish it by legislation. It is true that the late Mr. Morgan in his testimony before our committee could not see anything wrong in this system, but many of his associates disagreed with him. Mr. George F. Baker, one of his partners, a man second only to Morgan in the power he has wielded in the financial world, stated to our committee that this concentration of credit had gone "far enough," because in the hands of the wrong man "it would be very bad." It is only natural that every man should be satisfied with his own control and believe that it is for the best interest of all concerned, especially when that control has resulted in the accumulation by him of a vast fortune; but in view of the recent disclosures before the Interstate Commerce Commission of the manner in which the assets of the New Haven Railroad Co. were dissipated while that railroad was under the guidance and domination of Morgan & Co., there may be justification for doubt on the part of some of the stockholders of that railroad and of the public as to whether or not this control is now in the hands of the right men. For my part I do not believe that it is right that such vast power, carrying with it the control of the happiness of men, should be concentrated in the hands of any one man. When Mr. Baker, interested as he is, can bring himself to say that it has gone far enough, we ought to be justified in saying that it has gone too far. Since the report of our Money Trust committee, recommending legislation similar to that contained in this bill, Mr. Morgan, who succeeded his father as director of many enterprises in which they were interested, has voluntarily resigned from a number of directorates, explaining that he did so because of the change of sentiment on the part of the public as to such dual and inconsistent relationships. He was mistaken in believing that the sentiment of the public had changed. It has only awakened to the existence of this condition of affairs.

In our investigation we could not ascertain that either in England, France, or in any other country has this system of interlocking directorates been found a necessity to insure the proper administration of the affairs of financial institutions. In fact, the law prohibits the participation of brokers and bankers in their councils, on the theory that as those interests are likely to be dealing with the banks they should not be permitted to be represented on both sides of the bargain.

The laws on that subject are as follows:

Bank of England: Bankers, brokers, bill discounters, or directors of other banks operating in England are excluded as directors. (S. Doc. 405, p. 10.) Custom has enacted that the directors should never be chosen from the ranks of other banks. They are generally taken from the merchant firms and accepting houses. (S. Doc. 492, p. 67.)

Bank of France: Regents (directors) are chosen only from the commercial and industrial classes. The consulting discount committee is composed of 12 merchants and manufacturers. (S. Doc. 405, p. 190.)

National Bank of Belgium: The governors and directors can not be on the board of any other bank. (S. Doc. 400, p. 227.)

Russian banking law: No person is allowed to be a member of the board of management of more than one bank. (S. Doc. 586, p. 16.)

Union Bank of Scotland: No banker or stockholder is eligible as a director. (S. Doc. 405, p. 158.)

Commercial Bank of Scotland: Directors must not be directors of any other bank. (S. Doc. 405, p. 174.)

If instead of the continuance of this system, which in the opinion of Mr. Reynolds is "a menace," in the opinion of Mr. Baker has gone far enough, and in the opinion of the public has gone too far, we should return to the healthful rivalry prevailing in these countries, we will do much toward solving the business problems which confront us.

The Democratic Party has for years advocated the levying of tariff duties for revenue only, the enactment of a currency law, and such a revision of the antitrust laws as would destroy monopolies and restore competition. During this Congress we have given to the people a new tariff law, which has demonstrated the fallacy of the Republican argument that protection is necessary to the preservation of our industries. We have enacted a new currency law, which the Republicans promised to the people for years but failed to enact, and which is hailed by the country at large as the greatest constructive piece of legislation enacted in years, and now we propose to complete our program by the enactment of this antitrust legislation. So well considered that it will not disturb any corporation administered by men who believe in the fundamental principle of honesty in business and having in view the elimination of monopolies and the restoration of healthful competition, it is

certain to result in the promotion of the prosperity and happiness of the people. [Applause.]

Mr. VOLSTEAD. Mr. Chairman, I yield to the gentleman from Tennessee [Mr. AUSTIN].

Mr. AUSTIN. Mr. Chairman, in connection with the bill now under consideration I desire to submit, for the thoughtful consideration of the Members of this House, two letters, which I will ask the Clerk to read, from Mr. John L. Boyd, of Knoxville, Tenn.

He is one of the large and successful coal operators of the eastern Tennessee field, is a man of high character, and any statement he makes is entitled to the respectful consideration of the Members of this House who desire the enactment of legislation which will be fair and just to the business interests of the country.

Mr. Boyd has always affiliated with the Democratic Party, and, I believe, voices the sentiment of the business people of the country in his objections to the pending measure.

I join him in protesting against the passage of this unwise, unjust, and unnecessary bill. Big as well as little business in this country should be given a rest.

The Clerk read the letters, as follows:

THE PROCTOR COAL CO.,
Knoxville, Tenn., May 13, 1914.

Hon. R. W. AUSTIN, M. C.,
Washington, D. C.

DEAR SIR: Many of your friends here, including myself, would like to know your attitude in respect to the proposed Clayton antitrust bill, which I understand is offered as a substitute for the Sherman antitrust law, and what are the prospects of its passage.

We look on it as a great menace to business generally, and we are very much in hopes it will not become a law.

Section 2 is in a sense almost confiscatory; at least it deprives the seller of any commodity of the exercise of his judgment in legitimate transactions, in that it provides that any person engaged in commerce who shall, either directly or indirectly, discriminate in prices between different purchasers of commodity in the same or different sections, shall be guilty of a misdemeanor and punishable by fine. This is giving to the purchaser of a small quantity the same price, rights, and privileges as a purchaser of large quantities, etc.

Section 3 makes it unlawful for the owner or operator of any mine to refuse to sell its product to a responsible person, firm, or corporation who applies to purchase such product, thus leaving the matter of responsibility subject to dispute.

These two sections, in my opinion, are productive of trouble and complication in business transactions, and will provoke no end of litigation. We may decline to sell a person, firm, or corporation on the grounds that from our viewpoint he or it is not responsible, and which at present would end the matter, but under the law as proposed he would have the right to bring suit against us, and if it should be proven that he is responsible, contrary to our investigation, then we would be guilty of a misdemeanor and subject to fine and imprisonment, etc., as provided for.

The main force of the bill, it appears, is against the business interests of the country and in favor of those who do not furnish employment to labor. The prohibition of interlocking directorates may be justified as attempting to curb vast monopolies and prevent the abuses that have resulted from such relationship, in respect to large concerns, but if applied generally and to small corporations, including banks of reasonable size outside of reserve centers, would disturb business generally and would involve a complete reorganization of a vast number of corporations, and in my opinion would work untold injury. The proposed bill is drastic and, as stated, is practically confiscatory.

Thanking you in advance for such attention as you may see fit to give this communication, I am,

Yours, truly,

JNO. L. BOYD.

THE PROCTER COAL CO.,
Knoxville, Tenn., May 21, 1914.

Hon. R. W. AUSTIN, M. C.,
Washington, D. C.

DEAR SIR: I have read the proposed Clayton bill, and if I have not grossly misconstrued it, it is one of the most dangerous measures that has been offered, and so radical a departure from the customs and methods of business generally as would involve a complete reorganization in all lines and demoralize generally not only in my line of business, say, production of coal, but in all lines. For instance, certain sections provide that it shall be unlawful and subject to fine or imprisonment or both for a discrimination in price as between persons in the same community or different communities. This would require every wholesale and jobbing house to sell its goods to the consumer at as low price as it sells to the retail merchants. The factory or producer would violate the law for a refusal to sell its manufactured product to the consumer at the same price that it sells to the jobber or dealer. The coal companies, the iron producers, lumber manufacturers, and, in fact, all classes of commodities, supplies, etc., would have to be sold to the small consumer at the same price the large railroad companies pay for such goods in large quantities.

Another section provides that it shall be unlawful and subject the violator to fine or imprisonment or both, for a refusal to sell any person who is responsible who applies to purchase. The manufacturer or seller might not be able to determine exactly the responsibility, and the results would be a suit for damages, besides the part the Government would take in respect to the violation. In short, as I view it, the effect would be to eliminate the wholesale houses, jobbers, and dealers, and reduce the business through the country to transactions between producers and actual consumers.

I believe you appreciate the fact that if the producers through the country were reduced to transactions with consumers only that no calculation could be made as to the extent of operations, because no contracts could be made for quantities that would allow operations of mills, factories, etc. The prices would necessarily have to be advanced in order to cover the cost of doing business under such methods to the extent finally, I believe, the cost to the consumers would be equally as high, if not higher, than from the middleman or distributor.

The general plan seems altogether impracticable. The business of the country has been built up for the last century on a principle that allows the manufacturer and seller to select its customers, exercise its judgment in respect to responsible trade advantages, etc., that this proposed law will entirely overthrow.

There is practically an endless chain of valid objections and disadvantages that might be mentioned to the general plan of the Clayton bill, and if I have interpreted correctly the intent of the measure I confess that I am unable to see anything but disaster in its operations.

Yours, truly,

JNO. L. BOYD.

Mr. WEBB. Mr. Chairman, I yield to the gentleman from Kansas [Mr. HELVERING].

Mr. HELVERING. Mr. Chairman, the specific work before us at the present time is to crystallize into legislation the last of the three most important pledges which we have made to the American people. In doing this we are at the same time offering to our friends in all parties the opportunity to show that their promises were made to be kept. We are practically all agreed as to the evils of trusts and of combinations; the people of the country are united in the determination that there must come a readjustment of conditions in the business world, and that this can be brought about only by a return to normal conditions and the elimination of the abnormal which have been brought into existence through the greed for gain and have continued to exist only by reason of legislative neglect.

The evils complained of have grown up quite often in a quasi-legal manner; special privilege had the power to have and to hold the best of legal advice and was able to live within the letter of the law while continually violating its spirit. It has taken time for us to realize by experience the loopholes in law which gave the opportunity for its violation, and we are now engaged in the work of legislating along the line which experience has demonstrated to be necessary.

In his address at the joint session of Congress, on January 20, President Wilson said:

> It will be understood that our object is not to unsettle business or anywhere seriously to break its established course athwart. On the contrary, we desire the laws we are now about to pass to be the bulwarks and safeguards of industry against the forces who have disturbed it. What we have to do can be done in a new spirit, in thoughtful moderation, without revolution of any untoward kind.

And that is exactly the spirit by which the Democratic Party is actuated. We would encourage every legitimate industry of the Nation and we can best do this by insuring to them fair play. We may, and undoubtedly will, harass the feelings of those who work illegitimately, but that is essential. Criminal laws are enacted, not because all men are criminals, but because honest men, and society in general, must be protected against the dishonest. Such laws are essential for the protection of society, and we believe that the legislation now under consideration is equally essential if we are to restore business to the plane of justice, throw down the bars which are keeping out the intelligent youth of the land from the field of opportunity, and give to the American people the protection which is essential if they are to be masters of their own destiny.

In closing the address before referred to, President Wilson said:

> I have laid the case before you, no doubt, as it lies in your own mind, as it lies in the thought of the country. What must every candid man say of the suggestions I have laid before you, of the plain obligations of which I have reminded you? That these are new things for which the country is not prepared? No; but that they are old things, now familiar, and must, of course, be undertaken if we are to square our laws with the thought and desire of the country. Until these things are done, conscientious business men the country over will be unsatisfied. They are in these things our mentors and our colleagues. We are now about to write the additional articles of our constitution of peace, the peace that is honor and freedom and prosperity.

In the desire "to square our laws with the thought and desire of the country" let us proceed to analyze the conditions which demand action on our part; be fair with those who differ with us on the questions involved and honestly and candidly discuss the legislation before us with a desire to have it so perfected that it will meet the necessities which have arisen and do so without danger to the business of the country or the bringing of undue hardship on legitimate industry.

There are those who profess to believe that the combinations called trusts are, in the main, good and are essential in the development of our resources.

They would have us believe that the present-day concentration of industry is in harmony with economic development and business efficiency; that by combination economy or production is secured and that the general public shares in the benefits accruing.

Also, that unrestrained competition is wasteful and destructive of human energy.

Theoretically, these propositions are correct; but in practice they fall down lamentably.

Once competition is crushed out, then the need of economic management and progressive methods is no longer so essential. The market for the inventor becomes one in which there is little, if any, competition, and as a natural result the incentive to spur on the inventor no longer exists.

Likewise, the destruction of competition leaves in the market but a single force or a minimum of forces actuated by a common and a selfish motive. Monopoly has the power to dictate to the producer of the raw material which it must buy, and it has the power to dictate to its labor the wage it will pay for the only commodity labor has to sell, and at the same time it is the absolute dictator of the price which the consumer must *pay for the output of* the monopolies. Such a centralization of power is a menace to the well-being of all, and, carried to its logical conclusion, it means the enslavement of the masses, the closing of the door of opportunity, and the centralization of all of the wealth earned by the brain and brawn of the American people in the hands of a few monopolists.

Let us see how monopoly is judged by those who can speak from experience of the evil which it has brought upon us.

The president of the Investors' Guild, in a memorial issued in November, 1911, has this to say:

It is a well-known fact that modern trade combinations tend strongly toward constancy of process and products and by their very nature are opposed to new processes and new products originated by independent inventors, and hence tend to restrain competition in the development and sale of patents and patent rights and consequently tend to discourage independent inventive thought, to the great detriment of the Nation and with injustice to inventors, whom the Constitution especially intended to encourage and protect in their rights.

That is an arraignment which is based on known facts and can not be controverted. Monopoly is fatal to invention and ever stifles initiative. Whereas there was in the past every incentive for the young man who had a new idea, to-day his market is limited to a field in which there is no competition, and even when he does invent something of obvious value it may never see the light of day, for its purchaser may find it more profitable to put it away unused rather than to alter machinery and processes. The man with a monopoly does not need to encourage efficiency and improvement, for his profits are assured, even if he never makes progress.

In line with the foregoing, and to show to what extent monopoly prevents efficiency, I would quote the following from the Engineering News:

We are to-day something like five years behind Germany in iron and steel metallurgy, and such innovations as are being introduced by our iron and steel manufacturers are most of them merely following the lead set by foreigners years ago.

We do not believe this is because American engineers are any less ingenious or original than those of Europe, though they may, indeed, be deficient in training and scientific education compared with Germany. We believe the main cause is the wholesale consolidation which has taken place in American industry. A huge organization is too clumsy to take up the development of an original idea. With the market closely controlled and profits certainly following standard methods, those who control our trusts do not want the bother of developing anything new.

We instance metallurgy only by way of illustration. There are plenty of other fields of industry where exactly the same condition exists. We are building the same machines and using the same methods as a dozen years ago, and the real advances in art are being made by European inventors and manufacturers.

How justifiable in the face of such testimony is the conclusion drawn by President Wilson:

I am not saying that all invention has been stopped by the growth of trusts, but I think it is perfectly clear that invention in many fields has been discouraged, that inventors have been prevented from reaping the full fruits of their ingenuity and industry, and that mankind has been deprived of many comforts and conveniences, as well as the opportunity of buying at lower prices.

It is my firm belief that monopoly does not secure economy of production, and the authorities quoted would go to show that my contention is right. Contending, then, that monopoly is indefensible as an economic proposition, as well as an ethical and moral one, the question arises, What is the best method to be pursued to eliminate evils complained of and bring the business of the country back once more to a safe and sound basis?

THE RADICAL IDEA.

There are those who would have us take a radical stand, and that we are not prepared to do. Because evils have grown up coincident with the growth of the trusts, and often directly traceable to them, they would have us run amuck and destroy. They forget that in order to do this the punishment will fall upon more of the innocent than of the guilty, for those who have brought evil upon us were cunning enough to provide for their own future, and in many cases they have taken the kernel, leaving the responsibility and the empty shell in the possession of innocent investors.

We want to punish, where we can locate guilt, and we want to punish individuals rather than corporations. But it would be neither seemly nor wise for this great lawmaking body to permit itself to be carried to extremes and legislate along the line of revenge. I stand with the President, who has so well put it in this language:

Constructive legislation when successful is always the embodiment of convincing experience and of the mature public opinion which finally springs out of that experience. Legislation is a business of interpretation, not of origination; and it is now plain what the opinion is to which we must give effect in this matter. It is not of recent or hasty opinion. It springs out of the experience of a whole generation. It has clarified itself by long contest, and those who for a long time battled with it and sought to change it are now frankly and honorably yielding to it and seeking to conform their actions to it.

We will not go far astray if we follow the conclusions drawn by President Wilson in the paragraph quoted. The legislation before us interprets the experience of the generation. It presents a remedy for the economic evils which have sprung up as the result of the destruction of competition. This legislation would cure, while our radical friends propose a surgical operation which usually kills. We prefer to cure and utilize for the general good the life we save rather than to kill and put upon the people an extra burden of economic waste.

HONOR DEMANDS LEGISLATION.

A study of the foreign trade of the United States will convince that we are a world power to be reckoned with. The development of this trade means prosperity and permanent prosperity, for it means the continuous employment of our producers in shops and in factories. How essential, then, it is that we, as a Nation, should cultivate this field and permit nothing to mar the friendly relationship upon which international trade is founded.

Within the past two years this country has fallen in the estimation of the people of many foreign countries, and the cause of this is directly traceable to the greed of financiers who were more concerned with the acquirement of wealth than they were with the legitimacy of the means employed to secure it. The manipulation of the finances of the Frisco Railroad resulted in loss to many of the residents of France, who were inveigled into investing in it at the very time when those on the inside knew that failure could not be prevented. The manipulation of the properties of the Boston & Maine and the New York, New Haven & Hartford roads has intensified the bitterness engendered, and it is not without reason that foreigners look upon us with suspicion. In every national act we have shown to the world our desire to be fair and just in our dealings with nations and our wish to lead only in the paths of righteousness and enlightenment. But the acts of individuals whose only aim seems to be the acquisition of wealth, regardless of ethics or morality, can easily sweep away that which it has taken years of square dealing to build up. This we must legislate against. We must do so if we are to protect our own people, and we are obligated to do it if we wish to win and hold the respect of the world. I believe that House bill 16133 will go far in the direction of remedying the evils complained of, and, so believing, I shall take pleasure in voting for it.

ADVANTAGES OF PROPOSED LEGISLATION.

Regulation of the issuance of stocks and bonds under the authority of the Interstate Commerce Commission is a provision the necessity of which has been made manifest. It protects legitimate corporations, safeguards the investors and gives assurance as to the future financing of railroads so that dividends will be paid only on honest investment.

It provides for a trade commission, which will act as an active aid to the Department of Justice; will investigate and give publicity to the business of the various corporations; will see that the mandates of the courts are carried out and that there shall be actual observance of law, instead of an attempt to keep to the letter while violating the spirit.

It will prevent price discrimination in all of the territory of the United States, and thereby destroy one of the most effective methods ever used to break down competition. States have attempted such legislation, but their work could not reach the real evil, as big corporations could well afford to maintain a lower price within the jurisdiction of any State if by so doing a competitor could be driven out of business. With the passage of House bill 15657 this practice will be absolutely prohibited, for the same price will have to govern in every State, plus, of course, the difference in cost of transportation.

It will make it unlawful for the owner or operator of a mine or for a person controlling the sale of the product of a mine to refuse to sell to a responsible person who wishes to purchase. This eliminates the evils arising from the monopolization of coal and iron lands and lessens the powers which the monopolies now possess by the exclusive ownership or leasing privileges of such mines.

It prohibits exclusive and "tying" contracts, an evil which has contributed much to the cost of farming, as well as being

a heavy burden to those engaged in many other lines of business. "Tying" contracts help to create a monopoly in local markets, and by so doing they are instrumental in determining an excessive price which the consumer must pay to the exclusive agent. Under this system farming implements have long been marketed, not at a fair profit on cost but on a profit based on the needs of the consumer.

It provides for the punishment of personal guilt, and thereby will, to a great extent, be preventive of guilt. Time has demonstrated that the greatest weakness in our law comes from the punishment of corporations and the neglect to locate and punish personal guilt. By penalizing corporations it is often the case that innocent investors are the real sufferers, while the guilty parties are free to again violate the law, in the hope that they might escape detection. By enforcing penalties against responsible individuals we put at work an element which will aid in the enforcement of the law, for fear of a jail sentence is often effective where less drastic methods fail.

It puts an automatic force at work to aid in making the law effective by providing that on conviction of violation of its provisions a corporation can be sued by all who suffered damage by its illegal acts; that threefold damages can be collected, as well as the costs of the suits, and that the evidence secured by the Government to gain a conviction can be offered as conclusive evidence by the parties claiming damages. It must be plain that few corporations will care to run the risk of pursuing illegal methods knowing that they will make themselves liable, not merely to dissolution, but for the payment of damages to all parties injured.

It will abolish the evils of holding companies and put an end to interlocking directorates, twin evils which have been largely responsible for the power of monopoly and to which I shall refer later on.

And it will, to an appreciable extent, put an end to the abuse of the writ of injunction which has worked so much injustice in the past.

There is not one of the changes and reforms specified which has not been demanded by the people. There is not one of them which will work a hardship to legitimate business. We are here not to destroy, but to build; not to harass, but to aid; not to impede, but to help in progress; and while here and there may be found those who will protest that the legislation will hamper them or interfere with personal rights or personal liberty, it will be found that in almost every case the complaint comes not from those who wish sane personal liberty, but rather from those who have profited by unbridled license and who desire no interference with their opportunities to exploit the American people.

NEED FOR REGULATING STOCK AND BOND ISSUES.

Seven years ago the Interstate Commerce Commission called attention to the advisability of having governmental regulation of stock and bond issues. No attention was paid to the recommendation. Last year, after concluding its investigation of the New Haven, the commission once more made recommendations as follows:

No student of the railroad problem can doubt that a most prolific source of financial disaster and complication to railroads in the past has been the desire and ability of railroad managers to engage in enterprises outside the legitimate operation of their railroads, especially by the acquisition of other railroads and securities. The evil which results, first, to the investing public, and finally to the general public, can not be corrected after the transaction has taken place; it can be easily and effectively prohibited. In our opinion the following propositions lie at the foundation of all adequate regulation of interstate railroads:

1. Every interstate railroad should be prohibited from spending money or incurring liability or acquiring property not used in the operation of its railroad or in the legitimate improvement, extension, or development of that railroad.

2. No interstate railroad should be permitted to lease or purchase any other railroad, nor to acquire the stocks or securities of any other railroad, nor to guarantee the same, directly or indirectly, without the approval of the Federal Government.

3. No stocks or bonds should be issued by an interstate railroad except for the purposes sanctioned in the two preceding paragraphs, and none should be issued without the approval of the Federal Government.

It may be unwise to attempt to specify the price at which and the manner in which railroad stocks and securities shall be disposed of; but it is easy and safe to define the purpose for which they may be issued, and to confine the expenditure of the money realized for that purpose.

I regret that while our committee had under consideration the amending of the law governing this commission it did not provide the legislation requested in the first and second recommendations quoted above. However, we go even further than the recommendation of the commission in providing for the supervision of the stock and bond issues. I firmly believe that it is the part of wisdom to do this; that it will give protection to investors, largely put an end to the flotation of water, and will be of benefit to every legitimate corporation, because the general public will have the assurance that a commission in which we all have faith has investigated the reason for such issue of stock or of bonds and gives its approval of the same. Further than that, the enforcement of such a provision will give us a better standing abroad with those who desire to put their money into American investments, for they will know that this great Government of ours is on guard and that there is a curb placed on the activities of those who would, if they could, market illegitimate securities.

OLD-FASHIONED HONESTY.

It is to be deplored that the rascality of men in positions of responsibility has wrecked so many of our best public utilities, but if we make full use of the lessons learned by bitter experience then can we gain by our loss and give protection to our people to-day and to the generations yet to come.

We have to some extent departed from old-fashioned ideals of common honesty and the justice upon which all of our actions should be based. In so far as we have done this, public confidence has been lost and suspicion holds sway. It would pay us to cultivate better ideals and learn a lesson from those who have placed personal integrity above aught else.

John M. Forbes, of Boston, conceived and built the Burlington Railroad. It was an honest road, built by an honest man, and one who used honest methods. In the modern world of finance Mr. Forbes would find no place. He would be classed as "old fashioned," "out of date," and an "old fogy." He had certain fixed rules by which he governed his personal conduct, and at an early date in his career he said:

I am unwilling to run the risk of having the reputation of buying from a company in which I am interested.

To-day we are discussing the necessity for legislation designed to vitalize the moral philosophy of Mr. Forbes and crystallize it into law. To-day men are eagerly anxious to run the risk of the imputation which Mr. Forbes resented, and we, with the knowledge that we are here to safeguard the rights of our people, are eager to put up barriers to prevent such iniquitous practices. We prevent public servants from dealing with themselves, prevent all Government employees from buying from companies in which they are interested, and in every way strive to remove all suspicion from those who hold a public trust. So it is that these men who are quasi public servants must be prevented from engaging in practices which are open to suspicion, even if they should be so morally blind as to desire to so engage. Mr. Forbes would not when he could, and we propose that representatives of high finance shall not if they would.

BAD FOR THE GENERAL PUBLIC.

We learn from the reports of the Stanley and of the Pujo committees that interlocking directorates practically control the bulk of the business of the country. That militates against efficiency, and the general public has to foot the bill.

In the first place, these men can not give the attention needed to the various branches of business which they are supposed to direct. Efficiency and success requires specialists, and yet here we are at the mercy of a ring of "Jacks of all trades" who subordinate everything to personal gain. The important contracts of the various companies are let to directors interested. Economy is supplanted by graft, and the gross earnings are often so manipulated that while the public is forced to pay for poor service and inefficiency, nevertheless the money so exacted never reaches the stockholders of the corporations, but is grabbed by directors who are in position to skim the cream so that none is ever distributed in the way of dividends. Read the history of the financial operations of the Frisco, the Rock Island, the Boston & Maine, and the New York, New Haven & Hartford lines and note how the stockholders have suffered in common with the communities served by the roads. Only the favored few on the inside were able to harvest a profit.

It is the stockholders and the general public who always suffer. Take the case of the New Haven road. For nearly six years the world of finance knew that ruin was inevitable, and those on the inside took to their cyclone cellars until the storm had passed. Of the New Haven stockholders, 10,474 are women and 10,222 hold only from 1 to 10 shares each. The directors, men high in banking circles, knew, but they never attempted to open the eyes of the stockholders. Many of them unloaded their own holdings in time and left the innocent purchasers to hold the sack, so that when the crash came it was mainly women in moderate circumstances and the estates of widows and orphans which had to bear the brunt of losses brought about by criminality, mismanagement, and high finance.

WORKING IN THE WRONG WAY.

The cause of failure of so many of the properties managed by banker directors can be easily traced. Such properties have been managed with an eye to present-day profits, present-day stock dividends, and selfish interest, rather than with an

eye to the upbuilding of the properties and the safeguarding of the rights of the communities served by such corporations. As a result the shippers of the country are to-day paying interest on watered stocks and on investments which were pure graft. The business of the country is penalized because of the evil practices of the past, practices which law can not now reach and for which punishment can not be doled out. The railroads demand higher rates in order to be self-sustaining, when in many instances the money is needed to pay interest on fictitious or misapplied capitalization. If the increase is not granted, then business is paralyzed, and if it is given, then there is no hope of our country escaping similar demands in the future, unless we safeguard ourselves by enacting legislation along the lines suggested.

The men who have made fortunes by the indefensible practices complained of have long since "got out from under." The overissue of stocks are largely held by innocent investors—by the estates of the helpless innocent and in the hands of honest but misguided investors. We can not penalize them for the evils brought on by others, and while it may be said that we are by the proposed legislation locking the stable door after the horse has been stolen, we are in reality following the path of wisdom in locking the door, so that no more shall be stolen. By throwing safeguards around the present and the future we are taking the only possible step for the protection of the present and the future, and we harass no legitimate investment, but rather do we increase the faith of the investor, build up confidence which has been weakened or destroyed by vicious practices, and substitute healthy conditions in the business world instead of the diseased conditions which have brought to us decay and disaster.

INTERLOCKING DIRECTORATES.

The country is practically united in the belief that most of the evils complained of can be traced to the vicious source of interlocking directorates, and ever since the report of the Pujo committee focused the attention of the people upon the extent to which such community of interests controlled the business health—the very business life—of the Nation, the demand has been insistent that legislation be enacted to effect a cure.

As Louis D. Brandeis logically puts it:

The practice of interlocking directorates offends laws, human and divine. Applied to rival corporations, it tends to the suppression of competition and to violation of the Sherman law; applied to corporations which deal with each other, it tends to disloyalty and to violation of the fundamental law that no man can serve two masters. In either event it tends to inefficiency, for it removes incentive and destroys soundness of judgment. It is undemocratic, for it rejects the platform, "A fair field and no favors," substituting the pull of privilege for the push of manhood. It is the most potent instrument of the Money Trust. Break the control so exercised by the investment bankers over railroads, public-service and industrial corporations, over banks, life insurance and trust companies, and a long step will have been taken toward attainment of the New Freedom.

The deductions of Mr. Brandeis are strongly supported by the known facts. The report of the Stanley committee on the Steel Trust showed that the few men who control the Steel Trust are directors in 29 railroad systems, with 126,000 miles of line (more than half the railroad mileage of the country), and are also directors in many steamship companies. Through all these alliances the Steel Corporation controls transportation, not merely as carriers but as the largest customers of steel. These same men are directors in 12 steel-using street railway companies, including some of the largest in the world. They are directors in 40 machinery and other steel-using companies; in many gas, oil, and water companies, extensive users of iron products; and in the great wire-using telephone and telegraph companies. The aggregate assets of the companies controlled by these few men exceeds $16,000,000,000.

It can be plainly seen that by such control these men can catch the general public "a-comin' an' a-gwine." As producers of steel they sell to themselves as consumers, and are also in position to give to themselves, through their influence as railroad directors, special favors in transportation, when they can successfully hide from the scrutiny of the Interstate Commerce Commission. It needs no argument to convince that by the use of such power practical competition is made an absurdity. The Steel Trust is supreme in its sphere, and the legislation proposed is absolutely necessary if we are to look for relief.

It is to the report of the Pujo committee, however, that we must go if we are to get an insight into the wonderful ramifications of interlocking directorates. From this we find that two New York banks—the National City and the First National—with the Morgan firm, constitute the inner group of the Money Trust. George F. Stillman is the power in the National City and George F. Baker in the First National. The resources of the National City are about $300,000,000, those of the First National about $200,000,000, and while we do not know the resources of the Morgan firm, we have reason to believe that their deposits alone aggregate some $162,500,000.

Mr. Baker is, or was until recently when he saw the handwriting on the wall, a director in 22 corporations having, with their many subsidiaries, resources or capitalization of $7,272,000,000. Further than that, the directors of the bank which he dominates are directors in at least 27 other corporations, with resources of $4,270,000,000. So we see that this First National Bank has representation on the boards of 49 corporations, with aggregate resources of $11,542,000,000.

Here are a few of the companies in which Mr. Baker had influence, either as voting trustee, executive committeeman, or director; the list was prepared by Mr. Brandeis:

First. Banks, trust and life insurance companies: First National Bank of New York; National Bank of Commerce; Farmers' Loan & Trust Co.; Mutual Life Insurance Co.

Second. Railroad companies: New York Central lines; New Haven; Reading; Erie; Lackawanna; Lehigh Valley; Southern; Northern Pacific; Chicago, Burlington & Quincy.

Third. Public-service corporations: American Telegraph & Telephone Co.; Adams Express Co.

Fourth. Industrial corporations: United States Steel Corporation; Pullman Co.

Mr. Stillman is a director in 7 corporations, with assets of $2,476,000,000, and the National City Bank, which he dominates, has directors in at least 41 other corporations which, with their subsidiaries, have an aggregate capitalization and resources of $10,564,000,000.

The members of J. P. Morgan & Co.'s firm hold 72 directorships in 47 of the largest companies of the country.

Here is what the Pujo committee found in regard to the members of the firm of J. P. Morgan & Co. and the directors of their controlled trust companies and of the First National and the National City Bank. They hold:

One hundred and eighteen directorships in 34 banks and trust companies having total resources of $2,679,000,000 and total deposits of $1,983,000,000.

Thirty directorships in 10 insurance companies having total assets of $2,293,000,000.

One hundred and five directorships in 32 transportation systems having a total capitalization of $11,784,000,000 and a total mileage—excluding express companies and steamship lines—of 150,200.

Sixty-three directorships in 24 producing and trading corporations having a total capitalization of $3,339,000,000.

Twenty-five directorships in 12 public-utility corporations having a total capitalization of $2,150,000,000.

In all, 341 directorships in 112 corporations having aggregate resources or capitalization of $22,245,000,000.

And, as Mr. Brandeis succinctly puts it, $22,000,000,000 is more than three times the assessed value of all the property, real and personal, in New England. It is nearly three times the assessed value of all the real estate in New York City. It is more than twice the assessed value of all the property in the 13 Southern States. It is more than the assessed value of all the property in the 22 States, north and south, lying west of the Missouri River.

And all of the power represented by this wealth is lodged in the hands of a few men. Can anyone doubt the danger which such concentration permits? Can we stop to inject partisanship into a discussion over methods proposed to wipe out such danger? It is useless to say that the power represented will never be used to the detriment of the American people. We could admit all that, even when we have had innumerable object lessons to show that the power has been so used; but even if it were in the hands of men in whom we all had implicit confidence, it is too great a power to be concentrated—it affords too great a temptation to frail humanity.

But the Money Trust is not content to operate within a limited field. Its tentacles reach out and grasp the activities and the resources of the Nation, wherever these activities and resources offer opportunity for gain. Take the case of Boston, and it is typical of practically every large city in the Union. The banking firms of Lee, Higginson & Co. and Kidder, Peabody & Co. practically control the National Shawmut Bank, the First National Bank, and the Old Colony Trust Co., with resources of $288,386,294, fully one-half of the banking resources of Boston. The directors of these banks are also directors in 21 other banks and trust companies, and all together they are practically in control of 90 per cent of the total banking resources of the city. In fact, 33 out of 42 banking institutions in Boston are interlocked, and these have aggregate resources of $590,516,239, which is about 92½ per cent of the aggregate banking resources of Boston.

HOW THEY DO ABROAD.

Contrast the condition existing in New York, Boston, and, in fact, the entire country, with those in the older nations in Europe, and what do we find? The Bank of England, the Bank of France, the National Bank of Belgium, and the leading

banks of Scotland all exclude from their boards persons who are directors in other banks. By law, in Russia no person is allowed to be on the board of management of more than one bank.

Such is the practice in countries where conservative methods rule. Here we have thrown conservatism to the winds, and a few men have by combination gained the power to make every activity of the people contribute to their selfish gains. The laborer is exploited; the farm owner has to pay an unnecessary toll all along the roads leading from his fields to the consumer; at every corner we are held up to pay a tax levied either by monopoly or vicious practice; and as a natural result the earnings of 99 per cent of the American people of the United States are subtracted from, to the end that the money reservoirs of less than 1 per cent may be filled with the proceeds of unjust tribute.

In the legislation now before us we offer to you the opportunity to cure the evils which bear so oppressively on your people and on mine. Will you join with us in legislating to the end that we shall travel along the road which the experience of other nations has demonstrated to be safe? We are not proposing to you any innovation; we bring forward no experiment and ask for your approval of it. Other countries have deemed it inadvisable to permit of combination which is a standing menace. You can see by the reports of the Stanley committee and of the Pujo committee to what extent such combinations are in effect to-day. Is it not better for you to join with us in curing while we can rather than to wait until the patient is dead and the people of our common country are industrial slaves?

NEED OF A TRADE COMMISSION.

In his recommendations in the message of last January President Wilson suggested the formation of a commission as an instrument of information and publicity and as a means of securing and disseminating the knowledge needed to correct evils in the business life of the Nation.

Such a commission is provided for in House bill 15613. The bill proposed lodges in this commission the authority now vested in the Bureau of Corporations, but at the same time it gives to this commission new powers, the need of which have been proved by experience. To a large extent this commission will have independent power and authority, and the bill removes entirely from the control of the President and the Secretary of Commerce the investigations conducted and the information secured. Hereafter this commission will have power to make investigations on its own initiative and make public such information as it deems best.

An abstract of the annual and special reports of each corporation, which reports are made obligatory by this legislation, must be made public by this commission. The faithful observance of such requirement can not but have a salutary effect. It gives to the investor an authentic guide as to the condition of corporations; shows to the public the physical condition, earning capacity, and expenses of all such corporations, and with this information available there is a protection given which can not help but be an important factor in eliminating unnecessary loss.

Speaking of the laws governing trusts, on January 1, 1896, Attorney General Harmon said:

> If the Department of Justice is expected to consider investigations of alleged violations of the present law or of the law as it may be amended, it must be provided with a liberal appropriation and a force properly selected and organized. * * * But I respectfully submit that the general policy which has hitherto been pursued of confining this department very closely to court work is a wise one, and that the duty of detecting offenses and furnishing evidence thereof should be committed to some other department or bureau.

In this legislation we are striving to act upon the suggestion and recommendation made by Attorney General Harmon more than 18 years ago. Since that time we have had three Republican Presidents, and for 14 of these years the Republicans have had absolute control of all branches of the Government, but it remained until the time when the Democrats secured full control before any attempt was made to provide constructive legislation to secure the things needed to make antitrust legislation effective.

It has been during the period from 1896 to 1910 that the trusts came to be a real force to reckon with in the United States. Under Republican rule they have waxed fat and have been encouraged by the party in power. They were looked to to finance Republican campaigns, were potent factors in fastening high protection upon us, and through their union with the banks and the insurance companies of the United States they have been able to hold all legitimate business of the country at their mercy. To-day it is claimed that 50 men in the United States control 40 per cent of the wealth of the country. Such a condition of affairs is intolerable. It is a menace to the well-being of every man, woman, and child in the country. We clipped away part of the power of these combinations when we revised the tariff and put the industries of the Nation on a competitive basis; we further emancipated the people when we enacted currency legislation and took away from the trusts the opportunity to manipulate the earnings of the people for their own advantage and for the undoing of the real owners of the deposits. Now we have the opportunity, by the enactment of House bills 15613, 15657, and 16133, to remove the last of the obstacles which remain to prevent competition; and when we do this we will have kept our promises to the American people and made possible the return of an era in which there will be a fair field and no favors for either the big or the little fellow—a field on which special privilege will not be allowed to trespass.

THE DEMOCRATIC WAY.

Some there are who do not believe that we go far enough in the powers which we delegate to the proposed trade commission in the bill introduced. If they had their way, they tell us that they would insist upon clothing this commission with judicial powers—the power to not only hunt up evidence, but also the power to try, condemn, and inflict punishment.

It is somewhat strange, but in nearly every case we find that such suggestions and denunciations of the measure reported comes from those who are or have been affiliated with the party which was in power for 16 years, and who in all that time witnessed the rapid and steady increase of the pernicious practices complained of without making one effort to put an end to them.

For my part I am convinced that a danger even greater than that which we seek to guard against would menace the American people if we were to place in the hands of this commission the powers demanded. It would mean a centralization of authority such as this country has never seen. It would put into the hands of a few men power to hold up the industries of the country, and in the hands of the wrong men it could be used to hold in office any party in power which might be base enough to use the machinery provided.

Here we give to this commission ample power to investigate on its own authority or on request of the Government. It has the right to go into the accounts, business, and all activities of the combinations under its control, and when illegal acts are discovered then the Department of Justice is furnished the material on which to base action, and it would be compelled to take action on the behest of this commission or else be discredited before the country.

That surely furnishes ample power for the protection of the American people, while at the same time it safeguards the rights of legitimate business and protects it from the attacks of any partisan commission. It is the Democratic way. Out of power, we denounced centralization and fought every effort made to clothe bureaus or commissions with authority which could be used for partisan advantage. In power, we are consistent and we refuse to permit of a centralization of power which might inure to our advantage. It is our aim to protect legitimate business, not to harass it; to provide the means to run down illegitimate practices and to root them out. Under the authority granted by this legislation we have the power to gain the ends desired by our people. Anything less would be unsatisfactory; anything more would be dangerous.

WITH MALICE TOWARD NONE.

The Democratic Party has no quarrel with legitimate business, and never has had. The message of President Wilson in January was one of reassurance, and in that spirit it was accepted by the world of business. He voiced the opinion of the American people that competition must be restored; that indefensible methods had been employed by the combinations known as trusts, and that legislation was needed in order to safeguard the American people, as a whole, and the business of the Nation, little as well as big. The necessity for such legislation has been admitted by the platforms of all political parties. We were agreed as to the existing evils which required remedying; we disagreed only as to remedies. The President pointed out the things which, in his opinion, needed our attention, and the responses from all sources showed remarkable accord with his views. The plain citizen favored legislation suggested because he looked to see it put an end to practices which he had denounced; the small manufacturer and business man indorsed the message, for it gave to him hope for the future, and while the men who had profited by the evils complained of could not be expected to grow enthusiastic over prospective legislation which would do away with their illegitimate gains, nevertheless they realized that the

American people, long sorely tried, would not be content under further oppression.

It is in the spirit breathed by President Wilson that our committees have acted in preparing and presenting the bills before us. It is in that spirit that we, as Democrats, are considering the legislation. We have no quarrel with wealth honestly acquired, nor with profits legitimately secured. But we would be faithless as Representatives did we not demand that a stop shall be put to monopoly and that no business shall be so big that it shall be greater than our laws or superior to our control. Equal rights and equal privileges we are prepared to grant to all. To give less would mean that we are false to the teachings of the founders of our party; to give more would mean that we are embarking in a policy of giving special privileges from which we hoped to derive partisan advantage. Within our confines we have a market for the products of most of our American industries. By tariff legislation we have paved the way for the opening up of new markets which will give opportunities for the expansion of our industries. By currency legislation we provide for the legitimate circulation of money along natural lines; for the aiding of our foreign trade by means of branch banks abroad and by means of bank acceptances. Out of this legislation is bound to come vast benefit to American industries, and in the resulting benefit all of our people will share. Now, we lay down the command that business must be conducted fairly, legally, and in the open. The legitimate business man will welcome legislation which so provides, and with the illegitimate we can not afford to compromise. Our duty is to act equitably and in the best interests of our constituents. That I believe we are doing in supporting these measures, and with their enactment will result the fulfillment of three of our most important pledges to the people—revision of the tariff, reform of the currency system, and the elimination of trust evils. It is a wonderful program of legislation to be compressed within two years, and if we accomplish it, it will be because we have an administration which kept the faith and a Congress which has recognized but one master—the American people.

A WORTHY LEADER.

President Wilson has pointed out the road on which we are traveling to-day—the road to the new freedom. Keen in intellect, strong in his faith in the American people, and swayed only by an honest desire to be an instrument of service, his evident sincerity and honesty of purpose has broken down opposition and won for him a niche in the affections of all who admire honesty, courage, and truth. He realizes better than any man in modern public life the value of the victories of peace, and while he is militant in battling for the right, yet ever are his weapons those of light and truth. As I contemplate his career since he came into the arena of politics; as I analyze his career as governor of New Jersey and as President of the United States and note the patience, faith, and sublime courage always in evidence, there comes to my mind a poem by John Greenleaf Whittier, the lines of the last two verses of which well serve as a portrait of the man. They run:

The truths ye urge are borne abroad
By every wind and tide:
The voice of nature and of God
Speaks out upon your side.

The weapons which your hands have forged
Are those which heaven have wrought—
Light, truth, and love; your battle ground
The free, broad field of thought.

MESSAGE FROM THE PRESIDENT.

The committee informally rose; and Mr. SIMS having taken the chair as Speaker pro tempore, a message, in writing, from the President of the United States, by Mr. Latta, one of his secretaries, informed the House that the President had approved and signed bills and a joint resolution of the following titles:

On May 16, 1914:

H. R. 15503. An act authorizing the appointment of an ambassador to the Republic of Chile; and

S. 4553. An act to authorize the appointment of an ambassador to Argentina.

On May 21, 1914:

S. 5552. An act to amend an act entitled "An act for the relief of Gordon W. Nelson," approved May 9, 1914.

On May 22, 1914:

S. J. Res. 139. Joint resolution to authorize the President to grant leave of absence to an officer of the Corps of Engineers for the purpose of accepting an appointment under the Government of China on works of conservation and public improvement; and

S. 5066. An act to increase the authorization for a public building at Osage City, Kans.

ANTITRUST LEGISLATION.

The committee resumed its session.

Mr. SWITZER. Mr. Chairman, it is certainly remarkable that the majority of the great Judiciary Committee, bringing in this bill for the purpose of supplementing the Sherman antitrust law and strengthening it, and to suppress monopoly and to prevent unfair discrimination, have in the very first two sections of their bill been guilty of gross, rank, unfair discrimination against hundreds of men living in my district engaged in the bituminous-coal-mining industry. The only justification I have heard so far given for this act is that God put the mineral in the earth. That was the statement of the gentleman from North Carolina [Mr. WEBB], the gentleman from Massachusetts [Mr. MITCHELL], and the gentleman from Arkansas [Mr. FLOYD]. They said that it was unlike a product that came forth from the factory, that evolved from the brain and labor of some man in a manufacturing plant. I can not get the distinction in my mind. It seems to me that God also caused the timber to grow from the earth as much as putting the mineral into the earth. There has been more talk about the Lumber Trust in this country than there has been about any Coal Trust, I think, in the last 20 years, and I can not understand why this exemption or provision or, as you might call it, proviso in section 3 should not apply to the lumbermen.

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

The CHAIRMAN. Does the gentleman from Ohio yield to the gentleman from Texas?

Mr. SWITZER. Yes.

Mr. GARNER. Will the gentleman vote for the bill if amended so as to include the words "products of the forest"?

Mr. SWITZER. I will not say so now. [Laughter.] I am giving you my reasons for being against this bill.

Now, let us see about this matter. I do not know very much about the bituminous-coal-mining industry. I do not know very much about metalliferous mining. But on my short visit up into the State of Michigan last winter I found that it took a very bright, active brain and a great deal of labor to go away down into the earth and there drill and blast out the rock that contains the copper and take it to the surface and run it through those great crushing machines, and finally transport it to the lake, where there is abundance of water, and after recrushing and grinding it in the stamping mills, using 15 tons of water on every ton of rock, eliminate and separate the copper from the rock, and then put it through a smelting plant.

If that is not as much a manufactured product as the product of a man who, with a ax, cuts down a tree and then runs it through a sawmill and cuts it into lumber, then I do not know anything about the manufacturing business. Which requires the greater exercise of brain or the greater amount of labor—the product of the metalliferous mine in northern Michigan and in Montana or the product of the sawmill of the lumbermen in North Carolina, in Maine, or in Arkansas?

Now, I am not accusing these gentlemen of doing this deliberately, but you know we all work along the lines of least resistance, and I find that a Representative with a good many poor constituents can howl long and loud for a heavy tax on large incomes without having any fear of trouble with his constituency. [Laughter.] So it is with the gentlemen when they bring in a bill here that discriminates against the mine owner and operator. Having no mining industries in their own districts, except perhaps one or two instances, of course they know they will not have much trouble at home. If they put into this bill provisions affecting the lumbermen and the other people that ought, on the same theory, to be in here, there would be such a howl go up all over this country that you would not hear any more demands to enact antitrust legislation at this session.

Now, gentlemen, I happen to live in a district where one of the main industries is coal mining. I am not myself interested in the mining industry. I was interested in it at one time to my sorrow. That industry in my native county has not been very much developed. But I got interested in the industry in an adjoining county, as I say, to my sorrow; and as to the mine that I was interested in some years ago there is no danger of your hurting it. It has gone up the flume, and my investment has gone with it; and for that reason, of course, I have considerable sympathy for the small coal operator or mine operator in southeastern Ohio who is struggling at this time for an existence. I can corroborate the statement of the gentleman from West Virginia [Mr. AVIS] with the evidence of a great many mine operators, and I believe a majority of the small mine operators there have been carried along by bankers and have been in the last few years almost hopeless bankrupts. There are at least 50 independent mines in my district more or less engaged in interstate commerce, and hundreds of persons

are interested in those mines. There are two or three large companies, like the Sunday Creek Coal Co., that have mines in my district, and the Superior Coal Co., that has a large investment. The situation to-day is that the laborers, the coal miners, are out of employment. There are five or six thousand of them out in my district and about 45,000 of them out in the State of Ohio. I see by a newspaper that they are asking 5 cents per ton more on the run-of-mine basis under a law that has been enacted in Ohio than the operators will at this time agree to pay. They are probably entitled to it; at least they are certainly entitled to a living wage. The mine owners and operators say that under the business conditions at present prevailing in this country they can not pay it. The miners are out of employment—they are out on a strike and receiving strike benefits. I think one week's benefits to those miners in Ohio will exhaust their whole strike-benefit fund in their Local No. 5. It will require $150,000 or $200,000 every week to pay the benefits if these 45,000 remain out on strike, which will have to be borne by the labor organizations of this country.

Now, with this condition existing, with the families of these men suffering, and with the operators saying that they can not afford to pay a living wage, as demanded by these coal miners, I am asked here to vote for a measure that seems to me is bound to impose further burdens and greater hardships upon the coal operators and mine owners in my district and throughout the State of Ohio, and which will further embarrass them and possibly deter them from acceding to the demands of the miners and thereby greatly prolong the suffering of thousands of men, women, and children throughout my State.

And why this unjust discrimination?

Recollect, these men are not only subjected to all the prohibitions contained in section 2 of this bill, but by section 3 you say they must not arbitrarily refuse to sell their product to any responsible person who applies to purchase same. That proposition has been ably discussed by the gentleman from West Virginia [Mr. AVIS].

I think he has made a fair and thorough explanation of that. I will not undertake to go into details of the coal and copper industries, because I really do not know much about the details of either. But there is one thing stated here that I do not believe to be true. I do not believe that section 3 applies to the local coal dealers and distributors to the ultimate consumers in the various States. It reads in this way:

That it shall be unlawful for the owner or operator of any mine or for any person controlling the product of any mine engaged in selling its product in commerce to refuse arbitrarily to sell such product to a responsible person, firm, or corporation who applies to purchase such product.

"For the owner or operator of any mine or for any person controlling the product of any mine." Therefore your law will not reach the coal dealer in the city or village unless that coal dealer happens to control the entire product of some mine. I do not think it is as far-reaching as some gentlemen here have suggested, and I think there is where gentlemen receive the impression that trust prices obtain in the coal trade. It is these local coal dealers in the large cities and towns who clique together and raise the price. [Applause.]

The copper content in the Michigan rock is usually only from 15 to 20 pounds to the ton, some of it running as high as 35 pounds. At the present prices the copper in a ton of rock yields from $2.25 to $5. This rock is drilled by compressed air and after it is blasted down it is hoisted thousands of feet to the surface of the earth by means of heavy cables and expensive machines.

Then it goes to the stamping mills and smelters, as I have just narrated, and all this involves a heavy expense. It can readily be seen that this rock is worked on a very narrow margin of profit, requiring hundreds of tons of rock to be taken daily out of the ordinary mine to pay the daily operating expenses. Many of these companies have been for years operating at a loss, but with the hope of striking a rock having a sufficient copper content to be worked at a profit.

It seems to me that the provisions of sections 2 and 3 of this bill will tend to discourage the operations of the exploration mines, and either drive out of business the mines now paying small dividends or compel their employees to take a very much less wage.

What is true of the copper industry is equally true of the bituminous-coal industry. If the small independent mine operator can barely exist and every few months witnesses some of them in bankruptcy at a time when they have the utmost freedom of contract, what will become of them when you impose the harassing and uncalled-for annoyances provided for in section 3 of this bill? Suppose you harness up in the same way the farmers, the manufacturers of the thousand and one things in this country, the lumbermen, and all those who are to some extent engaged in shipping commodities in interstate commerce, do any of you think you would be returned to Congress after such a law became effective?

With no mine owner or operator representing either metalliferous or coal mines heard before this committee, and it certainly would have been the part of wisdom to have had extensive hearings of both, and a committee absolutely ignorant of the conditions obtaining in metalliferous mining and the larger portion having no knowledge whatever of the coal-mine industry, we find them blindly imposing restrictions on the freedom of these persons to enter into contracts when they do not dare to impose like burdens on those engaged in industries which they do know something about.

Our Democratic friends go about enacting this sort of legislation just as if they were enacting a tariff law. I suppose it is force of habit and they can not help it. But I would think the results already being reaped by the Underwood tariff bill would cause them to at least want a little light as to the existing conditions of our metalliferous and coal mines before reporting the proposed legislation.

The copper mines of northern Michigan have natural ventilations and are not bothered with gas and dust to the extent of causing dangerous explosions.

These serious difficulties to some extent confront all bituminous coal miners, but some of them are confronted by greater difficulties of this character than others. The small, independent coal operator has also to compete with the large operator, frequently more favorably situated, with natural conditions respecting the mining of the coal in his favor, and advantaged by up-to-date electrical mining machinery, which would be too expensive an equipment for the small plant.

There are numerous lines of investigation in the production and marketing of coal that the committee could have pursued with great profit, and have given a vast amount of valuable information to this body in their report, and which would have enabled us to at least intelligently vote on this proposition.

But the various branches of the metalliferous mining industry should have been accorded a full hearing as well as the branches of the coal industry.

Sections 6 and 8 contain some objectionable provisions, ably pointed out by Mr. VOLSTEAD, of Minnesota, and it seems to me that he has clearly shown that the enactment of these sections as they now stand materially weakens the law it is so much desired to have strengthened.

There is a widespread desire throughout the country to have Congress adjourn, and I have no doubt but that this sentiment will be suddenly and greatly augmented if we pass this bill as it now stands.

Mr. WEBB. I yield to the gentleman from Missouri [Mr. DICKINSON]. [Applause.]

Mr. DICKINSON. Mr. Chairman, I am heartily in favor of this antitrust legislation and expect to give my support to the pending bill to supplement existing laws against unlawful restraints and monopolies, and for other purposes, and known as House bill 15657. I am inclined to believe that the bill as presented to the House by the Judiciary Committee, with an invitation for proper amendments, needs some amendment, at least in some sections. The law ought to be strong enough to cover every violation sought to be reached by this class of legislation.

The country is entitled to an efficient antitrust law to reach the evils complained of, and in addition thereto an intelligent and courageous court in every section of the land; not only a strong law, but an efficient court to sit in judgment upon the violations of the law. And besides the law and the court, in order to make the law effective, it must have honest, able, willing, and courageous officials desirous of and ambitious to enforce the law. The law and the courts may be without criticism, but there can be no enforcement of this law unless the violators thereof be brought to the bar of justice. The administration of the law is all important, and the people have often justly complained of the failure of its prosecuting officers to perform their full duty to the public and make effective the law of the land. But you may have the law and the courts and officers fully equipped, honest and anxious to discharge every duty, but it is important and necessary to bring the violator of the law within the process and jurisdiction of the court, and I want at this time to call attention especially to section 10 of the bill which provides—

That any suit, action, or proceeding under the antitrust laws against a corporation may be brought not only in the judicial district whereof it is an inhabitant, but also in any district wherein it may be found—

and especially to the last clause thereof.

It is possible that the committee has by its language, under the decisions of the courts, used words that are sufficient, but

I doubt it, and, in my judgment, this section ought to be amended. It provides that suit may be brought not only in the judicial district where the corporation is an inhabitant, but also in any district wherein it may be found. It seems to me the last clause ought to be amended. If so, the committee having charge of the bill should prepare and present a proper amendment thereto. Take, for instance, a New Jersey corporation or a corporation of any other State. It is an inhabitant of the State where it is incorporated. Its principal business may be done beyond the borders of that State or district of which it is an inhabitant. Its wrongs and violations of law for which it should be held amenable may have been committed in districts other than the judicial district whereof it is an inhabitant.

Mr. FESS. Will the gentleman yield?

Mr. CULLOP. Will the gentleman permit a question there?

Mr. DICKINSON. Not now; let me finish, and I will be glad to answer any questions.

To repeat, a corporation may be an inhabitant of one State or district, but its principal business may be outside thereof, and its wrongs and violations of law, for which it should be held amenable, may have been committed in districts other than and far removed from the judicial district whereof it is an inhabitant; and, in fact, it may do no business whatever in the State of its incorporation or the judicial district of which that State is a part. These great business concerns take out their incorporation papers and become inhabitants of the States desired or convenient to them because of more liberal laws to corporations and also because they do not desire to do business there, but elsewhere beyond its borders and possibly for the purpose of avoiding jurisdiction elsewhere.

But you say you give jurisdiction in any district where the corporation may be found. How are you going to find a corporation, for the purpose of jurisdiction, except by express words of statute law? I grant you may be able to find its officers, agents, or employees for the purpose of service of certain process, but is that a finding of the corporation so as to give jurisdiction as to the place of suit or trial? Jurisdiction is given by express statute. Why not at the end of the section, after the word "found," add other words, such as "doing business, or violating the provisions of this law, or wherever it may do business or where its agents, officers, or employees may be found," or other appropriate language. A dozen suggestions may be made in the way of amendment. Whenever the cause of action arises there should be jurisdiction provided for action and trial. I prefer that the committee in charge of the bill prepare and offer its own appropriate amendment. But the language ought to be extended sufficiently to reach every contingency, so that these concerns may be sued in that jurisdiction where they commit the wrong, where the acts complained of may be committed, where the officers, agents, or employees, acting for their master corporation, may be found setting aside the law, and where the witnesses are easily obtainable, and not leave the section so that those who have suffered damages at the hands of a corporation shall be compelled to bring suit in the remote State or district of which the corporation is an inhabitant by virtue of its incorporation therein, having selected that remote State for its home, while it goes forth in remote sections of the country, and where its greed for unlawful gain willfully disregards the rights of others and boldly sets aside the provisions of the law.

Immense fortunes are made by selfish interests in defiance of the law and because of the fact that they are beyond the law. Great combinations band together, and, conducting their business by unlawful means in restraint of trade, drive out all independent competition and then mercilessly rob the public.

Cruel monopoly has bid defiance to the law, the courts, and executive power. It has sought to restrain and to delay the enactment of appropriate and effective legislation. It has sought to control the courts by placing its own agents and attorneys in the seats of justice, so that its judgments and decrees be not unfriendly to them. It has sought to fill the executive places with minions of their own, so that the processes of the courts might be under their control. It has at times bid defiance to State and Federal authority and has played one against the other, in order that they may escape punishment for their ill deeds. They sometimes want the law to be weak and obscurely written and leave it for the courts to construe, so delay may come while they continue to pursue their own hard methods, and then would have friendly courts write decisions, wherever possible, along the lines of their own contention.

The time has come for action, for the enactment of law so clear and so plain that he who runs and reads may understand, a law so definite and certain that its meaning can not be misunderstood nor misconstrued. The conscience of the country is aroused; the demand for constructive law is imperative; no delay will satisfy the public, and the people speak to-day through a determined Executive, who asks for a great antitrust law, that will be sufficient and strong enough to reach every violation of law, and so written that speedy justice may be dealt out to those who would violate it.

There is an unrest in the country. The many have toiled too long for the benefit of the few. Special interests have controlled the industries of the country and fattened thereon; corporate power born in remote States have seized the wealth in other States, bid defiance to State authority, crushed down labor, produced conditions of war, destruction of life, while the helpless have cried out in vain for justice. The people are reaching out for their rights, and will have them and will take no excuse for delay. They want promises made, to be fulfilled where possible.

It is true we have revised the tariff and taxed large incomes. We have given the country a great currency law, election of United States Senators by direct vote of the people, extended the powers of the Interstate Commerce Commission, provided for physical valuation of railroads, and passed many other wholesome laws desired by the people. But they want more; they want business unshackled and trust domination brought to an end; they want freedom of action in their struggle for better conditions; and they call upon Congress and the power of the Government to free them from the grasping and arrogant exercise of heretofore unrestrained power of greedy monopoly. I hope and believe that the Judiciary Committee will accept every reasonable amendment, that will strengthen the bill wherever needed, and that a real and effective antitrust law will be passed by Congress and become a law of the land.

Mr. WEBB. May I ask the gentleman from Minnesota [Mr. VOLSTEAD] if he has any further speakers for this afternoon.

Mr. VOLSTEAD. No; I have not.

Mr. WEBB. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. HULL, 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. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes, and other bills under the special order of the House, and had come to no resolution thereon.

LEAVE OF ABSENCE.

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

To Mr. HAMILTON of Michigan, for 10 days, on account of important business.

To Mr. AUSTIN, for 2 days, on account of important business.

To Mr. PADGETT, for 10 days, on account of important business, and as a member of the Board of Visitors to the Naval Academy.

THE CIVIL SERVICE.

The SPEAKER laid before the House the following message from the President of the United States, which was ordered printed and referred to the Committee on Reform in the Civil Service:

To the Senate and House of Representatives:

I transmit herewith, for the consideration of the Congress, the Thirtieth Annual Report of the United States Civil Service Commission for the fiscal year ended June 30, 1913.

WOODROW WILSON.

THE WHITE HOUSE, *May 23, 1914.*

LETTERS THANKING MEMBERS OF THE HOUSE OF REPRESENTATIVES FOR WEDDING GIFTS.

The SPEAKER laid before the House the following letters received by him:

CORNISH, N. H., *May 9, 1914.*

MY DEAR MR. SPEAKER: I was distressed that before we left Washington I did not have an opportunity to express to you and the Members of the House of Representatives my very deep appreciation of the beautiful wedding present and of the generous sentiments that prompted it. I have rarely seen a more wonderful and striking set of silver. It will always be associated not alone with the happiest event of my life but also with this intensely interesting period of our country's history in which you and your associates of the House are playing such a conspicuous part. Please convey to the Members of the House and the committee of which Mr. MANN was chairman my warmest thanks and deepest appreciation; and believe me,

Very sincerely, yours,

ELEANOR WILSON MCADOO.

SHOREHAM HOTEL,
H STREET NW. AT FIFTEENTH,
Washington, April 27, 1914.

MY DEAR MR. CLARK: Mr. FLOOD and myself appreciated so much the beautiful silver service which you and other Members of the House sent us as a bridal present.

We particularly appreciated the letter accompanying the gift.

I hope soon to have the pleasure of thanking you in person.

Sincerely,

ANNA P. FLOOD.

EXTENSION OF REMARKS.

Mr. THOMPSON of Oklahoma. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on House joint resolution 168.

The SPEAKER. The gentleman from Oklahoma asks unanimous consent to extend his remarks in the RECORD on House joint resolution 168. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. WEBB. Mr. Speaker, I ask unanimous consent that the House now adjourn until 11 o'clock on Monday, when we shall take up the pending legislation under the rule.

The SPEAKER. The gentleman from North Carolina asks unanimous consent that the House adjourn until 11 o'clock next Monday, to take up the pending bill and to modify the rule to that extent.

Mr. DONOVAN. Mr. Speaker, what is the object of trying to evade the mandate of the rule? Why not have a night session and get through with this business?

Mr. WEBB. One reason is that we have no one who is ready to speak to-night.

Mr. DONOVAN. Then read the bill. If you have nobody to talk, proceed with the measure.

Mr. WEBB. It is Saturday night, and the House has been working hard all the week.

Mr. DONOVAN. I am going to object, Mr. Speaker. Why do they not read the bill? They are all intelligent Members. They bring in a rule here and then, like children, come in a few hours afterwards and want to change it.

Mr. BARTLETT. Let me say to the gentleman from Connecticut that the only effect his objection will have will be to bring the House back to-night and then adjourn after five minutes, because the rule provides that the House shall not sit later than 11 o'clock. It can adjourn after a session of five minutes.

Mr. DONOVAN. Not unless some one makes a point of no quorum.

Mr. FOSTER. Mr. Speaker, may I inquire of the gentleman from North Carolina if it is the intention of the committee to use all of the 16 hours allowed by the rule for general debate?

Mr. WEBB. It is the intention to, but I will say frankly that it will probably hasten the conclusion of the general debate if we adjourn now until Monday.

Mr. FOSTER. Will the gentleman say that it is likely to do so?

Mr. WEBB. I think it is. I doubt if all the time will be used on our side, and I think the gentleman from Minnesota says it will be so on his side.

Mr. FOSTER. Can the chairman give us some idea about what time will be used?

Mr. WEBB. On our side I do not think that we will require more than three hours on Monday.

Mr. VOLSTEAD. I do not think that we will occupy more than three hours on this side. Progress has been made more rapidly than we expected. There are some parties that want to speak on the bill yet.

Mr. DONOVAN. Mr. Speaker, if the chairman of the committee will agree to cut down the time for general debate 5 hours—make it 11 hours—I will agree. There is so much demagogism and buncombe in the debate. Why, Mr. Speaker, you listen to the Republicans and you would think it was something dangerous to the country, and yet to-night here they are nearly all absent. That great man from California, who was so eloquent in his appeal to patriotism, and his associate Member, Mr. KAHN, gone for two or three days. Then there is that great barrister from Pennsylvania, who is said to have a greater reputation than any other lawyer on the hemisphere—it seems that the public business does not interest him. He had a few remarks to make and then hied himself back to Pennsylvania.

Mr. FESS. Will the gentleman yield?

Mr. DONOVAN. I shall be delighted to.

Mr. FESS. I want to ask the gentleman if what he says is true about the discussion of the antitrust law, if it is not also true that every speech that has been made has been made upon the bill?

Mr. DONOVAN. I think so. Now, if the gentleman from North Carolina will agree to cut down the debate to 11 hours, I will withdraw my objection.

Mr. GARNER. The gentleman from North Carolina says that he will only want about three hours additional on Monday, and the gentleman from Minnesota says that he will, on that side, only want three hours. Can we not, by unanimous consent, limit the debate to 6 hours?

Mr. WEBB. At this stage of the debate I can not agree to that.

The SPEAKER. The gentleman from Connecticut objects, and the Chair will appoint the gentleman from Connecticut [Mr. DONOVAN] to preside to-night as Speaker pro tempore.

Mr. FOSTER. Mr. Speaker, how much time remains for general debate?

Mr. DONOVAN. Mr. Speaker, in order to avoid presiding over this deliberative body I withdraw my objection. [Laughter.]

The SPEAKER. The gentleman from North Carolina [Mr. WEBB] asks unanimous consent that instead of taking a recess until 8 o'clock the House now stand adjourned until 11 o'clock a. m. Monday next. Is there objection?

Mr. BARTON. Mr. Speaker, reserving the right to object, I simply want to make the observation, the Republican side having been pointed out as not being present, that there are only about 20 Members present on that side, and if that challenge comes again from that side there is going to be a quorum here to do any business.

Mr. BARTLETT. We can adjourn without a quorum.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina? [After a pause.] The Chair hears none, and the House stands adjourned, by unanimous consent, until Monday next at 11 o'clock a. m.

Accordingly (at 5 o'clock and 10 minutes p. m.) the House stood adjourned until Monday, May 25, 1914, at 11 o'clock a. m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. DANFORTH, from the Committee on the Judiciary, to which was referred the bill (H. R. 13722) to relieve Congress from the adjudication of private claims against the Government, reported the same with amendment, accompanied by a report (No. 707); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. RAKER, from the Committee on Irrigation of Arid Lands, to which was referred the bill (H. R. 16099) to amend the act of June 23, 1910, entitled "An act providing that entrymen for homesteads within the reclamation projects may assign their entries upon satisfactory proof of residence, improvement, and cultivation for five years, the same as though said entry had been made under the original homestead act," reported the same without amendment, accompanied by a report (No. 708); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. BYRNES of South Carolina, from the Committee on War Claims, to which was referred the bill, H. R. 12070, reported in lieu thereof a resolution (H. Res. 524), referring to the Court of Claims the papers in the case of the trustees of the Davenport Female College, accompanied by a report (No. 705); which said resolution and report were referred to the Private Calendar.

Mr. UNDERHILL, from the Committee on War Claims, to which was referred the bill (H. R. 1405) for the relief of Frank W. Tucker, reported the same without amendment, accompanied by a report (No. 706), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. PROUTY: A bill (H. R. 16783) providing for taxation of and fixing the rate of taxation on inheritances, devises, bequests, legacies, and gifts in the District of Columbia, and

providing for the manner of payment as well as the manner of enforcing payment thereof; to the Committee on the District of Columbia .

By Mr. HAWLEY: A bill (H. R. 16784) to authorize the construction and maintenance of a dike on South Slough, Lane County, Oreg.; to the Committee on Interstate and Foreign Commerce.

By Mr. REILLY of Wisconsin: A bill (H. R. 16785) to amend section 6 of an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, by providing for the filing with the Interstate Commerce Commission by telephone and telegraph companies of their rates, fares, and charges for the transmission of messages; to the Committee on Interstate and Foreign Commerce.

By Mr. REILLY of Connecticut: A bill (H. R. 16786) providing for extended leave of absence to employees in the Postal Service; to the Committee on the Post Office and Post Roads.

By Mr. RAKER: A bill (H. R. 16787) to pension the survivors of certain Indian wars from 1865 to January, 1891, inclusive, and for other purposes; to the Committee on Pensions.

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. 16788) granting an increase of pension to Frances E. Hammond; to the Committee on Invalid Pensions.

By Mr. BARTLETT: A bill (H. R. 16789) granting an increase of pension to Mrs. John McKintosh Kell; to the Committee on Pensions.

By Mr. BURKE of Wisconsin: A bill (H. R. 16790) granting an increase of pension to James R. Harris; to the Committee on Invalid Pensions.

By Mr. BURNETT: A bill (H. R. 16791) for the relief of the heirs of Caswell Battles; to the Committee on War Claims.

By Mr. DOOLITTLE: A bill (H. R. 16792) granting an increase of pension to William W. Graham; to the Committee on Invalid Pensions.

By Mr. GOULDEN: A bill (H. R. 16793) to correct the military record of George M. Barry; to the Committee on Military Affairs.

By Mr. HAUGEN: A bill (H. R. 16794) granting a pension to Mary Pease; to the Committee on Invalid Pensions.

By Mr. HINDS: A bill (H. R. 16795) to reimburse the owners of the schooner *Thomas W. H. White;* to the Committee on Claims.

By Mr. HOXWORTH. A bill (H. R. 16796) granting a pension to Mary E. Harris; to the Committee on Invalid Pensions.

By Mr. JOHNSON of Kentucky: A bill (H. R. 16797) granting an increase of pension to Virginia Craddock; to the Committee on Pensions.

Also, a bill (H. R. 16798) for the relief of T. N. Duvall; to the Committee on War Claims.

By Mr. KEY of Ohio: A bill (H. R. 16799) granting an increase of pension to Eber B. Priest; to the Committee on Invalid Pensions.

By Mr. J. R. KNOWLAND: A bill (H. R. 16800) granting an increase of pension to George R. Harrison; to the Committee on Invalid Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 16801) granting a pension to Bridget A. Owens; to the Committee on Pensions.

By Mr. SAMUEL W. SMITH: A bill (H. R. 16802) to correct the military record of David R. Callen; to the Committee on Military Affairs.

By Mr. STEENERSON: A bill (H. R. 16803) granting an increase of pension to Ezra M. Heald; to the Committee on Invalid Pensions.

By Mr. SWITZER: A bill (H. R. 16804) granting a pension to Josiah C. Dodds; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Arkansas: A bill (H. R. 16805) granting an increase of pension to Stephen Konicka; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16806) for the relief of heirs of Nathan Pumphrey; to the Committee on War Claims.

By Mr. THOMAS: A bill (H. R. 16807) granting a pension to Sarah E. Tally; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16808) granting a pension to Smith Webb; to the Committee on Pensions.

Also, a bill (H. R. 16809) for the relief of David Speakman; to the Committee on War Claims.

Also, a bill (H. R. 16810) for the relief of the heirs of John C. Browder; to the Committee on Military Affairs.

My Mr. BYRNES of South Carolina (from the Committee on War Claims): Resolution (H. Res. 524) referring the bill (H. R. 12070) for the relief of the trustees of the Davenport Female College to the Court of Claims; to the Committee of the Whole House.

By Mr. GARNER: Resolution (H. Res. 523) authorizing the Clerk of the House to pay to Hattie Miller, widow of John Miller, late a laborer of the House, an amount equal to six months of his compensation, and a sum not exceeding $250 to defray the funeral expenses of said John Miller; to the Committee on Accounts.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Resolutions of protest against the practice of polygamy in the United States from various citizens of the following cities: Frankfort, Kans.; Portland, Oreg.; Morning Sun, Iowa; Mount Vernon, S. Dak.; Stewart, Wyo.; Newton, Kans.; East St. Louis, Ill.; Irvington, N. J.; Philadelphia, Pa.; Wheeling, W. Va.; to the Committee on the Judiciary.

By Mr. BAILEY: Petitions of J. L. Ressler, Sandom Searle, C. H. Suder, John M. Lohn, Gust Connering, L. A. Plummer, E. F. Henry, Charles L. Grove, William Fitt, L. D. Culp, J. D. Grove, J. F. Irvin, W. G. Griffith, Austin Griffith, A. L. Hirsistiul, B. E. Shaw, H. Courter, W. P. Sharp, D. W. Shaffer, D. F. Warfel, G. W. Mayer, D. M. Davis, Waldo Griffith, A. P. Noore, C. W. Kuhn, C. I. Phillips, A. Speicher, J. E. Grahams, D. W. Long, J. M. Uhler, E. E. Pringle, H. Phillips, H. Caldwell, Ed H. Lehr, F. W. Scott, Joseph P. Lotz, J. E. Barbour, L. Barkhimer, William H. Tiekerill, W. H. Miller, Irvin Plummer, Alfred Vivian, Earl Timms, J. B. Hileman, A. W. Pringle, J. H. Ott, all of Conemaugh, Pa., favoring national prohibition; to the Committee on Rules.

Also, petitions of E. J. Wayer, William H. Jones, William D. Mitchell, T. R. Jones, T. H. Whitehead, Robert J. Cooke, William C. Elms, G. E. Livingstone, Robert M. Emigh, William J. Elms, all of Patton, Pa., favoring national prohibition; to the Committee on Rules.

Also, petitions of F. S. Yoder, Robert E. Ellenbergh, G. G. Penrod, H. Bumgardner, E. Wirick, Charles Reighart, John Gillman, H. S. Yoder, A. M. Gramling, H. E. Jennings, R. Razer, George Logue, John C. Myers, E. Gramlinger, G. W. Gillman, William Yoder, William Gaughnaur, John L. Cummins, Arch Cummins, G. G. Fyock, James Lohn, F. S. Thompson, Robert Wise, D. E. Huffman, E. I. Baumgardner, all of South Fork, Pa., favoring national prohibition; to the Committee on Rules.

Also (by request), petitions of sundry citizens of Cambria County, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. BAKER: Petition of 970 citizens of Burlington County, N. J., favoring national prohibition; to the Committee on Rules.

Also, petition of 17 voters of the second congressional district of New Jersey, protesting against national prohibition; to the Committee on Rules.

Also, petitions of citizens of Burlington County, N. J., and members of the Thilow Baraca Class, of Palmyra and Riverton, favoring national prohibition; to the Committee on Rules.

By Mr. BALTZ: Petition of sundry citizens of the twenty-second congressional district of Illinois, protesting against national prohibition; to the Committee on Rules.

By Mr. BARTLETT: Memorial of Georgia Federation of Woman's Clubs and Georgia Division of the United Daughters of the Confederacy, upholding the President's policy relating to Mexico; to the Committee on Foreign Affairs.

Also, petition of W. A. Davis, Julius B. Willis, Julius Sanders, and 200 other citizens of Macon, Ga., protesting against national prohibition; to the Committee on Rules.

Also, petition of Mrs. R. J. Taylor, E. D. Lomax, and J. W. Martin, and 400 other ladies of Macon, Ga., protesting against woman suffrage; to the Committee on the Judiciary.

By Mr BEALL of Texas: Petitions of 390 citizens of Dallas, Tex., favoring national prohibition; to the Committee on Rules.

By Mr. BRITTEN: Memorial of Lady Washington Circle, No. 15, Ladies of the Grand Army of the Republic, protesting against any change in the flag; to the Committee on Military Affairs.

By Mr. BRODBECK: Petitions of residents of York city and county, Pa., protesting against the adoption of prohibition measures; to the Committee on Rules.

Also, petition of 23 citizens of Paradise Township and 421 citizens of York Springs, Pa., favoring national prohibition; to the Committee on Rules.

Also, memorial of York (Pa.) Federation of Trade Unions, relative to Colorado mining conditions; to the Committee on Mines and Mining.

By Mr. BROWNING: Petition of 25 citizens of Camden, N. J., favoring national prohibition; to the Committee on Rules.

By Mr. CLARK of Missouri (by request): Resolutions from various citizens of Franklin County, Mo., protesting against the adoption of a constitutional amendment providing for national prohibition; to the Committee on Rules.

By Mr. CONRY: Petitions of 373 citizens of the fifteenth congressional district of New York, against national prohibition; to the Committee on Rules.

By Mr. CURRY: Petition of 477 citizens of the third California congressional district, against national prohibition; to the Committee on Rules.

Also, petition of the Methodist Episcopal Church South, of Winters, Cal., praying for the favorable consideration of the Hobson national constitutional prohibition resolution; to the Committee on Rules.

Also, petition of two citizens and residents of Sacramento, Cal., protesting against the Hobson national constitutional prohibition resolution; to the Committee on Rules.

Also, petition of the Methodist Church, Napa, Cal., praying for favorable consideration of the Hobson national prohibition resolution during the present session of Congress; to the Committee on Rules.

Also, petition by Rev. William Thompson, of Esparto, Yolo County, Cal., praying for the favorable consideration of the Hobson national constitutional prohibition resolution; to the Committee on Rules.

Also, petition by seven citizens and residents of Nevada County, Cal., protesting against the Hobson national constitutional prohibition resolution; to the Committee on Rules.

Also, petition by the Loyal Sons Class of the First Christian Church of Stockton, Cal., praying for the favorable consideration of the Hobson national constitutional prohibition resolution; to the Committee on Rules.

Also, petition by the Methodist Episcopal Church, of Tracy, Cal., praying for the favorable consideration of the Hobson national constitutional prohibition resolution; to the Committee on Rules.

Also, petition by eight citizens and residents of Stockton, Cal., in favor of House bill 13305, the Stevens price bill; to the Committee on Interstate and Foreign Commerce.

By Mr. DALE: Petition of Wisconsin Commandery Military Order of the Loyal Legion of the United States, favoring passage of Senate bill 392, relative to pay of noncommissioned officers of the Civil War; to the Committee on Military Affairs.

Also, petitions of A. Klingenstein and others of Brooklyn, N. Y., favoring national prohibition; to the Committee on Rules.

By Mr. DERSHEM: Petition of 61 citizens of Mount Union, 55 citizens of Mifflinburg, 35 citizens of Huntingdon County, and the Perry County Sabbath School, representing 12,000 workers and scholars, all of Pennsylvania, favoring national prohibition; to the Committee on Rules.

By Mr. DONOHOE: Petition of 18 citizens of the fifth congressional district of Pennsylvania, against national prohibition; to the Committee on Rules.

Also, petitions of sundry citizens of Philadelphia, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. DONOVAN: Petition of 18 citizens of the fourth congressional district of Connecticut, against national prohibition; to the Committee on Rules.

By Mr. DOOLITTLE: Petition of Epworth League officers and voters of Marion, Kans., favoring national prohibition; to the Committee on Rules.

By Mr. DRUKKER: Petition of citizens of Paterson, N. J., favoring national prohibition; to the Committee on Rules.

By Mr. ESCH: Memorial of Wisconsin Commandery Military Order Loyal Legion of the United States, favoring passage of S. 392, relative to pay for noncommissioned officers of the Civil War; to the Committee on Military Affairs.

Also, petition of 28 citizens of North Freedom, Wis., favoring national prohibition; to the Committee on Rules.

By Mr. FLOOD of Virginia: Petition of 125 citizens of New Hope, 200 of Waynesboro, 200 of Eagle Rock, Va., favoring national prohibition; to the Committee on Rules.

By Mr. GARDNER: Petition of Walter T. and Arthur J. Wilson, of Salem, Mass., protesting against national prohibition; to the Committee on Rules.

Also, petition of Miss Henriette M. Drieser, of Haverhill, Mass., favoring woman suffrage; to the Committee on the Judiciary.

By Mr. GOEKE: Petition of F. E. Reynolds and 35 others, citizens of Wapakoneta, Ohio, favoring national prohibition; to the Committee on Rules.

By Mr. GORMAN: Petition of F. C. McGreggor and 102 other citizens of the third congressional district of Illinois, protesting against national prohibition; to the Committee on Rules.

By Mr. GOULDEN: Petitions of 207 citizens of the twenty-third congressional district of New York, against national prohibition; to the Committee on Rules.

By Mr. GRAHAM of Pennsylvania: Petitions of sundry citizens of Philadelphia, Ariel, Bernice, and Mildred, Pa., favoring national prohibition; to the Committee on Rules.

Also, petition of A. H. Ostrander, of Philadelphia, Pa., protesting against national prohibition; to the Committee on Rules.

By Mr. GREENE of Vermont: Petition of Rev. Frank Place and other residents of the first congressional district of Vermont, for national constitutional prohibition amendment; to the Committee on Rules.

By Mr. HAMMOND: Petitions of 24 citizens of Iona, 1 of Trosky, and 1 of Chandler, Minn., protesting against national prohibition; to the Committee on Rules.

Also, petition of 37 citizens of Amboy, Mass., favoring national prohibition; to the Committee on Rules.

By Mr. HOWELL: Petition of John Cahoon, G. A. Langston, D. N. Woolley, and 26 other voters of Salt Lake County, Utah, protesting against national prohibition; to the Committee on Rules.

Also, resolution of the Germanic Ladies' Club, of Salt Lake City, Utah, against national prohibition and the Hobson amendment; to the Committee on Rules.

Also, petition of the Federated Woman's Christian Temperance Union of Ogden, Utah, for the passing by the Senate and the House of the joint resolutions providing for national prohibition; to the Committee on Rules.

Also, memorial of 500 citizens of Brigham City, Utah, upholding the President in his policy with Mexico; to the Committee on Foreign Commerce.

Also, petition of Mrs. Elizabeth A. Haywood, Mrs. Elizabeth M. Cohn, and other citizens of Salt Lake City, Utah, favoring woman's suffrage; to the Committee on the Judiciary.

Also, petition of Local Union No. 193, Union Association of Journeymen Plumbers, Gas Fitters, Steam Fitters, and Steam Fitters' Helpers of America, Salt Lake City, Utah, favoring Bartlett-Bacon anti-injunction bill; to the Committee on the Judiciary.

By Mr. HULINGS: Remonstrance of 18 voters of Elk County, Pa., against the national prohibition amendment; to the Committee on Rules.

By Mr. KELLY of Pennsylvania: Petition of 1,217 citizens of Turtle Creek and Young Men's Christian Association of Wilmerding, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. KENNEDY of Rhode Island: Petitions of Adolph Yangar, A. F. Yuagar, Hugo Yangar, Christian Christiansen, B. Roguis, and J. E. Gardiner, of Providence, R. I., against national prohibition; to the Committee on Rules.

By Mr. J. R. KNOWLAND: Protests from residents of Oakland, Berkeley, and Alameda, Cal., against the passage of House joint resolution 168, relative to national prohibition; to the Committee on Rules.

By Mr. LESHER: Petitions of sundry citizens of Berwick, Bernice, and Mildred, Pa., favoring national prohibition; to the Committee on Rules.

By Mr. LONERGAN: Petition of M. Papikos, of Hartford, Conn., opposing national prohibition; to the Committee on Rules.

By Mr. McCLELLAN: Protests of 8 residents of Hudson, N. Y., against national prohibition; to the Committee on Rules.

Also, protests of 23 residents of Kingston and other towns in Ulster County, N. Y., against national prohibition; to the Committee on Rules.

By Mr. MITCHELL: Petitions of Finnish Congregational Church and 42 citizens, of Fitchburg, Mass., favoring national prohibition; to the Committee on Rules.

Also, petition of 76 citizens of Fitchburg, Mass., favoring national prohibition; to the Committee on Rules.

Also, petitions of John J. Kenney, of Newton, and Joseph Bauer, of Walpole, Mass., protesting against national prohibition; to the Committee on Rules.

By Mr. MOTT: Petition of Wisconsin Commandery Military Order Loyal Legion of the United States, favoring passage of Senate bill 392, relative to pay, etc., of noncommissioned officers of the Civil War; to the Committee on Military Affairs.

By Mr. J. I. NOLAN: Petition of Laundry Workers' Union, No. 20, of San Francisco, Cal., protesting against national prohibition; to the Committee on Rules.

Also, protest of Mr. Albert T. Jestadt, 3414 Army Street, San Francisco, Cal., and 133 other citizens of San Francisco, Cal., against the passage of House joint resolution 168, Senate joint resolution 88, and Senate joint resolution 50, relative to national prohibition; to the Committee on Rules.

By Mr. PATTEN of New York: Petitions of 116 voters of the eighteenth congressional district of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. POU: Petition of citizens of Louisburg, N. C., protesting against national prohibition; to the Committee on Rules.

Also, petition of 18 voters of Wake County, N. C., protesting against national prohibition; to the Committee on Rules.

By Mr. RAINEY: Memorial of the Methodist Episcopal Church of San Jose, Ill., protesting against polygamy in the United States; to the Committee on the Judiciary.

By Mr. RAKER: Letters from Revs. Henry Mata, Boonville, Cal.; J. B. Holmes, Petaluma, Cal.; C. E. Smith, Paradise, Cal.; and Hugh Baker, of Soulsbyville, Cal.; and from Messrs. J. D. Sweeney, of Red Bluff, Cal., and C. J. Burrell, Will C. Chew, and David Ralston, of Corning, Cal., favoring national prohibition; to the Committee on Rules.

Also, letter from C. F. and Ellen Kirby, of San Rafael, Cal., favoring the Bryan bill, providing for the operation of all the coal mines of the country by the Government; to the Committee on Mines and Mining.

By Mr. SCULLY: Petitions of citizens of Middlesex County, N. J., protesting against national prohibition; to the Committee on Rules.

Also, petition of Local Stelton, New Jersey Socialist Party, protesting against conditions in coal mines of Colorado; to the Committee on Mines and Mining.

By Mr. SINNOTT: Petition of 23 citizens of Klamath County, Oreg., favoring national prohibition; to the Committee on Rules.

By Mr. STAFFORD: Memorial of the Tailors' Industrial Union, No. 392, of Milwaukee, Wis., deploring conditions in Colorado mining district; to the Committee on Mines and Mining.

By Mr. STEDMAN: Petition of citizens of the United States, protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

By Mr. STEENERSON: Petition of Associated Mercantile Interests of America, Bemidji, Minn., favoring House bill 13305, the Stevens price bill; to the Committee on Interstate and Foreign Commerce.

By Mr. SWITZER: Petitions of business men of Manchester, Rorden, Piketon, Seaman, and West Union, Ohio, favoring passage of House bill 5308, relative to mail-order houses tax; to the Committee on Ways and Means.

By Mr. TALCOTT of New York: Petition of 100 voters of the thirty-third New York congressional district, protesting against national prohibition; to the Committee on Rules.

By Mr. TAVENNER: Memorial of Scandinavian Temperance Society of Moline, Ill., favoring national prohibition; to the Committee Rules.

Also, memorial of Moline (Ill.) Woman's Club, favoring appropriation for use of the Children's Bureau; to the Committee on Appropriations.

Also, petition of F. R. Bruce of New Boston, Ill., favoring the passage of the Stevens bill (H. R. 13305); to the Committee on Interstate and Foreign Commerce.

By Mr. TREADWAY: Petition of voters of Lee, Mass., favoring national prohibition; to the Committee on Rules.

SENATE.

MONDAY, *May 25, 1914.*

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

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, from everlasting to everlasting Thou art God. A thousand years in Thy sight are but as yesterday when it is past, and as a watch in the night. Thou dost not count the short span of our human existence as the measure of Thy purpose in human life.

We come to Thee this morning with sad hearts because another one of the sweet ties of human friendship has been broken. A man respected and loved among us has been called to the great beyond.

We thank Thee for those qualities of heart and mind that made him a high and patriotic statesman, a devoted friend, a lover of little children, honored by his State, respected by his fellow citizens, loved by those who knew him best.

The mystery of life is again presented to us. We ask, who is sufficient for these things? We turn our faces to Thee, O God of grace, and pray that Thou wilt still lead us on.

We commit to Thee with our sympathy and love that inner circle of friends of the dead Senator, whose hearts are too tender at this hour even for the touch of human sympathy, and pray that they may feel the healing touch of the great sympathizing divine friend. For Christ's sake. Amen.

NAMING A PRESIDING OFFICER.

The Secretary (James M. Baker) read the following communication:

PRESIDENT PRO TEMPORE, UNITED STATES SENATE,
Washington, May 25, 1914.

To the Senate:

Being temporarily absent from the Senate I appoint Hon. GILBERT M. HITCHCOCK, a Senator from the State of Nebraska, to perform the duties of the Chair during my absence.

JAMES P. CLARKE,
President pro tempore.

Mr. HITCHCOCK thereupon took the chair as Presiding Officer for the day and directed that the Journal of the proceedings of Saturday last be read.

The Secretary proceeded to read the Journal of the proceedings of Saturday last, when, on request of Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

DEATH OF SENATOR WILLIAM O. BRADLEY.

Mr. JAMES. Mr. President, it becomes my sad and painful duty to announce to the Senate the death of my distinguished colleague, Senator BRADLEY, who passed away at 9.45 o'clock last Saturday night in this city.

He came to this Chamber with the greatest honor that his native State could bestow upon him. He had the distinction of being the only member of his party who was ever honored with the governorship and the Senatorship of the great State of Kentucky.

He was one of the most genial of men and a prince among his fellows. He was a distinguished lawyer, a great orator, and a profound statesman. His followers in Kentucky idolized him, and they will love his memory as they loved him during his life. He will be greatly missed by his colleagues in this Chamber, as he will be mourned by his thousands of followers and friends in his beloved State. At some future time I shall ask the Senate to set apart a day to pay tribute to his memory and to his distinguished services to his State and to his country.

I send to the Secretary's desk the following resolutions and ask that they be read.

The PRESIDING OFFICER. The Secretary will read the resolutions offered by the Senator from Kentucky.

The Assistant Secretary (Henry M. Rose) read the resolutions (S. Res. 374), as follows:

Resolved, That the Senate has heard with deep regret and profound sorrow of the death of the Hon. WILLIAM O. BRADLEY, late a Senator from the State of Kentucky.

Resolved, That a committee of 14 Senators be appointed by the Vice President to take order for arranging the funeral of Mr. BRADLEY.

Resolved, That as a further mark of respect his remains be removed from his late home in this city to Frankfort, Ky., for burial in charge of the Sergeant at Arms, attended by the committee, who shall have power to carry these resolutions into effect.

Resolved, That the Secretary communicate these proceedings to the House of Representatives.

The PRESIDING OFFICER. The question is on agreeing to the resolutions.

The resolutions were unanimously agreed to.

The PRESIDING OFFICER. The Chair appoints as members of the committee provided for in the second resolution the Senator from Kentucky, Mr. JAMES; the senior Senator from New Hampshire, Mr. GALLINGER; the junior Senator from Wyoming, Mr. WARREN; the junior Senator from North Carolina, Mr. OVERMAN; the senior Senator from Utah, Mr. SMOOT; the senior Senator from Indiana, Mr. SHIVELY; the senior Senator from New York, Mr. ROOT; the junior Senator from Indiana, Mr. KERN; the senior Senator from New Jersey, Mr. MARTINE; the junior Senator from Washington, Mr. POINDEXTER; the junior Senator from New York, Mr. O'GORMAN; the senior Senator from New Mexico, Mr. FALL; the junior Senator from Arizona, Mr. SMITH; and the junior Senator from New Jersey, Mr. HUGHES.

Mr. JAMES. Mr. President, I move as a further mark of respect to the memory of the distinguished Senator that the Senate do now adjourn.

The motion was unanimously agreed to; and (at 11 o'clock and 7 minutes a. m.) the Senate adjourned until to-morrow, Tuesday, May 26, 1914, at 11 o'clock a. m.